

Village of Tarrytown, NY

One Depot Plaza, Tarrytown, NY 10591-3199
ph: (914) 631-1885

Planning Board Minutes 5/27/2014

Planning Board
Village of Tarrytown
Regular Meeting
May 27, 2014; 7:00 p.m.

PRESENT: Chairman Friedlander; Members Tedesco, Aukland, Raiselis, Birgy; Counsel Shumejda; Village Administrator Blau; Village Engineer McGarvey; Secretary Bellantoni

APPROVAL OF THE MINTUES – April 27, 2014

Mr. Aukland moved, seconded by Mr. Tedesco, and unanimously carried, that the minutes of April 27, 2014 be approved as submitted. Motion carried.

CONTINUATION OF PUBLIC HEARING – Toll Brothers-229 Wilson Park Drive (Lot 10)

Jennifer Gray of Keane and Beane updated the board on the discussions with the adjacent homeowners in Sleepy Hollow; one at 2 County House Road and the other at 4 County House Road. She said this was an issue of encroachment within the trail easement area. The extensive discussion resulted in the relocation of the trail easement. Ms. Gray said several issues have come up during those discussions which she would like to share with the board and ask for their input. The first is regarding landscaping. They received a landscape plan from Stephan Yarabek to provide privacy screening from the trail. The existing fence which is encroaching would remain subject to a licensing agreement. The attorney for 4 County House Road suggested that a solid fence installed within the property line of 4 County House Road would provide better screening. Ms. Gray asked if they must still install the landscape screening on the south side of the fence since the fence will provide the privacy and screening.

Mr. Tedesco said his concern is that the present owner may not always own the property; and if a new owner decides they don't want the fence and takes it down, there will be no screening.

Chairman Friedlander said a solid board or stockade fence is not the most attractive and he feels landscaping should be installed to shield from the look of the fence. He said the fence is within Sleepy Hollow's jurisdiction and feels we should have good proper landscape screening on our side of the fence.

Ms. Gray said the plants would be more for aesthetic purposes rather than for screening; she said she is not sure aesthetic plantings for the trail are Toll's responsibility.

Mr. Tedesco said it may not just be for aesthetics but possibly down the road it may also be for screening. Ms. Gray said the screening would be for the trail users as opposed to the private property owner.

Ms. Raiselis said she would rather see doing it with landscaping than an opaque board fence; the landscaping is in keeping with everything we have been trying to do with the development.

Ms. Gray said she appreciates the feedback and that it is a great help for them going forward.

Mr. Aukland asked how tall the fence will be. Ms. Gray said it is proposed at 6' in height and it would be installed along the property line of 4 County House Road. She said it will be approximately 10 or 15 feet from the walkway of the trail.

Ms. Gray said a possible recommendation that was made to them is to move the house forward into the hilltop protection area which will require a waiver. Ms. Raiselis asked why you would do that. Ms. Gray said it is her understanding that it will allow for the widening of the trail which will make it further away from the existing houses. She said this was suggested to them during the negotiations; they are not necessarily in favor of it because they have already allowed the trail to be widened, subject to the approval of the Village, in the front of the property to

allow for some existing features; and to widen it in the back is going to take more usable space away from the homeowner of lot 10. They have been asked to do this by the Sleepy Hollow homeowner and the Lakes Committee. Ms. Raiselis asked what the owners of lot 10 say. Ms. Gray said they are not in favor of moving the house and Toll Brothers feels it will be negligible. Mr. Tedesco and Mr. Aukland said they are not in favor of moving it and encroaching in the hilltop.

Ms. Gray said they have received correspondence from the homeowners of 2 Country House Road requesting that the landscape plan they provided be enhanced and made a little bit more robust for screening purposes. Ms. Gray said the updated landscape plan does add a few more elements. She said they will be submitting this to the Landscape Consultant. Mr. Aukland suggested that we ask Lucille Munz the Village Landscape Architect to work with her. Ms. Gray said they would welcome that; she said they have been working with Mr. Yarabek. Mr. Blau clarified the Mr. Yarabek is the landscape consultant for the trail and Ms. Munz is the Village landscape consultant.

Ms. Raiselis asked if the trail goes into Sleepy Hollow at all; Ms. Gray said no, it is entirely on lot 10.

Mr. Birgy asked about the rock outcropping in the rear of lot 10 and is it going to be taken out in order to allow the trail to go where it is supposed to go. Mr. Aukland said why we would do that; everyone is OK with the relocation of the trail in that area. Ms. Gray said there is a rock outcropping but there is also an existing stone wall and the owners of 2 County House Road as well as Toll would like to see it remain because it is an attractive feature. Ms. Gray said what is proposed is instead of removing the wall the trail will meander to the outer side of the wall. She said there is also some existing landscaping in that area. Mr. Birgy said the Village has no problem with that? Mr. Blau said our consultant has not expressed a problem with it and there is room to move the trail to accommodate this. Mr. Birgy said so what is the issue there that is holding up the trail. Ms. Gray said mostly the neighbors with landscaping and encroachment issues. Mr. Birgy asked Counsel Shumejda if the Village has a concern or is this just between Toll and the Sleepy Hollow neighbors. Counsel Shumejda said the Village has a concern but when they reach a resolution this board has to approve. At that point if you don't like it you can change it; if it's appropriate it's up to this board to approve the trail easement.

Ms. Raiselis asked what you mean by a licensing agreement. Ms. Gray said it is a step below an easement which allows a physical encroachment to remain on the property but not necessarily in perpetuity. Ms. Raiselis said the property owners put up the fence not on their own property and this will allow the fence to remain. Ms. Gray said correct but the problem is that this fence is their pool fence; so it's not a matter of just taking it down, but it would have to be re-installed on their property which is costly.

Mr. Aukland asked if they are going to put corner markers on all lots. Ms. Gray said yes and she believes Toll was out this weekend installing them on other lots and we can show it on the plans.

Chairman Friedlander asked Counsel Shumejda if we have to wait for that agreement before we can take an action. Counsel Shumejda said yes because first we need to have Ms. Munz review the landscape plan. Secondly we need to see the actual location of the easement; and third the licensing agreement and if it impacts the trail easement. Ms. Gray said the fence will be within the trail easement but not close enough to impact the trail. Counsel Shumejda said he must have misunderstood because that is a problem; we can't accept the trail easement with a licensing agreement for the maintaining of that fence along the easement. Ms. Gray said the Village will not accept an easement subject to a license agreement. Counsel Shumejda said that's correct because it is a fence, a barrier, which diminishes what we would get as the easement. Ms. Gray said the amount of property is 1-2' between the fence and the property line. If we extend the trail easement by 2' so a net of 20' is provided between the existing fence and the southern edge of the trail easement; would that satisfy your concern? Counsel Shumejda said we would have the license agreement and then a full unimpeded 20' of easement; yes that would be acceptable but we would have to see that in a plan.

Chairman Friedlander opened the meeting to the public.

Mark Fry, member of the Lakes Committee, read a letter addressed to Chairman Friedlander and the Members of the Board (attached) regarding the trail easement and the site of the house lot 10.

Chairman Friedlander said to Mr. Fry we meet in October. He said he assumes that the Lakes Committee has been looking at this since October and wanted to know if he consulted with them and what is the outcome. Mr. Fry said he had a brief conversation with Ms. Gray and invited her to do a site visit which she deferred. He said he feels everyone would benefit by going into the field. Chairman Friedlander said we were there and didn't hear any of these ideas. He said this could have been processed more efficiently. Mr. Fry said they have been working hard on this but they did not get the plans until last week. Chairman Friedlander said the rock outcropping was there. Mr. Fry said we have been working very hard on this and he is sure the board has too.

Mr. Birgy asked that they hold off until the lot line is resolved.

Robert Rosh, attorney with McCarthy Fingar, represents the owner of 4 County House Road. He said they echo the contentions made by Mr. Fry and said he objects to tonight's hearing. In November of last year they requested in writing to be notified of any meeting on this matter and they were not notified of this meeting and submit that it is a procedural impropriety and feels this matter should not have gone forward.

Mr. Rosh said that the board noted that there is a lot line dispute between his client and the trail and in October 2013 the board said this matter would be continued until the resolution of the lot line. He said there has been no effort made to resolve that lot line. He does not know how the board can act on a site plan without know where the lot line falls. He said there has been no solution and he submits that this whole process has been improper.

He said they concur with the Lakes Committee that the house on lot 10 is poorly sited; it is way to close to his client's property. He said the proposed screening is inadequate. He said this is the unlawful taking of his client's property, a private nuisance and the total improper invasion of his clients privacy that must be abated before it's allow to commence.

Mr. Tedesco said we have not taken any action on this. He was not aware until tonight that the lot line issue has not been resolved.

Mr. Rosh said regarding the fencing, his client has installed a \$30,000 aluminum perimeter fence. We have been in discussions with the developer about taking out a portion of the fence along the lot line of lot 10. That is insufficient; it would not match the rest of the fence. He said his client's property should not be sacrificed for the betterment of this town or developer. He feels that it is unfair that the amended site plan proposes to move the trail away from 2 County House Road but not from his client's property. He said they feel the house on lot 10 is sited too close to his client's house, which is not fair.

Mr. McGarvey said we would not notify you or your client or anyone even in Tarrytown with a second notification. You are notified once and just because you send an e-mail or a letter you cannot put yourself out there and expect us to pay special attention to you. It is notified once and it is published in the newspaper. This is a continuation of a public hearing and it is your responsibility and anyone else's to following the session. We don't send out second notices and we don't postpone because someone is away and can't attend; we don't do that. Chairman Friedlander asked if anyone else would like to speak.

Ms. Gray said she was a little surprised to hear Mr. Rosh say that there has been no effort to resolve the lot line issue. She said she has been in regular contact with Mr. Rosh over the past several months and can provide the board her e-mails and phone logs; she said she just had a conversation with him that morning about tonight's hearing. She said she was also surprised to hear Mr. Fry say that nothing had been done until April 30th when a plan was submitted. There was a lot of work that went into the reworking of the plan to get to that point. She does not want the board to think that they have not done anything; they want to move this along as well.

She said in the interest of time she would speak on the other issues at the next meeting since this hearing has been continued.

Mr. Aukland said there are two issues; one is the landscaping which we already addressed. We said we would ask Lucille Munz to work with you and he said he thought Ms. Raiselis is going to suggest another site walk. The other point is the location of the hilltop as stated by Mr. Fry. We all thought it was in the lower part of the drawing. Ms. Gray said she is very confused by Mr. Fry's comment that the house as it is proposed is entirely in the hilltop protection area. She said she will review his submission in further detail for any further clarification. Mr. Aukland said if the house is moved into the hilltop, it will require a public good statement for doing so; he said but he is not aware of a problem with the present site of the house.

Mr. Tedesco moved, seconded by Mr. Aukland to continue the public hearing. All in favor; motion carried.

CONTINUATION OF A PUBLIC HEARING-HSA-UWC- Jardim East Subdivision

Keith Staudohar of Cronin Engineering represented the applicant. He stated that the public hearing was closed at the April meeting and at the May staff meeting there was a discussion of a proposed resolution of approval.

Chairman Friedlander said the board is prepared to approve the preliminary subdivision.

Mr. Tedesco moved that the Planning Board approve the preliminary subdivision plat for Jardim Estates East subject to all of the conditions that have been enumerated at this meeting; Ms. Raiselis seconded; Mr. Aukland abstained. Four in favor, one abstention; motion carried.

Resolution attached

NEW PUBLIC HEARING - HKP Realty Inc. - 25 Main Street

Chairman Friedlander read the following public hearing notice:

PLEASE TAKE NOTICE that the Village of Tarrytown Planning Board will hold a public hearing on Monday, March 24, 2014 at 7:00 p.m. at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

*Henry Cabral
27 Main Street
Tarrytown, NY 10591*

For site plan approval to convert retail space into a restaurant. The property is located at 25 Main Street, Tarrytown, New York and is shown on the tax maps as Sheet 1.40, Block 17, Lot 21 and in the RR (Restricted Retail) Zone.

Documents are available for inspection in the Planning and Zoning Office. 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.

By Order of the Planning Board

Dale Bellantoni, Secretary

The certified mail receipts were submitted and the sign was posted.

David Barbuti, architect for the applicant introduced himself and Henry Cabral. Mr. Barbuti explained that this application and plan was presented to the board several months ago showing a party room in the back with 12 seats. At that time there were discussions regarding the parking requirements. Mr. Barbuti modified the plan showing the deli up front, a small kitchen area, and the party room in the rear with 20 seats. He did a parking analysis on his cover page showing a breakdown based on both building code requirements and zoning board requirements to show the number of people and parking requirements for this use. He stated for the deli and the 20 seats he calculated the requirement is 10 cars. He said it is his understanding that they get 5 car credit and they are request the Planning Board approve payment into the Parking Fund for the remaining 5 spaces.

Mr. Tedesco said he understands Mr. Barbuti's calculations which he based on the 20 seats; however, at the last meeting we discussed that the calculation should be based on how many can go in that space and we think 40 seats seems reasonable that can go in that space. Mr. Tedesco said with 40 seats you need 13 spaces plus 3 for the deli equals 16 spaces, minus the 5 equals 11 spaces required. He said there is a set cost for the parking fund; the first five is \$1,000 per space, second five is \$2,000 per space, and the last five is \$3,000 per space. He is concerned that they have underestimated the required spaces based upon a reasonable use of that space.

Mr. Barbuti said he was not at the meeting but read the minutes. He did do a building code analysis based on the room and according to the code it is 15 square feet per person based on tables and chairs and he came up with 38.93 persons which is close enough to the 40 seats, plus three employees although Mr. Cabral said there would probably only be two people working in the deli.

Mr. McGarvey said there are no employees shown on the chart. He said the Planning Board should know that whatever the building code says is the number of people that had to go on the placard for this room. Chairman Friedlander asked Mr. McGarvey what he determines that number to be. Mr. McGarvey said it is 15 s.f. for every person (rounded down). For that room itself, you take the gross floor area and divide it by 15 which comes out to seven maximum occupancy; any additional people would be in violation of the fire code which is very serious.

Chairman Friedlander asked Mr. McGarvey what is his advice with respect to the actual vs. the proposal; that is the room is big enough to merit having more parking if it was filled eventually as opposed to what the proposal is. Mr.

McGarvey said he does not think he can ask him to go above what that State Code maximum is. Mr. Birgy said he's at the max now.

Chairman Friedlander asked if anyone had any comments.

Mr. McGarvey asked about the sprinklers. Mr. Barbuti said he believes Tarrytown code states if it is over 50% renovations, it is required to be sprinklered but based on the State Code if it less than 100 persons occupancy it would not be required. Mr. McGarvey said aren't you connecting these two buildings. Mr. Barbuti said it would be connected to the existing Tarry Tavern and the intent is during the day it would be used for the patrons of the deli and in the evening it will be strictly a party room for private affairs. It is not going to be an extension of the restaurant dining. Mr. McGarvey said how do I control that. Mr. McGarvey said you have two different building with two uses with a breach in a fire wall, there is no way to get around not considering this as one. If the deli is closed at night, I would have to go into the restaurant in order to get into the party room and you are more than 100 people.

Mr. Cabral asked how he gets 100 people since the existing restaurant now has 48 seats and if you add 20 seats for the party room; Mr. Barbuti clarified to Mr. Cabral that they would look at it as 38 seats and said that still doesn't add up to 100.

Mr. McGarvey asked if both kitchens will have the anseel system. Mr. Barbuti said yes it will be code compliant with anseel systems and there is already a fire alarm system in Tarry Tavern which they will extend into that area as well.

Chairman Friedlander asked if there are apartments above the restaurant and do they have sprinklers. Mr. McGarvey said yes there are apartments but the code reads only if 50% of it is affected will it trigger that sprinkler code, both New York State and Village of Tarrytown codes. Counsel Shumejda asked about the fire wall separation between the two buildings. Mr. McGarvey said he can address that with special fire rated door closures between the buildings. He said he needs to see it all spelled out specifically for each use. Mr. McGarvey asked about the rear exit. Mr. Barbuti said presently there is only one rear exist that they are going to maintain which goes to a back yard which is about 25' deep. Mr. McGarvey said so I can't get out of there if I'm back there. Mr. Barbuti said not presently but I have had Mr. Cabral contact the neighbors for an access easement. Mr. Cabral said he uses the back exit and just jumps over onto a driveway. Mr. McGarvey said it has to be a legal exit because there could be elderly and handicapped people who can't do that. Ms. Raiselis asked how someone in a wheel chair in the party room will get out if there is a fire in the kitchen. Mr. Cabral said they would go out through the front. Mr. Barbuti said the code says over 49 people requires two exits.

Mr. McGarvey asked if this party room is going to be used during the day. Mr. Barbuti said it will be used during the day for deli patrons if they want to sit down and eat whatever they purchased from the deli; and after deli hours, it would only be used as a party room for private functions. Chairman Friedlander said but that is not enforceable in any way; you could put 10 tables in and we would not know it. Mr. Barbuti said that is correct. Chairman Friedlander asked if the 48 seats in the restaurant include the seats at the bar. Mr. Cabral said yes, but it does not include the outdoor seating.

Ms. Raiselis said she just wants to know for herself why he doesn't want to put sprinklers in because it would make the building safer and it would protect his investment. Mr. Cabral said that Tarry Tavern doesn't have them now so why would he just sprinkle one side; it's not required by the code so why invest that money; it's expensive and was not calculated in the budget.

Counsel Shumejda said the technical issues are for Mr. McGarvey to determine but from a reasonable condition proposed by a Planning Board, how can the Planning Board approve the use of a room that exits out to a back yard that doesn't have any means of egress beyond that; how can they not take that into consideration whether it is part of the code or not. If there is a fire in this building, where are the people in that party room going to go? If they had a fire suppression system, they would at least have a chance. Ms. Raiselis asked what the legal recourse is. Counsel Shumejda said the analysis has to be done by Mr. McGarvey. He said he agrees that whatever exists now exists and you do not have to upgrade it, but you are asking this Planning Board to approve the expansion of your business for the use of a room that is not normally used for this purpose and that will have occupants in it who will need a second means of egress out of that room if there is a fire in the front of both or either buildings. Counsel Shumejda said the Planning Board has the right to impose reasonable conditions. It may be going beyond the state code, but he feels it is a plausible extension; where do the people go. Mr. Barbuti said we do have an interior door that leads into the restaurant. Counsel Shumejda said what if the fire is in the first 2/3 of the building, beyond the interior door, where do they go. Mr. Cabral said it was a restaurant in the 1970. Counsel Shumejda said whatever existed it is, we cannot undo history; but you are asking the board to approve a new use so we must talk about the present, the past is totally unrelated.

Mr. McGarvey asked Mr. Barbuti if he knows the path of travel, travel distance and is this going to meet it. Mr. Barbuti said he has to calculate it.

Mr. McGarvey explained the State Code does not require sprinklers but the Village Code does because we have a volunteer fire department.

Ms. Raiselis asked how old the building is and stated its wood framed. Mr. Barbuti said he thought it was built in the 1920's and it has a brick facade but wood floors.

Mr. Birgy asked if he actually looked into the cost of sprinkling it. He said it would lower your insurance costs and the sprinklers could be exposed which would reduce the cost dramatically.

Mr. Barbuti asked if this hearing could be continued to give him a chance to talk with Mr. McGarvey and work out some of the issue so we could have a determination of what direction we can go in.

Chairman Friedlander asked if there is a way to work with the people behind you to get out of the back yard. Mr. Barbuti said we would have to get easements from a minimum of two of the owners and Mr. Cabral has spoken to them. Ms. Raiselis said are there other property owners that have the same problem in the back; is it something that can be done communally. Mr. Barbuti said there are others that are landlocked but some buildings are deeper than theirs. Chairman Friedlander said maybe there could be a generic easements that would work for all of them.

Mr. Aukland said perhaps you could provide us with an evacuation plan. Ms. Raiselis said you understand that we do not want to say no to you but we want to be confident that it will be safe and beneficial.

Mr. Tedesco moved, seconded by Mr. Aukland to continue the hearing at the June 23, 2014 meeting. All in favor; motion carried.

NEW PUBLIC HEARING – Bromberg - 93 Highland Avenue

The Chairman read the following Notice of Public Hearing:

PLEASE TAKE NOTICE that the Village of Tarrytown Planning Board will hold a public hearing on Tuesday, May 27, 2014 at 7:00 p.m. at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

Charney and Sharon Bromberg
93 Highland Avenue
Tarrytown, NY 10591

For a two-lot subdivision for property located at 93 Highland Avenue. The property is shown on the tax maps as Sheet 1.110, Block 75, Lots 4 & 5 and in the R10 Zone.

Documents are available for inspection in the Planning and Zoning Office. 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.

By Order of the Planning Board

Dale Bellantoni, Secretary

DATED: May 13, 2014

The certified mailing receipts were submitted and the sign was posted

Charney Bromberg, owner of the property stated that their original submission showed a shared driveway to be used by lots and the Board asked him to submit a plans showing the two separated driveways, one to each lot, which they have submitted for this hearing. Mr. Bromberg said the setbacks for the proposed house are also indicated in the submitted drawings as requested by Mr. McGarvey.

Chairman Friedlander asked if there were any questions.

Mr. Aukland asked Mr. Bromberg to give a description of the property for the benefit of the television audience. He explained that in 1953 his father bought only a portion of the property between Highland Avenue and Gunpowder Road but there was not a property filing of the transaction. Mr. Bromberg said they are seeking a legal subdivision of the two lots.

Mr. Aukland said what you are showing is that you can put a fully compliant house on the property which is characterized as a minor subdivision. Mr. Bromberg said he believes so because Mr. McGarvey was pleased when he saw the larger footprint. Mr. Aukland said he wanted to make it clear that if they do approve this subdivision it does not hold you to the configuration that you are showing in your drawings; this is just a demonstration of what can be done. If a house were to be put on that lot, it would have to come in to this board for site plan approval.

Mr. Aukland moved, seconded by Ms. Raiselis to close the public hearing. All in favor; motion carried.

Mr. Aukland moved, seconded by Ms. Raiselis that the Planning Board declare itself Lead Agency for the proposed project. All in favor, motion carried.

Mr. Aukland moved, seconded by Ms. Raiselis that there will be no significant adverse environmental impacts as a result of this proposed action. All in favor; motion carried.

Mr. Aukland moved, seconded by Ms. Raiselis that the board approves the requested minor subdivision noting that the applicant has demonstrated the ability in principal to construct a dwelling in compliance with the applicable zoning code on the undeveloped lot. The board also notes that the applicant may elect to request an alternative, such as one with a shared driveway, which will be viewed in due course by the board as a site plan. This approve is subject to the following conditions:

- Payment of any outstanding escrow fees.
- Signing of the subdivision plat by the Planning Board Chair. The applicant shall file the approved plan within 90 days in the office of the County Clerk as specified in Section 263-4.4E(2) of the Village Code.

All in favor; motion carried.

NEW PUBLIC HEARING – Toth - 33 Main Street

Chairman Friedlander read the following public hearing notice:

PLEASE TAKE NOTICE that the Village of Tarrytown Planning Board will hold a public hearing on Tuesday, May 27, 2014 at 7:00 p.m. at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

*J Scott Toth
33 Main Street
Tarrytown, NY 10591*

For site plan approval for property located at 33 Main Street to construct a two-story addition at the rear of the building. The property is shown on the tax maps as Sheet 1.40, Block 17, Lot 17 and in the RR (Restricted Retail) Zone.

Documents are available for inspection in the Planning and Zoning Office. 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.

By Order of the Planning Board

Dale Bellantoni, Secretary

DATED: May 13, 2014

The certified mailing receipts were submitted and the sign was posted.

Sam Vieira, architect for the applicant, explained that the owners of the Setback Inn is before this board seeking permission to construct a 17' x 28' deep extension in the rear of the building. He said the building sits on a slope property so from the front of the building it appears to be a three story building; the bar on the first floor and two floors of residential units. He said from the rear, as a result of the sloped property, you can see that it is a four-story building because you can see the basement level. Mr. Vieira said the main reason for this addition is to comply with existing state law which says a bar must provide food; and although it is grandfathered, they may need a kitchen in order to comply with the law in the future. He said presently there is a small 10'x12' structure in the rear of the building which will be taken down. He said because of its close proximity to lots lines they are not able to put in any windows because the building code forbids that. He explained that all residential units will be above this addition.

The views are from the west and the north and this structure will not block any of their views, if they have any. Mr. McGarvey asked about the boarded up door on the site plan. Mr. Vieira it was destroy during the winter and it lead to a staircase. They are going to restore the staircase and use it as a second means of egress. Mr. McGarvey asked if there was always a second means of egress and Mr. Vieira said at some point in history there was. He said when the restore it they will be using non-combustible or fire rated materials, whichever the code requires. Mr. Vieira said the entire structures in the rear of the building will be removed and rebuilt and code compliant. Chairman Friedlander asked about asked if the fire ladder is going to be rebuilt because it doesn't look like it can hold very much. Mr. Vieira said yes they will reinforce it but the necessity for this is sort of eliminated with the second way out from the upper levels. If Mr. McGarvey decides that he would like us to keep it, we will either reinforce it or replace it. Chairman Friedlander said a new ladder would be better.

Mr. Tedesco said there are just two variances? Mr. Vieira said yes, one is addition to the existing non-conformity for coverage and because they are increasing the coverage, they need a coverage variance.

Ms. Raiselis said can we do anything about the fire safety issues in the rear of these buildings? Counsel Shumejda said you follow the New York State Fire Prevention Building Code and the Village Code to see if there is a way to satisfy the code regarding egress and in a fire emergency.

Mr. McGarvey asked how many are in the bar with one egress. Mr. Vieira said it is limited to 49 people and the code says with 49 or less people only one means of egress is required.

Ms. Raiselis said there are some buildings that are not doing any work; therefore Mr. McGarvey is not aware of what is going on; thus the potential for a problem. If there was some kind of default exit out of the back of all of them, it could solve the problem.

Mr. Vieira said that space has to go to a reasonable surface of a public right-of-way without jumping over fences or climbing over walls. In the majority of these building, you do have some space; and you are better off being 20 or 30 feet away from a burning building then being trapped in it. He is not sure how a some sort of right of way can be created because it involves a lots of property owners being on the same page.

Chairman Friedlander said it is something that has to be addressed especially considering the age of these buildings and being grandfathered in. He said being that close to a burning building is not safe. Even if there could be gates between the buildings it would form a sort of alley which could be used as a means of escape.

Mr. Vieira said there is only a fence on one side of the property and the other side is open; and he said the first property along this block, the one the fronts North Washington Street, has a very long driveway that lead up to a garage so there is some open space where occupants could get out of the property. He said no one has very tall fences or walls back there. Ms. Raiselis said the situation may be different for an elder person.

Mr. McGarvey asked how they are going to get equipment back there. Mr. Vieira said Mr. Toth has already spoken to his neighbors and they are going to use light equipments. He said they are only talking about a 42" footing trench because the basement is a walk and for whatever storm water management is required for the impervious surface.

Mr. McGarvey said what about the metal stairs; going to carry them in. Mr. Vieira said yes or build them on site.

Counsel Shumejda said he is following up on the Chairman's comments and Mr. Vieira's comments. He said there is no fence in the driveway and a person could walk straight out to a public right-of-way ; Mr. Vieira said that is correct.

Counsel Shumejda asked if there was a gate; Mr. Vieira said no but that is private property so it doesn't comply with the code. Counsel Shumejda said what the Chairman is saying if it is provided in the resolution that the owner of this property has to provide in perpetuity if there is ever a fence erected there they must provide an entry/exit opening

from the inside out to provide access to that driveway in case of a fire emergency. Mr. Vieira said you are asking Mr. Toth to provide something that a neighbor would need to agree to. Counsel Shumejda said was asking him, if there is ever a fence erected by him or his successor, on his property that it must have an opening for emergency access. Mr. Vieira said he thinks it's a great idea if Mr. Toth does put a fence up.

Chairman Friedlander opened the meeting to the public.

Stetson Hundgen, super for 31 Main Street, said their sanitation line runs directly outside of the building and then through of 31, 33 and 35 Main Street and it will mostly likely under the new addition. He said he would like to add a condition to the approval that the sewer line will be kept and maintained. Mr. McGarvey asked if they have an easement across his property. Mr. Hundgen said he does not know. Mr. McGarvey asked how he knows the sewer goes there. Mr. Hundgen said they had to snake it out last year and that is they way it looked like the snake was going and there is a sewer line out on North Washington Street. He said he believes that that is how it happens. Mr. McGarvey said you think everyone in the back comes out that way. Mr. Hundgen he does not know. Mr. Vieira said he submitted the survey and to his knowledge there were not utility easements. He said perhaps Mr. Toth can shed some light on this issue.

Mr. Toth said his sewer line straight out from his property and he believes theirs does too because there is a private sewer line that comes up the driveway from a Washington Street property that connects into the sewer line on Washington Street to the Tarrytown sewer line. He said he believes there are only five of them that go that way; everyone else goes out to Main Street. Mr. McGarvey asked Mr. Toth if he knows where that sewer line is. Mr. Toth said that he does and he said it may affect his but he doubts it will affect his because he does not think 31 Main Street's crosses his property line. Mr. Hundgen said he thinks it comes out about 10' and then diagonals to Jean Claude's new addition. Mr. McGarvey said he thinks they will try to locate it to be sure it is not in the area of the addition. Mr. Vieira said absolutely.

Mr. Hundgen said in general they are in favor of the addition and they think it is great that he is improving his space.

Mark Fry said he is in favor of this and is very happy to see all of these properties being improved.

Mr. Aukland said he is not going to include anything to do with the sewer line in the conditions because that is an engineering issue. Mr. McGarvey agreed.

Mr. Aukland moved, seconded by Ms. Raiselis to close the public hearing. All in favor; motion carried.

Mr. Aukland moved, seconded by Ms. Raiselis that the Planning Board declare itself Lead Agency for the proposed project. All in favor, motion carried.

Mr. Aukland moved, seconded by Ms. Raiselis that there will be no significant adverse environmental impacts as a result of this proposed action. All in favor; motion carried.

Mr. Aukland moved, seconded by Ms. Raiselis to approve that the Planning Board approves construction of the two story addition at the rear of the building noting that this alteration is in anticipation of a New York State liquor licensing requirement that food must be provided in a bar. This approval is subject to the following conditions:

- In the event that a fence is constructed on the applicant's property such fence shall be provided with a gate that can be opened from the inside to allow for emergency egress.
- Approval by the Village Building Inspector/Village Engineer.
- Approval by the Zoning Board of Appeals for the requested variance: increase from 56% to 72% principal building coverage vs. 50% permitted. The board considers that the public good from the proposal justifies this variance.
- Payment of any outstanding escrow fees before the granting of a building permit.
- Signing of the final site plan by the Planning Board Chair.

All in favor; motion carried.

NEW PUBLIC HEARING - Split Development Corp. - 56 Gracemere

Chairman Friedlander read the following public hearing notice:

PLEASE TAKE NOTICE that the Village of Tarrytown Planning Board will hold a public hearing on Tuesday, May 27, 2014 at 7:00 p.m. at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

*Joseph DeNardo
83 Harriman Road
Irvington, NY 10533*

For site plan approval for property located at 56 Gracemere to construct a single-family house. The property is shown on the tax maps as Sheet 1.190, Block 112, Lot 28 and in the R-60 Zone.

Documents are available for inspection in the Planning and Zoning Office. 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.

By Order of the Planning Board

Dale Bellantoni, Secretary

DATED: May 13, 2014

The certified mailing receipts were submitted and the sign was posted.

Jim Annicchiarico of Cronin Engineering representing the applicant, Joseph DeNardo who was also present, gave the details of the project as follows:

- Lot 14 is on the south side of Gracemere Road.
- Single-family house with a two-car garage.
- Approximately 6,400 s.f. RFA.
- There are no steep slope issues; conforms to zoning.
- Utilities have already been bought up to the property line.
- The height is 25'-9"
- Provided a tree removal plan.
- Provided a landscape plan to Lucille Munz and her comments are in her report (attached).
- Ms. Munz is OK with the trees proposed to be removed for the driveway. Most of the trees on the property are up front.
- Ms. Munz asked for two trees to be protected and they have no problem doing so.
- They are in agreement with Ms. Munz suggestions as per her report.
- Nothing has changed from the previous application.

Chairman Friedlander asked where the conservation easement runs and if there are trees in the rear of the property. Mr. Annicchiarico pointed out the conservation easement and said yes there are trees between the property and the open space.

Mr. Annicchiarico said there is a retaining wall proposed in the rear ranging from 1' to 4' high and some grading

Chairman Friedlander said the site slopes up. Mr. Annicchiarico said yes it does slope up and they have some drainage work to do in the rear.

Chairman Friedlander asked how far the house will be away from the Open Space parcel. Mr. Annicchiarico said about 80'.

Ms. Raiselis asked if the stone wall is going to be the same stone as on the other sites. Mr. DeNardo said all of the wall will match.

Mr. Annicchiarico showed the board a rendering of the house showing the elevations. He showed a streetscape from the front of the house and from the rear of the house.

Chairman Friedlander asked the distances from this house. Mr. Annicchiarico said the distance from the house on lot 14 to the property line is about 27' plus and 45' from the property line to the house on lot 13; from the house to the property line of lot 15 there is 55½' and from the property line to the house on lot 15 is 31'.

Chairman Friedlander asked if anyone had any questions.

Mr. Aukland asked if they would put monuments in the corners of the property. Mr. Annicchiarico said yes.

Mr. Birgy moved, seconded by Mr. Aukland to close the public hearing. All in favor; motion carried.

Mr. Birgy moved, seconded by Mr. Aukland that the Planning Board declare itself Lead Agency for the proposed project. All in favor; motion carried.

Mr. Birgy moved, seconded by Mr. Aukland that there will be no significant adverse environmental impacts as a result of this proposed action. All in favor; motion carried.

Mr. Birgy moved, seconded by Mr. Aukland to approve 56 Gracemere as specified in the application subject to the following conditions:

- Approval by the Building Inspector/Village Engineer particularly in regard to the adequacy of the storm water/drainage plan.
- Approval of a landscaping and screening plan by the village landscape consultant. Plantings should be non-invasive native species or non-invasive ornamentals. This condition is also to be recorded in the Homeowner's deed and conveyed with the property. If during the implementation of the approved landscaping plan, any changes or amendments are desired, such changes must be approved by the Planning Board.
- In ground monuments to be placed at the rear corners of the property line.
- Payment of any outstanding escrow fees/recreation fees prior to the granting of a Building Permit.
- Approval by the Architectural review Board.
- Signing of the final site plan by the Planning Board Chair.
- Inclusion of field report dated May 27, 2014 from Lucille Munz, Village landscape consultant.

All in favor; motion carried.

CONTINUATION OF A PRELIMINARY PRESENTATION – Whisper Hill Condominiums – 32 Windle Park

David Aukland rescued himself from this application

Mr. Nicholas Deutsch, President of the Board of Managers of Whisper Hill on the Hudson Condominiums handed out a statement on behalf of the Board of Managers, which the board members took a few minutes to read. (copy attached).

Ms. Raiselis said there are nine retaining walls with the same issue. Mr. Deutsch said there are three buildings on the west side of Windle Park and one on the east side. All of the walls are being redone but only the one along Franklin Street is an issue and we are here because of the steep slopes.

Mr. Annunziata, the applicant's engineer, said at the last meeting they were asked to justify why they chose block walls rather than railroad tie walls. He said, as explained in their statement, block walls are more durable, less likely to decay and will retain the soil.

Mr. Annunziata then spoke about the steep slope issue. He said they have already disturbed some steep slopes. They understand that the maximum allowed in Tarrytown is 25% but in some areas they were not able to do that and they are asking for a steep slope waiver. Mr. McGarvey asked Mr. Annunziata if he understands that anything above the 25% is a steep slope. Mr. Annunziata said yes he understands that. He said the work has been stopped but they would like the waiver so that they can continue since the slope has already been disturbed. He feels that what they

have done so far is not such a terrible thing. The walls they have put up are sturdy, they are very nice looking, they are consistent with what is in the neighborhood and they will create a safer condition with silt and water coming down from the hill.

Chairman Friedlander said it seems to him that the public good for both the steep slopes and the change of material is a safety issue because you are on a public street and this wall will help with the erosion and water coming down and forming ice on the sidewalk and street and the proposed material will be better for this purpose than the railroad ties. Chairman Friedlander said the second issue is the fire road. He read a letter address to Michael McGarvey from Terrence Murphy, Assistant Chief, regarding the access road and the necessity of it remaining as is (copy attached). Chairman Friedlander said another public benefit that has to be addressed is the fire access road and whether the protection of this road is better with having this kind of structure in a steep slope waiver as well as a change in the material. He said he feels the road is not in the best condition and needs to be fixed.

Mr. McGarvey said he is not sure if a mesa block retaining wall or a railroad tie retaining wall is better than the other for runoff but he said behind the wall is a drainage system that will collect any water coming down. He said if they increase the height of that wall from the existing 30" wall to the proposed 46" wall, it will reduce that slope which will decrease the amount of runoff from the site.

Counsel Shumejda said at the last meeting the Chairman asked the applicant to provide the following:

A plan showing the replacement of the wall with railroad ties in the same location that it previously existed. Counsel Shumejda said he has not seen that. Mr. Annunziata said he used the same drawing that they initially submitted because that is the only drawing they have. It was based on the one drawing that the Building Department had; it's an as-built survey that did not show grades and basically they just copied it. That was the only drawing that was made available. Counsel Shumejda said the as-built goes back to the 1980s. He asked Mr. Annunziata if they were able to find a topo showing where the steep slopes were before they were disturbed. Mr. Annunziata said most of the area above the fire department road has not been touch. The greatest amount of disturbance is in the area behind the wall along Franklin Street. Counsel Shumejda asked what the white area on the plan behind the wall represents and was it steep slopes. Mr. Annunziata said that was dug out for the drainage material and it was a steep slope. Mr. McGarvey said so basically prior to your construction everything was the same except for that little strip above the wall; and when the surveyor came, it was level because it was dug out to put in your geo-grid and the whole front area was not disturbed. Mr. Annunziata said that is correct.

Counsel Shumejda asked which drawing shows the existing wall of 2½' of railroad ties. Mr. Annunziata said the last two drawings which are hand sketched.

Counsel Shumejda said you were also asked to submit your landscape plan to the Village Landscape Architect; did you do that. Mr. Deutsch said their landscaping committee is waiting for a design that is being worked up by two landscaping firms. We do not have that done at this point; but as soon as we do have one, we will bring it into the board. Counsel Shumejda said that needed to be done before they could move this application to a public hearing. He asked when they anticipated having that done. Mr. Deutsch said he would have to check with the Chair of the landscape committee.

Mr. Tedesco said we asked for several things:

- How much steep slopes have been disturbed; the physical amount.
- You stated in your letter that the steep slopes will be on one or two areas. Mr. Tedesco said you should show exactly where those areas are and how much steep slope disturbance you anticipate, the actual amount; so that we can know what the size of this waiver will be.

Mr. McGarvey said I believe they are trying to say that after this is completed they are going to reduce the slope to under 25%. Mr. Annunziata said that is correct. He said area A, as indicated on the plan submitted tonight, he believes is about 30% and that is the only area. He thinks they can adjust that a bit. Mr. McGarvey said they are not looking to have the proposed slope less than 25%; whatever it is, it is.

Counsel Shumejda reiterated the things the board wants for the next meeting:

- A plan showing where the steep slopes were; so the plan you present has to show what it was not decreasing

the steep slope.

- If you know what it was before it was disturbed, you have to present a plan showing how you are going to restore it its existing pre-construction condition.
- What you want to build there.

Mr. Deutsch said if we have the landscape plan ready for the staff meeting, can we bring it in. Counsel Shumejda said that would be fine.

Mr. Annunziata asked if this means their request for a waiver is denied. Counsel Shumejda said no; that is not his decision, it is up to the board. Counsel Shumejda said he is only stating what was asked for last time.

Mr. McGarvey said on the plan indicating section C, you have the elevation of the old railroad tie wall at 20.5' and the new wall at 27'. Does that mean you are planning to raise that wall 6.5'? Mr. Annunziata said that doesn't sound right, there must be a mistake and we will adjust that.

Chairman Friedlander said we need to have in their new plan what they are going to do to restore that fire department road to make it usable. Chairman Friedlander is concerned about the condition of that road; can they even get up it.

Mr. Tedesco moved, seconded by Ms. Raiselis, to continue the preliminary hearing to the June 23, 2014 meeting. All in favor; motion carried.

PRELIMINARY PRESENTATION - Toll Brothers - 112 Wilson Park Drive (Lot 2)

Jennifer Gray of Keane and Beane and representative for Toll Brothers showed the board the site plan for the proposed single-family house. She said it will have a common driveway over which the Village has an easement for emergency and handicap access down to the soccer field as well as for maintenance. Ms. Gray described the proposed house as follows:

- House fronts the driveway diagonally.
- Lot is 1.36 acres
- 3,700 s.f. coverage
- 5,600 s.f. of livable space
- It is completely zoning compliant
- No waivers or variance will be required
- There are no steep slopes on the property
- 10 trees will be removed as shown on the tree survey provided in conjunction with the landscape plan and Steve Coleman recommended the removal of those trees.
- A significant portion of the trees on the property will remain
- There will be screen from Wilson Park in the rear and on the side of the property

Ms. Gray said this is the side of the Stone House which will be removed for construction of this new house.

Mr. Tedesco questioned the frontage as shown on the zoning tabulation table which indicates that the required frontage is 135' and the proposed is 20.5'. He asked if that was a typo. Ms. Gray said under the zoning table, note 2, it states that the Planning Board granted a reduction of the minimum frontage for lots 1, 2 9, 11, 13 and 14 at the subdivision approval. She believes that was done for this house because of the common driveway.

Mr. Birgy said there a number of people who are concerned about the way these houses have been presented vs. the final outcome. He use lot 14 as an example stating that it does not look like what they presented. He said they are trying to be very respectful to what was once Rockefeller property. He said he would like to see a three-dimensional plan of what the final house will look like. Ms. Gray asked how would he like them to present it, in a rendering or a model. Mr. Birgy said a model. Ms. Gray said they will do what they can.

Mr. Aukland said that it was stated that there are no waivers or variances required but Mr. Tedesco pointed out the waiver for frontage. He said you have to point that out. Ms. Gray said but that is a waiver that has already been granted by this board in accordance with the subdivision approval.

Mr. Birgy said he is concerned that their surveyor is not giving them all of the information about the lots.

Ms. Gray she has checked that there are no steep slopes on lot 10 or lot 2, the two lots before this board now.

Ms. Raiselis said maybe it would be helpful if we get a topo without a building on it so we can address any issues before the house is built on it.

Ms. Gray said the site plan does show both existing and proposed; the light dotted lines are the existing and the solid lines are the proposed.

Mr. McGarvey said if you go over that driveway down to the soccer field there is water that is bleeding out at the bottom of that hill that goes to a catchbasin or drain inlet that is in the asphalt. He said they have to capture that water because that is going to be Village property and it will freeze up in the winter. He suggested an under drain along the bottom of the hill and connect it to the existing drain.

Ms. Gray showed the elevations and the streetscape.

Chairman Friedlander asked if they submitted a landscape plan to Ms. Munz. Ms. Gray said they submitted a landscape plan to the board with the application but she does not know if Ms. Munz received it.

Mr. Tedesco moved, seconded by Mr. Aukland, that the Planning Board declares their intent to be Lead Agency; all in favor. Motion carried.

Mr. Tedesco moved, seconded by Mr. Aukland, to set a \$2,500 escrow; all in favor. Motion carried.

Mr. Tedesco moved, seconded by Mr. Aukland, to set a Public Hearing for the June 23, 2014 meeting; all in favor. Motion carried.

Mr. Tedesco suggested a site visit for both lot 10 and lot 2.

PRELIMINARY PRESENTATION – Mraz - 44 Lincoln Avenue

Mr. Birgy rescued himself and presented the application.

Mr. Birgy, contract vendee, said he is before this board with a proposal for a two-lot minor subdivision. He said he does not believe there will be any variance required or any steep slopes on the property but all of that will be verified for the public hearing. One lot already has a house on it and he is proposing to put a 3,000 s.f. house with the garage underneath, which will be centered on the other lot. He said there are no existing trees on the site and he will have a landscape plan prepared for presentation at the public hearing.

Mr. McGarvey asked if he was going to have this proposal done professionally showing all of the setbacks, driveway, grading etc.; showing that everything conforms. Mr. Birgy said yes he will have it for the public hearing.

Mr. McGarvey asked if it would be a modular and was he planning to do immediately. Mr. Birgy said most likely it will be a modular but he is here just for the subdivision now and will build on it later. He said he thought it would be more efficient to get the approvals so when they are ready, they won't have to come back for the site plan approval.

Ms. Raiselis said your topo map doesn't match what is there right now. Mr. Birgy said it has been terraced over time. Ms. Raiselis said are you going to have a new topo map done. Mr. Birgy said the existing and proposed grades will be shown.

Mr. Birgy said he would like to have the house approved at the same time the subdivision is approved, can that be done.

Counsel Shumejda said we will need an additional application for the site plan. Mr. Birgy said it's coming.

Mr. Tedesco said we would approve the subdivision first and then we could immediately go into the site plan if we have everything that is needed. Mr. Birgy said he will be submitting a detailed plan.

Mr. Tedesco moved, seconded by Mr. Aukland, that the Planning Board declares their intent to be Lead Agency; all in favor. Motion carried.

Mr. Tedesco moved, seconded by Mr. Aukland, to set a \$2,500 escrow; all in favor. Motion carried.

Mr. Tedesco moved, seconded by Mr. Aukland, to set a Public Hearing for the subdivision at the June 23, 2014 meeting; all in favor. Motion carried.

ADJOURNMENT

Mr. Tedesco moved, seconded by Mr. Aukland, and unanimously carried, that the meeting be adjourned – 10:30 p.m.

Dale Bellantoni
Secretary