

Village of Tarrytown, NY

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Planning Board Minutes 9/22/2014

Planning Board
Village of Tarrytown
Regular Meeting
September 22, 2014; 7:00 p.m.

PRESENT: Chairman Friedlander (late); Members Tedesco, Aukland, Birgy; Counsel Shumejda; Village Engineer McGarvey; Secretary Bellantoni

ABSENT: Administrator Blau, Member Raiselis

Mr. Tedesco chaired the meeting.

APPROVAL OF THE MINUTES – August 25, 2014

Mr. Aukland moved, seconded by Mr. Birgy to approve the minutes of August 25, 2014. All in favor; motion carried

Mr. Tedesco stated the following adjournments:

Continuation of a Public Hearing – Bartolacci - 67 Miller Avenue
Continuation of a Public Hearing – HKP Realty Inc. - 25 Main Street
New Public Hearing – Cannavo - 17 N. Washington Street
Preliminary Presentation–Tarrytown Waterfront LLC-5 Hudson View Way (Bldg 3A & 3B)
Preliminary Presentation – Tarrytown Waterfront LLC-1 Hudson View Way (Bldg 5A)
Preliminary Presentation – Ferry Landings LLC - 2 Division Street

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

Judson Siebert of Keane and Beane on behalf of Toll Brothers regarding Lot 10. Before discussing lot 10 Mr. Siebert gave the board a brief update on the stormwater infrastructure. He said the work is continuing and nearing substantial completion. The embankment on the western side of the field has been seeded; it continues to be irrigated and looks as if it's stabilizing. They will be conferring with Mr. McGarvey later on this month; and if anything else needs to be done to stabilize that it, they will do it. The field itself has taken hold. Mr. Siebert said it has been decided that the water quality swale around the field will be installed; the work started today, should be completed next week. After consulting with the Village Consultant, Dvirka and Bartilucci, the decision has been made to put the fencing in as per the plans. The fencing samples have been ordered and they are working with Dvirka and Bartilucci in finalizing those plans this fall. A sample of the stone wall to be used for the demarcation of the common area from the private area has been installed in the park near lot 2 for inspection by the Board of Trustees and the Planning Board.

Mr. Siebert went on to discuss Lot 10, his applicant has agreed to incorporate some landscaping that was suggested by the owner of 2 County House Road. Ms. Munz submitted a report stating that the changes/additions are acceptable and sufficient for screening from the trail and she made some other comments that she feels should be put into the plan.

Mr. Siebert said the lot line issue is outside of the Planning Board's purview. He said he will have a discussion with Mr. Rosh within the next 30 days in an attempt to resolve it by next month's meeting.

Mr. Siebert said they received a modified landscape plan from the homeowner of 2 County House Road requesting

additional plantings and larger plantings than the ones proposed. The specifics are outlined in Jennifer Gray's letter to the Board dated September 12, 2014. Mr. Siebert said Tolls Brothers has no object to these revisions and is also willing to incorporate them along the common property line with 4 County House Road provided they are reviewed and approved by the Village's Landscape Architect, Lucille Munz. Mr. Siebert said this modified plan will be part of his discussion with Mr. Rosh.

Mr. Tedesco asked Mr. McGarvey to explain the property line issue. Mr. McGarvey said he does not know how two or three surveyors can't come up with how this happened. He asked Toll's surveyor, Doug Carver, if they went around the entire site of 2 County House Road; and the metes and bounds are exact. Mr. McGarvey agreed. Mr. McGarvey asked if it was possible that the point of beginning is different for each surveyor, causing that lot to slide over the 13-14 inch difference. He said he feels that is the only way, if the metes and bounds are the same; that two surveyors can come up with different points. Doug Carver of ESE, said Ward Carpenter did the survey work for Toll and ESE agrees with it. Merritt did the work for the client but they have not been able to speak with Mr. Merritt. Mr. Carver said it's possible that the point of beginning is different but very unlikely; there are a lot of other possibilities.

Mr. McGarvey said this may be a Sleepy Hollow problem not the Village of Tarrytown; perhaps there is an error in the other subdivision. Can you look into that? Counsel Shumejda said we can ask Mr. Rosh if he can speak to his client and ask him to have his surveyor speak with ESE.

Mr. Birgy asked if they should look into the Title Insurance Company who certified this to resolve it. Counsel Shumejda said he has the certification from the title company who did the subdivision; he has a title policy that shows that Toll Brothers owns this lot. He said the issue is the survey. Mr. Rosh is the one who brought this up, and in order to resolve it you need the data. Mr. Aukland said he agrees that it is not for the planning board to resolve; but if he were to voice on a site plan he wants to make sure there is not dispute around that site plan.

Chairman Friedlander arrived at the meeting.

Mr. Rosh, attorney representing Bernacchia, 4 County House Road, said the survey, shows that there is a dispute of approximately 1 foot. He is willing to discuss a resolution with Mr. Siebert and will authorize Merritt to discuss with ESE or any survey of Toll Brothers choice. He said the board directed the developer in October 2013 that this issue has to be resolved and today there is not resolution. He said Mr. Siebert is correct in saying that the planning board does not have the right to resolve a property line issue; this should have been resolved by the developer a long time ago. Mr. Rosh said the seconded amended landscape plan is unacceptable; there is no screening between the undeveloped lot, the open space lot to the west of lot 10 and his client's property. Mr. Fry suggested screening up to the western boundary line of his client's property along the open parcel lot, but Mr. Siebert has not adopted that plan. We believe that it should go beyond that in order to provide my client privacy from the public trail.

Mr. Tedesco suggested that he contact Lucille Munz in writing with his client's suggestions for screening.

Mr. Tedesco asked if anyone else would like to speak.

Mark Fry, Lakes Committee, said he sent documentation to the board this evening and asked if they received them. Mr. Tedesco said they received them at the meeting and the planning board will not address any documents that are not received in a timely manner nor will they discuss them; they need time to read them. He told Mr. Fry that he may speak but not anything relative to something they have not had a chance to look at.

Mr. Fry said the same surveyor, Ward Carpenter, has surveyed everything and all of the metes and bounds are the same; however, the point of beginning has changed because the stone wall on County House road has moved while it was being re-built. He said the problem is not the property lines; it's the pins that were put in by Ward Carpenter and checked by Merritt. The property line is not the dispute, the fence is; but either way it will not prevent them from building the trail in that 18-20' wide easement.

He said that the trail grant expires in two weeks; so if we don't get it cleared by October 10, the contractor cannot build that section of trail. He said they would like both side of the trail easement shown on the plan, both sides of the trail easement pinned down to the point where it meets the built trail, trees to be taken down should be marked, the landscape should be extended along entire Beristain and Bernacchia properties along the trail. Once everyone agrees about the landscape plan, it can be proposed to this board.

Mr. Aukland said he would like to resolve the questions about how the trail is going to be furthered. He said it would be a matter of good faith by Toll Brothers to go ahead as Mr. Fry recommended and he supports that. Mr. Siebert said they are not prepared to take any steps with regard to the trail until the receive site plan approval and are out actually beginning to work on the lot. He said he thinks the Village would want that as well because you are putting

yourselves in a position where there is no recorded easement, the trail is being developed for use and it could potentially be inviting people onto the property before the easement is in place. He doesn't think it good for anyone; perhaps they can extend the deadline, which is not a deadline of Toll's making. For a lot of reasons, now is not the time to begin trail work.

Chairman Friedlander asked Counsel Shumejda if he agrees with Mr. Siebert. Mr. Shumejda said that he agrees for the reasons stated, perhaps the extension of the grant can be looked into.

Mr. Aukland moved, seconded by Mr. Birgy to continue the public hearing until the October 27, 2014 meeting. All in favor; motion carried.

CONTINUATION OF A PUBLIC HEARING—Toll Brothers—112 Wilson Park Drive (lot 2)

Mr. Tedesco read a letter from R. Scott Brace, Jr. great, great grandson of Charles Clement Brace and Mabel Maxwell Brace (copy attached). Mr. Tedesco commented on the letter. He said it would be great to save the cottage but the Planning Board cannot save it; Toll Brothers owns it and wants to remove it. At the last meeting Chairman Friedlander suggested that it be moved. Mr. Fry said he might be able to pay for the moving of the cottage; but it would have to be moved onto the park land which would require approval by the Board of Trustees and they did not declare it as an historic landmark. Unless someone is willing to pay for this we are in a tough position. The applicant is correct in saying that we can't go on forever. Mr. Aukland agreed. Mr. Birgy commented that there may be one other possibility; if the future owners are willing to do something with it, it could make it a reality. He does not know where we stand with the future homeowners and asked if we could hear from them.

Judson Siebert, Keane and Beane, on behalf of Toll Brothers said personally he respects Mr. Fry's effort to save Brace Cottage but pragmatically they obtained subdivision approval which indicated that the cottage was to be razed. Based on that approval, they have entered into a contract with clients who want a single-family home on a stand-alone lot; they do not want the cottage on their property nor do they want the property subdivided further. Our clients have been very patient with us but we are at a point where we need to move forward. This is something that was decided through the SEQRA process and it is on the subdivision plat. That is Toll's position on the Brace cottage.

Mr. Siebert said at the last meeting it was stated that the easement was not fully shown on the plot plan; it has been added. He said the added a triangular piece to the easement which ties into the existing road subject to the same terms and agreements of the existing agreement. Chairman Friedlander said does that go around the tree in the back. Mr. Siebert said yes and pointed it out on the site plan. He said the purpose of this easement is so that the Village can use the existing road bed for access down to the soccer field.

Mr. Siebert said he has nothing more to say except to request that the board close the public hearing and move to approve the site plan.

Mr. Birgy asked how this changed at the last minute. Mr. Siebert said it's not last minute; this is an existing condition and we thought the Village would want to use the additional area; we are simply granting you an additional easement. You can choose whatever you want to do; it a practical field change.

Mr. Birgy said we have not heard from the client and you are not their attorney; perhaps they are not opposed to keeping the cottage. Mr. Siebert said this is based on a signed contract. Mr. Birgy said if the owner is willing is Toll Brothers willing? Are they even aware of what's going on here? Mr. Siebert said he does not know what the clients are aware of but he does know that there is a signed contract and a subdivision plat that says the cottage is to be razed. He said they could ask the client, but this has been going on for a long time now and by the time they get a building permit they won't be able to start until the spring. Mr. Siebert said he feels this board has an obligation to this client to move this application forward. Mr. Birgy said he realizes that this may be the eleventh hour but it may be doable; at least find out if they want it. Chairman Friedlander asked the status of moving the house. Mr. Fry went over James Fitzpatrick's e-mail and his response e-mail to Mr. Fitzpatrick, both dated September 22, 2014 and attached.

Mr. Fry stated that under SEQRA the Planning Board is required to look at all alternatives for the proposed action in this case the demolition of the house. He stated that for lot 2 there are five options as follows:

- Allow both houses on the same lot.

- Minor subdivision of the lot; same homeowner owns both lots.
- Subdivide lot; homeowner owns one lot and Toll Brothers sells other lot with house on it.
- If divided. Toll could donate it to the Historical Society.
- The house could be moved into the open space area but we would have to pay for that piece of land and it would be subject to the Board of Trustees' approval and the Planning Board approval. Moving a house is a very high cost and very high risk and it diminishes the value of the house tremendously because it is not in its original location.
- Mr. Fry said if all approvals are in place, he would pay for moving it.

Mr. Tedesco summarized the options and stated options #1 and #2 require the approval of the homeowner. Options #3 & #4 require the approval of the homeowner and Toll and Option #5 would require Planning Board and Board of Trustees approvals. You have to consider who would pay the rest of the costs; there are a lot of approvals needed.

Mr. Fry said there have been two misrepresentations made about this cottage: one that the Planning Board required that it be demolished and secondly Mr. Badger of Toll Brothers told Mr. McGarvey that it was full of mold. He feels the need to demo it was misrepresented to the perspective homeowners. Mr. Tedesco said he does not think that Toll Brother would object to the new homeowners keeping it if they wanted it. Mr. Fry said we need to get the homeowners here and hear it from them. Mr. Birgy said he just wants to be sure that the homeowners are aware of the situation and in fact do want it demolished.

Mr. Fry spoke about the 8 defectives in the site plan as follows:

- Does not show the whole lot, it cuts off a portion of the lot.
- Does not show a drainage system or any landscaping.
- Does not show the underground spring box that was installed in 1986.
- Topography is outdated; it has changed since 2004.
- Impervious surface calculation shown is 6,155 s.f.; how can that be when there is over 11,000 s.f. of pervious surface with the driveway.
- There are no trench drains.
- The Village easement is shown to be obstructed by the creation of a berm.

We cannot take access nor can we let anyone play on the soccer field unless there is unimpeded access without a locked gate.

Mr. Fry asked the board to require a supplemental environmental impact statement for this lot. Mr. Tedesco said he does not feel that a supplemental environmental impact statement is necessary for this lot because all of the board members believe the building is historical although the board of trustees has not designated it as so.

Mr. Fry said local designation or Historic Trust will not save the cottage; only someone purchasing it will. Mr. Tedesco suggested that he investigate the five options that he laid out and come to the next meeting with some answers; then they will at least know if options 1 through 5 possible. Mr. Tedesco said the board and Mr. McGarvey will look into the deficiencies on the site plan.

Mr. Fry said he has been very pleased with the progress Toll has made on the soccer field; they did a wonderful job at the end of Warner Lane with the rock line swale which will keep a lot of mud out of the lakes; Toll did a wonderful job under the rail trestle where they piped the water through the rail trestle.

Mr. Birgy asked the Toll Brothers representatives if the topo is up to date or is it something taken off of the geological survey. Toll responded that it's new. Mr. Birgy said anything that should be on the site plan must be on the site plan.

Mr. Siebert said to Mr. Birgy he would be happy to meet him in the field and go through whatever it is that he feels is or is not on the plan. Mr. Siebert said it is one thing for someone to get up and state that his client has made misrepresentations; these accusations are nonsense. The EAF conforms to SEQRA; SHPO looked at this site; a historic site is in the eye of the beholder. All of the competent authorities who have looked at this site and this Planning Board when it issued the subdivision made a determination on the cottage and that decision is what it is. There has been an accusation made that upper management of Toll have not responded to the cottage issue; however, Mr. Fry read e-mails from them. He said this is a repetitive theme; we have talked about the cottage for several meeting now. At the last meeting they said we will look at moving the cottage and tonight there are five options for the cottage. Mr. Siebert said he will talk to the client about the cottage; but it is one thing to sit here and listen to someone misrepresenting his client.

Mr. Siebert said Mr. Fry came into this meeting and hands out documents to be shared with the board. Does he abide by the deadlines so that we are given a chance to see the material and respond to it? Every month we are ambushed. Mr. Fry has been a part of these hearings all along; he knows the plans; and if he has a problem with anything, he should submit within the deadline so that we can deal with it in an orderly fashion instead of being caught off guard. Last month he said the easement was not on the plan when in fact it was. We will look at everything he brought up tonight and address it; but next month there will be something else; that becomes non-constructive, that becomes a filibuster, which is exactly what this is.

Mr. Birgy asked Counsel Shumejda if we receive new information, does that require us to take another look at it. Counsel Shumejda said it depends; if it's something completely new; information that we did not know about. Regarding the Brace cottage, it was there, the board knew about it, there was public comment about it; it's nothing like it wasn't known. Mr. Birgy said but if there are spring boxes on, which I know there are, and topo which I know what not done correctly, we need to know the correct information. Counsel Shumejda said Mr. Seibert said they will go out to the property and look at those items and make the necessary changes to the site plan. Mr. Birgy said but they are pressing us to approve a plan that looks like its seriously deficient. Mr. Aukland said he agrees and he asked the other board members to prepare a list for discussion at the staff meeting. He also said he agrees with Mr. Siebert that we should not be having last minutes information coming into the meeting.

Mr. Fry itemized the items that he handed out at the beginning of the meeting but were not admissible for discussion since they were not submitted by the deadline of 10 days prior to the meeting. He told the board that they do not have the complete package for Brace Cottage. Mr. Aukland said we do not want that to drag on and the cut-off for submission of additional information will be next month's staff meeting.

Mr. Siebert said they will talk to the future homeowners regarding Brace Cottage.

Mr. Aukland moved, seconded by Mr. Birgy, to continue the hearing to the October 27, 2014 meeting. All in favor; motion carried.

CONTINUATION OF A PUBLIC HEARING – Split Development Corp. – 54 Gracemere

Jim Annicchiarico of Cronin Engineering spoke on behalf of the applicant. Mr. Annicchiarico said at the last meeting the board had comments about items they would like shown on the landscape plan. Ms. Munz provided a report with comments but they did not have enough time to revise the plan for this meeting. They have shown the tree protection on the plan as per Mr. McGarvey's request. The relocated the utility line to save some trees. Mr. Annicchiarico asked the board to close the meeting and approve subject to Ms. Munz further review.

Mr. Annicchiarico showed the landscape plan and explained what Ms. Munz suggested; planting of the slope area behind the retaining wall, changed plants that are proposed along the driveway to make a more natural look, and added more plantings along the property line with the open space. Chairman Friedlander asked if they are trees or shrubs. Mr. Annicchiarico said both trees and shrubs and in answer to Chairman Friedlander's question about the rest of the property near the other conservation area, Mr. Annicchiarico said Ms. Munz not make any suggestions for that area other than the sloped area. He said that area is somewhat wooded.

Mr. Birgy asked if they put marker in for the Aqueduct. Mr. DiNardo said you asked for it along the green area. Mr. McGarvey said the Aqueduct belongs to New York State; he feels we should let New York State worry about their own property and we will worry about the Village of Tarrytown's property.

Mr. Aukland asked if they plan to put protection around the trees to be saved. Mr. Annicchiarico said yes they are. Mr. Aukland then said but is there a reason why it has not been done on the other lots. Mr. Annicchiarico said he does not believe that the board specified the protection although there is a protection plan on each site plan. Mr.

Aukland said there is no protection on any of the lots and it should already been in place. Mr. DiNardo said lot 12 has tree protection and all of the vehicles and materials there were near lot 13 were moved last week. He said the trucks were only near trees that are to be removed.

The Chairman opened the meeting to the public; no one came forward.

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 54 Gracemere as specified in the application subject to the following conditions:

- Approval by the Building Inspector/Village Engineer particularly in regard to the adequacy of the storm water/drainage plan.
- Approval of a landscaping and screening plan by the Village Landscape Consultant. Plantings should be non-invasive native species or non-invasive ornamentals. This condition is also to be recorded in the Homeowner's deed and conveyed with the property. If during the implementation of the approved landscaping plan, any changes or amendments are desired, such changes must be approved by the Planning Board.
- In-ground monuments to be placed at the rear corners of the property line.
- Payment of any outstanding escrow fees/recreation fees prior to the granting of a Building Permit.
- Approval by the Architectural Review Board.
- Approval by the Zoning Board of Appeals for any variances required.
- Signing of the final site plan by the Planning Board Chair.
- Inclusion of field report dated September 19, 2014 from Lucille Munz, Village Landscape Architectural Consultant.

All in favor; motion carried.

CONTINUATION OF A PUBLIC HEARING – Montefiore - 555 South Broadway

Marc Petro and Dave Lombardi of John Meyer Consulting appeared on behalf of the applicant. Mr. Petro pointed out some of the changes that the board requested at the last meeting. They plan was revised to provide more landscaped islands. The total impervious coverage with these revisions is 34.9% which excludes the southern parcel which is to be undeveloped. He said the applicant is asking the board for a waiver for 20% of the parking requires as well as a recommendation to the Zoning Board for an additional 9%. Traffic counts were done on September 10, 2014 at the intersection of 119 and 9; intersection of 9 and 287; and the at the site's driveway; it included school traffic. The results were generally consistent with the prior study but slightly higher. Mr. Petro said they spoke with New York State Thruway Authority and New York State Department of Transportation regarding the improvements on Route 9. They are proposing dual left turns south bound onto 287 and will widen the ramp to allow this and they will widen the off ramp to allow for two off lanes north bound on Route 9. They are also proposed to do some signal improvements. They feel that with these improvements and using their conservative numbers, the additional traffic will be accommodated.

Mr. McGarvey asked if they are widening the entrance and exit to the north or to the south. Mr. Petro said a little of both. Mr. McGarvey said don't they own all of that. Mr. Petro said he believes they may be looking to take some from either the dealer or the dinner or both. The work is expected to start in two years.

Chairman Friedlander asked if there were any plans for an extra lane going north to get on that ramp because the traffic back-up is considerable at that point. Mr. Petro said an extra lane is not proposed. He said the study shows delays at that intersection and with the DOT improvements it greatly improves. The overall delay is approximately 73.9 sections now. Chairman Friedlander said between 4:00 p.m. and 6:00 p.m. it takes 5 to 6 minutes, not 73 seconds.

Chairman Friedlander said he would like a report from the Department of Transportation on what they are planning before we decide; we have a problem on that road. Your applicant says we do not have that much traffic. We have to study it carefully.

Mr. Tedesco asked Mr. McGarvey about their storm water. Mr. McGarvey said storm water is not an issue because there is not that much improvement in the impervious surface right now; but in if there is in the future, either he or Mr. Pennella would have to sign off on it.

Chairman Friedlander asked how the Village would monitor the need for more parking. Mr. McGarvey said they would have to come to the building department for a permit to build them. Counsel Shumejda said you can make it a condition that they must submit a report stating the number of employees and cars at predetermined intervals (i.e. every two years).

Mr. Birgy asked if they looked into pervious pavers. Mr. Petro said the applicant looked into pervious pavers as well as restriping to allow for more spaces in the existing lot. Currently there is no provision in the Village Code to have compact spaces. It is something the applicant is willing to look into but they would need a variance from the Zoning Board or a waiver from the planning board. Currently the existing parking lot is laid out the most efficiently.

Mr. Tedesco said drainage is a problem in the area and there are many pervious surfaces that could be used. Chairman Friedlander said the Sheldon Brook is in that area.

Chairman Friedlander asked if the New York State Department of Transportation came to them with a plan to re-align the Double Tree entrance and the Thruway entrance to align with the light. He also asked if the NYSDOT ask them if there was a possibility that they could exit some of their cars from the Double Tree and go directly onto the Thruway instead of coming out onto Broadway and traveling up to the entrance. Mr. Petro said the side it gated and the applicant is not looking to add another entrance or exit on the site. Chairman Friedlander said it might help to alleviate the traffic, particular if they want to add to the site in the future Traffic issues will be considered for any future approvals on that property. Mr. Petro said they will discuss with the NYSDOT regarding Chairman Friedlander's concerns as well as with Double Tree.

Davie Lombardi with John Meyer Consulting said they prepared the preliminary storm water management plan with the six sites for land banked parking spaces. They looked at the drainage area for each of the six locations and then calculated the curve number under existing and proposed conditions to estimate the volume they would need to attenuate for a 100-year storm. They have shown sub-surface storm-tech units. If they need to use one of these locations in the future, they will have to design a system based on the infiltration rate of the soil. These systems will provide water quality and attenuation for a 100-year storm. He pointed out the locations of the systems to the north and the south. Chairman Friedlander asked about the Sheldon Brook area and Mr. Lombardi said it is very steep there.

Mr. McGarvey explained that they are not connecting anything new into the Sheldon Brook. If any when they need they additional parking they have the cultec infiltrator. If it fills up above the 100 year storm, they will go into the Sheldon Brook with the existing system.

The board agreed they want the traffic report reviewed by another traffic consultant of the Village's choosing and asked the applicant to deposit an addition \$5,000 into their escrow account to the cover that cost.

Mr. Tedesco moved, seconded by Mr. Aukland to increase Montefiore's escrow account by \$5,000. All in favor; motion carried.

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

CONTINUATION OF A PUBLIC HEARING–Whisper Hill Condominiums–32 Windle Park

David Aukland recused himself from this application.

Reverend Hauser said he received Lucille Munz's report stating that they have incorporated all of her suggestion into their landscape plan.

Mr. Tedesco read a letter from the fire department regarding this application (copy attached).

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

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

Mr. Birgy moved, seconded by Mr. Tedesco, 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 the following:

PLANNING BOARD

September 22, 2014

Re: Whisper Hill Homeowners

32 Windle Park

Replacement of rotted wood retaining walls with interlocking block walls and disturbance of steep slopes

Site Plan Application pursuant to Section 305-132 of the Tarrytown Code and Steep Slope Waiver

Application pursuant to Sections 305- 67 F.(1)(a)[1] and [2] of the Tarrytown Code.

The applicant seeks a Site Plan approval pursuant to Section 305-132 of the Tarrytown Code and Steep Slope Waiver pursuant to Sections 305-67 F.(1)(a)[1] and [2] of the Tarrytown Code in connection with the replacement of rotted wood retaining walls.

Pursuant to Tarrytown Code Section 305-67(1)(a)[1] "(a)ny aggrieved person may apply to the Planning Board for a waiver from the~steep slope provisions of this chapter. Such request may be granted only if the applicant establishes that there is a compelling public need for development of the parcel in question based upon one of the following: [1] The proposed development will serve an essential health or safety need of the municipality such that the public benefits from the proposed use override the importance of the protection of the~slope~area as established in this chapter; that the proposed use is required to serve existing needs of the residents; and that no feasible alternatives exist outside the~slope~area to meet such established public need..."

The Planning Board Minutes dated April 23, 1984 through September 28, 1987 state that the retaining walls along Franklin Street were constructed and the access road improved for the public safety purpose of providing emergency access to the Whisper Hills Condominium:

April 23, 1984: Chairman Friedlander read into the record a letter written by Fire Chief Robert Stiloski to the Building Inspector where in part the Chief states, "...We MUST have complete and easy access to all parts of the complex. This will also include proper grading to accommodate our ladder truck to the rear of the units."

July 20, 1987: Mr. Reiter stated: "...We have made extensive changes in the rear of Building #3 that

have been to the satisfaction of the fire people and the Building Inspector particularly the placement of a gravel roadway and retaining wall..."

July 20, 1987: Fire Chief Fred Kenyon addressed the Board: "...They have put a small access road going up the hill from Franklin Street into the property but it is only about 12 feet wide." In response to a question from Mr. Burkhardt, Chief Kenyon responded that a good driver could get the ladder truck up this road. "There was an earlier road, but it was eliminated. Now we have this, and it is better than nothing at all."

July 20, 1987: Mr. Di Vincent added that the road was as wide as physically possible. "We put a retaining wall 3 foot at the base of one rise and we have added some support at the base of the other rise."

September 28, 1987: Mr. Trachtman stated, "I was at the site last week with Richard Stein and Stephen Yarabek and the specific question I was asked to address dealt with the construction of the retaining walls along the west side of the property. It appears to me the walls have been constructed in accord with the design by Mr. McLaren, their engineer..."

September 28, 1987: Mr. Di Vincent stated, "...We agreed to pave the lower section to prevent runoff. I think accessibility of fire equipment is there once those changes are made."

The Planning Board's September 28, 1987 vote to approve the site plan amendments for Whisper Hill specifically references the "newly created access from Franklin Street":

"Mr. Bunt moved, seconded by Mr. Quinn, and unanimously carried, to approve the site plan amendments of Whisper Hill (Tarrytown Renaissance Development Corporation), Windle Park, on the condition the trees to the north of the new access drive are removed and that the newly created access from Franklin Street is installed to the satisfaction of the fire department."

The Planning Board is also in receipt of a letter from Terence M. Murphy, 1st Assistant Chief of the Tarrytown Fire Department. The letter dated August 26, 2014 states in part as follows:

"The Tarrytown Fire Department supports the strengthening, widening and resurfacing of the emergency access road. This will reduce fall hazards, increase responder safety and enable better access for emergency response. The Department requests the access road maintain a minimum of 11 feet in width, a maximum of 17% grade, and be surfaced with grass pavers."

The applicant has submitted to the Planning Board plans which show a replacement railroad tie wall in the same location as the existing wall, a plan which shows the conditions prior to the work and the applicant has addressed in writing the steep slope waiver requirements.

The applicant's representatives noted the ice danger to the public street and adjacent sidewalk in Winter and stated that their proposal addresses this safety issue since the proposed wall will help with erosion and water coming down onto the sidewalk and street. The applicant has installed the geo-grid drainage system behind the retaining wall which collects water from the slope and prevents it from collecting on the roadway and sidewalk and freezing in winter.

The new wall will provide lateral support for the improvements approved by the Fire Department, strengthening, widening and resurfacing of the emergency access road. This work will reduce fall hazards, increase responder safety and enable better access for emergency vehicles. The improved roadway will enhance access by the Fire

Department to the fire hydrant behind the building.

It is clear, given the Planning Board Minutes dated April 23, 1984 through September 28, 1987 and the August 26, 2014 correspondence from the Tarrytown Fire Department that the two retaining walls and access road were required for the public safety purpose to provide access for emergency responders to the Whisper Hill Condominium. Additionally, given the recommendations of the Tarrytown Fire Department, the interlocking block walls in lieu of railroad ties will allow the strengthening, widening and resurfacing of the emergency access road. Furthermore, said Department said that the proposal "...will reduce fall hazards, increase responder safety and enable better access for emergency response."

The Planning Board has determined that the application, based on the 1987 amended Site Plan approval by the Planning Board, coupled with the Fire Department request to maintain and enhance the existing roadway qualifies for a public safety exception steep slopes waiver.

Mr. Birgy moved, seconded by Mr. Tedesco that the Board determines that the public safety mitigation measures identified and required by the Planning Board as lead agency have mitigated any adverse environmental impacts therefore no significant adverse environmental impacts will result and the Planning Board hereby issues a Negative Declaration.

Votes in Favor 3 Votes Against 0

Motion carried.

Mr. Birgy moved, seconded by Mr. Tedesco that the Board determines that the decision of the Village of Tarrytown Planning Board is to grant applicant's application for a Steep Slope Waiver pursuant to Sections 305-67 F.(1)(a)[1] and [2] of the Tarrytown Code.

Votes in Favor 3 Votes Against 0

Motion carried.

Mr. Birgy moved, seconded by Mr. Tedesco that the Board grants applicant's application for Site Plan approval.

Votes in Favor 3 Votes Against 0

Three in favor, on recusal. Motion carried.

NEW PUBLIC HEARING - Ridgcroft Estates Owners, Inc. – 154 Martling Avenue

Chairman Friedlander read the following public hearing notice:

PLEASE TAKE NOTICE that the Village of Tarrytown Planning Board will hold a public hearing on Monday, September 22, 2014 at **7:00 p.m.** at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

Leslie B. Maron, ESQ
Maron and Mazzanti
5 Westchester Avenue
Pound Ridge, NY 10576

For approval to amend the site plan for property located at 154 Martling Avenue to install two barrier gates on the private road/driveway off of White Plains Road. The property is located at 154 Martling Avenue and is shown on the tax maps as Sheet 1.201, Block 121, Lot 4 and is in the M3 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: September 12, 2014

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

Les Maron of Maron & Mazzanti on behalf of Ridgcroft Estates Owners Inc. re-iterated the scope of the proposed project stating that Ridgcroft Estates is a 143 unit co-op with a front entrance on Martling Avenue and a rear entrance on White Plains Road. Mr. Marron said the complex was built in 1951 and they were unable to locate a final site plan. Many non-residents are using their private road as a cut-through and speeding through the complex. This has caused a detriment to the health and safety of the residents of the complex, in particular the children.

In an attempt to remedy the situation, they are proposing the installation of two Mega Arm Tower barrier arm units on their private roadway, 290' up from White Plains Road. The units will have back-up battery power in case of power outages and the ability for manual override by Ridgcroft's staff. Residents will be issued remote control units to open the gates and emergency vehicles will gain access by sounding a siren in close proximity to the gate. Signs will be posted advising emergency vehicles.

Delivery trucks and school buses will enter from Martling Avenue. The school buses have already been informed and are using Martling Avenue as of this school year, emergency agencies including police, EMS and the fire department will be notified in writing no less than 14 days before the gates become operational; neighboring residential developments will be notified by mail and via handouts not later than 14 days before the gates become operational; signs will be posted.

Emergency agencies will be asked to make an appointment to observe the operation of the gates.

Once the gates are installed, they will be located on the final survey and certified by the surveyor.

The Chairman opened the meeting to the public.

Ernest Hustonhoff, President of the Board said it is being used as a cut through. It is very dangerous because there are lots of kids who play in the road. In 2012 it cost them \$75,000 to repave the parking area partly because of the excessive use by outsiders. Traffic diminishes the quiet enjoyment of the property by the homeowners. Neighboring complexes have signs saying "No Trespassing."

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

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

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

Mr. Aukland moved that the Board approves installation of two barrier gates on the private driveway from White Plains Road as requested in the application and modified in the submission dated August 6, 2014, subject to the following conditions.

- Approval by the Building Inspector/Village Engineer, including confirmation that the barrier gates will open as intended for emergency access upon use of emergency service sirens.
- Payment of any outstanding escrow or recreation fees prior to the granting of a Building Permit.
- Signing of the final site plan by the Planning Board Chair.

The Board notes that this application is fully compliant with the Village Code.

All in favor; motion carried.

NEW PUBLIC HEARING – Irvington Restoration – 44 Lincoln Avenue

Paul Birgy recused himself for this application.

Chairman Friedlander read the following public hearing notice:

PLEASE TAKE NOTICE that the Village of Tarrytown Planning Board will hold a public hearing on Monday, September 22, 2014 at 7:00 p.m. at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

*Irvington Restoration Corporation
95 Wilson Park Drive
Tarrytown, NY 10591*

For approval to construct a new one-family dwelling on property located at the corner of Lincoln Avenue and Walnut Street. The property is located at 44 Lincoln Avenue and is shown on the tax maps as Sheet 1.190, Block 118, Lot 5 and is in the R7.5 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: September 12, 2014

The certified mailing receipts were submitted and the signs were posted.

Dave Barbut, Architect, on behalf of the applicant explained the project as follows:

- Single family house
- 2,700 s.f. with a full basement
- Proposing more landscaping along the rear property line including two shade tree in rear yard.
- Permeable paving in flat area; not advisable to do on slope.
- Modular structure which will meet or exceed 2012 IECC Energy Codes
- Walls are glued and screwed together to create a tighter fit which improves the energy efficiency.
- Spray foam insulation in basement to prevent heat loss between heated and non-heated spaces.
- Pipe cases in the structure for any future solar panels installed on the roof?

Chairman Friedlander asked the size of the building and style. Mr. Barbuti said the footprint is 1,305 s.f. and the total livable area is 2,700 s.f. and it is a Colonial with a deck in the rear off the dining room.

Mr. Aukland asked if the lot line is still in the same location as approved for the subdivision and does it meet code.

Mr. Barbuti said yes the lot line is in the same location and to his knowledge it conforms to the code. Mr. Aukland asked about the driveway setback to the lot line. Mr. Barbuti said it is 4' off the property line. Mr. Aukland asked Mr. McGarvey what it should be and Mr. McGarvey said 3'.

Mr. Tedesco said the only waiver you need is for the steep slope, correct. Mr. Barbuti said that was done in the subdivision.

Chairman Friedlander asked the height of the house. Mr. Barbuti said from average grade it is approximately 30', in conformance with code.

The hearing was opening to the public

Yang Jiang, 52 High Street, said he believes there is a land dispute because the fence belonging to this property is approximately two meters (6') on his property. Mr. Jiang feels the rear lot line is incorrect. Chairman Friedlander asked if the fence is on the property line. Mr. Jiang said yes which makes the proposed bushes on his property. Mr. Jiang showed them his survey. Chairman Friedlander asked when the survey was done and Mr. Jiang said last December when they purchased the house. Mr. McGarvey, Mr. Barbuti and Counsel Shumejda conferred over the survey. They agreed that the Mr. Jiang's property line is 4.8' into the applicant's property.

Chairman Friedlander asked how we resolve this. Counsel Shumejda said the simplest way is to remove the fence since it does not belong to Mr. Jiang and he is okay with removing it and have the bushes planted on the applicant's property. The as-built will confirm where the property line is. Counsel Shumejda explained how the as-built, which is done by a licensed surveyor, will show the correct property line once the house is complete.

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

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

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

Mr. Aukland moved that the Board approves construction of a single-family dwelling as requested in the application subject to the following conditions.

- Removal of the fence to the north of the property.
- Use of permeable pavers or other permeable surface, as approved by the Village Engineer, for the flat area adjoining the garage.
- Clear demarcation of the western property line with in-ground stone monuments.
- 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 shall be non-invasive native species or non-invasive ornamentals. 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 by ARB.

- Submission of an as-built site plan, showing all improvements and landscaping, prior to issuance of a C of O.
- Payment of any outstanding escrow or recreation fees prior to the granting of a Building Permit.
- Signing of the final site plan by the Planning Board Chair.

The Board notes that the application is fully compliant with Village Code, except in limited intrusions into steep slopes for which a waiver was granted with approval of the related subdivision.

All in favor; motion carried.

NEW PUBLIC HEARING – Split Development Corp. – 60 Gracemere

Chairman read the following public hearing notice:

PLEASE TAKE NOTICE that the Village of Tarrytown Planning Board will hold a public hearing on Monday, September 22, 2014 at 7:00 p.m. at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

*Split Development Corp.
83 Harriman Road
Irvington, NY 10533*

To amend an approved site plan for a single-family dwelling for a rear addition to accommodate an indoor pool. The property is located at 60 Gracemere and is shown on the tax maps as Sheet 1.190, Block 112, Lot 26 and is in the R60 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: September 12, 2014

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

Jim Annicchiarico of Cronin Engineering explained that this lot received site plan approval last year and the buyers would like to add a small indoor pool and spa in the rear of the house. They are proposing a 17' x 31½' (approximately 535 s.f.) extension of the approved building to accommodate this pool. At the preliminary hearing the planning board asked that they show the footprint of the previous approved house on the site plan. Mr. Annicchiarico showed the revised plan showing that footprint along with the proposed addition.

Mr. Annicchiarico said it fully meets all zoning requirements including FAR, which will now be 6,800 s.f. No additional tree will be removed with this addition.

Chairman Friedlander asked if the same materials will be used. Mr. Annicchiarico said yes, the same materials.

Chairman Friedlander asked if the height of the addition is the same as the house. Mr. Annicchiarico said it will only be one story. Chairman Friedlander asked the square footage of the building. Mr. Annicchiarico said it is almost 6,000 s.f. of living space. He said the addition will not be seen from the street. Mr. Aukland said it will be visible coming down Gracemere and from the open space, but that is not a problem.

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 60 Gracemere as specified in the application subject to the following conditions:

- Approval by the Building Inspector/Village Engineer particular with regard to the accuracy of the stormwater drainage plan.
- Approval of the landscaping plan by the Village Landscape Consultant. Plantings should be non-invasive native species or non-invasive ornamental. This condition is to be recorded in the homeowners' deed and conveyed with the property. After the approval of the landscape plan, if any change, additions or amendments are desired, such changes must be approved by the planning board.
- Payment of any outstanding escrow fees or recreation fees prior to the issuance of a building permit.
- Signing of the final site plan by the Planning Board Chair.
- Inclusion of a field report by Lucille Munz, Village Landscape Architectural Consultant.

All in favor; motion carried.

Chairman Friedlander asked for a few minutes to speak on the adjourned Tarrytown Waterfront applications. He said he explained to with Mr. Cotter that there are two other board that have to approve what they approve. He told Mr. Cotter that he must come before this board for approval before going to the other board jointly. He asked if this is the way the board and staff felt it should be done; and if not, to please speak up now so that he can inform Mr. Cotter. Chairman Friedlander said they do have some of the application complete, but he explained that he preferred that they come before this board with all three applications. Chairman Friedlander said he made it clear that they have had joint meetings with ARB on all of the waterfront projects and they requested that we do that again with these projects; but before we meet with ARB with have to meet with the Board of Trustees in a joint meeting if we are to get a joint resolution. Counsel Shumejda confirmed that is the proper procedure.

REQUEST FOR A PUBLIC HEARING - Tarrytown Honda - 480 South Broadway

John Hughes, on behalf of the applicant said they are requesting a public hearing for an extension of the site plan approval which expires October 21, 2014. He said the only revision to the site plan is to accurately show the variance for parking location and spaces and to exclude areas that we found out later are owned by the New York State Thruway Authority and are under license to his client. Mr. Hughes said he submitted a new application with the different variances, a copy of the licenses and the prior approval. He asked if there is anything else they would like him to add.

Chairman Friedlander said at the discussion we had we discussed that if the land area is smaller than what we thought it was, we would attempt to modify the description to fit the new description of the land area. Chairman Friedlander said when he looked at the application he saw that they made no attempt to do that. Mr. Hughes agreed Chairman Friedlander.

Chairman Friedlander said there has been a change since the last approval, basically the traffic, which has become worse. He said as stated earlier we would like to get information from the New York State Thruway Authority showing the changes they plan to make and provide them with suggestions to make the traffic issues better.

Chairman Friedlander said these are significant issues and he wonders how the applicant feels about making changes in light of these two issues.

Mr. Hughes said he client is in a difficult situation because his ability to negotiate on the size of the building is constrained due to the requirements of his superior. He said they have been and still are trying to find alternate solutions; however, he does not want to lose the approval that was granted him after a very long review process. He said the property they spoke about that is under license is not significant. What is significant is the discussions regarding the operation of the property and making it more agreeable to the neighborhood which it abuts. He said he thinks that is why the one property in question was overlooked. He doesn't understand how slivers of property on a project of this size which requires a significant amount of parking and building variances changes what was approved; he does not get it. Mr. Hughes said this project was for a large building because of the principle company's requirements but in exchange there would be many operational changes. These two silvers of property only hold 16 cars, but technically they are not used for parching but as storage. Mr. McGarvey asked how many storage spaces are approved on the site. Mr. Hughes said 16 spaces. Chairman Friedlander said there is another

possibility that the Thruway Authority may take property in the front of the building for a new turn lane on to the entrance ramp which would cause the building to move back further making it smaller. Chairman Friedlander said it may not be planned immediately but possibly in the future and that it is a plan that would be beneficial to the Village to help with the traffic issues in the part of the Village. Chairman Friedlander said the reason they granted such a large building was because of the architecture of that building which was more in keeping with the architecture of the village not because Honda required it. He also said that there were many discussions to how they could reduce it by taking one or two bays off or eliminating the second floor and how it would be impacted. We brought these issues up in an effort to make it better for the applicant.

Mr. Hughes said it took his client a long time to accomplish this approval and he would like to keep what was approved. This process was an attempt to improve what he has, which he intends to keep. Chairman Friedlander said he is disappointed that in the past 60 days since the 90 extension was granted they never sat down to talk about what could be done to make this better for everyone. We just need to take a harder look to see how everything can be made better and it may be able to be achieved in another way that is better for everyone.

Mr. Birgy asked what the setback is. Mr. Hughes said the required is 30, the existing is right on the line, and with the new building it would be 12'.

Mr. Birgy said he felt the process produced many good mitigation points; i.e., getting rid of the tractor trailers, better flow of traffic on the street, etc. and he would hate to see that go away. Chairman Friedlander said he is not saying that but the issue of the traffic, especially in light of the possible DOT changes, has become critical now.

Mr. Aukland suggested that they move to a public hearing and in the public hearing they could set conditions regarding traffic and layout.

In order to meet the 90 day limit of the approval, Counsel Shumejda suggested that they schedule the Public Hearing at the October staff meeting. Chairman Friedlander suggested that we have a special public meeting in the evening on October 16th to make it convenient for everyone to be present. It was agreed on to have the Public Hearing on Thursday, October 16, 2014 at 8:00 p.m.

Mr. Tedesco moved, seconded by Mr. Aukland to hold a public hearing on the extension of Honda's approval at a special meeting on October 16, 2014 at 8:00 p.m. All in favor, motion carried.

OB DISTRICT DISCUSSION

Member Aukland noted that the Board of Trustees has requested that the Planning Board review the present OB Zoning Code.

He moved that the Board of Trustees be asked to expand the review to include Mixed Use (MU) and Neighborhood Shopping (NS) zones, and to authorize engagement of CPS as planning consultant, as described in his memo of September 15 to Mike Blau on behalf of the Planning Board. The motion was carried unanimously.

Mr. Aukland also noted that the Planning Board does not propose a Moratorium associated with this review.

ADJOURNMENT

Chairman Friedlander moved, seconded by Mr. Aukland to adjourn the meeting. All in favor, motion carried. Adjournment 10:30 p.m.

Dale Bellantoni
Secretary

