

Village of Tarrytown, NY

One Depot Plaza, Tarrytown, NY 10591-3199
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Planning Board Minutes 6/24/2013

Planning Board
Village of Tarrytown
Regular Meeting
June 24, 2013; 7:00 p.m.

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

APPROVAL OF THE MINTUES – May 28, 2013

Chairman Friedlander moved, seconded by Mr. Tedesco, and unanimously carried, that the minutes of May 28, 2013 be approved as submitted. Motion carried.

CONTINUATION OF PUBLIC HEARING—99 No. Broadway Associates-99 No. Broadway

Frank Tancredi, architect and representative for the Mendelowitz's, owners of the property, introduced himself.

Chairman Friedlander said this is a continuation of the last meeting where it was discussed as well as at the staff meeting. He asked if anyone from the audience would like to comment.

Mark Fry of Sleepy Hollow said he felt it was best not to modify the area for short term economic conditions.

Mr. Tedesco said the Planning Board has discussed their concerns at length; and since a variance for one parking space is required as well as a use variance which, is a very serious matter, they are recommending that this application go to the Zoning Board. He commented that he feels the space can still be used for commercial use and perhaps it should be pursued in a different way, but feels it is a matter for the Zoning Board. He suggested that they refer this application to the Zoning Board, with or without any recommendation from the Planning Board.

Mr. Tedesco moved, seconded by Mr. Aukland that this application be referred to the Zoning Board. All in favor; motion carried.

CONTINUATION OF PUBLIC HEARING – Toll Brothers - 218 Wilson Park Drive (Lot 7)

Chairman Friedlander stated that the Board did a site visit to Lot 7.

Jennifer Gray of Keane and Beane, attorney for Toll Brothers stated that not much has changed from the previous hearing. She said they did submit a revised plan on June 21st, which was the earliest they could do so. The revision includes comments from Lucille Munz, Village Architect, which added seven trees to the list making the total number of tree to be planted 23 and 63 smaller trees and shrubs. Ms. Gray pointed out the trees to be added on the plan. Ms. Gray stated that the revised plan also shows the demarcation of the 25% or greater slope, which she pointed out and stated that they are indicated by the shaded areas on the plan. Ms. Gray stated that Steve Coleman has been and will continue to be out at the site surveying the trees to indicate the species, caliper and health of individual trees as well as the individual drip lines.

Chairman Friedlander asked Ms. Gray to provide Ms. Munz a set of the plans; and he asked Ms. Munz to go over them with the Board once she has reviewed them. He said the board is concerned about tree replacements regarding size and quality of trees.

Mr. Birgy asked Ms. Munz if she had any thoughts on keeping the natural trees that are part of the area. Ms. Munz said she has been looking at this as estate type planting with more stately size trees that will grow over time which can be intermixed with flowering trees. She also stated that she looked at street planting along the drive to recreate

what was once there.

Mr. Birgy asked Ms. Munz if it's possible to plant Copper Beach trees. Ms. Munz said yes there is enough room but they do take a long time to mature, but once they do they are beautiful trees.

Chairman Friedlander asked if anyone would like to comment.

Graig Allen, 29 Warren Avenue, complemented Toll Brothers for the seeding of the properties but wished the soccer field looked the same. He commented that the field is taking too long and asked if anyone has inspected it. He said there is a run-off into the lakes; commented on the hydrant at the field and asked if it has a backflow device.

Francesca Spinner, 206 Wilson Park Drive, just wanted to note that when everyone visited lot 5, there was some discussion regarding the construction traffic going around the hilltops. She suggested they give some consideration to the order of developing the lots; i.e. construction traffic could go through lot 7 to get to lot 5, as long as lot 7 hasn't already been constructed.

Chairman Friedlander asked Mr. Badger if he has a schedule for these three lots. Mr. Badger said lot 6 is next and hopes to start on that lot in the next month or so. He stated that it depends on the approvals; they could go through one lot with construction traffic to access other lots but it all depends on the approvals.

Mark Fry, Tarrytown Lakes Committee, hopes additional attention will be paid along the trail. Lot 3 doesn't have much re-planting along the rear border because the trail is being constructed now. With lot 7, there is now an opportunity to pay special attention along the trail. He said when the report is received from Mr. Coleman; he would like to see it so that an arborist can be selected to review Mr. Coleman's plans on behalf of the Village. He wants Mr. Yarabek and Ms. Munz to decide on an arborist. He agrees with Mr. Birgy regarding estate trees.

Ms. Raiselis asked Mr. Badger to clarify the two trees coming down. Mr. Badger indicated the trees on the plan and stated that as part of the original subdivision plan they were to come down because of the drainage easement. However, they relocated that easement in order to save the trees. The Board thanked them for doing so stating that they are very significant and beautiful trees.

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

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

Mr. Tedesco 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. Tedesco moved, seconded by Mr. Aukland, to approve the proposed site plan for Lot 7, 218 Wilson Park Drive, subject to the following conditions:

- Approval by the Building Inspector/Village Engineer, particularly in regard to the adequacy of the stormwater/drainage plan and compliance with a construction management plan which includes guidelines, construction timelines, and allowable construction traffic.
- Approval of a landscape and screening plan by the Village Landscape Consultant. This plan is to be reviewed by the Planning Board. Plantings should be native species or non-invasive ornamentals. This condition is also to be recorded in the homeowners' deed.
- If any trees that are designated to be preserved are damaged due to site work, and subsequently need to be removed, the applicant agrees to replace them in kind. If this is not possible, then planting of multiple trees approved by the Village Landscape Consultant or payment of the appraised value of the trees to the Village Tree Replacement Fund will be required.
- The applicant agrees to perform any treatment or pruning of trees deemed necessary by the Village Landscape Consultant at a time the Consultant deems most suitable.
- Adherence to the Section of the Zoning Code dealing with the Tree Replacement Fund for the removal of trees with a 10 inch caliper or greater OR alternative remediation elsewhere on the project site as approved

by the Village Landscape Consultant.

- Inspection of the final landscaping and screening by the Planning Board and Village Landscape Consultant before the issuance of the final Certification of Occupancy (CO).
- Any blasting activity determined to be required will be conducted in strict conformance with the Village's Blasting Code and approved by the Village Engineer. Blasting is to be monitored by a company chosen by the applicant and approved by the Village Engineer. The cost of this monitoring is to be borne by the Applicant.
- Given that the project's stormwater management system has been designed such that there is no discharge for any driveway as the complete driveway run-off is infiltrated into the ground through the design of the infiltration systems which capture and treat 100% of the runoff even for a 100-year storm event, the Planning Board approves a waiver from the subdivision condition which requires that driveways be constructed of permeable materials.
- A covenant will be placed in the Homeowners deed and in the Homeowners Association documents that prohibits the use of phosphate fertilizers. Organic, non-phosphate fertilizers may be used.
- Approval by the Architectural Review Board (ARB).
- During construction, a chain-link fence will be placed around the drip line of any significant tree to be preserved within the proposed area of disturbance.
- Payment of any outstanding escrow fees prior to the granting of a Building Permit.
- Signing of the Final Site Plan by the Planning Board Chairman.

All in favor; motion carried.

CONTINUATION OF PUBLIC HEARING – Toll Brothers - 213 Wilson Park Drive (Lot 14)

Chairman Friedlander stated that the Board did a site visit to Lot 14.

Jennifer Gray of Keane and Beane, attorney for Toll Brothers stated that similar to lot 7 there are no changes with respect to the layout. They have incorporated Ms. Munz's comments on the landscape plan. She stated and Mr. Sheffield confirmed that there are no slopes 25% or greater. A significant number of trees have been added: five along the property line on the left, four in front of the easement, three surrounding the house, for a total of 15 added and three trees being removed. Ms. Gray stated that the species of the trees have been modified. They will be planting sugar maples, river birch, tulip, red oak, Norway spruce and flowering dogwood. Three trees will be removed; one 18" not labeled tree and a 12" maple in the footprint of the house and one 12" maple in the corner of the driveway.

Chairman Friedlander said to Ms. Munz that this is an example of three major trees being removed. Are the ones going in adequate to replace these trees or should some funds be put into the tree fund?

Mr. Birgy asked Ms. Munz if she was familiar with the easement where a manhole was placed near the trunk of the tree and wondered if they can ask the applicant to place a performance bond for the protection of the trees. Ms. Munz said it is more important that they survive and a maintenance plan should be put in place. Ms. Gray said they did not have any objection to a maintenance plan. He asked if there is a way to get the dollar value of older trees. Ms. Munz said yes there is but it is somewhat controversial.

Mr. Aukland asked Ms. Gray about the demarcation of the trail easement. Ms. Gray said they suggested brick pavers along the easement line to indicate where it starts. She also said they are agreeable to signage. Mr. Aukland said it can be made a condition of approval that we agree on the demarcation and signage. Ms. Raiselis said the easement goes on the residents' property and there should be more discussion as to how we want to mark the property, especially since it goes so close to private homeowners' property. They may not like kids riding their bikes through their property to go to school; perhaps it needs something more secure like a fence. It needs more discussion.

Ms. Gray said we are also proposing trees along that line. Mr. Aukland mention that there are very low overhanging trees on that easement.

Mr. Birgy asked what the trail is to be made of, grass. Mr. Blau said it is not built yet, but it will go beyond grass.

Chairman Friedlander asked if anyone would like to speak.

Valerie Koppelman, 209 Wilson Park Drive, next to lot 14, said the easement does not have a positive value to her property. Also there will be a driveway next to the easement which is next to her driveway. She asked if the driveway can go on the other side of the house. Matt Sheffield, Engineer for Toll Brothers, said the location of driveway is at a 7.7% slope down to the house. If it were to get flipped to the other side, it would drop 12-14' down to the house which is a much greater slope and it would push the house right up along the easement. Ms. Koppelman said she did not have a good look but it looks like it would work very well. If the driveway remains as designed, can there be a natural buffer between the easement and their driveway, some kind of plantings. She stated that this is supposed to be a natural environment, a path. Ms. Raiselis asked if she is suggesting a particular material. Ms. Koppelman said no but those working on the trail will have some ideas. Ms. Koppelman also commented on the facade of the house which is brick. She said it has an institutional look and not in keeping with the area. Clapboard is the material of choice; she would like the material changed. Mr. Tedesco said she can go before the Architectural Review Board and speak about the material.

Chairman Friedlander asked how many feet between the driveway and the trail.

Ms. Gray said they are only putting in a line as a demarcation of pavers along the trail and they have proposed five trees along the easement which will serve as a buffer.

Ms. Munz said presently there is privet along that area. There is not a lot of space between the driveway and the trees. Placing evergreen trees too close will swallow up the trail and be too close for the house next door; the grading changes have to be addressed as well, the driveway is about 6' above the proposed trail. She suggested something more columnar like a river birch. They will be about 30' in height, more dense, has a winter character and in keeping with a woodland setting. Mr. Aukland asked if there is any way to give more space between the driveway and the easement. Mr. Sheffield said the driveway is with the easement line; there might be a way of getting a couple of feet. Chairman Friedlander asked the width of the driveway. Mr. Sheffield said 11'. Mr. Sheffield said they can take another foot off the driveway and make it an 11' driveway. They cannot move the house over because it is on the corner of the setback now. Mr. Aukland said he would like more than 4'; Ms. Munz said at least 6' so that the trail is screen and usable. Mr. Birgy asked if there is any way they can move the house further west along that line. Mr. Sheffield said yes they will gain a couple of feet that way. He asked where the plantings are going. Ms. Munz said they should be going on the homeowners' property, off the easement. She said the tightest part is at the parking pad. Mr. Sheffield said there is a retaining wall proposed along the driveway which can also be used as a physical barrier for the trail. Ms. Raiselis asked what the retaining wall will be made of, block or stone. Mr. Badger said stone. Mr. McGarvey said there are 10' between that lot line and the trail. Mr. Sheffield said yes. Ms. Munz stated it's easier if they could show the landscape plan on top of the engineering plan.

Mr. Birgy said he would like the dimensions the plan. Mr. Sheffield said yes he will do that.

Ms. Raiselis said she feels the whole easement needs more design; where the path is going to be, the landscaping and how the trail will be apart from the private property. Ms. Gray said they have no control over the trail because they are not designing it.

Mr. Aukland asked if they can provide 6' between the easement and the driveway. Mr. Sheffield said yes they can provide 6'

Mr. Blau said they want to be sure that nothing on Toll Brothers property will impact those walking on the trail. He said that portion of the trail is not designed yet, it is down the road; it depends on money, etc.

Mark Fry said the Lakes Committee is working with the trail designer, Mr. Yarabek, and suggested that he get together with Ms. Munz. Once the trail is built, if the distance between the easement and the driveway is only 6' it will not be enough for the vegetation they hope to have there. He feels a 10' buffer is needed. He said the grading plan can be eased back so that the trail doesn't seem blocked in with a high wall. He, as a representative of the Lakes Committee, requests that this site should not be approved tonight with a lot of conditions. Chairman Friedlander said we are going to cover the basis, and we have enough professionals and concern that approving with conditions is adequate protection.

Mr. Fry said if the buffer strip is 10' wide that will give us enough room. Ms. Munz said she would like to point out the privet fence appears to be on the easement. Mr. Fry said it appears to be on the Koppelman's property.

Mr. Tedesco said he agree with Chairman Friedlander. A lot of Mr. Fry's items pertain to the trail but we are

discussing lot 14 and feel that we have enough to approve.

Mr. Birgy asked Counsel Shumejda if he thought it a good idea to get a performance bond. Counsel Shumejda said any new trees will come with a maintenance contract. With existing trees, how do we make the determination of how healthy it is and how healthy it was before work was done? It is difficult to determine the impact on a tree. Mr. Birgy said your saying not to protect the trees. Counsel Shumejda said that is not what I said. The Village has a tree ordinance which says if a tree is intentionally damaged we can bring them to court for willful destroying or damaging a tree. There is also a reference to a guide for the cost of a replacement tree. All new trees, vegetation can require a bond if that is what the board wants. Mr. Birgy said what about dry stacked walls. Counsel Shumejda said any new construction can require a maintenance bond. Mr. Birgy asked if a wall requires plans to be submitted. Mr. McGarvey said they must submit plans showing him how they are going to construct the wall. There are some places, such as in this situation where I would suggest a mortar wall instead of a dry stacked wall. Counsel Shumejda said a performance bond can be required for any new construction and the type of construction can be mandated by the building inspector; it's better to have it built right from the beginning.

Craig Allen said the minimum is 6' which allows zero room for error; can it be made more than 6'. Chairman Friedlander said it's not zero for error. If it comes over the easement, it has to be trimmed if the Ms. Koppelman requests it. Mr. Allen asked Mr. McGarvey if there is anything on the driveway pad to stop a car from backing off of it. Mr. McGarvey said yes there is a curb on the plan for that purpose as well as for run-off.

Ms. Koppelman asked about blasting. Ms. Gray said they have no intention to blast. Mr. McGarvey said if the developer does blast, we have specific conditions for blasting: a very large bond is place, a pre-blast survey is done to your home and the homes within a certain radius, video taping of foundation and in house, seismograph on site, a blasting inspector on site paid for by the developer who would monitor the size to be sure it is within the decibel level of the code. Mr. McGarvey said two letters are sent out; one several days before the intended blast and a second one right before the blast. Ms. Koppelman asked about jack hammers. Mr. McGarvey said jack hammers are within code and would not create enough vibration to cause damage. They will only be jack hammering through asphalt which is very quick and does not cause vibration.

Mr. Fry asked that one of the conditions be clearing of the trail. Ms. Gray said if they could do it at the same time they are clearing the lot it would prevent bringing the equipment onto the site two times. It was agreed and made part of the conditions.

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

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

Mr. Tedesco 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. Tedesco moved, seconded by Mr. Aukland, to approve the proposed site plan for Lot 14, 213 Wilson Park Drive, subject to the following conditions:

- Approval by the Building Inspector/Village Engineer, particularly in regard to the adequacy of the stormwater/drainage plan and compliance with a construction management plan which includes guidelines, construction timelines, and allowable construction traffic.
- Approval of a landscape and screening plan by the Village Landscape Consultant. This plan is to be reviewed by the Planning Board. Plantings should be native species or non-invasive ornamentals. This condition is also to be recorded in the homeowners' deed.
- If any trees that are designated to be preserved are damaged due to site work, and subsequently need to be removed, the applicant agrees to replace them in kind. If this is not possible, then planting of multiple trees approved by the Village Landscape Consultant or payment of the appraised value of the trees to the Village Tree Replacement Fund will be required.
- The applicant agrees to perform any treatment or pruning of trees deemed necessary by the Village Landscape Consultant at a time the Consultant deems most suitable.
- Adherence to the Section of the Zoning Code dealing with the Tree Replacement Fund for the removal of

trees with a 10 inch caliper or greater OR alternative remediation elsewhere on the project site as approved by the Village Landscape Consultant.

- Inspection of the final landscaping and screening by the Planning Board and Village Landscape Consultant before the issuance of the final Certification of Occupancy (CO).
- Any blasting activity determined to be required will be conducted in strict conformance with the Village's Blasting Code and approved by the Village Engineer. Blasting is to be monitored by a company chosen by the applicant and approved by the Village Engineer. The cost of this monitoring is to be borne by the Applicant.
- Given that the project's stormwater management system has been designed such that there is no discharge for any driveway as the complete driveway run-off is infiltrated into the ground through the design of the infiltration systems which capture and treat 100% of the runoff even for a 100-year storm event, the Planning Board approves a waiver from the subdivision condition which requires that driveways be constructed of permeable materials.
- A covenant will be placed in the Homeowners deed and in the Homeowners Association documents that prohibits the use of phosphate fertilizers. Organic, non-phosphate fertilizers may be used.
- Approval by the Architectural Review Board (ARB).
- During construction, a chain-link fence will be placed around the drip line of any significant tree to be preserved within the proposed area of disturbance.
- Trail boundary demarcation is to be determined by the Village Consultant in conjunction with the Planning Board.
- A minimum of 6' separation is to be provided between the easement boundary and the driveway.
- A mortar retaining wall is to be approved by the Village Engineer.
- Before the issuance of any building permits, all easement material required by the Village and the Village Attorney must be provided.
- Clearing of the trail easements bordering this lot.
- Payment of any outstanding escrow fees prior to the granting of a Building Permit.
- Signing of the Final Site Plan by the Planning Board Chairman.

All in favor; motion carried.

CONTINUATION OF PUBLIC HEARING – Toll Brothers - 210 Wilson Park Drive (Lot 5)

Chairman Friedlander stated that the Board did a site visit to Lot 5.

Jennifer Gray of Keane and Beane, attorney for Toll Brothers stated they submitted a revised alternate 3 on Friday, June 21st, which is what she will discuss. Ms. Gray stated that they realize it was submitted after the deadline for submission and she stated that they do not expect the board to close the hearing or approve this new alternative at this meeting. Ms. Gray said this new alternative 3 maintains the orientation of the house from the original, shifts the house to the north and relocates the driveway further down Wilson Park Drive which enables them to maintain the preservation of trees in the rear of the property and along the front property line. This location significantly reduces the limits of disturbance by 10,000' from alternative 2. They looked at moving the house further back into the corner but by doing so it will impinge upon the slope and will not leave enough room for the cultec units in the rear.

Matt Sheffield, Engineer for Toll Brothers, added to what Ms. Gray said. The hilltops, trees, slopes and neighbors all play into balancing this. In trying to accommodate everyone we came up this alternative. With this layout, the further you go into the hilltop, the less disturbance because it gets less and less steep. If we can go 10' into the hilltop and rotate the house to save trees and tighten up the grade, it will be helpful to this house.

Mr. Birgy asked Ms. Munz to comment on the trees. Ms. Munz said there is a fair amount of scrub trees, some cherry trees in not great condition and maples that are in good condition. There are a lot of brambles, a lot of invasives. There are about one or two trees that she would like to see kept. She would like to be sure that there is screening for the existing two residences to the south, both in the summer and in the winter. Ms. Munz said by removing the scrub trees, it allows for the planting of better trees. Not too far from the site are beautiful sycamores which they are not touching. The trees they are touching are not too healthy to begin with, and it allows them to plant some good quality trees and screening.

Mr. McGarvey asked Mr. Sheffield with this new driveway layout, how much more infringement into the hilltop will they be going. He stated that the original subdivision approval allowed for some intrusion into the hilltop and he would like a comparison of this layout vs. the original approval. Mr. Sheffield said he will have to quantify that for the next submission.

Chairman Friedlander asked if there were any comments.

Richard DeSanctis, 4 Lake Terrace read a statement from three property owners: Richard and Veronica DeSanctis, Mimi Godwin, and Steve and Maria Trusa. A copy of that statement has been attached to these minutes.

Mimi Godwin, 20 River Terrace, spoke about the rock which she said is quite extensive. The jack hammering is very significant; she has cracked walls from prior jack hammering. She feels some kind of consideration should be made to jack hammering on that property which is all bedrock. Mr. McGarvey said the prior work was hammering with a machine which is much more intense than a jack hammer. He asked Mr. Sheffield if any test pits for the depth of the rock were done on that site. Mr. Sheffield said not that he knows of. Mr. McGarvey said to his knowledge no municipality has restrictions on jack hammering because typically it does not cause cracking. Ms. Godwin asked if some kind of assessment could be done before the jack hammering is done. Mr. McGarvey said he will talk to the board to see what could be done.

Steven Trusa, 35 Lake Terrace said looking at the plans for this house, it will be 12-14' higher than the houses on Lake Terrace. He would like a balloon test done for the height of the house. He is concerned about the bedrock if there is blasting. He said he noticed at the site visit the southeast point has very valuable tree that will come down if the house is sited there. He is also concerned about stormwater. He would like someone at the site who is hired by the Village to oversee that everything is done right and hold Toll Brothers accountable for their errors.

Steven Trusa, Sr., father of the homeowner of 35 Lake Terrace, said he is concerned about the parkland, runoff, bedrock, will property meet the percolation, stand up to erosion and blasting. He feels the house should be moved further north. He stated that this is such a beautiful piece of property

Mark Fry, Lakes Committee, handed out notes which were not accepted by the board at the meeting. He stated that the trail is not shown on the plan. He spoke about several of the items on the attached sheet. He said it is very important that the house be screened from the Hudson River. Mr. Birgy said this house will be at the highest point on the ridge and moving it forward is a mistake.

Veronica DeSanctis, 40 Lake Terrace, just wanted to recap. Thanked the board for the job they are doing. Site walk was very enlightening and hopes the house can get shifted a little bit more north which will eliminate the removal of some trees, better proximity to existing house and her foundation, better landscaping between the property lines for stormwater drainage. She asked if it possible to put the side yard on the other side of the house. She said trees need to be protected and wants a 3-sided facade on the trail, front of the house and Lake Terrace. She wants a site manager on the site.

Chairman Friedlander said the plans will be revised and presented at the next public meeting.

Mr. Aukland pointed out that with this plan the house will be 2' lower than the original which is a public good.

The Board continued the public hearing to the July 22, 2013 meeting.

NEW PUBLIC HEARING – Bartolacci - 67 Miller Avenue

The Chairman left the meeting for a short break. Mr. Tedesco read the following Notice of Public Hearing:

PLEASE TAKE NOTICE that the Village of Tarrytown Planning Board will hold a public hearing on Monday, June 24, 2013 at 7:00 p.m. at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

*Peter Bartolacci
67 Miller Avenue
Tarrytown, NY 10591*

For site plan approval to remove railroad tie walls, construction of retaining walls, and landscaping of the rear yard of the property. The property is located at 67 Miller Avenue, Tarrytown, New York and is shown on the tax maps as Sheet 1.70, Block 40, Lot 4 and in the R-7.5 Zone.

Documents are available for inspection in the Planning and Zoning Office. All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; request must be made to the Village Clerk at least one week in advance of the meeting.

By Order of the Planning Board

Dale Bellantoni, Secretary

DATED: June 7, 2013

Rudy Petrocelli of Petrocelli Engineering represented the Bartolaccis and explained that they are replacing the existing deteriorated and collapsed railroad tie wall which is approximately 157' long and has a height which goes from 0 to 6' high except in the corners which are 12' high. There is only 11' of wall which is 12' high; the rest of the wall is an average of 7'. The 12' high area will be blocked with holly and rhododendron. The slope in front of the wall will be grass, as well as the slope from the wall back to the house. The slope will follow the existing slope that is there now except at the corners which will be filled in due to the run-off. The existing stairs will be replaced with masa stairs to allow for access to the rear yard for maintenance. The existing stone wall which is 17'-18' from the rear property line will remain. They will repair that wall and maintain it. They are just replacing an existing wall which is dangerous. The replacement wall will be safer, drainage will be better and aesthetically it will be better. The wall will have a fence on top of safety. The existing residents below will not even see the wall because of the existing stone wall, the slope between the two walls and the wall above will be level all the way across.

Mr. Tedesco asked if a specific stormwater drainage plan was submitted to Mr. McGarvey. Mr. Petrocelli said there is no specific plan because we are not doing any changes. Mr. Tedesco asked Mr. McGarvey to comment. Mr. McGarvey said if there are no changes in elevation you are not making the condition worse. His only concern is the erosion in the two corners. He asked what they are doing to prevent that from happening again. Mr. Petrocelli said that condition will no longer exist because it will be maintained.

Mr. Birgy asked about the two existing large trees. Mr. Petrocelli said they will be removing those trees. Mr. Birgy said the trees should be assessed by the Village's Landscape Consultant. Mr. Blau said it should be done by an outside consultant.

Mr. Aukland asked if the fence is for safety. Mr. Petrocelli said yes, there will be a 1:2 slope; the fence is so the children can't fall over the wall. They are putting a 6' fence on top of the wall.

Ms. Raiselis said you are having a fence on top of an 8' wall that your neighbor will be looking at? Mr. Bartolacci said it will not be an 8' fence; it will only be a small safety fence. He said the plans must be wrong and he apologized.

Ms. Raiselis said it is a very wooded lot and even if you clear out only part of this lot, it will change the entire character of that block. You are putting up a block wall with a fence on top and very little landscaping in front that your neighbors have to look at, not you. She did agree that safety was an issue.

Richard Blancato, attorney for the applicant, said the wall is dangerous and corroded. It needs to be replaced. We are just replacing an old wall dating back to the 50's with an engineered wall about 12' high. The existing wall when it was originally there was 12' high. Ms. Raiselis said the solution may work but it is not the most aesthetically pleasing. Mr. Blancato said that someone mentioned a stepped wall. A stepped wall requires more disturbance all the way into the back yard, 2/3 more fill, is not as good drainage-wise and trees cannot be planted.

Mr. Petrocelli said right next door is a mafia block wall. The mason blocks are more pleasing with very little maintenance to be done on the property. Mason blocks can be constructed by labors.

Chairman Friedlander opened the meeting to public comment.

Geraldine Baldwin, 66 Riverview Avenue, directly below 67 Miller Avenue. She showed two pictures of 67 Miller from her property. It is higher than both 63 and 71 Miller which are on either side of 67 Miller. The slope provides a very natural looking slope as well as privacy. The original plan, which is slightly different from the one shown tonight, requires a waiver from the steep slopes law. She said in her opinion a waiver is not justified in accordance

with section 305-62 of the Village Code. She asked the board if they are going to grant this property a waiver from the steep slopes law or is it your contention that it will not need a waiver for approval. Mr. Tedesco said a waiver is required for any disturbance of steep slopes. There has to be a significant benefit to either the immediate neighborhood or the community at large and it's the board purview to decide if that waiver is necessary. He asked Ms. Baldwin if she is suffering from any drainage problem. Ms. Baldwin said she did not have drainage problems until the neighbor next door to 67 Miller Avenue put a wall on his property. She showed a rendering of what the finished wall at 67 Miller Avenue would look like upon completion. The railroad tie wall allows the wall to percolate through it and be absorbed as it comes down the hill. A block wall is adding an additional 750'-1050' of impervious surface to that property. There is no provision in the plan that shows mitigation of the run-off; and now we seem to have a lot more rain. Increasing the impervious surface of the property will increase the run-off down the hill. Finally, she stated that on his plan her property is improperly indicated. It shows a portion of her property belonging to the neighbor. She would like it corrected.

Lynn Schneider, 64 Riverview, a small portion of her property adjoins a portion of 67 Miller Avenue. She does not know how 63 Miller Avenue was allowed to take down the weeping willow tree and a large wall was allowed to be installed. She does not need another large wall to look at. She stated that they have had water in their basement since the first wall was built. They are the ones who will be looking at this wall. We love the area as it is and it is very important for them to preserve the area as it is.

John Rosenblatt, 35 Park Avenue, said his son plays with the Bartolacci's twins. They don't play on the Bartolacci's property because it is not a safe area. He has watched the area erode over the past five years. Something should be done before it all rolls down the hill onto the neighbor's property.

George Rollinbacher, 71 Miller Avenue, next door neighbor to the Bartolacci's, stated that there is no option to leave it the way it is. Those who don't like this plan should come up with an alternate plan before they find logs, rocks and dirt resting on their house.

John Burkhart, 47 Miller Avenue, two house away from 67 Miller Avenue, was very happy to hear that the wall was going to be rebuilt. He used to play back there himself when he was a child but it is now just terribly overgrown. Yes it provides screening but half of the wall is down. He said he actually used to climb that wall when he was a kid and it was 12' to 14' high when it was built. He remembers when 63 Miller Avenue was filled in and a wall was put up and then a garage was built and another wall put up. That is when the drainage problems started and it now blocks the light from everyone on Riverview Avenue. The Bartolacci's wall has had 60 year of neglect and something has to be done about it.

Ms. Raiselis clarified that she has no problem with repairing this wall. The problem is that putting a block wall up changes the entire character for those residents in the rear who have to look at it.

Chairman Friedlander asked Counsel Shumejda if an existing wall falls down do they have the right to replace it. Counsel Shumejda said they can repair what was there. Chairman Friedlander said so if there was a railroad tie wall, can they repair it with a railroad tie wall. Counsel Shumejda said yes, you have the right to repair an existing wall. Chairman Friedlander said if the trees are unhealthy or unsafe, who makes the determination to take the tree down. Counsel Shumejda said it's the responsibility of the applicant to get a certified professional to determine the condition of the tree; if our consultant agrees with the arborist report that it is unhealthy or dangerous, it can be taken down. Chairman Friedlander asked the applicant if he has done that. Mr. Bartolacci said he did not do that yet because he is only going to take the trees down if he is allowed to replace the wall. Chairman Friedlander asked Counsel Shumejda if the applicant can be forced to put in plantings/screening on the neighbor's property or does it have to be on his property. Counsel Shumejda said if it's on their property you can require whatever is reasonable; it becomes less clear if it is on the neighbor's property.

Mr. Bartolacci said their original design did not go anywhere because it required the filling in of steep slopes. This design minimizes the disturbance of steep slopes, which I thought was the issue. Now you are suggesting I come back with another design.

Chairman Friedlander said the board was out there and saw the condition of the wall and agrees that it has to be fixed, but the neighbors are saying they do not like what is proposed.

Geraldine Baldwin said she would like them to repair/replace the wall in kind keeping the natural looking habitat. Chairman Friedlander asked if there is an area where they can plant a row of trees that will block the wall. She asked Ms. Baldwin if the wall has been taken care of, and it's screened so that you can't see it, will you be happy. Ms. Baldwin said yes as long as the drainage is taken care of as well.

Mr. Petrocelli said there is no increase in impervious surface with this wall. There is no cement between the blocks, so that water can percolate through the wall.

Chairman Friedlander said he is not concerned about the construction of the wall. He has confidence that Mr. McGarvey will see to it that the wall is constructed properly. What he is concerned about is making Ms. Baldwin happy. She has lived there for many years where she has enjoyed the peace and quiet and the natural aesthetics of her yard and I want her to continue to do so. We have to discuss with our landscape consultant to see what kind of plantings are required so that she will not have to see the wall.

Mr. Bartolacci asked if the board saw the proposed plantings from Ms. Munz. Her plan had deciduous trees in front of the wall which would not provide screening of the wall during the winter months. A better option would be arborvitaes which are green and provide screening all year long. If Ms. Baldwin does not want to see the wall, we can provide that kind of screening. He also stated that the recommended plantings would cost between \$11,000 and \$26,000 which is not what he expected. He is not prepared to spend that kind of money on plantings. Chairman Friedlander said they have not seen that plan.

Ms. Schneider asked that they consider more natural plantings.

Mr. Birgy stated that the planning board does want them to fix the wall. The first drawing was very elaborate. He suggested that the client just bring in a sketch which would not cost him a lot of money. Mr. Birgy feels that the client only has one plan that he is willing to do. He feels that there are other solutions. Mr. Birgy said he does not believe the wall was originally 12' tall because there are finished ends on the steps which indicate to him that the wall was not that tall. He would like them to come before the board with an option other than a 12' wall.

Mr. Blancato said they have no objection to providing screening of this wall from the neighbors but that depends on what kind of screening they want. The cost is a factor.

Mr. Birgy suggested a tiered wall but Mr. Blancato said that a tiered wall would disturb the slopes even more. Chairman Friedlander asked Mr. Blancato if a tiered wall is out of the question. Mr. Blancato said one wall would still have to be 12' high. Mr. McGarvey asked Mr. Petrocelli to explain why a stepped wall would require more fill. Mr. Petrocelli said because the first wall has to be filled in so that only 6' is showing. It needs to be filled in so you have a slope from the front wall to the next wall. Mr. Birgy suggested they come in with more options for a stepped wall. Mr. Petrocelli said with a stepped wall they will see two walls instead of one wall. Mr. Birgy suggested that they could even do three walls in that amount of space and still have room for plantings.

Mr. Petrocelli said their first drawing had two walls and it was turned down. The board did not recall that.

Mr. Bartolacci asked why he can't just replace what he has. He stated that they are getting into grand schemes which will cost him a lot more money.

After more discussion by Mr. Birgy and the applicant, his attorney and his engineer and the neighbors regarding the options for this wall and the original height of the wall, it was decided by the board to continue this application until the July 22nd meeting in order for the board to see the landscape plan.

Chairman Friedlander asked Counsel Shumejda to explain the difference between replacing an existing wall and building a new wall. Counsel Shumejda said if the applicant can prove by photos or some other means that the existing wall was originally 12' tall, he can replace it to its original design. If he cannot prove that the wall existed as he says, it is a new wall. If the proof is not there to show that it was a 12' wall, the planning board has to make that decision if it was or was not a 12' wall. He suggested that they research the Town of Greenburgh for any documents indicating the size of the wall or perhaps neighbors have pictures. Mr. Bartolacci said it is frustrating that he just can't repair what he has. Counsel Shumejda said the question is, "what did you have?" He suggested that they come back next month with two plans: Plan A, the original wall and Plan B, two stepped walls.

Mrs. Bartolacci said she does not understand why they have to prove that it was there when the Village does not have to prove that it wasn't. They have neighbors who stated that it was there. She also stated that if the arborist report says the tree is ok, we can't build any wall without taking the trees down; what will we do then. Mr. Blau said if the tree warden needs more information, she will ask for another opinion.

Mr. Blau clarified that the decision to remove the trees is not the decision of an arborist or landscape consultant; it is the decision of the Planning Board.

Chairman Friedlander said when they come back next month he wants to see a single wall with the landscaping and a two-wall plan with the landscaping. He want to see which works best for the neighbor below.

Mr. Tedesco said we will also look at the cost factor.

Mr. Bartolacci Sr., asked to comment. He said this is a very unsafe condition. He realizes that you can't satisfy everyone but there is a right decision for the village. The condition of this wall is very dangerous for his grandchildren and something must be done to get this situation fixed. To replace something that is already there should not need an approval as long as it is done in accordance with the building inspectors requirements. This has got to get done; make a decision.

Chairman Friedlander said once they get the landscape plan and they can review the two different plans, they will make a decision.

Mr. Aukland said to show on the plan the size of the fence they want.
NEW PUBLIC HEARING – Lackowitz (Contract Vendee) - 26 Pintail Road

Chairman Friedlander stated that this application has been adjourned.

PRELIMINARY PRESENTATION–21 Wildey St. LLC (Contract Vendee)-21 Wildey St.

John Meyer of Natural Resources said they have looked carefully at the previous plans and have taken into consideration the board's comments. Mr. Aukland said all submissions should be submitted within the deadline.

Mr. Tedesco talked about the contractual obligation of Hudson Harbor to re-develop the site of the old Village Hall which includes 12 units with an average of 1,000 s.f. and not less than 800 s.f., they must be marketed as moderate income housing in accordance with the Village's criteria, and they must give preference to village residents. Up to twenty units could be built provided they meet all zoning requirements. Your original proposal does not meet those requirements and those units would have to be justified in order to be granted variances from the zoning code.

Mr. Meyer said the proposal before them is to address the obligations of Hudson Harbor. First they were to take down the old Village Hall and then provide 12 units of affordable housing with an average of 1,000 s.f. and not less than 800 s.f. Their proposal is for the 12 units required with an average square footage of 893 s.f. The remaining 12 units are micro, or studio, units. They are a new type of residential design which has been built in New York City. Mr. Meyer explained the parking requirements for this site. He said for the affordable units there will be 2 ½ parking spaces for the two-bedroom units as per the code and for the one-bedroom units there will be 2 parking spaces; and since the micro units are intended for one person, there will be one parking space per unit. There proposal comes up with a total of 43 spaces where our code requires 70. We are looking at the board to evaluate the parking proposal and to give us some consideration regarding the parking. This plan has a full garage which accommodates 24 spaces.

Chairman Friedlander asked how they decided on the number of units. Mr. Meyer said it is based on the square footage of the lot and the marketability and cost factor to construct the building.

Chairman Friedlander said the requirement was 12 units. Why are the additional units necessary? Mr. Meyer said to make the project profitable for the owner.

Mr. Birgy said he does not feel it's in the best interest of the Village to build more than the 12 required.

Chairman Friedlander said when we priced the land, we thought it would be for 12 units.

Mr. Aukland said if the zoning allows for more units on that land then we should look at the additional units; but if it doesn't, they will have to justify why the additional units are beneficial to the Village.

Chairman Friedlander said when this project was negotiated the developer was told that he had to provide 12 affordable units in the Village. He could build them on this land or on Hudson Harbor property. He decided that it would be more profitable for him to build the affordable unit at 21 Wildey Street because market price units on the Hudson Harbor site would provide more profit than market price units at the 21 Wildey site. Perhaps the 21 Wildey

Street property is now more valuable and he would like to profit from both sites. The price was predicated on 12 affordable units, which would not be profitable.

Chairman Friedlander said we can entertain looking at 20 units in terms of its impact. Mr. Meyer said we still wouldn't meet parking. Chairman Friedlander said so 20 units are not allowed.

Mr. Meyer said the original resolution said that the developer has to provide 12 affordable units. It does not say anything about more units or that they have to be zoning compliant.

Mr. Blau explained that the one thing they need to provide is 12 affordable units but it does not say that couldn't build more, that is the decision of the Planning Board. However, the Board has stated in writing that parking is a large problem on Wildey Street and they have to address that impact. He said the developer can come before this board and ask for more units than the 12 affordable units. If the developer builds more and makes a profit, it doesn't matter.

Chairman Friedlander said what Mr. Blau is saying is that the developer can bring however many units he wants, and it is up to the Planning Board to decide if it is good planning and beneficial to the Village.

Chairman Friedlander clarified that the trustees said 12 units are required but more than 12 are allowed and they had no problem with that. Mr. Blau said he doesn't know if they have a problem with it or not, but the agreement just says 12. Counsel Shumejda confirmed that that is what the agreement says, only that they must provide 12.

Mr. Meyer said the agreement also says if we could not build 12 units on the site, the Village will provide another site at no cost for the remainder of the units. Mr. Blau said that is correct, but it is obvious that 12 units can be built on that site.

Mr. Shumejda asked if the micro units are smaller than the requirement. Mr. Meyer said if the ordinance says each must be 600 s.f., then yes; but if the ordinance says an average of 600 s.f., then no.

Mr. Tedesco said before they discuss again, they should give a list of all of the exact variances required and a separate document making the argument for having different parking requirements for the units.

Mr. McGarvey said they might want to look at §305-33, Multi-Family Residential M-1 Zone, can't have more than four families in one structure without a variance. Mr. Meyer said the original proposal which has been circulated to the board for about five years also had more than four families. He said he was curious why it hasn't been brought up before?

PRELIMINARY PRESENTATION – Wildey Group - 124 Wildey Street.

Joanne Landau one of the owners of the shopping center where a Kentucky Fried Chicken would like to come in but they require and drive-thru. Traffic is an issue and she was asked to have a traffic study done. They looked at McDonald's as a pretty fair equivalent of the type of traffic KFC would generate. Ms. Landau introduced John Canning, traffic consultant.

Mr. Tedesco said the report says seven cars can cue for this site but what if the lines get longer? This circulation pattern will not work.

Mr. Canning did a survey at McDonald's. He stated that there is another KFC in Elmsford where they can do another study if they prefer. The average cue at McDonald's is one at the order window and two at the pick-up window; the 95 percentile is three at the order window and three at the pick-up window; at 6:00 p.m. this evening there were 0 at the order window and 0 at the pick-up window. He said he is confident that there will be adequate space to accommodate the plan. Mr. Canning said Tarrytown is a place where people walk. They do have sidewalks on the plan and that plan can be tweaked.

Mr. McGarvey said with this plan, they will lose nine parking spaces. Mr. Canning said that is correct. He said there is more than adequate parking available in the parking lot. Counsel Shumejda asked Mr. Canning if he did the traffic study for the Japanese restaurant. Mr. Canning said he was not on the project; but if the board feels this project is a possibility, they would be more than happy to do a traffic study. He feels it will be a benefit to the Village.

Chairman Friedlander asked if they are going to change the structure of the store and what will the seating availability be. Ms. Landau said they are just going to clean it up and there will be about six seats.

Mr. Birgy said he doesn't like the McDonald's drive-thru because it only accommodates standard vehicles; it's very tight.

Chairman Friedlander said he thought the store at the McDonald's end is vacant. Why can't they put it there and just widen their drive-thru. Ms. Landau said there wouldn't be enough room and they don't own McDonalds and doesn't believe they would like sharing.

Ms. Raiselis said the way it is now configured you can cross the street and immediately be on a sidewalk. If you reconfigure it for the drive-thru, when you cross Central Avenue you come into the shopping center and you are in traffic. Mr. Canning said they can possibly put a raised and striped cross walk so that the cars would have to yield to anyone crossing there.

Ms. Raiselis said it would be better if you could get out of KFC without going through that parking lot. Mr. Canning said perhaps they could make it a right turn only on Central Avenue. Ms. Raiselis said that would be better but she feels the pedestrian issue is a bigger issue.

Mr. Tedesco said if they can address some of these issues and get the plans to the fire department and the police department, they can discuss this at the worksession.

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 July 22, 2013 meeting; all in favor. Motion carried.

ADJOURNMENT

Mr. Tedesco moved, seconded by Mr. Aukland, and unanimously carried, that the meeting be adjourned – 11:35 p.m.

Dale Bellantoni
Secretary