

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
Village Hall – 1 Depot Plaza
March 11, 2024 7:30 p.m.

PRESENT: Chairwoman Lawrence, Members Rachlin, Kaplan, Kudla, Young, Second Alternate Isaacson; Counsel Addona; Village Engineer Pennella; Secretary Meszaros

ABSENT: All present

Ms. Lawrence called the meeting to order at 7:33 pm.

APPROVAL OF MINUTES – January 8, 2024

Ms. Rachlin moved, seconded by Ms. Kaplan, with member Young abstaining, to approve the minutes of the January 8, 2024 meeting, as submitted.

The secretary recorded the vote:

Chair Lawrence: Yes
Member Kaplan: Yes
Member Kudla: Yes
Member Rachlin: Yes
Motion carried. 4 - 0

APPROVAL OF MINUTES – February 12, 2024

Ms. Kudla moved, seconded by Ms. Kaplan, with Members Lawrence, Rachlin and Young abstaining, to approve the minutes of the February 12, 2024 meeting, as submitted.

The secretary recorded the vote:

Member Kaplan: Yes
Member Kudla: Yes
Second Alt. Isaacson: Yes
Motion carried: 3-0

CONTINUATION OF PUBLIC HEARING

Gotham Design Planning and Development- 25 South Washington Street
Variances to demolish the existing two-story single-family home and 1 ½ story detached garage in order to construct a new three-story primary structure with 3 dwelling units and parking.

Padriac Steinschneider, the project design coordinator, with Gotham Design Planning and Development, appeared, representing the applicant. He noted that they have narrowed the building at the base to widen the existing driveway from 8 feet to 10 feet to allow for better access to the rear without any inconvenience to the neighbor. There

will be five parking spaces in the rear; with adequate maneuverability. The property is walkable to the village and he believes that the five spaces they are providing on-site will be a benefit for the village. He noticed that there have been empty parking spaces on the street whenever he has visited the site over the past months. With regard to the variance request, there are a number of variances that relate to front and side yard setbacks due to the lot size and placement of the building. He noted that the building footprint is not out of scale when compared to the lot size. They are also complying with the height of the building, but will need a one-story variance in accordance with the code. Setback variances for the parking will also be required to provide 5 spaces on site for the 3 units.

Below is the published variance request:

§305-32 – M 1.5 Multifamily Zone (Attachment 6:1):

1. Column 6 - Minimum Lot Size: A variance of 6,633 s.f. , where the proposed is 4,867 s.f., and the required lot size is 11,500 s.f. (for 3 units).
2. Column 7 - Width at Front of Building: A variance of 9.02 feet, where 30.98 feet is existing/proposed, and 40 feet is required.
3. Column 8 - Principal Building Coverage: A variance of 72 s.f. (1.5%), where 1,532 s.f. (31.5%) is proposed, and 1,460 s.f. (30%) is permitted.
4. Column 11 – Minimum Front Yard Setback: A variance of 17 feet, where 3 feet is proposed, and 20 feet is required.
5. Column 12 – Minimum Side Yard Setback (South): A variance of 12 feet, where 3 feet is proposed, and 15 feet is required.
6. Column 12 - Minimum Side Yard Setback (North): A variance of 7.5 feet, where 7.5 feet is proposed, and 15 feet is required.
7. Column 13 – Minimum Two Side Yards: A variance of 19.5 feet, where 10.5 feet is proposed, and 30 feet is required.
8. Column 18 – Maximum Height (Stories): A variance for 1 story, where 3 stories are proposed, and 2 stories are permitted.

§305-63 C. (3) – Off Street Parking and Loading (Attachment 6:2)

9. Column 12 – Parking in Side Yard Setback (South) - A variance of 12 feet, where 3 feet is existing, and 15 feet is required.
10. Column 12 – Parking in Side Yard Setback (North) - A variance of 13 feet, where 2 feet is existing, and 15 feet is required.
11. Column 15 – Parking in Rear Yard Setback - A variance of 29 feet, where 16 feet is existing, and 45 feet is required.

§305-63 C. (5)(c) [3] – Landscape Strip:

12. A variance of 2 feet, where 3 feet is existing, and 5 feet is required.

§305-63 D. (1) Off Street Parking:

13. A variance of 3 parking space, where 5 spaces are proposed, and 8 spaces are required (2.5/d.u.)

Ms. Lawrence asked about the parking plan and if it will be difficult for cars to maneuver in and out of the lot. Mr. Steinschneider said that parking area has sufficient space for cars to maneuver. Residents are able to come in and back up and pull into the spaces. In order to exit, in some cases, three-point turns may be needed, but there is adequate room.

Ms. Lawrence also confirmed with Mr. Pennella that they will need a variance from the NYS for the proximity to the property line.

Ms. Lawrence asked if there was any more communication with the neighbor.

Mr. Steinschneider said there has be no further discussion with regard to the driveway. He has had some nice conversations in the past with the daughter in law and they have his card to set up a meeting should they wish pursue the driveway easement; otherwise, the use will continue as is. The new building will be farther away from their property line allowing more room to get to the parking in the rear without any inconvenience to them. He believes that the neighbors have also improved their property and they are pleased that this property will be improved. Mr. Steinschneider feels that they have provided a plan and have tried to mitigate the variances needed as much as possible. He hopes that this will be a project that will benefit the community.

Ms. Lawrence appreciates the work they have put into revising the plans during the review process.

There were no additional questions or comments from the Board.

Mr. Pennella advised for the record that this application does not rely on the adjacent neighboring property to gain access to the rear parking.

Ms. Lawrence asked if anyone in the public wished to comment. There was no one in the public who wished to comment.

Ms. Rachlin moved, seconded by Ms. Kaplan, to close the public hearing.

The secretary recorded the vote:

Chair Lawrence:	Yes
Member Kaplan:	Yes
Member Kudla:	Yes
Member Rachlin:	Yes
Member Young:	Yes

All in favor. Motion carried: 5-0

Ms. Lawrence read through and responded to the criteria for the area variances as follows:

1. That no undesirable change will be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variance. *Ms. Lawrence stated that the proposed project will not bring an undesirable change to the neighborhood. The applicant has revised the plans several times and has reduced the variances and has provided parking on site.*
2. That the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance. *Ms. Lawrence stated that the benefit sought by the applicant cannot be achieved by some other method other than the area variances due to the size of the lot and the configuration.*
3. That the requested area variance is not substantial. *Ms. Lawrence stated that the requested variances are substantial but necessary when considering the lot size, configuration and the added units.*
4. That the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. *Ms. Lawrence stated that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*
5. That the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the variance. *Ms. Lawrence stated that the alleged difficulty is self-created but that does not preclude the Board from granting the variances.*

Mr. Pennella advised that the Board will be approving the most recent set of revised plans dated, January 16, 2024, to be included in the resolution, and although the applicant is required to seek an area variance for one-story, the proposed building is within the required height for this zone.

Ms. Rachlin moved, seconded by Ms. Kudla, to grant the area variances and authorize Counsel Addona to prepare a Resolution memorializing the discussion during the public hearings, to include general conditions of approval.

The secretary recorded the vote:

Chair Lawrence:	Yes
Member Kaplan:	Yes
Member Kudla:	Yes
Member Rachlin:	Yes
Member Young:	No
Motion carried:	4 - 1

The Resolution was approved. Mr. Steinschneider thanked the Board and the staff for their work on the application.

CONTINUATION OF PUBLIC HEARING - Nicole Doniger Strom – 68 Leroy Avenue
Variances for the construction of a two-story addition to a single-family residence.

Samuel F. Vieira, RA, the project architect, appeared on behalf of the property owner, Since there were only three Board Members present at the last public hearing, he will go over the project again for the benefit the Board Members who were not present last month. Essentially, they are proposing to add a 26 ft x 32 ft. two-story addition to the front of the existing single-family residence. The first floor will be used for a two -car garage and the second floor will be used as a home office. The existing garage in the home is very small and there is very little basement area. They would like to turn this garage into a family/play room. Mr. Vieira noted that this property is very large in comparison to the surrounding lots and is split into two zones. The front of the property on Leroy is in the R-7.5 zone and the rear is in the R-15 zone. The code language states that if a property falls within two zones, the more restrictive zoning should be applied. Mr. Vieira showed the site plan with the addition which will be connected by a breezeway to the existing home. In an effort to mitigate the slope and fit the addition into the hillside, they have lowered the grade 24 inches in the front of the house.

In this case, Mr. Vieira noted that the existing house sits in the R-15 Zone, and although the addition is in the R-7.5 zone, they noticed the variance in accordance the R-15 zoning schedule as follows:

§305-19 – Residential R-15 Zone (Attachment 5:1)

1. Column 12 - Minimum Each Side Setback: A variance request of 6.0 ft., where the proposed is 8.0 ft., and the required is 14.0 ft.
2. Column 13 - Minimum Two Side Yard Setbacks: A variance request of 8.42 ft., where the proposed is 21.58 feet, and the required is 30.0 ft.

Mr. Vieira noted for context, that if the R-7.5 schedule was applied, the required side yard setback would only be 10 feet, and the variance request would only be 2 feet, compared to 8 feet, which is required for the R-15 zone.

He showed the elevations and noted that they have altered the roof line to conform with the light plane. He showed the outside of the garage and what the neighbors to the west would be looking at noted that the neighbors also have a garage that will sit back to back from their proposed structure.

At the last public hearing, a neighbor raised drainage and flooding concerns. The Board requested additional information with regard to how the applicant can mitigate these drainage concerns. Mr. Vieira has submitted a letter provided by Hudson Engineering, proposing a stormwater plan that will be designed for a 100-year storm which is over and above the village requirement of a 25-year storm.

Mr. Vieira has advised that his client is prepared to move forward with the design based upon the initial analysis provided in the letter, once the variances are approved. The

design will be done to reflect the report and submitted to the Planning Board for their review. He advised that the Planning Board wanted the Zoning Board to review the variances first, since the stormwater plan was not completed.

Ms. Lawrence asked for clarification about the split zone on the property.

Mr. Pennella showed a color chart indicating the two different zones on the property and that the garage addition is in fact located in the R-7.5 zone.

Mr. Pennella confirmed that if the R- 7.5 zoning was applied the required side yard variance would only be 2 feet and the combined side yard variance would be .42, since the combined two side yard requirement is 22 feet.

Counsel Addona confirmed the language in Village Code 305-9, states “where a lot in one ownership of record is divided by one or more district boundary lines, the regulations for the less restrictive portion of such lot shall not extend into the more restrictive portion of such lot.” So, technically, the lots can be separated out according to this language and the R-7.5 zoning can be applied.

Ms. Lawrence noted that if the R-7.5 zoning standards were applied, the variances would be minimal, but, if the applicant was able to move the house over 2 feet, then the variances could be eliminated, which is the preference of this Board.

Mr. Vieira briefly went over the reasons for the placement of the structure which were well thought out. They were trying to make a direct approach to the driveway and make for better maneuverability to back in and out. He showed the turn- around in the driveway for guest parking. They also did not want to block the front of the home with the addition.

Ms. Lawrence asked if the Board had any comments or questions.

Ms. Kudla asked about the stormwater report. Mr. Vieira said it will be designed to a 100- year storm, which is a higher standard. The initial study has been done and design drawings will be prepared and presented to the Planning Board. If the variances are approved, the plan will be designed.

Ms. Lawrence asked Mr. Vieira if they would consider moving the house over by 2 feet.

Ms. Strom, the owner of the property, came up and stated that they would like to have the home set back as much as possible so that the house is not blocking the driveway. The addition is hidden and recessed back so that the garage will not be seen from the street and it will fall into the hillside. They also need more room to get in and out the garage. They have older parents and would like to make it easier for them to get in and out of the driveway.

Ms. Lawrence asked Mr. Vieira how much of a difference it would make by moving it 2 feet.

Mr. Vieira believes it is a very small variance. If this addition was next to someone's home, then he could see an issue with views, noise, sunlight, etc., but the proposed addition backs up to the neighbor's detached garage. This is a rare circumstance and a unique property. The structure has been located for clear access and for access to the stairs. There is a small stone apron in front of the garage doors and when they lower the grade they will extend the apron to create a stone terrace which require steps. These steps have been designed and there has been thought put into the scale and access.

Mr. Vieira confirmed with Ms. Rachlin that the garage is 24 feet deep. Ms. Rachlin asked why they can't reduce the length to 22 feet. Mr. Vieira noted that his garage is 22 feet and it can be challenging to fit in cars. This is the standard that he uses when advising his clients. It can work, but if you want to have a little bit of storage, it gets small quickly since you lose space during the construction. The additional two feet is for a storage area which is needed due to the limited basement area in the existing home. Ms. Strom added that they are not able to open up the trunk of the car in the existing garage without it hitting the garage door.

Ms. Lawrence appreciates the comments, but the ideal goal of this Board is to mitigate the variance. She asked counsel if any re-noticing would be required to apply the R-7.5 zoning.

Counsel Addona said that re-noticing is not required. The Board has the authority to consider the variances under the R-7.5 zoning, since they are lesser variances. They would first determine that the denial letter is incorrect and that R-7.5 zoning should have been applied and then consider the variances under R- 7.5. Alternatively, the Board could also consider the variances as noticed under the R-15 zoning.

Ms. Lawrence would prefer to use the R-7.5 zoning criteria in this case but she would also prefer having the addition be moved over 2 feet to eliminate the variances altogether.

Ms. Young asked Mr. Vieira if the breezeway is going to be elevated. Mr. Vieira said the breezeway will not be elevated. The proposed garage and the driveway will be dropped 24 inches so that it is sunk into the hill more and not visible from the street. The addition will not be next to any neighbors. It will be back to back to the neighboring garage with minimal impact to the neighbor. Ms. Strom advised that they have spoken with these neighbors and they have no problem with this proposed project.

Ms. Lawrence advised the Board that they two choices. Counsel Addona confirmed that they can either consider the variances under R-15 or interpret the code that R-7.5 zoning should have been applied in this case, since the addition is proposed in the

R-7.5 zone, which is contrary to the Building Inspector's determination. After this determination is made, then the Board could consider the variances which would be a 2 ft. side yard variance and a variance of .42 ft. for the combined side yards.

Ms. Lawrence noted that they are at a point where they would almost not need a variance at all. She asked Ms. Strom to comment on possibly moving the structure over. Ms. Strom's concern is that she does not want the garage to block the house. Ms. Rachlin thinks that this can be done by reducing the size. Mr. Vieira said the placement of the structure was studied and designed. The front of the house has a raised bed stone garden and they may have to take that out in order to have space to turn around. Ms. Rachlin does not think that it will block the house; and believes it will almost be even.

Ms. Strom does not want to quibble over 2 feet. They will have to figure out the raised garden in order to have enough space to turn around. She feels that it all lines up perfectly as designed.

Counsel Addona said if the Board is amenable, a resolution could be prepared based on the R- 7.5 zoning regulations and give the applicant the opportunity to explore if they can make it zoning compliant over the next month, and, if not, they can return next month.

Mr. Vieira briefly spoke with the applicant and they agreed that if the R-7.5 zoning is applied, he believes that they can come up with a solution, whether it be shifting or reducing the size of the structure.

Ms. Rachlin moved, seconded by Ms. Kaplan, that based upon the location of the proposed garage, that the requested variances be considered under the R-7.5 zoning regulations, and that the public hearing remain open so that the applicant can explore the possibility of eliminating the variances and, if not, they can return to this Board.

The secretary recorded the vote:

Chair Lawrence:	Yes
Member Kaplan:	Yes
Member Kudla:	Yes
Member Rachlin:	Yes
Member Young:	Yes

All in Favor. Motion carried: 5 - 0

NEW PUBLIC HEARING – Gabrielle Salman, RA – 81 N. Washington Street

The following public notice was made available to the public at the public hearing:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at **7:30 p.m. on Monday, March 11, 2024** in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Gabrielle Salman, RA
467 Bedford Road – Ste 169
Pleasantville, NY 10570

For variances from Chapter 305 of the Village of Tarrytown (“Zoning Code”) for the change of use and legalization of a non-conforming four-unit multi-family dwelling, documented as a two-family dwelling.

The property is located at 81 North Washington Street, Tarrytown, NY and is shown on the tax maps as Sheet 1.40, Block 12, Lot 8, located in M 1.5 Zoning District.

The Applicant seeks the following variances (§305-32- M 1.5 Zone):

1. §305-63 C.(3) (a)- Setback- Driveway: Variance request of 2.5 ft, where 2.5 ft. is proposed, and 5 ft. is required.
2. §305-63 C.(3) – Parking in front yard setback (Attachment 6:2, Column 11): Variance request of 7.5 ft., where 17.5 ft. is proposed, and 25 ft. is required.
3. §305-63 C.(3) – Parking in side yard setback (south) (Attachment 6:2, Column 12): Variance request of 20 ft., where 0 ft. is proposed, and 20 ft. is required.
4. §305-63 C.(5) (c) [3] Landscape Strips: Variance request of 5 ft., where 0 ft. are proposed, and 5 ft. are required.
5. 305-63 D.(1) Off Street Parking (2.5 spaces per dwelling unit): Variance request of 7 spaces, where 3 spaces are proposed, and 10 spaces are required.

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. 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.

Additional approval will be required by the Planning Board and the Architectural Review Board.

By Order of the Zoning Board of Appeals.

Lizabeth Meszaros
Secretary to the Zoning Board

Dated: March 1, 2024

The mailing receipts were received and the sign was posted. Board Members visited the property.

Counsel Addona advised the public that the applicant appeared before the Board last month to introduce the project and variances that will be required from this Board in order to move forward with Planning Board site plan approval. This action was subject to a SEQRA review with the Planning Board, as Lead Agency. The Planning Board has since issued a Negative Declaration and has determined that the proposed action is not expected to result in any significant adverse environmental impacts that would rise to the level of significance required for a Positive Declaration; therefore, the Zoning Board is now in a position to consider the variances before them.

Gabrielle Salman, RA, the project architect, appeared before the Board representing the applicant, Marco Torres, also present. She explained that they are seeking variances for the change of use and legalization of a non-conforming four-unit multi-family dwelling, documented as a two-family dwelling. She presented the site plan and went through the variances listed above. With regard to the parking plan, they have revised the plan several times during site plan review as recommended by the Planning Board, and the Village Engineer. Ultimately, the Planning Board felt that keeping the parking plan “As is” will prevent any further impacts to the neighboring properties with regard to stormwater runoff. They felt that the additional cars in the back would have a negative impact on the neighboring properties. They will require a larger variance for parking with this plan. The original parking variance was for 5 spaces; with this revised plan, they will require a larger parking variance of 7 spaces since they are only providing 3 spaces on site.

Ms. Kudla confirmed that the existing garage is used for storage and they will be able to provide three parking spaces for the four existing units.

Mr. Pennella added that the original application provided more on-site parking. After further review by the Planning Board, it was determined that there would be significant runoff concerns to the neighboring property and it may be better to leave the parking situation as is. The applicant appeared before this Board last month to present the parking plan to see if the Board had any concerns and if they would be amenable to granting a larger variance to offset the impacts to the neighbors. He noted that the variance for parking in the front yard setback, listed as number 2 in the Public Hearing Notice has also been decreased to 6 feet, since they are proposing 19 feet, where 25 feet is required.

Ms. Lawrence asked about existing conditions. She asked Ms. Salman if this home has always been a four-family. Mr. Torres, the owner came up and confirmed that the house was purchased with four units, and they have had these four units for 20 years.

Ms. Lawrence asked about the parking in the rear. Ms. Salman said they decided to keep only 3 parking spaces since it is working and at the recommendation of the Planning Board. They are asking for a variance of 7 parking spaces.

Ms. Rachlin asked about the garage. Mr. Pennella said the plan before you is the 5th iteration. It provides for 3 spaces on site with the least impact to the neighbors and

more use of the rear yard. The tandem parking has been removed which allows cars to maneuver out of the lot. Ms. Kudla said she visited the site and she feels that it is hard to get out, but that the tandem parking would be more difficult. Mr. Pennella said they have the same amount of spaces now, they are just not legal. Counsel Addona advised that they are not legal in the sense that they do not comply with setback requirements, but the 4-unit use is permitted. She explained that as the number of units increase in this zone, some of the zoning requirements in the bulk schedule also increase.

Ms. Kudla confirmed with Mr. Torres that there are 3 cars that park on site now.

Ms. Rachlin confirmed that a relative of Mr. Torres lives in one apartment.

Ms. Kaplan asked for clarification of the variances since they all seemed like they were related to the parking. Counsel Addona said most of the variances are for the parking due to the number of units and in this case, we have them legalize everything, to make the property zoning compliant.

Ms. Rachlin asked what would happen if they do not grant the variances. Mr. Pennella said the applicant would have to go back and reduce the number of units. Mr. Pennella said there are additional building and residential code requirements. A four-family building has additional requirements to provide a sprinkler system and also provide for additional required parking.

Ms. Kaplan asked if they could sustain the house with just the 2 units. Ms. Salman advised that they have settled with the village justice court in the amount of \$40,000 for the illegal use of the 4 units.

Ms. Lawrence said a four-family means a lot of cars and congestion in an area where there is practically no parking. Ms. Salman said they have provided the 3 parking spaces on site. Most of the properties have no parking provided on site in the immediate area.

There were no additional questions from the Board.

There was no one in the public who wished to speak on this application.

Ms. Rachlin moved, seconded by Ms. Kaplan, to close the public hearing.

The secretary recorded the vote:

Chair Lawrence:	Yes
Member Kaplan:	Yes
Member Kudla:	Yes
Member Rachlin:	Yes
Member Young:	Yes
All in Favor. Motion carried:	5 - 0

Ms. Lawrence read through and responded to the criteria for the area variances as follows:

1. That no undesirable change will be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variance. *Ms. Lawrence stated that the proposed project will not bring an undesirable change to the neighborhood. The applicant has worked with the Planning Board and has revised the plans several times to come up with a plan that will not impact the neighbors while providing 3 parking spaces on site.*
2. That the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance. *Ms. Lawrence stated that the benefit sought by the applicant cannot be achieved by some other method other than the area variances due to the lot configuration.*
3. That the requested area variance is not substantial. *Ms. Lawrence stated that the requested variances are substantial but necessary when considering the lot configuration and pre-existing conditions.*
4. That the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. *Ms. Lawrence stated that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The parking situation has been the same for the past 20 years.*
5. That the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the variance. *Ms. Lawrence stated that the alleged difficulty is self-created but that does not preclude the Board from granting the variances.*

Ms. Kudla moved, seconded by Ms. Rachlin, to approve the variances as shown on the latest revised plans, dated February 23, 2024, with modification to the variance for parking in front yard setback which will require a lesser variance of 6 feet, where 19 feet is proposed and 25 feet is required, reducing the variance by 1.5 feet, and, further authorize Counsel Addona to prepare a Resolution memorializing the discussion during the public hearing to include general conditions of approval.

The secretary recorded the vote:

Chair Lawrence:	Yes
Member Kaplan:	Yes
Member Kudla:	Yes
Member Rachlin:	Yes
Member Young:	Yes

All in Favor. Motion carried: 5 - 0

NEW PUBLIC HEARING – Lauren Rose Venditti – 119 Grove Street

The following public notice was made available to the public at the public hearing:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at **7:30 p.m. on Monday, March 11, 2024** in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Lauren Rose Venditti
119 Grove Street
Tarrytown, NY 10591

For a variance from Chapter 305 of the Village of Tarrytown (“Zoning Code”) for the addition of a rear deck.

The property is located at 119 Grove Street and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.80, Block 54, Lot 3 and is located in the R-10 zone. The Applicant seeks the following variance (§305-20- Residential R-10 Zone):

1. §305-47.B (5) Yards; Setbacks – Deck Side Yard: Variance request of 2.17 feet, where 3.83 ft. is proposed, and 6 ft. is required.

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. 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.

Additional approval will be required by the Architectural Review Board.
By Order of the Zoning Board of Appeals.

Lizabeth Meszaros
Secretary to the Zoning Board

Dated: March 1, 2024

The mailing receipts were received and the signs were posted. Board Members visited the property.

Jorge B. Hernandez, RA, the project architect, appeared on behalf of the owners, who were also present.

Mr. Hernandez presented the plan and showed the plan to add a deck onto the rear of the home, which will require a side yard variance of 2.17 feet. The deck will be approximately 345 s.f. and extend in a straight line to connect to the existing deck off of the kitchen. It will not protrude into the side yard any more than the existing deck off the kitchen or the existing structure. The existing deck and structure are pre-existing, non-

conforming and not within the required setback. He showed the existing conditions and the proposed deck and noted that there are many decks in this neighborhood.

Ms. Lawrence asked Ms. Venditti if they have heard back from any of their neighbors.

Ms. Venditti advised that they have support from their neighbors on both sides of them.

Ms. Lawrence commented that she saw many other decks along this street who enjoy the beautiful views of the river.

There were no additional questions from the Board.

Ms. Lawrence asked if anyone in the audience would like to comment.

Peter Coleman, who lives directly behind the property, on South Broadway, is supportive of the project. He noted that there are two retaining walls in the rear of this property and he would like assurance that there will be mitigation measures taken to prevent any erosion of his property.

Mr. Pennella advised that due to the topography of this area, the piles will have to be installed deeper. Mr. Pennella will look at this as part of the plan review. Mr. Hernandez agreed to review this matter as well.

Counsel Addona advised that this is a Type II Action with no further environmental review required under SEQRA.

Ms. Rachlin moved, seconded by Ms. Kudla, to close the public hearing.

The secretary recorded the vote:

Chair Lawrence:	Yes
Member Kaplan:	Yes
Member Kudla:	Yes
Member Rachlin:	Yes
Member Young:	Yes

All in Favor. Motion carried: 5 - 0

Ms. Lawrence read through and responded to the criteria for an area variance as follows:

1. That no undesirable change will be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variance. *Ms. Lawrence stated that the proposed project will not bring an undesirable change to the neighborhood as there are many decks in this area of the village.*

2. That the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance. *Ms. Lawrence stated that the benefit sought by the applicant cannot be achieved by some other method other than the area variance.*
3. That the requested area variance is not substantial. *Ms. Lawrence stated that the requested variances are substantial when considering the pre-existing condition.*
4. That the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. *Ms. Lawrence stated that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*
5. That the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the variance. *Ms. Lawrence stated that the alleged difficulty is self-created but that does not preclude the Board from granting the variance.*

Ms. Kaplan moved, seconded by Ms. Lawrence, to approve the area variance of 2.17 ft. and authorize Counsel Addona to prepare a Resolution memorializing the discussion during the public hearing to include general conditions of approval.

The secretary recorded the vote:

Chair Lawrence:	Yes
Member Kaplan:	Yes
Member Kudla:	Yes
Member Rachlin:	Yes
Member Young:	Yes
All in Favor. Motion carried:	5 - 0

NEW PUBLIC HEARING

Catalyze Tarrytown White Plains Microgrid LLC
120 White Plain Road

The following public hearing notice was made available at the public hearing:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at **7:30 p.m. on Monday, March 11, 2024** in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Jeremy P. Smith, PE
o/b/o Catalyze Tarrytown White Plains Road Microgrid LLC
287 Bowman Avenue
Purchase, NY 10577

For property located at 120 White Plains Road, Tarrytown, NY, shown on the tax maps of the Village of Tarrytown as Sheet 1.140, Block 94, Lot 5.2, and located in Office Building - OB Zoning District.

Pursuant to New York State Village Law Sections 7-712-a(4) and 7-712-b(1) and the Village of Tarrytown Zoning Code §305-118A, the applicant is appealing the Determination of Donato R. Pennella, P.E., Building Inspector, in a Letter of Permit Denial, dated December 15, 2023, that the proposed Battery Electrical Storage System (BESS), labeled as “Electrical Substation”, in the site plan application submission, is not permitted, either as a principal or accessory use, in the Office Building - OB Zone. This determination is based upon the fact that the property is already developed with a Principal Use as an office building. Further, by Local Law 18 of 2008, the Board of Trustees prohibited Electrical Substations in the OB Zone.

Alternatively, should the Zoning Board uphold the Building Inspector’s Determination, the applicant is seeking a Use Variance to allow a Battery Energy Storage System (BESS) Facility to be constructed on the property. The request for a Use Variance would require the Zoning Board to conduct an environmental review pursuant to the State Environmental Quality Review Act.

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. 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. Additional approval will be required by the Planning Board and the Architectural Review Board.

By Order of the Zoning Board of Appeals.

Lizabeth Meszaros
Secretary to Zoning Board of Appeals

Dated: March 1, 2024

The mailing receipts were received and the sign was posted. Board Members visited the property.

David Kenny, Attorney, with the law firm of Snyder & Snyder LLC, appeared before the Board representing the applicant, Catalyze Tarrytown White Plains Road Microgrid LLC. Jeremy Smith, PE, the project engineer was present. Mr. Kenny advised that the application before this Board is two-fold. They are requesting a use variance to allow for the construction of a Battery Energy Storage System (BESS) facility at 120 White Plains Road and are appealing the Building Inspector’s interpretation in his denial letter dated December 15, 2023 that the facility is not permitted either as a principal or accessory use in the OB zone, and there cannot be two principal uses on this property. This facility would be considered a second principal use. They will do a presentation this evening, but are requesting that the Zoning Board refer this back to the Planning Board for a SEQRA review. They have also petitioned the Board of Trustees for a zoning text amendment to allow this use. They will be pursuing both of these applications on parallel tracks.

Mr. Kenny explained that the Battery Energy Storage Systems are a new type of use that have been developed to promote green energy and renewable resources. These systems are able to take energy and store it at low demand hours, when it is cheaper,

and release it back into the grid, at peak demand hours when energy is at its highest price, and at the most demand. These new facilities will add additional energy to the grid and enable less use of existing Peaker plants, which are dirty energy producers. Battery Energy Storage Systems will also keep energy costs down and help with the transition into renewable energies. One of the goals of the 2019 NYS Climate Act, is to increase the amount of stored energy that can be used for these new technologies to 6000 megawatts (MW) by 2030. There is a demand for these uses to help New York transition to green renewable energy technologies, build grid resiliency, and reduce energy costs.

The proposed site for this facility is at 120 White Plains Road, in the parking lot, close to the NYS Thruway ramp, and far away from any residences. Jeremy Smith, the project engineer, will go over the detailed plan, but they are requesting that the Board refer this matter back to the Planning Board for the SEQRA review since there is already an existing application before the Planning Board. It is Mr. Kenny's understanding that the Board of Trustees will be referring the zoning petition they have filed with the village to the Planning Board, as Lead Agency, for a SEQRA review and recommendation. Counsel Addona confirmed with Mr. Kenny that they would like to do a coordinated review with the Planning Board and that they do not want the Zoning Board to be the Lead Agency for the SEQRA review.

Jeremy Smith, PE, the project engineer, presented the site plan and briefly went over the components of the substation which include a metering cabinet that allows Con Edison to watch and control how much energy goes in and out of the system. Five Tesla Megapak 2 xl (28 ft long and 5 feet high) batteries (large boxes), two transformers, and a disconnect switch. He advised that Con Edison will have control over the amount of energy which is drawn in and released back out into the grid, but the facility itself is owned by Microgrid LLC.

Ms. Rachlin asked the dimensions of the metering cabinet. Mr. Smith said it is 8 feet wide, 7 feet tall and 6 feet deep. The metering cabinet is not required to have a fence enclosure; but the batteries must be fenced in.

Mr. Pennella asked about the elimination of parking spaces on the property for this use. He noted that if they are taking away any parking assigned to the building, they will need parking variances. Mr. Smith advised that they have submitted a parking study and have determined that there are excess spaces on this lot and the parking requirements have been met. The owner did this analysis and determined that the building can sacrifice the spaces before they moved forward with this project.

Ms. Lawrence confirmed that the purpose of the public hearing is to first determine if the Board agrees with Mr. Pennella's determination that there cannot be two principal uses on this property. Mr. Kenny gave a brief history advising the Board that the original application was thought to be allowed under the use of an "electrical substation"; however, it has since been determined that the Board of Trustees removed this use several years ago. They now agree that there is no definition in the code. In addition to

the interpretation, they are also seeking a use variance from this Board. They are not asking this Board to act this evening they would like the Zoning Board to refer this application to the Planning Board so that they can take a deep dive into the SEQRA review.

Counsel Addona said the first part of this application is to weigh in on the interpretation, which is a Type II action under SEQRA. If the Board of Trustees moves forward with the zoning text amendment, essentially, the issue of the two principal uses will be resolved. She noted that this is a public utility, and it is the applicant's position that they are entitled to more deference in this process. The applicant is here to answer questions this evening. The SEQRA review can be referred to the Planning Board. If the zoning amendment is not approved, the applicant can return for the use variance. BESS technology is a new and evolving technology and further review is needed.

Ms. Lawrence believes that this should be also be sent to the Tarrytown Environmental Advisory Counsel for comment since they are familiar with the new technology. She asked Mr. Smith to explain more about the battery storage.

Mr. Smith said the batteries are individual cells in racks, built into modules that are built into the cabinets, that work together as a team. The entire system is 5 megawatts, which is 5 of the 6000-megawatt NYS 2030 goal. These 5 megawatts will help with frequency and voltage in the local area. The local businesses may be able to take advantage of these systems in the future.

Ms. Lawrence asked about the conduit leading to the pole on 119. Mr. Smith said an underground conduit and cable will be safely buried into the ground and only a portion of the conduit may be seen over the brook.

Mr. Smith referenced the letter they have received from Dennis Noskin, an abutting property owner, with concerns about landscaping requirements which they will address with the Planning Board.

Mr. Isaacson asked how many of these facilities have be installed so far in New York State and if they have had any opposition to these facilities. Mr. Smith advised that this is his 8th project, most of them have been 5 megawatt facilities, concerns such as battery acid, toxic fires, and magnetic effects have been raised. The batteries that are used in these systems are not lead acid. The Governor's Counsel found that there were no significant toxins found in these fires that are not in any other ordinary fire.

Mr. Kenny believes that this facility is the right location and is far enough away from the residential area and other building structures.

Ms. Lawrence asked if they have gotten any pushback from environmental groups. Mr. Smith said that generally these groups tend to be supportive these projects. One environmental group raised a concern about acid. Groups such as Sustainability Westchester have been supportive of these types of projects.

Mr. Kudla would like to see images of what these batteries look like on another property. Mr. Smith showed an example of project in the Bronx where the batteries are screened, but the box in the front is not.

Ms. Young asked the applicant to talk about the text amendment that the applicant submitted to the Board of Trustees. Mr. Smith believes the code will be mirrored on the Village of Ossining code. Counsel Addona added that she represents the Town of Ossining and worked on this code with them. It is based on guidance from NYSERDA, and the village will use this as a template. It is an in-depth code, which requires a commissioning plan, a fire safety manual. In addition, training will be required by the Fire Department. Funding must also be in place to have the site decommissioned.

Ms. Lawrence asked what the life span is for these batteries. Mr. Smith said they can last for as long as 10 years without loss of capacity, and after that, the racks can be replaced, augmenting the system. Theoretically, they could get up to 20 years or more of life. There would be a long-term lease with the property owner. Mr. Kenny confirmed with Ms. Rachlin that if the property were sold, the lease would still have to be honored by the new property owner.

Mr. Kenny added that there are approximately 4000 homes that would be able to be powered by this facility. It is not to replace the energy, but to supplement it.

Ms. Kudla asked about how the energy is sold. Mr. Kenny said they work directly with Con Edison. The energy is actually sold back to Con Ed and they distribute it. It is extremely regulated by the Public Service Commission and contracts must be in place. This site was selected because the Con Ed infrastructure is directly under this property and it is far away from residences. Properties must be near the Con Ed infrastructure in order to work.

Ms. Young asked how Catalyze will make money. Mr. Kenny said they have a contract with Con Ed. Con Ed does not have the capital to place these facilities so they partner with companies like Catalyze to build them for their use. Catalyze will build the facility but it will be part of the Con Ed grid system, controlled by Con Ed.

Ms. Lawrence asked if anyone in the public would like to speak.

Justin Hoyt, a resident of Hillside Street, is in favor for reducing utility costs but he believes that this plan is too large for this area. The application indicates that this the facility is 577 feet away from the residences, but the County GIS records show that it is actually 397 feet from Summit Street. The residents on Summit Street are able to look into the parking lot from their homes, and pre-covid, they could clearly see occupants of the building on the deck. Mr. Hoyt questioned if there are no fire concerns, then why would there be required training for this facility. Counsel Addona that she was the one who spoke about the fire concerns earlier. Mr. Hoyt noted that should a fire occur, the residents of Summit Street would be affected by the smoke. A fire can double in size in

30 seconds. There are many children who live and play in this area and all the fumes and heat will go toward this area. This property is also located in the OB zone. There are other properties, such as Lyndhurst, in this zone and he is concerned about setting a precedent that could allow a facility like this to be installed at Lyndhurst.

He did not get a certified letter about this public hearing, and he thinks that the residents in this area should be notified. Letters were only sent to abutters within 100 feet (confirmed by the Secretary). He has talked to his neighbors and have made them aware of the project. The NYS thruway is only 50 feet from the proposed location and, if there were a fire, the thruway would have to be shut down and the State would not like that. He would like other locations to be studied and also would like a smaller facility.

With regard to accessory uses, the Village Code Section 305-34 A. (4) d. states that, “no offensive noises, gases, fumes, odors, vibrations or radio, electric or electronic emanations shall emanate from such use and no waste products shall be discharged therefrom of a character to create a nuisance”. He feels that this application is moving too quickly. He is not against it, but if there is a fire, the neighborhood will be affected.

Ms. Lawrence asked what residences will be affected. Mr. Hoyt said Summit St., Hillside St., Eunice Court, Millbrook Ave., and Meadow Street are all in this area where many small children live. Ms. Lawrence thanked Mr. Hoyt for his comments.

In response to Mr. Hoyt’s concerns, Mr. Smith said that the lithium iron phosphate batteries are much safer now. Mr. Kenny again noted that they are not asking the Board to make a decision this evening; they hope that a deep dive and hard look will happen with this application during the SEQRA review at Planning. In terms of setting precedent, these facilities are highly regulated and agreements have to be in place with Con Ed. The facilities also need to be placed by the Con Ed interconnection lines and Con Ed would not be place them where they could not get a return on their investment. Although Lyndhurst is in the OB Zone, he is pretty sure that the Lyndhurst Trust would not lease their property for this type of use.

Ms. Lawrence asked if there is a certain distance that this facility will serve. Mr. Smith said Con Ed is looking for a 9-megawatt capacity along the 119 corridor. They are proposing 5 megawatts, so there are still 4 megawatts needed in this area. Once the 9 megawatts are built, there will be no more additional facilities needed in the area.

Ms. Lawrence thought that there is a small enclave of homes that should be aware of this project. Mr. Kenny said it is in the local paper and the speaker this evening commented that he has spoken to his neighbors. The secretary noted that all public hearings are noticed on this website agendas with application materials. Ms. Lawrence thanked the applicant for their presentation and said that this Board will be keeping up with this project as they go through the SEQRA review process with the Planning Board.

ADJOURNMENT:

Ms. Rachlin moved, seconded by Ms. Kudla, to adjourn the meeting at 9:30 p.m.

All in favor. Motion carried. 5-0

Liz Meszaros- Secretary