

Village of Tarrytown, NY

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Planning Board Minutes 2/24/2014

Planning Board
Village of Tarrytown
Regular Meeting
February 24, 2014; 7:00 p.m.

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

ABSENT: Chairman Friedlander

Mr. Tedesco chaired the meeting in Chairman Friedlander's absence.

APPROVAL OF THE MINTUES – January 27, 2014

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

CONTINUATION OF A PUBLIC HEARING – Bartolacci – 67 Miller Avenue

Mr. Tedesco stated that this application is adjourned at the request of the applicant.

CONTINUATION OF PUBLIC HEARING – EF International – 100 Marymount Avenue

Philip Johnson, Executive Director, said there are many things happening on campus which are part of their overall site plan. This has been a six month process and at this time the specific approval they are looking for is for the conversion of the library to a 225 bed dormitory. As part of this process, other projects on campus have developed which comprise an integral part of their investment plan and their plan to restore the campus to some of its former glory; namely pedestrian safety improvements with cross walks and changes to the existing taxi area. They have received input from the public and the police department which they have incorporated into their site plan. The parking changes on Marymount Avenue have been looked at by the Chief of Police and he is satisfied with the changes. He will draft a memo to the Board of Trustees recommending the change so that the Board of Trustees can vote on it. He said there are three separate projects on the periphery of the campus for which they have building permits; all are landscape related. One project is the wall on Neperan Road on the north side of the campus for which work has been suspended for now due to the weather. A second project is a landscape clean-up project by Rita Hall on Irving Avenue, which is on the east side of the campus; the replacement of an old dilapidated chain-link fence which was once part of the tennis courts. Lastly, on the corner of Irving Avenue and Union Avenue the old retaining wall which holds up the tennis courts is failing; in the spring the wall and tennis courts will be reconstructed.

Mr. Johnson said they are doing extensive work and there are some technical issues which they need to discuss with the board. He said since the last planning board meeting they held another community meeting which was well attended and produced some favorable comments from the public. They have addressed many of the concerns that were presented early on. He introduced John Canning.

John Canning of VHB said most of the items Mr. Johnson spoke about are itemized and discussed in VHB's letter dated January 17, 2014 (copy attached).

He stated that they have received a number of draft reports and comments from the board which they have responded to. He presented a rendering of Gaines Library showing the lawnscape and plantings and the proposed fire access and how the fire truck will be able to circle around the building. He also showed the retaining wall which he was able to work the grading to a maximum of 6'; he showed various views of the wall demonstrating that it is not very visible.

Mr. Canning said they doubled the stormwater drainage and increased the maximum runoff to approximately 27% of the 100 year storm.

In Stephan Yarabek's absence, Mr. Canning spoke about the landscaping which is a very important part of this project. They will be removing 9 trees; half are in poor or bad condition. They will be replacing three trees for every tree removed, all specimen quality. They are widening the access to 40' to allow room for the fire trucks and the fire equipment. They have made changes to the access around the building. They have widened and moved the fire access a bit and widened the end to a maximum of 40' wide which allows for the fire trucks to drive in and back up and allows the ladder to extend to a 40 to 75 angle depending on what part of the building they need to reach. They have relocated the parking spaces in front of the building on the corner to the back side of the corner out of the way. They have instituted a snow removal policy to be sure the walkways are clear at all time. Mr. Canning noted that New York State has a 26' wide requirement for an access road which they provide with 40' wide at its maximum; 15' from the building is required and they are provide 20' from the building.

Ms. Raiselis asked about the other half of the trees being removed, anything significant. Mr. Canning said no specimen trees are being removed.

Mr. Aukland asked if the landscape plan was reviewed by Lucille Munz. Don Walsh, Development Strategies for EF said they have just finished finalizing the landscape plans and ask that it be sent to Ms. Munz as a condition of approval.

Mr. McGarvey asked if the retaining wall is going to be mesa block. Mr. Canning said it will be reinforced concrete with field stone facing.

Mr. Aukland asked what intrusion they are making into the steep slopes. Mr. Canning said the steep slopes intrusion is on the back side between the two buildings but believes there were man made slopes when the area was grade for the building. Mr. Aukland said the public benefit to the intrusion into steep slopes has to do with fire access. Mr. Canning said yes, public safety.

Mr. McGarvey said it should be noted that the high ground elevation is above 300'. Mr. Canning said they will add a note to the final site plan.

Mr. Aukland asked if there are any other non-compliance to the code. Mr. Canning said none to the best of his knowledge.

Mark Fry, Tarrytown Lakes Committee, is very pleased with their comprehensive approach to the campus. Is very pleased with the work they have done so far. The Lakes Committee is very concerned about erosion on the campus and the retaining wall will substantially reduce the erosion and the stormwater will be captured along the walls along Neperan.

Mr. Tedesco said the Planning Board would like to see a Master Plan for the campus. Mr. Johnson said they just recently hired an architectural firm to do a space inventory and usage plan which will evolve into a Master Plan. They will be happy to come back with that.

Mr. Tedesco moved to close the public hearing.

Mr. Blau said there are comments from the Fire Department that he is not sure have been addressed. He said there was a letter from the Fire Department saying that they did not approve the plans as such. He told the Fire Department that they needed to know the issues and he only received their response letter late today. Counsel Shumejda recommended that they continue the hearing until those issues are addressed.

Mr. Johnson said this is the first time the Fire Department put anything in writing. They have had a considerable amount of verbal input, all of which has been incorporated into the plan which is completely compliant with New York State Code. He said they have an independent fire expert here and he would like him to comment on the three question posed in the Fire Department's recent letter and asked that his comments be given consideration.

Mr. Walsh said they had a meeting with the Chiefs, Michael Blau and Michael McGarvey on February 2. At that meeting the Fire Chiefs made a number of additions to the plans; they are the three matters contained in this recent letter and they have all already been addressed. They are the width of the road, which was been increased to 40' on the plan; the snow removal process, which was already incorporated; and the parking spaces in front of Gaines,

which have been addressed.

Mr. McGarvey said perhaps the chiefs did not see the revised plan. Mr. Walsh said he sent them a copy but is not sure if they read them. Mr. McGarvey said the only reasonable explanation is that they did not see the plans; and once they do, they board can approve next month.

Mr. Tedesco said he knows the issues have been addressed but he has concerns about the last line of the letter stating that they have issues with the interior of the building. Mr. Walsh said they have not submitted any plans for the interior of the building. The Fire Department did an inspection of the interior and submitted comments but we have not completed the interior plans. The interior of the building is not a matter for the planning board; we will be submitting those plans shortly to the Building Department.

Mr. Johnson said the Fire Department did make specific concerns and specific request for the interior of the building and they have been incorporated into the plan. The requests were:

- Positive pressure on the interior staircase.
- Exit lighting, not only at the ceiling level but also at the floor level.
- Exit windows in certain area at ladder level to allow for easy access in an emergency.

Mr. Blau said that the applicant has worked very hard addressing the issues and it has been very difficult getting responses from the Fire Department. He requested that they do adjourn for one more month and he will be sure that Mr. McGarvey goes over the revised plans with the Fire Chiefs to be sure all of their issues are addressed and that we promptly get a response. He apologized. He said they only received this today and the applicant only got it today. Mr. Tedesco asked Mr. McGarvey to ask the Fire Department to list all of their requests and a corresponding list of how they have been addressed so that it is made clear that everyone is on the same page and they applicant will not have to return again. Mr. Johnson agreed to that plan.

Mr. Blau asked Mr. Johnson to convey his conversation regarding the interior of the building to Mr. McGarvey so that they can go over them when they meet with the Fire Department. Mr. Johnson said he has minutes of the meeting which he will share with Mr. McGarvey.

Ms. Raiselis asked if we can have a Fire Department representative at the next meeting so if there are any issues they can be addressed. Mr. Blau said they do not have any problem with that.

Richard Dempsey, a partner of U.S. Fire Training and Planning Services introduced himself and commented that he saw the letter this evening as well. He went over it and confirms that everything pertaining to the exterior was addressed in the plans.

Mr. McGarvey told Mr. Dempsey that he will speak with the Fire Department so that he can meet with them.

Mr. McGarvey asked Mr. Walsh when they met with the Fire Department was it a walk through or did you go over a set of plans. Mr. Walsh said they had two meetings with the Fire Department; one was a walk through in January and the second was in Mr. Blau's office where we went over the plans and the Fire Department marked their requested changes. We incorporated those changes on our revised plans. Mr. McGarvey said he will review the plans and then set a meeting with the Fire Department. He will let him know when that will happen.

Mr. Blau said the Planning Board has no jurisdiction over the interior of the building.

Mr. Birgy asked if they can approve subject to their resolving the issues. Counsel Shumejda advised to wait.

Mr. Tedesco asked if there is a second to close the meeting. Ms. Raiselis second, all in favor; motion carried.

CONTINUATION OF A PUBLIC HEARING--Toll Brothers-- 229Wilson park Drive(Lot 10)

Mr. Tedesco stated that this application is adjourned at the request of the applicant.

NEW PUBLIC HEARING – Streit - 65 Castle Height 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 Wednesday, December 18, 2013 at 7:00 p.m. at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

*James and Julia Streit
65 Castle Heights Avenue
Tarrytown, NY 10591*

For site plan approval for property located at 65 Castle Heights Avenue to rebuild/re-engineer the existing and failing railroad tie retaining wall. The property is shown on the tax maps as Sheet 1.80, Block 42, Lot 23 and in the R-20 (Residential) 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 mailing receipts were submitted and the sign was posted

David Cooper of Zarin and Steinmetz, representative for the Streits, stated that they came before the board in November 2013 regarding the replacement of a failing railroad tie wall in their backyard; a portion of the existing wall completely failed in June, as well as other railroad ties throughout the remaining wall are also failing. In November they were here seeking permission to do an emergency repair.

At the November meeting the Board stated they would prefer a multi-tiered wall. He said the applicants agreed that a 4-tier wall would work for them. Mr. Cooper showed the revised plan for the 4-tier grey mist concrete wall; all walls are below 6' in compliance with §305-47 regarding walls and setbacks.

Mr. Cooper said the property is not visible to any neighbors. The nearest neighbors, Mr. and Mrs. Salek, although the wall cannot be seen from their property, submitted a letter stating that they do not object to the removal of the railroad tie wall and the replacement with a concrete wall (copy attached).

Mr. Tedesco asked if the board members if they had any questions.

Mr. Birgy said he thought the walls were going to be 4-5' and now you are saying 6'. Mr. Cooper said it will be less than 6'. He said your regulations cap it at 6' and we are going below 6'.

Counsel Shumejda said there is a small amount of steep slopes on the side but does not meet the minimum requirement under §305-135 E(2) of the Village Zoning Code.

Mr. Tedesco opened the meeting to the public. No one came forward.

Mr. Aukland said all of the plans are dated October 21, 2013; Mr. Tedesco said they final plans should show the updated date.

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 a 4-tier concrete wall at 65 Castle Heights Avenue 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.
- Approval of a four tier Mesa Block wall, minimum 6 foot separation with a maximum of 4-5 feet in height. Color Mist Gray.
- Payment of any outstanding escrow fees/recreation fees prior to the granting of a Building Permit.
- Approval by the Architectural Review Board.
- Approval by the Zoning Board of Appeals for any variances required.
- Signing of the final site plan by the Planning Board Chair.

All in favor; motion carried.

NEW PUBLIC HEARING – DM Equities of New York – 200 Sheldon 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 Monday, February 24, 2014 at 7:00 p.m. at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

*Makan, Davinder / DM Equities of NY
PO Box 979
Harrison, NY 10926*

For site plan approval to construct a new single-family house. The property is located at 200 Sheldon Avenue, Tarrytown, New York and is shown on the tax maps as Sheet 1.190, Block 114, Lot 13.1 and in the R-7.5 (Residential) 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 mailing receipts were submitted and the sign was posted

Michael Miele, representative for Davinder Makan, said he is before the board for approval of a new single-family dwelling. He stated that there are some steep slopes on the property to the south and west but they are not disturbing them at all. They do encroach into the wetland buffer. They went back and forth a few times and they were able to pull the house out of the 100' buffer but they are now sited between the 100' and 150' buffer so they are looking for relief from that intrusion. Otherwise it fits into the appropriateness of the neighborhood.

Mr. Tedesco asked if there are any questions.

Mr. Birgy asked how a perc test works when you are in the buffer. Mr. McGarvey said it could be an issue. He would have to put in more shallow cultic infiltrators so he could get the volume he came up with for the increase in impervious surface. Mr. Miele said they couldn't do much with infiltrators, mostly on volume; so if we had to, we could increase it slightly for 100% and overflow for the 100-year storm. We have more room if we need it.

Mr. Aukland said all of the plans are dated October 21, 2013; Mr. Tedesco said they final plans should show the

updated date.

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 construction of a new single-family dwelling on this lot, as specified in the application and further defined in the letter dated January 22, 2014 to the Planning Board from Engineer Michael E. Miele on behalf of the applicant, together with its referenced documents, which are hereby incorporated into this approval.

This approval is subject to the following conditions:

- Approval by the Building Inspector/Village Engineer.
- Approval of the landscaping plan by the Village Landscape Consultant. Plantings shall be of non-invasive native or ornamental species.
- Approval by the Architectural Review Board.
- Approval by the Zoning Board of Appeals for a single requested variance, allowing location of the home within the 150' wetland buffer, but beyond the 100' buffer previously applicable. This would align the new home with others nearby on this street. The Board considers that the public good from the proposal justifies this variance.
- Payment of any outstanding escrow fees prior to 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 - Tarrytown Associates, LLC - 1-7 Main Street

Leo Napior, attorney for the applicant, explained that his client would like to rebuild the two apartments on the top floor of the building that were burned out in the 1970's. He said originally there were 18 apartments. After the fire there were 16, which is how many there presently are. They want to return the building to 18 apartments.

Mr. Tedesco spoke about the prior Zoning Board minutes from 2001 and 2002 regarding parking and there were two issues that stood out and will apply to this application. He said the minutes indicate that the owners came before the Zoning Board for a parking variance. The indicated that they needed five spaces and could provide three in the rear of the building; therefore, needing a variances for two spaces. However, the Fire Department opposed any parking in the rear. The Zoning Board suggested payment into the Village parking fund but the applicant did not wish to make any payment into the fund. The Zoning Board denied the variance. The second issue involved the number of apartments that existed before the fire and the number of apartments that existed after the fire. At that time the applicant said there were 18 before the fire and 16 existing after and restoring the two would bring it back to the original 18, which you are also suggesting in your application. During the meeting Mr. Pateman, a member of the board, said he found newspaper articles and assessment cards from Tarrytown and Greenburgh indicating that there were 16 apartments before the fire and replacing two would actually be an increase in the number of apartments.

The applicant disagreed saying that he had a sketch prepared by the Town of Greenburgh showing 18 apartments before and 16 after the fire. This is an issue that we need to have resolved and hope you can speak to us on this issue in a way that will resolve the number of apartments before and after.

Mr. Napior said he did research the Tarrytown Building Department files which show it as 16 existing apartments and they do not have historical data. He said he believes the building pre-dates meticulous record-keeping so there are

no plans on file that show the building that was in existence from 1900 on. The only plans on files were for renovations in the last 10 to 15 years since his clients owned the building. He said he did have access to some of the newspaper articles which he included in his submission. Those articles stated that there were 16 units with two burned out units in the rear. He did not see any other articles in the Building Department file stating otherwise. He read from an article dated July 13, 1976 stating that the building had 16 units and the units on the third floor were reorganized with two rear units being eliminated. Counsel Shumejda read further that there were other apartments that were renovated and reorganized (article attached). Counsel Shumejda interpreted it that there were 16 units, they were reorganized, and 16 remained.

Mr. Napior said he does not know what was there but it does not change the fact that the space was destroyed and never restored. The applicant is merely trying to put a roof over it and restore the space that was there.

Ms. Raiselis said is the issue whether they are restoring it to 16 or 18 apartments? Counsel Shumejda said yes, that is one of the issues and based upon what the Chairman has read they talk about 16 and it is 16 today. There is no question that the space was formerly part of an apartment. The questions is what the number is, was and what you are proposing. Ms. Raiselis said all based upon parking. Mr. Aukland said and calculated by number of units, not square footage.

Mr. Napior said there will be no increase in pervious surface and there will be no change in the look of the building other than putting a roof over the open space in the rear and filling in windows where there is now lattice work. The application is to add to units to the building which necessitates five parking spaces. We don't have the ability to provide the five parking spaces but the applicant is will to contribute to the Village parking fund. Counsel Shumejda said for the record the parking fund is now \$1,000 per space for the first five spaces.

Ms. Raiselis asked if they are considering paying for the five needed spaces or are you consider put three of the spaces in the rear as it was originally proposed and paying for two spaces. Mr. Napior said he believes there is an with the first department with parking in the rear for emergency access as well as for the rear exit for the theater next door, so the applicant would be paying for the five spaces.

Mark Fry, Sleepy Hollow, stated that the original building had four floors, not three and that there were two fires in the building. He showed pictures of the original building with the four stories and its original roof. He said according to the code, they can rebuild within six months after a fire and it is way over six months. Mr. McGarvey said that is the reason they are here. Mr. Fry said this is not a re-built, it is a new application. He said they should restore the 4th floor and install a sprinkler system. He feels that the applicant should have done more research on the building.

Ms. Raiselis said restoring this to four floors would create more apartments; we already have a parking problem and this would only make it worse.

Mr. Tedesco said until that parking becomes available we must look at what adding lots of units to the downtown area will do when there is no parking possible for those units. Mr. Tedesco said on a second subject, unless this is an historic building on an historic register, we cannot ask an owner to go to the expense of restoring it to its original architecture.

Mr. Aukland said if the Historic Society does have pictures of the building in its various stages that may help us solve the issue of how many apartments there were before and after the fire. Mr. Napior said he would be happy to see what the Historic Society has on file. Mr. Aukland said adding a fourth floor to the building is not this application. Ms. Raiselis said we can ask for some restoration but we can't require it.

Mr. Napior said he believe his client has installed a fire suppression system; he said Mr. McGarvey can correct him if he is wrong. Mr. McGarvey said he believe only on the first floor in some of the retail space, but not the entire building. He said we should send this application to the Fire Department for their review and comment; perhaps some firematics can be added to suppress if fire if need be.

Mr. Napior said he also believes that his client did do some refacing of the façade; it was in pretty bad shape.

Mark Fry said the Fire Department is on record that they object to the restoration of these two apartments because of the access from Kaldenberg Place. It was not reachable for either fire.

Valerie Kharchenko, resident of the building, is very upset and said if it is approved they will have to move because how will they live there will construction going on. She said they should first fix the problems that are there now.

Everyone in the building is against it.

Mr. Napier said in response to Mr. Fry's comment, he did not see anything in the file that the Fire Department objected to the construction of the apartments only to the parking in the rear because of access to the building.

Mr. Tedesco said he needs to provide a

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

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

Mr. Tedesco stated that this application is adjourned at the request of the applicant.

PRELIMINARY PRESENTATION – Ridgcroft Estates Owners, Inc.-154 Martling Ave

Mr. Tedesco stated that this application is adjourned at the request of the applicant.

PRELIMINARY PRESENTATION – Souk Gourmet Inc. – 19 Main Street

William Null of Cuddy and Feder introduced himself and stated that he is here tonight with Hassan and Alberta Jarane, owners of Mint Premium Foods. Mr. Null stated that this business has been in the Village for at least 10 years and that it was originally across the street in a smaller store at 18 Main Street. At that time it was a food store and catering. They moved to 19 Main Street in the last couple of years to a 1,968 s.f. space and added a table service with 42 seats. This application is before you for site plan approval although there have been no changes made to the outside of the building and for the adequacy of parking.

He stated that the Village has recently revised their Parking Fund fees but the calculation of those fees is quite troubling. There is clearly no available parking on Main Street. Calculating the space as retail, 10 spaces are required; calculating the space with the restaurant use, 12 spaces are required, even though it does not generate any more need. Based on what they understand, there are many restaurants on Main Street that were converted from retail who have not paid anything for parking; they are considered grandfathered (see attached letter dated 2/24/14 for breakdown). These 12 spaces will cost \$19,000 to be paid to the Village in accordance with the requirements of Section 305-63.C.7(d) regarding the Parking Fund. There is a need for parking but there is also a need for successful contributing businesses. They are requesting that the Board, pursuant to Section 305-142, reduce the parking requirement for "reasons of good cause and in the best interest of the Village."

Mr. Tedesco said to clarify, they are saying they need to pay for 7 spaces, is that correct? Mr. Null said yes we are saying we should pay for less. Mr. Tedesco said you need 17 and you have a credit for 10 so you need to pay for 7. Mr. Tedesco asked Mr. McGarvey if they are correct in saying if they calculate the number of spaces required and calculate in the credit for 10 spaces for the current store as described by Mr. Null, they will be required to pay for the 7 additional spaces. Mr. McGarvey said it is a little convoluted but I think he is saying without the restaurant, they would need 10 spaces; with the restaurant they require 17 parking spaces, correct to Mr. Null who agreed. Mr. Null said you are asking us to pay for 17. Mr. McGarvey said you told us that number. It's based on several factors. How many employees do you have? Mr. Null said three. Mr. McGarvey said three including the owners. Ms. Jarane said three employees. Mr. McGarvey said that's four with Mr. Jarane; we need any exact number. Mr. Null let Ms. Jarane explain the number of employees.

Alberta Jarane, co-owner of Mint Foods explained that her husband Hassan Jarane is always there, she does the administrative work for the business from her home and only comes into the restaurant occasionally. The number of employees fluctuates and depends on various things; i.e., during the holidays, there may be more to meet the needs of the business; during the winter months, there may be less because of the weather preventing many people from coming in. She said they were willing to pay into the parking fund but the original amount told to them was \$87,500 for the spaces they needed. With the new legislation and the reduced amount, they have been asked to pay \$20,000 which is still onerous for a small business. She said there are money businesses on Main Street they never paid into the parking fund. It doesn't seem fair that they are the only business being asked to do so.

Mr. McGarvey said other business on Main Street have paid into the fund. He said the Village Dog, which has been mentioned several time, does not require more than five spaces and it is not a change of use so it was not necessary for them to come before the Planning Board. Mr. Blau said Chobust paid into the Jitney Fund.

Mr. Blau said the Planning Board has no say with regarding the fee structure with regard to the parking fund. He said he asked the Board of Trustees, at your request, to reduce the cost of the parking fund and they reduced the cost by 66%. He stated that the \$87,500 was for 15 parking spaces, not 17, because 15 is the maximum you can pay into the fund for; and with the new cost structure, the 12 spaces you are requesting is \$21,000. Regarding the Jitney Fund which allowed for five spaces, he went before the Board of Trustees based upon the request of other property owners stating that five spaces in not enough; and since parking cannot be created in the downtown area, we need a fund for businesses to contribute to for more than five spaces. The Board of Trustees believes that money needs to be put in a fund for the creation of parking and they decided on the present amount.

Ms. Jarane said that businesses on Main Street had no input into the amount paid for parking. We are here to say that it is still too much. Mr. Blau said you are before the wrong board. The Planning Board has no say; it is a Board of Trustees issue.

Mr. Aukland said what the Planning Board needs to know is the précised number of spaces needed.

Mr. Tedesco said if it is too much for you to pay, you can reduce the number of seats. If you reduce them by half, five spaces would be needed which would cost \$5,000.

Mr. Null said this calculation applies to a brand new restaurant coming in as it does to an existing use that had a credit as laid out in his letter; it doesn't seem appropriate that it should apply the same way.

Mr. Birgy said what are you asking for. Mr. Null said it is his understanding that you have lateral under Section 305-142 to reduce the parking requirement for reasons of good cause in the best interest of the Village; there should be a credit given for the existing use of the space. Mr. Birgy said you want to pay for seven, is that what you are saying.

Mr. Null said we want to pay for less but yes if we can pay for seven. Counsel Shumejda said he does not agree with that statement. He doesn't see any reference to modifying the parking; you approve it, approve with conditions or deny it. He said the only place he is authority is when you have shared parking or land banked parking, neither of which applies here.

Mr. Tedesco said he know \$21,000 is a lot of money; it's a contribution of \$1,750 per space which is not a lot considering that an outdoor space could cost \$15,000. We have to have a reasonable amount of money in the fund to provide more parking. Reducing that amount would set precedence. The amount has been reduced significantly.

Mr. Null said the cost of adding additional seats is not proportion to the cost of the parking. The Village Dog reoccupied Mint's space and is now using the space to have people sit down and eat food. Even though the food is not being served to the table, they are doing the same thing if it was. He understands that the Zoning Ordinance defines and applies it differently but we are losing the credit for this prior retail food service. This space was once a delicatessen with food service; we are asking that you give credit for the use that this space once occupied. Mr. Birgy said that seems to be a reasonable question but not to be answered at this Board. Mr. McGarvey said he thinks the credit is up to him because the way the code reads he can allow up to five parking spaces above the existing use. They are above the five parking spaces so I have sent them to the Planning Board who has to recognize how many spaces are required for this use now. Mr. Birgy said to Mr. Null so you feel you should be given five additional spaces. Mr. Null said yes.

Ms. Raiselis said does that mean you want to pay for five instead of 12. Mr. Null said his calculation say 12 spaces if you don't count the seats and 17 if you count the seats. Mr. Birgy said you would be willing to pay for 12; Mr. Null said no 7. Ms. Raiselis said why not 12, where did the 7 come from. Mr. Null said that is the different between the 10 for the existing use with no tables and the 17 with the tables if it is a food establishment. Mr. Birgy said was the prior use a food establishment. Mr. Blau said not, it was an antique store. Mr. Null said before the antique store it was a delicatessen/restaurant. Mr. Birgy and Ms. Raiselis said is that how it works, you can skip over one use. Mr. Null said he doesn't think it works that way; it is what is permitted. The permitted use runs with the space not the type of business. The space is 1,968 s.f. divided by 300 for retail, no matter why type of retail there is. In this case He added in three spaces for employees.

Mr. Blau suggested a public hearing be set for next month.

Counsel Shumejda said the statute stated previous use and the previous use was retail, an antique store. His opinion is that you don't skip back. He said the calculation for the one space per 300' plus the 3 employees and the calculation for the restaurant is so close but we are paying for 5-7 spaces more than we should be paying.

Mr. Null said if Mint moves across the street with no tables, they need no parking; it's grandfathered. It assumes a credit for an existing space that cannot provide parking; what is that credit.

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; all in favor. Motion carried.

PRELIMINARY PRESENTATION – Karlsson - 120 Cobb Lane

Mr. Birgy recused himself from this application.

Dawn Mackenzie from Insite Engineering introduced herself and Ralph Mackin, Jr. Architect. Both of them have been working with the Karlssons on this project. She gave a brief explanation of the project. They are proposing to construct a two-car garage, a perimeter wall on Cobb Lane and on Wilson Park Drive as well as some interior walls on the site. Ms. Mackenzie clarified that the application says there is only 170 s.f. of steep slope disturbance, but there is actually is about 400 s.f. of disturbance. She also said that the impervious surface on the site plan is incorrect. The site plan stated that the preconstruction impervious surface is 27.3%; however, the correct number is 26.4% which will increase to 27.3%. That is a 5% increase, less than 300 s.f.

Mr. Tedesco asked if there were any other variances required other than the waiver for steep slopes. Mr. Makin said yes for the garage; they will need to go to the Zoning Board for the gross floor area. He explained that the maximum gross floor area in the R-20 zone is 5,000. This house is pre-existing, non-conforming and they will need a variance to increase the non-conforming floor area. Mr. McGarvey said he visited the site and he does not see any issue.

Ms. Raiselis asked if the walls are retaining walls, what material they intend to use and how high they will be. Ms. Mackenzie said they are retaining walls that will be made of stone with a height of 2 ½' to a maximum of 3 ½' for the perimeter walls and 3' for the interior walls. She said the interior walls will be dry laid with drainage behind them and the perimeter walls will be masonry stone walls.

Mr. McGarvey said you are doing this just to reduce the slope on the hill. Ms. Mackenzie said yes and one of the benefits is that it will decrease the run-off. Ms. Raiselis asked if they are putting in new driveways. Ms. Mackenzie said no the driveways are existing asphalt driveways, but what is different is some of the pavement in the existing paved area down below has been removed, so they will be repaving a smaller area. Mr. McGarvey said that driveway went straight through the property at one time didn't it. Ms. Mackenzie said not that she is aware of. Mr. Makin said that it did go down to the carriage house at one time. Mr. McGarvey said so you have reduced the impervious surface some.

Ms. Raiselis asked if they have a landscape plan. Ms. Mackenzie said it has not been prepared yet. Mr. McGarvey asked if they will have it for the next meeting. Ms. Mackenzie said for the entire site. Ms. Raiselis said yes specific as to bushes, walls, border trees can be defined as specimen; species don't have to be defined.

Mr. McGarvey said they have to tell the board how much infringement into steep slopes and why it is necessary. Ms. Mackenzie asked if there is an option to get a waiver from the steep slopes. Mr. Tedesco said if there is a good reason.

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 March 24, 2014 meeting; all in favor. Motion carried.

PRELIMINARY PRESENTATION – Manfredi - 35 Rosehill Avenue

Frances Manfredi, owner and resident of the property, introduced himself. He said they have gone to great lengths to make their property beautiful and in keeping with the aesthetics of Tarrytown. He explained that he is before the board because of a steep slope issue. He was issued a permit for a pool in October of 2013. Pool has been dug and gunnite is poured. He is here because of the disturbance of steep slopes which is no longer there because the pool is existing. They are 53 s.f. over the 200 s.f. minimum and he is here to request a waiver. This project is not visual from the street or their south side neighbor or from the west because their property goes all the way down to Altamont Avenue. It is completely buffered. Nothing they are proposing affects any neighbor. The pool sits between the swing set below and the terrace wall above. The pool exist however there is still quite a lot of work to be done. We are requesting a waiver under §305-67F(1)b. They don't feel there is any other feasible method; there is no other place to put the pool. It is not visible to anyone so there is no undesirable change to other property owners in the neighborhood, there is no detriment to any property owners, and a waiver of 53 s.f. is a small request. Once the pool was dug, there are no longer any steep slopes.

Ms. Raiselis asked how this happened. You presented drawing not showing the steep slopes and then your engineer discovered that there are steep slopes. Mr. Manfredi said pretty much so. Mr. McGarvey said the pool was moved. Mr. Manfredi said no only the shape changed. Mr. McGarvey said but it must have moved some otherwise you would not be in the steep slopes. Ms. Raiselis asked if he is putting in walls as well. Mr. Manfredi said only the one behind the pool. Ms. Raiselis asked if there was a patio there before and how high the wall will be. Mr. Manfredi said there was no patio, only grass and plantings there before, and the retaining wall will be approximately 6' high.

Mr. Tedesco asked if the proposed kitchen and fireplace have been done yet. Mr. Manfredi said no because of the weather. Mr. Tedesco asked what kind of pavers they use. Mr. Manfredi said unlock pavers.

Mr. Aukland explained that whenever someone comes in seeking a waiver, they must show why it is a benefit for the Village not the applicant; you must provide us with the information. Mr. Manfredi said he does not believe that is true. He said according to F 1 (b) it clearly states whether it is a benefit to the applicant. Mr. Aukland said he does not want him to interpret the code for them. Mr. Aukland said we do and we need you to provide that. Mr. Manfredi said he is a homeowner living here for 17 years and has gone to a great extent to keep in within the character of the neighborhood. Mr. Aukland said had you come in prior to the construction we would have asked you to provide why it is good for the Village or we would have had to come back with a smaller proposal. Mr. Manfredi said he doesn't think the size of the project should be an issue. He said if he moved his wall 2' closer to the pool, he would not have to come before this board because it would be out of the steep slopes. He is here because they want to add plantings. Around the periphery of the pool to further buffer it and make it beautiful. He said according to his understanding of the code, the Planning Board can grant a waiver based on the points already stated. Mr. Aukland said he understands all of those points but if we grant a waiver we ask for a benefit to the Village to justify the waiver. Mr. Manfredi said how can a property owner benefit the Village on his own property. Mr. Aukland said you might use the argument that you are making your property more beautiful. Tedesco said we require that you provide that information and you must put it in writing.

Mr. Manfredi asked if they are ready to grant the waiver now. Mr. Tedesco explained that this is the preliminary and he must go to a public hearing; waivers are granted a public hearing. He explained that the public hearing will be set at this meeting. Mr. Manfredi asked if there are any exceptions to that. Mr. Tedesco said no. He further explained that they cannot grant a waiver until the project is approved and the project cannot be approved until there is a public hearing; the next public hearing is in March; that is the procedure of the Planning Board. Mr. Manfredi asked if there is any way to expedite this and can he notify the neighbor via e-mail. Counsel Shumejda said the statute says you must do it by certified mailing. Mr. Manfredi said he thought there were some exceptions to that. Mr. Tedesco said certifying mailings have to be signed for and you must present those signed receipts must be presented at the public hearing and put in your file. Mr. Manfredi said he doesn't understand why they are making him send out notices when the project doesn't affect anyone else. Mr. Tedesco said it is part of the procedure which you must follow if you want your application to continue.

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 March 24, 2014 meeting; all in favor. Motion carried.

Mr. Manfredi asked if the escrow can be waived. Counsel Shumejda said no. It is part of the procedure and the

nominal fee required is \$2,500. Mr. Manfredi did not understand the purpose of the escrow. Counsel Shumejda said we may send your plan to our Landscape Consultant for review which will have to be paid for from the escrow. He noted that whatever is left will be returned to him. Mr. Manfredi said it is his understanding that that the escrow is arbitrary. He said he is a 17 year resident who has gone to great length to make his property beautiful. Ms. Raiselis said many of us do that. She said it is for something unforeseen that may happen. Mr. Tedesco and Mr. Aukland said it applies to everyone. The Board members discussed it and agreed that he must place the escrow if he wants his applicant to continue.

ADJOURNMENT:

Mr. Tedesco moved, seconded by Mr. Aukland, and unanimously carried, that the meeting be adjourned – 9:40 p.m.

Dale Bellantoni
Secretary