

Planning Board
Village of Tarrytown
Regular Meeting
November 26, 2018 7:00 pm

PRESENT: Chairman Friedlander, Members Tedesco, Aukland, Raiselis, Alternate Lawrence; Counsel Zalantis; Building Inspector/Village Engineer Pennella; Village Planner Galvin; Secretary Meszaros

ABSENT: Member Birgy

Chairman Friedlander called the meeting to order at 7:00 p.m.

APPROVAL OF MINUTES– September 24, 2018 and October 22, 2018

Mr. Tedesco moved, seconded by Ms. Raiselis, with Mr. Aukland abstaining, that the minutes of the September 24, 2018 be approved as amended. All in favor. Motion carried.

Mr. Tedesco moved, seconded by Mr. Aukland, with Dr. Friedlander and Alternate Lawrence abstaining, that the minutes of the October 22, 2018 be approved as submitted. All in favor. Motion carried.

Chairman Friedlander announced the following adjournments:

- Michael Degen- 86 Crest Drive
Additions and Alterations to a single family home
- Benedict Avenue Owners Corp. –22 Glenwolde Park
Additions and Alterations to a single family home.
- Artis Senior Living, LLC – 153 White Plains Road
Construction of a 35,952 s.f. Alzheimer/Dementia Care Facility
and review of petition for zoning amendment to allow for Alzheimer
Dementia Care housing.
- E.F. Schools, Inc.- 100 Marymount Avenue
Exterior site improvements to the Esplanade between
Rita and Marian Hall to improve pedestrian access and
provide for emergency vehicle access
- Sisters of the Sacred Heart of Mary- 32 Warren Avenue
widening, construction of retaining wall and garden addition
- Peter Bartolacci – 67 Miller Avenue – Removal of railroad tie-wall,
construction of retaining walls and landscaping of rear yard.

CONTINUATION OF PUBLIC HEARING – Alex Esposito – 11 Emerald Woods

Mr. Tedesco read an email message received by Secretary Meszaros to the Planning Board this morning, November 26, 2018, from Lester Jacobs, of 47 Stephen Drive with regard to this application.

Mr. Jacob's wrote:

"I will not be able to attend tonight's meeting. I will have no other comments on the application other than to ask the Planning Board to, in so much as practicable, have the town arborist assure that screening vegetation is planted that protects my sight lines to the property, again, in so much as practicable. Thank you for your consideration."

Dan Collins, EIT, of Hudson Engineering, the project engineer presented the plans and explained that the general layout has remained the same and they have addressed Mr. Pennella's concerns in his November 11, 2018 memorandum. He is hoping to have the Board close the public hearing and vote on the application this evening.

Ms. Raiselis asked if the letters from the Homeowner's Association have been received. Mr. Pennella advised that a letter from the owner of 9 Emerald Woods granting access to install the overflow drain through the existing easement on that property has been received. The President of the Emerald Woods Homeowner's Association has also submitted a letter to allow the owner to connect to the existing manhole. These letters have been reviewed and have been made part of the record.

Planner Galvin stated that in addition to these letters, condition #2 of the resolution states that *"Prior to the issuance of a Building Permit, the Applicant shall furnish proof to the Building Department that she has joined the Emerald Woods of Tarrytown Homeowners Association as stipulated on filed map 27501 dated April 1, 2005."*

Planner Galvin also referenced condition #3 which states that *"Prior to the issuance of a Building Permit, based on the recommendation of the Village Landscape Consultant in order to offset the reduction in overall tree cover resulting from the development of the site, the Applicant shall supplement the Village Tree Fund in the amount of \$4,200.00 which is equal to tree replacement costs of 30" caliper inches or twelve (12) trees of 2.5" caliper per memorandum from Village Engineer dated November 11, 2018."*

Dr. Friedlander asked if anyone in the public would like to speak. No one appeared.

Mr. Aukland moved, seconded by Mr. Tedesco, to close the public hearing. All in favor. Motion carried.

Mr. Aukland said he will read portions of the resolution and a copy of the general and specific site plan conditions will be provided to the applicant and the entire site plan approval will be recorded in the minutes of the meeting as follows:

RESOLUTION
VILLAGE OF TARRYTOWN PLANNING BOARD
(Adopted November 26, 2018)

Application of Alex Esposito, AIA, Architects
Property: 11 Emerald Woods (Sheet 1.190, Block 112, Lot 30 and Zone R-60)
Resolution of Site Plan Approval

Background

1.The Applicant requested site plan approval for the demolition of the existing garage/dormitory building and construction of five car garage/guest house, pool cabana, swimming pool, patio, steps, walls, driveway and landscaping on a property located at 11 Emerald Woods for a single-family residence contiguous to the adjacent property at 13 Emerald Woods in the R-60 District. Both lots are in common ownership of the property owner making this application.

2.The Planning Board on August 27, 2018 determined this to be a Type II Action under NYS DEC 617.5 (c) (10) *"construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density"* and, therefore, no further SEQRA review is necessary.

3.The Planning Board has conducted a duly noticed public hearing on August 27, 2018, September 24, 2018, October 22, 2018 and November 26, 2018 at which time all those wishing to be heard were given the opportunity to be heard.

4.The Planning Board has carefully examined the Application and received comments from the Village Consulting Planner in memoranda dated August 16, 2018, September 10, 2018, October 9, 2018 and November 9, 2018, from the Village Landscape Consultant in staff reports dated September 12, 2018, October 18, 2018 and November 7, 2018 which reviewed arborist report and recommending contribution to Village Tree Fund to offset reduction in overall Village tree cover resulting from this site development, from the Village Engineer/Building Inspector in a denial letter dated February 2, 2018, engineering review dated October 19, 2018 and stormwater and landscaping review dated November 11, 2018, from the Applicant's Engineer (Hudson Engineering) in a *Drainage Analysis* dated October 25, 2018, from Applicant's Landscape architect in a letter dated October 22, 2018 addressing the comments of the Village Engineer and Village Landscape Consultant and from the President of the Emerald Woods of Tarrytown Homeowners Association in a letter dated November 9, 2018 granting permission for 11 - 13 Emerald Woods to connect to the Association's stormwater system.

5. The Planning Board closed the public hearing on November 26, 2018. After closing the public hearing, the Planning Board deliberated in public on the Applicant's request for approval.

Determination

The Planning Board determines that based upon the findings and reasoning set forth below, the Application for site plan approval and the waiver for steep slope disturbance are granted subject to the conditions set forth below.

I. Findings

The Planning Board finds that the Applicant has satisfactorily addressed the criteria for granting the waiver for steep slope disturbance under Zoning Code § 305-67(F) (1) (b) for steep slope disturbance and the Planning Board finds that the applicant has established that the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant. The Applicant's *Narrative* dated August 15, 2018 is made part of the findings of the Planning Board and subsection (1) (b) (1) through (4) have been considered by the Planning Board as set forth below:

Neighborhood Character: There will not be an undesirable change in the character of the neighborhood since the retaining walls face in on the subject property and the area in question is not visible from the street and neighboring properties. The proposed design uses the same materials and repeats many of the design details of the existing neighboring structure. The retaining walls and terraced areas are designed to integrate into the existing topography and are proposed to be consistent with the historic type and character of the Hudson River Estates and neighborhood.

Alternate Feasible Method to achieve benefit sought by applicant: The benefit cannot be achieved by some other method: the proposed disturbance is restricted to an area required to replace the existing structure and walls and has been kept to a minimum. All steep slope disturbance will be restored and stabilized with substantial new plantings.

Impact on Other Properties: The steep slope disturbance will have no adverse effect/changes on the physical or environmental conditions in the neighborhood. The existing conditions of the slope will be improved thus reducing stormwater runoff and off-site. The proposed development will reduce the quantity of steep slopes thereby facilitating percolation and the absorption of runoff. Engineered stormwater management systems will be introduced.

Consistency of Project with Intent of the Steep Slopes Chapter: The granting of the waiver will be consistent with the purposes, objectives or general spirit and intent of the “Visual Character and Environmentally Sensitive Areas” Chapter in the Zoning Code and addresses the explanation for each objective in the Chapter.

Accordingly, under Zoning Code § 305-67(F)(2)(a) and (b), as set forth above, the Planning Board finds that: (a) The proposed development will not be materially detrimental or injurious to other properties or improvements in the area in which the subject property is located, increase the danger of fire or flood, endanger public safety or result in substantial impairment of a slope area; and (b) the waiver will not be inconsistent with the purposes, objectives or the general spirit and intent of this chapter. In addition, in accordance with Zoning Code § 305-67(F) (2) (c), the waiver is the minimum relief necessary to relieve the extraordinary hardship established by the Applicant. As set forth above, the Applicant’s plans afford a more stable and maintainable condition which will provide long-term protection from soil erosion and sedimentation; provide increased slope stability to protect against slope failures (adjacent to Gracemere); and provide an improved stormwater management system which will minimize stormwater runoff, erosion and flooding. The waiver granted by the Planning Board is the minimum relief necessary to relieve the Applicant’s established hardship of the property and will improve the site’s aesthetic character and surrounding property values while maintaining the health, safety and welfare of the public in the neighborhood and Village of Tarrytown.

In addition, the Planning Board has considered the standards set forth in the Village of Tarrytown Zoning Code (“Zoning Code”) Chapter 305, Article XVI and finds that subject to the conditions set forth below, the proposed site plan is consistent with the site plan design and development principles and standards set forth therein.

The owner has acquired two adjacent properties at 11 and 13 Emerald Woods. The Application is for 11 Emerald Woods. The Planning Board has reviewed the Applicant’s site plan which involves the demolition of an existing structure and development of a detached garage/guest apartment and pool cabana for a single family residence located on the adjacent property at 13 Emerald Woods. Both properties front on Gracemere.

The subject property at 11 Emerald Woods is a 42,699 sf parcel (0.9802 acre) in the R-60 Single Family District. The property is within the Jardim Subdivision. This subdivision received cluster authorization allowing the R-60 lots to use R-40 zoning for frontage, yard setbacks and lot coverage. The Proposal is zoning complaint under either the R-60 or R-40 zoning. The Environmental Clearance Form only noted steep slopes as the only issue. The subject property contains 7,670 sf of steep slopes 25% or greater. The Applicant has submitted a plan with the required steep slope analysis.

The existing structure at 11 Emerald Woods is an existing garage/dormitory building that was formerly used in connection with the school and dorms at 13 Emerald Woods parcel. The new garage/guest apartment is designed in the style of the adjacent main house on 13 Emerald Woods. The new structure will be two stories and 3,490 sf. Construction will include pool cabana, swimming pool and spa, patios, pool enclosure fencing, parking lot courtyard, brick faced retaining walls and steps. The retaining walls surrounding the parking lot courtyard were reduced from 7' to 6' which will not require a variance. The Applicant reduced the garage from six cars to five cars. The Applicant is using porous asphalt in the parking lot courtyard located to the north of the proposed structure and to the west between the main house and the proposed detached garage/guest house. The driveway leading to the garage will be gravel. The site's impervious surface is calculated at 18.79% which is within the maximum allowable of 19.25%. The planting plan has been revised to reflect the recommendations of the Village Landscape Consultant in her staff report dated September 12, 2018. Additionally, the Applicant has submitted a certified arborist's report (Daniel J. Greto, Central Tree Service) dated October 31, 2018 evaluating the conditions of the trees at 11 and 13 Emerald Woods. The Applicant has provided an alternate design study showing two distinct and separate residences at 11 and 13 Emerald Woods requested at the August 27, 2018 Planning Board meeting. Upon discussion with the Planning Board, the Applicant has agreed to maintain the two lots at 11 and 13 Emerald Woods in common ownership as a condition of site plan approval.

Hudson Engineering has provided a *Stormwater Pollution Prevention Plan* (12/27/17) and Drainage Analysis for review by the Village Engineer. The SWPPP covers both properties at 11 and 13 Emerald Woods consisting of 2.28 acres. Since it is over an acre, it is required to conform to DEC regulations and an MS4 report submitted to NYSDEC. Hudson Engineer's *Drainage Analysis* proposes two independent culvert infiltration systems on both properties for stormwater management. The site will provide a new catch basin that will be directed into existing catch basin with the permission of the Emerald Woods Homeowners Association. The proposed drainage line and system will result in a sizeable reduction in the current overland flow that would otherwise flow onto neighboring properties and the r-o-w.

II. Approved Plan:

Except as otherwise provided herein, all work shall be performed in strict compliance with the plans submitted to the Planning Board and approved by the Planning Board as follows:

Site Development Plans prepared by Studer Design Associates, Inc. dated August 28, 2018 and last revised October 31, 2018, the Architectural Plans prepared by Alex Esposito, AIA, Architects revised July 11, 2018 and the civil drawings by Hudson Engineering & Consulting, P.C. dated December 22, 2017 unless otherwise noted entitled:

Site Development Plans

- LA-100 *General Notes & Specifications*
- LA-200 *Site Plan & Zoning Data* revised October 9, 2018

- LA-201 *Slope Analysis Plan & Sections* revised October 1, 2018
- LA-300 *Demolition Plans*
- LA-301 *Tree Removal & Protection Plans*
- LA-400 *13 Emerald Woods Layout Plan* revised October 1, 2018
- LA-401 *11 Emerald Woods Layout Plan* revised October 9, 2018
- LA-500 *Grading Plans* revised October 1, 2018
- LA-600 *Site Sections & Elevations* revised October 1, 2018
- LA-601 *Site Elevations & Details* revised October 9, 2018
- LA-700 *Planting Plans*
- LA-701 *Critical Root Zone Analysis Plans* dated October 25, 2018
- LA-800 *Lighting Plan* dated August 28, 2018
- *Survey of Property prepared for Andre Fernandes in the Village of Tarrytown, Town of Greenburgh, Westchester County, NY prepared by Ward Carpenter Engineering Inc., March 29, 2018. The premises being lot 16 as shown on a map entitled “Subdivision Plat of the Holy Spirit Association for the Unification of World Christianity” dated January 8, 2004 and filed April 4, 2005 as County Clerk Map No. 27501.*

Civil Drawings

- C-1 *Stormwater Management Plan* last revised November 19, 2018
- C-2 *Details* dated December 27, 2018

Architectural Plans

- A-1 *Cross-Section, Floor Plans and Roof Plan*
- A-2 *Elevations*
(the “Approved Plans”).

Miscellaneous

- *Stormwater Pollution Prevention Plan and Drainage Analysis for Proposed Guesthouse/Garage, 11 Emerald Woods* prepared by Hudson Engineering & Consulting, P.C. dated December 27, 2017

III. General Conditions

(a) Prerequisites to Signing Site Plan: The following conditions must be met before the Planning Board Chair may sign the approved Site Plan (“Final Site Plan”):

- i. The Planning Board’s approval is conditioned upon Applicant receiving all approvals required by other governmental approving agencies without material deviation from the Approved Plans.

- ii. If as a condition to approval any changes are required to the Approved Plans, the Applicant shall submit: (i) final plans complying with all requirements and conditions of this Resolution, and (ii) a check list summary indicating how the final plans comply with all requirements of this Resolution. If said final plans comply with all the requirements of this Resolution as determined by the Village Engineer, they shall also be considered “Approved Plans.”
 - iii. The Applicant shall pay all outstanding consultant review and legal fees in connection with the Planning Board review of this Application.
- (b) Force and Effect: No portion of any approval by the Planning Board shall take effect until (1) all conditions are met, (2) the Final Site Plan is signed by the chair of the Planning Board and (3) the Final Site Plan signed by the Planning Board Chair has been filed with the Village Clerk.
- (c) Field Changes: In the event the Village Engineer/Building Inspector agrees that, as a result of conditions in the field, field changes are necessary to complete the work authorized by the Approved Plans and deems such changes to be minor, the Village Engineer/Building Inspector may, allow such changes, subject to any applicable amendment to the approved building permit(s). If not deemed minor, any deviation from or change in the Approved Plans shall require application to the Planning Board for amendment of this approval. In all cases, amended plans shall be submitted to reflect approved field changes.
- (d) ARB Review: No construction may take place and a building permit may not be issued until Applicant has obtained approval from the Board of Architectural Review as required in accordance with applicable provisions of the Village of Tarrytown Code.
- (e) Commencing Work: No work may be commenced on any portion of the site without first contacting the Building Inspector to ensure that all permits and approvals have been obtained and to establish an inspection schedule. **Failure to comply with this provision shall result in the immediate revocation of all permits** issued by the Village along with the requirement to reapply (including the payment of application fees) for all such permits, the removal of all work performed and restoration to its original condition of any portion of the site disturbed and such other and additional civil and criminal penalties as the courts may impose.

IV. Specific Conditions:

1. Prior to the issuance of a Building Permit, Applicant shall file a Declaration with the Office of the Westchester County Clerk to maintain the two lots at 11 Emerald Woods (Sheet 1.190, Block 112 and Lot 30) and 13 Emerald Woods (Sheet 1.190, Block 112 and Lot 25) in common ownership. The Applicant shall submit written evidence of such filing to the Building Department.
2. Prior to the issuance of a Building Permit, the Applicant shall furnish proof to the Building Department that she has joined the Emerald Woods of Tarrytown Homeowners Association as stipulated on filed map 27501 dated April 1, 2005.
3. Prior to the issuance of a Building Permit, based on the recommendation of the Village Landscape Consultant in order to offset the reduction in overall tree cover resulting from the development of the site, the Applicant shall supplement the Village Tree Fund in the amount of \$4,200.00 which is equal to tree replacement costs of 30" caliper or twelve (12) trees of 2.5" caliper per memorandum from Village Engineer dated November 11, 2018.

Dr. Friedlander asked about the landscape plan with regard to Mr. Jacob's request.

Mr. Galvin said there was an extensive review of the landscaping done by our village landscape consultant, and, in addition, the November 7, 2018 report recommended payment into the tree fund.

Ms. Raiselis noted a correction in the resolution to remove the "inches" from Specific conditions Item 3 as indicated: costs of 30" caliper ~~inches~~ or twelve (12) trees

Mr. Tedesco moved, seconded by Mr. Aukland, to approve this application. All in favor. Motion carried.

CONTINUATION OF PUBLIC HEARING – Krystyn Silver- Ass't Director, National Trust for Historic Preservation - 635 South Broadway, Tarrytown, NY

Mr. Tedesco advised that the applicant is not present this evening. They are working on revisions to the stormwater plan which requires additional calculations based on the review by the village's stormwater consultant, James J. Hahn Associates, dated November 20, 2018.

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

CONTINUATION OF PUBLIC HEARING – Lorraine Burke Zollo- Martling Owner's Inc.
222 Martling Avenue (Castle Heights), Tarrytown, NY

Paul Berté, P.E., the project engineer, appeared before the Board for the continued hearing. He explained that the soil analysis for the retaining wall was received and it appears to be fill material, which is unacceptable for the wall construction. He has done some initial calculations and will need to take the soil out and replace it with suitable soil for backfill for the wall. At this point, he does not know the exact extent of the fill that will be required but estimates that a minimum of 75 to 150 yards will have to come out and be replaced with backfill material. It will not change the disturbance of the project, but they will be removing some soil and bringing it in. The height and location of the wall will not change. They will dig down to get to the virgin soil and will need to re-test it.

Mr. Tedesco noted receipt of the Arborist's report, which included recommendations for pre-construction, construction and post construction, and receipt of the Village Landscape Architect's report dated November 16, 2018. Mr. Berté advised that they have submitted revised landscape plans and have added 3 trees in the eastern part of the parking lot as requested by Ms. Nolan.

Mr. Tedesco moved, seconded by Dr. Friedlander, to continue the Public Hearing next month. All in favor. Motion carried.

NEW PUBLIC HEARING – Jacqueline Newman - 12 Pintail Road

Dr. Friedlander read the Public Hearing Notice into the record:

PLEASE TAKE NOTICE that the Planning Board of the Village of Tarrytown will hold a public hearing on Monday, November 26, 2018, at **7:00 p.m.** at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

Jacqueline Newman
12 Pintail Road
Irvington, NY 10533

for site plan approval for the demolition of existing structure and construction of a new single family dwelling.

The property is located at 12 Pintail Road, Irvington, NY and is shown on the tax maps as Sheet 1.270, Block 136, Lot 8 and is in the R 10 Zoning District in the Village of Tarrytown.

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.

Additional approval will be required from the Architectural Review Board.

By Order of the Planning Board

Lizabeth Meszaros
Secretary

DATED: November 16, 2018

The mailing receipts were received and the signs were posted.

Dan Collins, EIT, of Hudson Engineering, appeared before the Board to present the site plan for the demolition of an existing structure and the construction of a 2 1/2 story single family residence on a .49 acre property. Mr. Collins indicated the existing man made pond and the drainage line for overflow of the pond that runs along the eastern property boundary. He showed the 150 foot wetlands buffer. Mr. Tedesco asked how much construction affects the buffer which he would like included in the record. Mr. Galvin requested a narrative of the disturbance of the buffer area with respect to the village code.

Mr. Collins explained that the proposed house will be built in the same area a little further away from the drainage channel. The house will be re-oriented to face Pintail Road which pulls it away from the existing drainage channel. A landscaping buffer will be added. Mr. Galvin asked if they pulled the house farther away from the 150 foot buffer. Mr. Collins said the patio is the only encroachment in the buffer area. Mr. Galvin asked that this be included in the narrative.

With regard to any tree removal, Mr. Tedesco advised that the location, nature and size of all trees removed be clearly identified on the plan.

Ms. Raiselis asked if they are considering any green infrastructure/energy saving practices. James Krapp, of StudioPPARK Architecture & Design, the project architect, advised the Board that they have a cursory landscape plan in place working from the back patio to the existing structure. Everything in the front will be natural and native. There is not a large surface area. A lot of the existing trees will remain. They will only lose one large caliper tree which is in danger of falling. They will submit a detailed plan as requested.

Ms. Raiselis asked if they have considered solar panels for this project which in the long term will save the applicant money. Mr. Krapp said at minimum they will provide conduits for solar and hope to do it in the future. Insulation and green choices will be used. The NYS RES check has higher building standards now which will be an improvement. Ms. Raiselis suggested that they do their best to make it as energy efficient as possible; in the long term, it only benefits the applicant and will save money.

Mr. Galvin added that a number of communities are asking applicants for 10% better than the current energy code.

Mr. Tedesco requested that a light exposure plane plan be submitted for the Board's review.

Ms. Raiselis asked if they are increasing the impervious surface. Mr. Collins said a stormwater system designed for a 25 year storm will be installed to collect in the front yard. Mr. Galvin noted that it has only increased by 300 s.f. which could be mitigated with a rain garden.

Mr. Aukland is concerned about the narrative in the wetland buffer area and would ask for any mitigation to compensate for it. He is not clear if they are intending to mitigate the disturbance. Mr. Tedesco again suggested a rain garden. Counsel Zalantis advised that they are proposing a portion of the patio in the wetlands buffer and the Board would like to see a wetlands mitigation plan to be included as part of the narrative since they are encroaching on the wetland buffer.

Mr. Collins asked if they could put a rain garden in the buffer area by the patio off of the back since there is limited space in the front of the property. Mr. Galvin said the Board would have to review this and the applicant would need to make the argument for it. They would be adding to the buffer and making it more efficient. Counsel Zalantis said there may be an opportunity to remove invasive species and make it function more as a buffer. Mr. Galvin would also like a description and condition of the wetland. Mr. Collins said the property is down gradient of the pond so water goes away from the pond. Mr. Aukland requested that all of these details be included in the narrative.

Mr. Krapp asked if the patio were turned into a pervious surface and moved away from the buffer would that be acceptable. Ms. Raiselis said it would be better. Mr. Krapp asked if any retaining wall or footing that stretches over the buffer would be considered a structure. Mr. Galvin said technically, yes it would.

Mr. Pennella said another possibility would be to take existing stream and open it up to bring more water which might mitigate and hold it on site. There are other ways to mitigate which he will discuss with the Project Engineer. In addition, permeable pavers could be installed in the driveway or gravel could be used. Mr. Krapp said the owners would like to have some asphalt and gravel is hard in the winter. Again, these are costly, but will be considered. Mr. Galvin said in the long run, it will save you money.

Dr. Friedlander asked if anyone in the public had any questions. No one appeared.

Mr. Tedesco moved, seconded by Mr. Aukland, to declare this a Type II action with no further action required under SEQRA. All in favor. Motion carried.

Mr. Tedesco moved, seconded by Mr. Aukland, that an escrow in the amount of \$2,500.00 be established. All in favor. Motion carried.

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

NEW PUBLIC HEARING – Broadway on Hudson Estates -11 Carriage Trail

Dr. Friedlander record the public hearing notice into the record:

PLEASE TAKE NOTICE that the Planning Board of the Village of Tarrytown will hold a public hearing on Monday, November 26, 2018, at **7:00 p.m.** at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

Broadway on Hudson Estates LLC
229 Main Street
Huntington, NY 11743

To amend a previously approved Resolution dated April 30, 2018 for a subdivision plat of a 9.96 acre parcel of land into 4 zoning compliant lots.

The property is located at 11 Carriage Trail, Tarrytown, NY and is shown on the tax maps as Sheet 1.271, Block 138, Lot 1.23 and is in the R 60 Zoning District.

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

Lizabeth Meszaros
Secretary

DATED: November 16, 2018

The mailing receipts were received and the signs were posted.

Member Aukland formally recused himself from this application and left the podium.

Andy Todd, representing Broadway on Hudson Estates, appeared and presented the revised plan for the 11 Carriage Trail Subdivision Plat which has a prior Planning Board approval dated April 30, 2018. He explained that the plans required revision to show the water and sewer utilities on the Tarrytown side only, not in the Town of Greenburgh. In addition, they are adding a redundancy to the water line which will be an added benefit to the village. Mr. Todd is respectfully requesting that the Board approve this amended subdivision plat application.

Ms. Raiselis asked Mr. Pennella about the water and sewer infrastructure and if the proposed changes were acceptable. Mr. Pennella said he has worked with the applicant, the Town of Greenburgh, the village Public Works and Counsel. It has been challenging but all issues have been resolved.

Counsel Zalantis referred to attachment C-1 which has been referenced in the draft resolution should the Board wish to review it. It will be attached to the final resolution.

Mr. Tedesco moved, seconded by Mr. Aukland, to close the public hearing. All in favor. Motion carried.

Ms. Raiselis read through portions of the resolution and a copy of the general and specific site plan conditions will be provided to the applicant and the entire site plan approval will be recorded in the minutes of the meeting as follows:

RESOLUTION

VILLAGE OF TARRYTOWN PLANNING BOARD

(Adopted November 26, 2018)

Application of Broadway on Hudson, LLC (Contract Vendee)

Property: 11 Carriage Trail (Sheet 1.271, Block 138, Lot 1.23 and Zone R-60)

Resolution to Approve Amended Preliminary and Final Subdivision Plat

Background

1. The Applicant requests the Planning Board to approve an amendment to a previously approved preliminary and final subdivision plat to subdivide a 9.96 acre property at 11 Carriage Trail into four lots (two new lots and separation of the existing Coppola residence and carriage house into two lots). The amendment consists of providing an easement for water and sewer utility connection to the Village of Tarrytown instead of the Town of Greenburgh.
2. The Planning Board has reviewed the amended action and reconfirmed the previous Negative Declaration issued on March 26, 2018.
3. The Planning Board has conducted a duly noticed public hearing on November 26, 2018 at which time all those wishing to be heard were given the opportunity to be heard.
4. The Applicant has carefully examined the amended Application and received comments from the Village Consulting Planner in memoranda dated November 15, 2018, from the Village Engineer in a memorandum dated November 2, 2018 regarding the new utility connection for water and sewer service to the Village of Tarrytown.

5. The Applicant in a cover letter dated November 15, 2017 accompanying the application indicated that an access easement was proposed to be created between lots 1 and 4 to use the driveway from Carriage Trail as well as a utility easement between lots 2 and 3 (as shown on the highlighted C-1 - the subdivision layout attached as Exhibit A). The Village Engineer in his review letter dated December 27, 2017 recommended a deed restriction for lots 1 and 4 to remain under common ownership in perpetuity and filed with Westchester County Clerk together with the final subdivision plat. The Applicant's Engineer indicated during the Planning Board's December 27, 2017 meeting that they would be agreeable to the Village Engineer's recommendation.

6. The Planning Board was also provided with a letter from the Commissioner of Public Works, Town of Greenburgh dated April 18, 2018 notifying the Applicant of the Town's approval of permits for the curb cut on proposed lot 2 for Carriage Trail and proposed lot 3 onto Northern Path for proposed driveway entrances. A letter of intent dated April 23, 2018 was also received from the Applicant agreeing to build a water main extension for the two new unimproved lots in the proposed subdivision.

7. The Zoning Board of Appeals approval on April 9, 2018 for a rear yard setback variance of 12.6' on the new lot 4 still remains in effect.

8. The Planning Board closed the public hearing on November 26, 2018. After closing the public hearing, the Planning Board deliberated in public on the Applicant's request for approval.

Determination

The Planning Board determines that based upon the findings and reasoning set forth below, the Application for an amended preliminary and final subdivision plat approval is granted subject to the conditions set forth below:

I. Findings

The Planning Board considered the standards set forth in Section 305-131 of the Village Zoning Code and the Village of Tarrytown Code Chapter 263 entitled "Subdivision of Land" and finds that subject to the conditions set forth below, the proposed subdivision plat is in harmony with the surrounding Greystone subdivision and that the subdivision plat is consistent with the design and development principles and standards set forth therein.

The proposed action is a four lot subdivision (Coppola Subdivision) located at 11 Carriage Trail in the R-60 Residential District. The 9.96 acre subject property is situated on the east side of Broadway surrounded by the Greystone subdivision. An initial application was for three lots with two principal uses on one lot. Since zoning does not allow two uses on the same

lot, the Applicant needed to resubmit an application for a four lot subdivision. The entire property consists of 9.96 acres. Lot 1 consists of 3.86 acres and contains the Coppola residence. Lot 2 is 2.02 acres with Lot 3 being 2.38 acres. Lot 4 has been split off from Lot 1 consisting of 1.7 acres. It includes the carriage house for the Coppola house. Lots 1 and 2 have access to Carriage Trail with Lot 3 having access on Northern Path. Lot 4 shares a common driveway with Lot 1. All of the lots are zoning compliant except for Lot 4 which required a variance for a 12.6' rear yard setback. This variance was approved by the ZBA on April 9, 2018. The Environmental Clearance Form submitted with the application shows no adverse environmental issues. The subject property has no existing freshwater wetlands or other regulated waterbodies. The property is not located in the 100 year floodplain and conforms to the area's existing development pattern. There are no identified historic or archeological resources contained on the subject property. The DEC letter (11/24/17) submitted in response to the original three lot application indicates the proposed action will disturb 1.77 acres. The existing SWPPP for the adjacent eight lot Greystone subdivision (dated January 2012 and filed with DEC Permit #NYR10V614) will be modified by Hudson Engineering to encompass the proposed four lot subdivision. Stormwater runoff from all proposed impervious surfaces will be captured and conveyed to attenuation/exfiltration practices located on each property treating WQ and quantity which then is discharged to the Village drainage system. The Planning Board was concerned regarding the flag lot configuration of Lot 4. Lot 4 is at the end of a long, existing driveway from Carriage Trail which also serves Lot 1. The Planning Board requested that this condition be mitigated by requiring that Lots 1 and 4 remain in common ownership in perpetuity. The applicant agreed to this request through a deed restriction on both lots to be filed with Westchester County at same time as the subdivision plat. At the Board's request, the Fire Department reviewed the driveway access and turnaround and found hydrant pressure to be sufficient at 60 psi. Curb cuts for Lots 2 and 3 received approval from the Town of Greenburgh.

II. Approved Plan:

Except as otherwise provided herein, all work shall be performed in strict compliance with the plans submitted to the Planning Board and approved by the Planning Board as follows:

C-1 - *"Subdivision Layout Plan - Proposed 4 Lot Subdivision, Coppola Subdivision, Greystone-on-Hudson, Village of Tarrytown, Westchester County-New York"* prepared by Hudson Engineering & Consulting, P.C. dated March 10, 2017, last revised October 23, 2018

C-2 - *"Stormwater Management Plan - Proposed 4 Lot Subdivision, Coppola Subdivision, Greystone-on-Hudson, Village of Tarrytown, Westchester County-New York"* prepared by Hudson Engineering & Consulting, P.C. dated March 10, 2017, last revised October 23, 2018.

C-3-*"Erosion & Sediment Control Plan -- - Proposed 4 Lot Subdivision, Coppola Subdivision, Greystone-on-Hudson, Village of Tarrytown, Westchester County-New York"* prepared by Hudson Engineering & Consulting, P.C. dated March 10, 2017, last revised October 23, 2018.

C-4-“Site Details -- - *Proposed 4 Lot Subdivision, Coppola Subdivision, Greystone-on-Hudson, Village of Tarrytown, Westchester County-New York*” prepared by Hudson Engineering & Consulting, P.C. dated March 10, 2017.

C-5-“Site Details -- - *Proposed 4 Lot Subdivision, Coppola Subdivision, Greystone-on-Hudson, Village of Tarrytown, Westchester County-New York*” prepared by Hudson Engineering & Consulting, P.C. dated March 10, 2017.

C-6-“Site Details -- - *Proposed 4 Lot Subdivision, Coppola Subdivision, Greystone-on-Hudson, Village of Tarrytown, Westchester County-New York*” prepared by Hudson Engineering & Consulting, P.C. dated March 10, 2017.

(collectively, the “Amended Approved Plan”).

III. General Conditions

- 1) The Planning Board’s approval is conditioned upon Applicant receiving all approvals required by other governmental approving agencies without material deviation from the Approved Plans.

IV. Specific Conditions

- 1) Prerequisites to Signing Subdivision Plat: The following conditions must be met before the Planning Board Chair may sign the approved Amended Subdivision Plat (“Amended Final Subdivision Plat”):
 - a. The Amended Final Subdivision Plat submitted shall be in conformity with the previously signed Subdivision Plat signed May 22, 2018 with the addition of easement and utility connections for water and sewer service connections shown to the Village of Tarrytown instead of the Town of Greenburgh.
 - b. The Applicant shall obtain the required endorsement by the Westchester County Department of Health.
 - c. Based upon §305-138 (“Fees”), the Applicant shall pay a recreation fee in lieu of land contribution of \$10,150 for each lot or a total of \$40,600 for the four residential lots. This fee shall be paid to the Village Clerk’s Office into the Village Recreation Fund.

- d. Applicant shall pay all outstanding consultant review and legal fees in connection with the Planning Board review of this Application.
- e. Applicant's Engineer shall modify the existing SWPPP for the adjacent eight lot Greystone subdivision prepared by Hudson Engineering dated January 2012 and (filed with DEC Permit #NYR10V614) to encompass the proposed four lot subdivision. This modified SWPPP will be submitted to the Village Engineer for review and approval.
- f. The Applicant will undertake and complete the necessary improvements to interconnect the Village's water system as depicted on Sheet C-2 prepared by Hudson Engineering last revised April 20, 2018.
- g. If not already provided, the Applicant shall submit a proposed access easement allowing Lots 1 and 4 to share the driveway from Carriage Trail (benefitting Lot 4 and burdening Lot 1) as well as a drainage utility easement between lots 2 and 3 (for the benefit of Lot 2 and burdening Lot 3) which meet the satisfaction of the Planning Board Attorney in form and substance. Upon approval by the Planning Board Attorney as to the form and substance of said easements, the easements shall be filed with the Westchester County Clerk and proof of recording provided to the Planning Board Secretary prior to the Planning Board Chair signing the Amended Final Subdivision Plat.
- h. If not already provided, the Applicant shall develop and submit a deed restriction for Lots 1 and 4 to remain under common ownership in perpetuity. Such deed restriction shall be filed with Westchester County Clerk and proof of recording provided to the Planning Board Secretary prior to the Planning Board Chair signing the Amended Final Subdivision Plat.
- i. The Applicant shall install permanent reference monuments per Chapter 263 as approved by the Village Engineer within 90 days of the filing of the Amended Final Subdivision Plat.
- j. The Applicant shall submit a proposed water line easement in favor of Lot 3 and burdening Lot 2 for the easement area highlighted in Orange as depicted on the highlighted C-1 Sheet

attached as Exhibit “A”, which water line easement shall meet the satisfaction of the Planning Board Attorney in form and substance. Upon approval by the Planning Board Attorney as to the form and substance of said easement, the easement shall be filed with the Westchester County Clerk and proof of recording provided to the Planning Board Secretary prior to the Planning Board Chair signing the Amended Final Subdivision Plat.

- k. The Applicant shall provide a legal instrument in recordable form between the owners of Lots 2 and 3 and the Village of Tarrytown providing: (1) that the owners of Lot 2 and 3 will assume all responsibility for property damage, including but not limited to damage to driveway, curbing, paved areas, walkways, landscaping, resulting from or arising from the Village having to repair or maintain its water main with necessary valves, hydrants, fitting and appurtenances thereto (hereinafter “Water Main”) or the Village doing any related work in the Water Main easement area, which existing Water Main easement area is highlighted in Green as depicted on the highlighted C-1 Sheet attached as Exhibit “A”, (2) that the Water Main will remain the property of the Village; and (3) that the owners of Lot 2 and Lot 3 will hold the Village harmless from any claims or damage relating or arising from the Village’s maintenance and repair of its Water Main or any claims or damage in the Water Main easement area relating to or arising from the Village’s maintenance and repair of its Water Main. Such instrument shall be reviewed and be approved by the Village Attorney in form and substance.
- l. The Applicant shall provide the recorded easement agreement benefitting the Village granting the Village a right of way in, under, across and over Lots 2 and 3 for the purpose of installing operating, repairing, maintaining and inspecting its Water Main and if no such agreement currently exists, the Applicant shall submit a proposed easement by which Lots 2 and 3, as Grantors, grant the Village, as Grantee, a perpetual and permanent easement and right-of-way in, under across and over Lots 2 and 3 for the purpose of the Village installing, operating, repairing, maintaining and inspecting its Water Main and such easement agreement shall also include the language provided in paragraph k above. Such easement shall meet the satisfaction of the Planning Board Attorney in form

and substance and upon approval by the Planning Board Attorney as to the form and substance of said easement, the easement shall be filed with the Westchester County Clerk and proof of recording provided to the Planning Board Secretary prior to the Planning Board Chair signing the Amended Final Subdivision Plat.

- 2) No new roads, streets or access ways are being approved as part of this Subdivision Plat. All roads, streets or access ways depicted on the Final Subdivision Plat were previously approved as part of a prior 8-lot Subdivision and are all private roads, streets and/or access ways to be maintained by the homeowners' association and not to be dedicated to the Village as public streets.
- 3) The preparation and submission to the Planning Board of the Amended Final Subdivision Plat, including any required endorsement by the Westchester County Department of Health, shall be filed by the Applicant in the office of the County Clerk within sixty-two days of obtaining the Planning Board Chair's signature as set forth in Village Law § 7-728 (11).
- 4) In accordance with Village Law § 7-728 (7) (c), if all the conditions of this approval are not fulfilled within 180 days, this approval shall expire. The Planning Board, however, may extend for periods of ninety days each, the time for Applicant to submit the plat for signature by the Planning Board Chair if, in the Planning Board's opinion, such extension is warranted.
- 5) Immediately upon recording of the Amended Final Subdivision Plat in the office of the Westchester County Clerk, the Applicant shall submit to the Building Department written evidence of such recording together with a stamped copy of the amended filed subdivision plat.

Counsel Zalantis noted minor corrections to the resolution to add in "amended" final subdivision plat, wherever it states "final subdivision plat".

Dr. Friedlander wanted to clarify that the need for the maintenance agreement with the owner for the water main is due to the location of the main on the applicant's property. Counsel Zalantis confirmed.

Mr. Tedesco moved, seconded by Ms. Raiselis, that this application for this amended final subdivision plat be approved. All in favor. Motion carried.

Mr. Aukland returned to the podium.

PRELIMINARY PRESENTATION – 202 Lexington Group, LLC - 29 South Depot Plaza

Mark Constantine, Attorney, representing the applicant of 202 Lexington Group, LLC, Paul Ferraro, also present, acknowledged receipt of a memo from Dan Pennella, Village Engineer and will address the technical points. He will give a general introduction and go over the chronology of this application.

Mr. Constantine said in order to advance what they understand to be the desire and vision of the Board for this area, the client has taken the time to present this application. They were here for a conceptual discussion in September and submitted specific plans based on a zone change that has not happened yet. At that presentation, they were advised that wheels are turning with regard to change in zoning. For the record, he is not aware that this has not happened yet. He referenced their Wildey Street self-storage application and its relevance to the current proposal. He referred to the April 27, 2015 Planning Board meeting minutes where a vision was expressed clearly to his client that the Board would like residential in this area and would work with them on the parking and the zoning. They felt the need for self-storage in this area and applied for an “as of right” approval for a self-storage facility. He noted that during this process there was a 6 month moratorium put in place in July of 2015 and they had to apply for a hardship. They completed this project in 2016, which they feel is aesthetically pleasing and a benefit to village.

Mr. Constantine feels that since they are being asked to look at a long range plan, the Board should also recall the past history since it forms the genesis of the current application before them. In addition, when they went before the Board for the self-storage site plan application at 29 South Depot Plaza, back in 2017, again, during that process, they were also made aware of the studies and comprehensive plan and zone changes for the station area.

This application for the self-storage facility at 29 South Depot Plaza received site plan approval this past March of 2018. Since then, his client embraced the Board’s vision that has been discussed over the past 3 and a half years and is now proposing a conceptual plan for residential units above the self-storage facility. This proposal was submitted to the Board of Trustees who has referred this to the Planning Board for their recommendation. At the Concept Discussion at the September Planning Board meeting, this Board advised them that the plan should be completed by year end. He advised the Board that there is a tax burden and an expense to his client since they now own the property and there is a current approval to build the self-storage facility.

Mr. Constantine feels that the best approach would be to apply a current zone class that is in the vicinity of this property, and, from a use prospective would allow this use; a mixed use self-storage residential facility “as of right”. If the WGBD zone were applied, they would need a parking variance. He feels that the self-storage use is allowed under the WGBD zone if a compatible use permit is granted by the Board of Trustees. As a practical matter, the same process applies for a zone change that applies for a

compatible use permit. He advised that they have provided a site plan application, a long EAF, a parking study and specific drawings in support of this application.

Mr. Constantine referred to Mr. Pennella's memo dated November 20, 2018 which he received this afternoon. They would have liked to have had more time to review this but will be happy to address the technical points in the memo. He noted that their engineers have indicated that the property is not in a flood zone which the village disagrees with and this will need to be re-visited. He described the application as a 40,000 s.f. self-storage facility to include two stories of residential units above. There will be 46 units to include 5 affordable units which is the 10% village requirement. While the WGBD zone does provide incentives, it does not provide parking incentives, and there is a higher parking requirement for Transit Oriented Residential Development at the train station than for a single family. Mr. Constantine said that their engineers believe that 2.5 spaces per unit is excessively high. They suggest a lower figure limited by the amount of parking they can provide which is 51 spaces. He noted a correction to the application narrative submitted. The caption references 33 spaces on lot 38 and 18 on lot 37. It should be 32 spaces on lot 38 and 19 spaces on lot 37 which are indicated correctly on the plans. In addition, they will also be restoring view sheds that have not existed in the village for a long time by demolishing the building on lot 37. There is only a certain level of uncertainty that an applicant can tolerate, and they are asking for some clarity from the Board with regard to their application.

Ms. Raiselis said the Board's job is to raise issues but not to provide solutions. The solutions will come with the zoning overlay which will be coming soon as it is a laborious process and they are almost there. There is one particular issue that is a threshold issue for the Board. The applicant is proposing a WGBD zone change but this zone does not allow residential unless there is retail and they are not providing the retail.

Mr. Constantine believes there is a difference in opinion with regard to code interpretation and cited section 305-42 C 16 which allows for single and multifamily as permitted principal uses. In addition to that, he feels the code contradicts itself and cited Section 305-42 E (3) – Uses requiring compatible use permits which he read:

Single - or multiple-family residential uses or artist lofts, provided that an area equal to 25% of the floor area of the residential development shall be devoted to commercial retail shops, designed primarily to serve the needs of pedestrian and marine visitors to the riverfront, and uses where the first floor contains professional or small business offices shall be constructed adjacent to the north right-of-way of West Main Street on the ground floor commencing at a point 500 feet from the Hudson River. The commercial/business/office uses shall not exceed 67% of total floor area in a building that contains such residential uses.

Ms. Raiselis said whether the code is good or not, it is what we have to work with. The applicant is asking for self-storage on the bottom and residential on top. She does not believe that self-storage is retail in the code. The whole point is to promote enhanced pedestrian activity, like people going into shops, cafés or places where they can get milk and butter. The intention of the code is for retail, which is why it says commercial retail

for the bottom floor. She feels like the applicant is trying to understand it but they are picking it apart to put something that does not address the intention of the code.

Mr. Constantine said they looked at the code and he referred back to the 4-27-15 minutes again indicating that the Board said that they are trying to “activate street activity and would like to see retail on bottom level. They are trying to revitalize the area and make it more pedestrian friendly. Perhaps they could come back with an idea that adds to this goal...”. Mr. Constantine feels that this project adds to the Board’s goal.

Ms. Raiselis asked Mr. Constantine if he is saying that self-storage adds to pedestrian traffic along the street. She disagrees and asked Mr. Constantine to show her a planning journal that confirms this. She believes that self-storage clearly does not provide the same amount of pedestrian traffic as retail.

Mr. Constantine believes this project will certainly increase the level of pedestrian traffic, particularly with the residential component. Ms. Raiselis said the applicant wishes to put the commercial burden on someone else. Mr. Constantine said they are doing retail as well and, self-storage is a commercial retail use. All they are doing is adding a residential component to a previously approved self-storage facility and one way to do this is to use the existing zone that allows this use. The self-storage could be approved through a compatible use permit by the Board of Trustees. These processes can take place together and probably should. They would like the Board to understand their position. They disagree on this retail interpretation.

Ms. Raiselis said that they have to consider what the WGBD zone is which is 25% retail with the residential above it. The Board of Trustees is asking them to for a recommendation for the zone changes but they have this threshold issue which they need to seriously consider.

Counsel Zalantis said it is Mr. Pennella’s authority to interpret the code as the Building Inspector. The Board is concerned about going down a re-zoning path, which is a process, and getting to the end of the process only to have the use not be permitted in the zone that they are proposing. The applicant is proposing a mixed use. The applicant pointed to sections where self-storage may be allowed and where residential may be allowed but they did not show a section where a mixed use of self-storage and residential may be allowed. And, under the section for the compatible use permit there is also the section about residential requiring 25% retail. This interpretation was given by the Building Inspector.

Mr. Constantine said they came here with a big picture perspective. He feels that the comments they received from the Village Engineer were “nit-picky”. He is respectfully submitting that the code is conflicted on this point. Counsel Zalantis said this is a threshold issue; whether the use is permitted. She advised Mr. Constantine that they should pick a zone where the use is clearly permitted. They are in charge so they can

propose any zone, even a new zone. She said it does not make sense to go through this whole process and propose a zone where it is unclear that this use is permitted.

Mr. Constantine said there is no mention of self-storage use in the code other than in the ID zone. We are taking an “as of right” use. Dr. Friedlander said the two issues here are the zone interpretation by the Building Inspector and the planning conception and vision. You saw an opportunity for self-storage and the Board approved it. Dr. Friedlander feels that the applicant’s interpretation of the vision is short sighted. The Board wants something bigger. The bigger is to come in the next couple of months. They are not sure exactly what it will be but it will be more imaginary, visionary, and appropriate. They are not against anything, it is just premature without knowing the broader context.

Mr. Constantine said the visions are nebulous. They think they are getting closer. They are not asking for an antiquated zone. This WGBD zone they are proposing was adopted in March of 2010 and this Board had some approval authority over that. Their property is less than ¼ mile away, and that is why they chose this zone. There are many similarities and characteristics with regard to their property at 29 South Depot Plaza. They can only work with what they have and this zone has been on the books for only 8 years. Maybe they are not that creative but it complies with an existing zone WGBD where there has already been a SEQRA review.

Ms. Raiselis said that the WGBD zone does not allow these 2 uses to exist together in this zone. Mr. Constantine said the code is the code. It doesn’t say that you can’t do this. In terms of vision this is what we are talking about. His client has responsibilities; the property is there, they own it. They have approvals to build the self-storage and they are willing to suspend it which they feel is a show of good faith. They are taking the ID zone and extinguishing it. Ms. Raiselis said every community needs a place for these uses.

Dr. Friedlander said they would still have to get the compatible use permit. They are not just given out. He asked the applicant if they thought about other alternatives like parking under the building and perhaps increasing the height. Mr. Constantine said his client has looked into other options. Dr. Friedlander said you could even propose a new zone which is compatible with your use. How can you maximize this project and at the same time benefit the village. If you had all the land you could be more imaginary. Dr. Friedlander would like to see the whole area enhanced. As proposed, this is a small segment, a mixed use, not permitted according to the Building Inspector. The Board is looking for something better.

Paul Ferraro, the owner of 202 Lexington Group LLC, came before the Board and advised them that the lots owned by Metro North are not for sale and Metro North will never sell them. The back lot #39, is also not for sale. It is a recycling facility and this lot is too valuable to give up for this use as a transfer station. So, basically, his property is land locked; the footprint he has is the largest he will ever get.

Ms. Raiselis feels that the applicant has not considered the balance of what is best for them and what is best for the village. Mr. Ferraro said we have come with our best foot forward. They could start building the self-storage facility now but he knows that the Board does not want this. He would like to work as a team. After tonight it looks like he will have to go back to his family and start building the self-storage. Dr. Friedlander said we approved the self-storage because it was consistent with the code. He asked Mr. Ferraro if it was more valuable to do residential vs. self-storage. Mr. Ferraro said self-storage is more valuable. Dr. Friedlander asked why he is not expanding the self-storage then. He said he would need variances to make it bigger. He feels he has thought out of the box and it all comes down to what this Board will approve. He and his family want to be a part of Tarrytown. They want to be long term investors. He feels like they are getting thrown out. He does not want to move on but if they have to put a self-storage facility in there, they will, but again, he and his family want to be in Tarrytown.

Mr. Constantine said his client has a passion to improve this area. At this point, they are not where the Board believes is the best use for the village or the applicant, but, at the very least this proposal is certainly a better use for the village and the applicant. They are proposing a residential component, removing a building and improving the view shed and improving the affordable housing market. It may not be the best but it is better. We can all agree that the code is not exactly what it should be. His client cannot sit on this property for much longer as a practical matter.

Ms. Lawrence said it sounds like the only use the applicant is intent on for the bottom level is for self-storage. Mr. Ferraro said yes and they have decreased the storage area by 10,000 s.f. in order to be able to provide amenities for the residential. They will be located on the first and second floors. Ms. Lawrence said she has never seen this type of mixed use before.

Dr. Friedlander asked the size of the gym amenity. Mr. Ferraro said it is about 2,000 s.f. Dr. Friedlander noted that there is a village gym within walking distance so maybe they could put in 2 retail shops and eliminate the gym. Mr. Ferraro said with the engineering of the building, it would be hard to put retail on the first floor. He would discuss this off the record. Dr. Friedlander is just trying to be helpful; the question is how do they get to being more compatible with the retail, rather than being isolated. Mr. Ferraro said if he did go with retail, the parking requirements would not work. He is having a hard enough time to get the residential parking approved. Currently, they have 500 s.f. approved for retail for the bicycle shop with the self-storage for which they had to add 3 additional spaces.

Mr. Aukland said that the village requires the 10% for affordable housing component. Mr. Ferraro said affordable housing has always been a part of this plan.

Mr. Constantine asked if they could move ahead to a Public Hearing. Mr. Pennella said with regard his “nit-picky” memo sent out today, the application was submitted on November 8, 2018. The village had some holidays and he made his best effort to pull his comments together and supply them to the applicant before this meeting so if there were any technical issues or deficiencies they could be addressed. He feels the applicant should be more appreciative since they now have a better understanding of where they stand. At this point, the applicant needs to determine what the mechanism is to get them to where they want to be. What they are proposing does not fit into this WGBD zone. They had a prior proposal and they changed it. The Board is trying to work with them but what is proposed is not permitted in this zone. They need to be more creative on what zone to use in order to achieve their goal.

Counsel Zalantis said to Mr. Constantine that while she is aware that he and his client are frustrated, the Board is telling them the issues up front to avoid going through a long process if this use is not even permitted in the zone they are proposing.

Mr. Constantine does not agree with the interpretation. Counsel Zalantis said then you have your recourse. Mr. Constantine also noted that at the work session there were no comments or discussion on this matter from the Board. Dr. Friedlander explained to Mr. Constantine that the Board does not discuss applications at Work Sessions with the applicants. They either set a concept discussion or a preliminary presentation so that the public can view on television or attend to participate in the entire process.

Mr. Tedesco said that everyone has shared their opinions this evening. He would suggest that the next reasonable step is to have the applicant respond to the Building Inspector’s memo for the Board to review before the next work session. At that point the Board should be better able to determine what the next step in this process should be.

Mr. Constantine said that he feels that the Village Engineer should be available to help assist them in this process. Another conversation took place about the disagreement with the code interpretation. Mr. Pennella said again they are 2 separate entities and the use is not permitted. Mr. Pennella said if they do not agree with his interpretation, there is a way to challenge it. Dr. Friedlander asked the applicant to respond to Dan Pennella’s memo before the next work session and they will make their comments.

Mr. Tedesco moved, seconded by Mr. Aukland, and unanimously carried, that the meeting be adjourned – 8:50 p.m.

Liz Meszaros- Secretary