

Planning Board
Village of Tarrytown
Regular Meeting
January 30, 2017 at 7:00 p.m.

PRESENT: Chairman Friedlander (arrived at 7:10 pm), Members Tedesco, Aukland, Raiselis, Birgy, Counsel Zalantis; Village Engineer Pennella; Village Planner Galvin; Secretary Meszaros

Member Tedesco chaired the meeting until Chairman Friedlander arrived. He called the meeting to order at 7:00 pm.

APPROVAL OF THE MINUTES – November 28, 2016

Mr. Aukland moved, seconded by Mr. Birgy, that the minutes of November 28, 2016 be approved as submitted. All in favor. Motion Carried.

CONTINUATION OF PUBLIC HEARING - Peter Bartolacci – 67 Miller Avenue

Paul Berté, PE, of Fusion Engineering, appeared on behalf of Mr. and Mrs. Bartolacci, also present. He explained that the application is to replace a deteriorated railroad tie wall in the backyard. He presented the plan which proposes the construction of 2 tiered walls, the first set at approximately 7 feet off of the property line. The first wall will have a maximum height of 8 feet the second is 10 feet. The second tier will be in the approximate location of the old wall. These 2 walls re-create what was once there but has eroded over a period of time. The construction will be a concrete Mesa block with a geogrid behind it for structural integrity. They are proposing 6 foot high evergreen screening between both tiers to mitigate the elevation of the wall from the adjacent properties.

Mr. Birgy asked how much fill they are proposing to bring in. Mr. Berté said because so much of the fill has eroded down to the base of the wall, they are proposing a net zero between the existing soil where it is now, to get back the rear yard to the approximate location of the existing yard. Mr. Birgy asked Mr. Berté to explain what this means. Mr. Berté showed a picture and said there is a significant amount of fill sitting at the base of the property line. They are going to take the fill, push the wall back, and the dirt will be placed back into the upper tier. Ms. Raiselis asked and Mr. Berté confirmed that they are only moving the dirt and not adding any.

Mr. Tedesco asked Mr. Pennella if he had any comments to the site-plan from an engineering standpoint.

Mr. Pennella said that the plan submitted is an acceptable plan. He looked at other concerns regarding constructability and safety (silt fencing) during construction and will work with the engineer on this. He has spoken to Mr. Berté, the design engineer, about pulling the wall back far enough from the lower property line to give them the ability to get a base and start a wall where it is solid, and then work from the base up. He said that the plan was received on late Friday afternoon, January 27, 2017, so he has not

had a lot of time to review it, but as the plan stands now, it is acceptable from an engineering prospective.

Mr. Tedesco asked if Board members had any questions.

Mr. Aukland asked about a narrative for a steep slope waiver. Mr. Pennella said that will need to be provided.

Mr. Birgy asked Mr. Pennella about the maximum height for a retaining wall, which he thought is 6 feet each, and noted that the height is going from 8 feet to 10 feet.

Mr. Pennella said yes, if you look at the Village Planner's memo, they will need a variance for height anywhere over 6 feet according to our setbacks 305-47. Mr. Pennella said if the Board feels the plan is acceptable, they can go forward and move to Zoning for a height variance.

Mr. Birgy is concerned since the former Village Engineer said there was about 750 cubic yards of material that would have been in the backyard. He does not believe that this is the amount there and asked Mr. Pennella if this much material needs to be brought in will this be an issue? Mr. Pennella said that plan is not what is being presented so it no longer exists. We can make it a condition of approval that no imported materials, with the exception of base materials required for the wall, can be brought in.

Mr. Peter Bartolacci, 67 Miller Avenue, came to the podium, and corrected Mr. Birgy that it was 850 cubic yards of soil that would have had to be washed down to the neighbor's yard below. He approached Mr. Birgy and offered his explanation why this number did not seem right to him. Ms. Raiselis said this is really for the Village Engineer to look at.

Mr. Aukland said essentially this confirms that there will be no new fill coming in. Mr. Bartolacci agreed.

Mr. Berté said they will do soil testing to make sure that the soil is suitable to get the right density so that the geogrid acts accordingly. Ms. Raiselis asked when this will happen. Mr. Berté said we would know before we construct the walls; we may have to mix courser material into the soil to accomplish this but not replace the soil. Ms. Raiselis asked how they will know the soil is adequate. Mr. Pennella said most likely a third party would have to inspect this, if necessary.

Mr. Aukland said he has no more comments.

Mr. Tedesco asked if anyone in the audience would like to speak.

Geraldine Baldwin, 66 Riverview Avenue, owner of the property directly west and adjoins the 67 Miller Avenue property, came up to speak.

Ms. Baldwin said she has a statement she would like to leave with the Board however; she is not sure if she should read it since she was not aware of the new plan presented this evening. The statement was based upon the last plan that they were aware of, signed by Mrs. Baldwin, Lin Snider and Scott Voth, who live at 64 Riverview Avenue to the north corner of 67 Miller.

The letter referred to a plan submitted back in August of 2013. She is pleased to see that one of the recommendations to revise the plan has been taken, but she is concerned about the height of the 2 tiered walls. She would like to ask that prior to approval of this 2 tiered wall system, she get a copy so that she can assess the material, the location of the 2 walls, how they are constructed, and how they will impact the steep slope. She said there is not 850 cubic yards of fill that has come down onto her property and not a whole lot of the wall is there. She knows the Board is concerned about safety. The two tiered system is a better plan than the 20 foot wall single wall that was proposed and she is pleased, but it is still a concrete Mesa wall and there will be destruction of a large part of this slope to put the grids in. She would like an opportunity to review the plan since there was no public announcement of this new plan before this evening and hopes the public will be given the opportunity to look it over before the Board proceeds. Mrs. Baldwin gave the letter to the secretary for the record.

Mr. Tedesco said the Building Department will give you and your neighbors the opportunity to review the plan. Mrs. Baldwin thanked Mr. Tedesco.

Mark Fry, President of Friends of Brace Cottage, came to the podium to submit a procedural comment. He said when an applicant comes in with a new drawing the law requires that the amended materials be submitted at least 10 days prior to the public hearing meeting to give the public the opportunity to look at what has been proposed to be able to comment. Mr. Fry urged the Board not to take any action on this until the plan has been reviewed. Mr. Birgy added that this is a preliminary proposal. Mr. Fry thanked the Board.

Mr. Tedesco asked Mr. Galvin that if the plan is acceptable to Mr. Pennella and the Board, the next step is to prepare a landscaping plan and a narrative of steep slope, indicating that the requirements for steep slope variances in the zoning code are met. This can be done as things proceed.

Mr. Galvin said the Board cannot take any action until the height variance has been approved by Zoning. Mr. Tedesco said the public can look at the plan and asked Counsel Zalantis if the applicant can go to the Zoning Board while this is happening.

Counsel Zalantis recommended that since it involves a wall and a narrative has to be submitted, and this Board has jurisdiction about granting the steep slope waiver, she thinks the Board needs to have a comfort level with the plan and be given the opportunity to review it at the next work session. The plan was just submitted on Friday,

January 27, 2017. After the next Planning Board meeting, it can go to the Zoning Board.

Mr. Galvin asked about sending the plan to the village landscape consultant. Mr. Birgy asked about the proposed trees or screening. Mr. Berté said we are open to Arborvitae, Cypress – an evergreen screen. Mr. Birgy asked if they are proposing actual trees. Mr. Berté said they are willing to present something reasonable and also provide the right screening.

Mr. Tedesco said that we will leave you tonight that, in general, the plan looks good but the public has to have a chance to review it, and Board needs to review it as well. At the next meeting if everything is in place, we can send you to zoning.

Mr. Berté said the public has to look at the plan at zoning as well and asked if the Board would consider sending them to Zoning now based upon the basis that this is a good plan. Ms. Raiselis said Counsel Zalantis is recommending not sending you to zoning yet.

Counsel Zalantis said you have already missed the deadline for the February ZBA meeting. You will come back to this Board in February first anyway and still be able to make the March ZBA meeting. Mr. Tedesco and Counsel Zalantis said that no time will be lost.

Mr. Birgy asked if any trees need to be removed from the slope. Mr. Berté said there have been trees removed over the last 4 years; there are no more trees that need to be removed.

Mrs. Suzanne Bartolacci, of 67 Miller Avenue, came to the podium and asked about the Zoning Board of Appeals variance. She asked why a wall height variance was never raised at previous meetings, so she is not sure what this is related to.

Mr. Tedesco said there was always a need to go to the Zoning Board for a variance for height. Mr. Aukland said we have changed our procedures. Mr. Birgy said if you make the walls 6 feet high each, there would not be an issue.

Mrs. Bartolacci said before there was always mention of higher elevation to step the wall but never a mention of height restrictions in the past. She said that Mr. McGarvey stated at a meeting that there are no wall height restrictions. Ms. Raiselis said this is not true; and it hasn't been for at least 20 years. Ms. Bartolacci said she has it recorded in the minutes and they even asked the village to put it in the minutes. Ms. Raiselis said I don't know if he misspoke but it has been on the books and is part of the code that 6 feet is the maximum height for a retaining wall. Mrs. Bartolacci said the retaining wall next door to us, did not get a variance for height, which is a big block wall about 8 feet, right on the property line, which abuts the Voth and Snider residence.

Mr. Tedesco said we can't re-visit old happenings. Mr. Tedesco thinks they have a good plan and have a good argument to make to the ZBA for reasonable variances.

Mrs. Bartolacci asked if it goes to the Zoning Board with the recommendation of the Planning Board. Mr. Tedesco said the Planning Board does not make recommendations to the ZBA because the Zoning Board thought that was influencing decisions; however, it is a conscientious reasonable Board and if you have a reasonable proposal he does not seem to think that that the ZBA will have a problem with this plan.

Mr. Galvin asked Mr. Tedesco if the Zoning Board reads the Planning Board minutes. Mr. Tedesco said they look at the minutes and what we think about the project. He said in your narrative, you will address health, safety and welfare concerns that will be helpful since we do not want harm to come to your family, or your neighbors to visitors or workers that come onto your property. We want to help you get this wall done. There is no doubt about that.

Ms. Bartolacci said that every time we come across something, another barrier is put up in front of us. She said they do not want to be treated differently from other people in the village and said they have examples of other walls, like the neighbors wall next door, and at 116 South Broadway. She does not believe the law has changed but the procedure has to be consistent for everyone. She would like the Board to go back and look into the previous cases. She went back to 2006 and could not find a retaining wall that has gone before zoning for height.

Counsel Zalantis said if those are walls in your neighborhood, this is something you should bring up to the ZBA as a basis for them to consider granting the variance since these walls are similar to what you are proposing and consistent with character of the neighborhood. It is more appropriate to make this point to the Zoning Board.

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

Mr. Galvin mentioned the landscape plan. Mr. Raiselis advised the applicant to prepare a landscape plan; the sooner they do it, the sooner it will be reviewed.

Mr. Tedesco said that the applicant can also work on the narrative for waiver of steep slopes. Mr. Galvin added that the narrative will be helpful for the Zoning Board.

CONTINUATION OF PUBLIC HEARING - Realty@460 SB LLC – 460 S. Broadway

Mr. John Hughes introduced himself, Mr. Jack Ryan, VP of Operations of Honda and John Manilio, PE, of Redcom Engineering. Mr. Hughes said that they received the Zoning variances since our last meeting before you. At this point we have no presentation to make unless you have specific questions for us.

Mr. Tedesco asked if anyone in the audience had any questions. No one appeared

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

Mr. Aukland stated that he will only read a portion of the resolution; a copy of the general and specific site plan conditions will be provided to the applicant and the entire site plan approval resolution will be recorded in the minutes of this meeting.

Mr. Aukland read through specific items in the Resolution:

**RESOLUTION
VILLAGE OF TARRYTOWN PLANNING BOARD
(Adopted January 30, 2017)**

**Application of Realty @ 460 SB LLC
Property: 460 South Broadway (Sheet 1.140, Block 96, Lot 3 and Zone NS)
Resolution of Site Plan Approval**

Background

The Applicant requests site plan approval for the demolition of an existing restaurant and construction of an approximately 23,168 sf automotive sales/service building. Site improvements will include new parking layout, improved landscaping, LED lighting and modified ingress/egress driveways which will provide better circulation and less conflicts with South Broadway traffic.

1. The Planning Board on February 22, 2016 determined that the Project was an unlisted action under SEQRA and requested that the Applicant complete a long form Environmental Assessment Form and on February 23, 2016 issued a Notice of Intent to be Lead Agency. The Planning Board assumed Lead Agency status at its meeting on March 28, 2016 and after receiving and considering SEQRA reviews by ZBA and ARB, other involved agencies and its consultants, the Planning Board issued a Negative Declaration for the proposed unlisted action on November 28, 2016.

2. The Applicant has made a preliminary presentation to the Planning Board on February 22, 2016 and, thereafter, the Planning Board has conducted a duly noticed public hearing on March 28, 2016, April 22, 2016, June 27, 2016, July 25, 2016, September 26, 2016, October 27, 2016, November 28, 2016 and closed the public hearing on January 30, 2017, at which time all those wishing to be heard were given the opportunity to be heard.

3. The Planning Board has carefully examined the Application and received comments on SEQRA and other issues and recommendations from the Village Consulting Planner in memoranda dated February 17, 2016, May 16, 2016, June 27, 2016, August 22, 2016, and October 26, 2016, the Village Consulting Landscape Architect in memoranda dated March 2, 2016 and final review dated January 20, 2017, the Village Consulting Engineer's (D&B

Engineering) SWPPP review dated March 11, 2016 and final Stormwater Management Review dated January 19, 2017, Westchester County Planning in a referral letter dated March 3, 2016, the NYS DOT comments in an email dated May 26, 2016; Zoning Board of Appeals SEQRA Review dated October 20, 2016 and the Architectural Review Board comments in an email dated October 20, 2016 and reviewed the Applicant's *Traffic Evaluation* conducted by Maser Consulting dated March 15, 2016 with additional information provided June 30, 2016, July 12, 2016 and July 20, 2016, considered the conclusions and recommendations provided by VHB, the Village's Traffic Consultant, in its *Traffic Engineering Reviews* dated May 15, 2016, July 20, 2016 and October 27, 2016 and considered the comments made by the public.

4. The Planning Board has reviewed the Village Engineer's evaluation of Applicant's revised stormwater plans and report (last revised January 5, 2017) in a memorandum dated November 28, 2016. The Village Engineer indicated that the revised plans have provided significant improvements incorporating green infrastructure and infiltration practices to mitigate stormwater runoff and concluded that the applicant complies with the Village's and NYSDEC stormwater requirements.

5. The Zoning Board of Appeals reviewed the Applicant's request for a parking variance and area variances at a public hearing held on November 14, 2016 and continued on December 12, 2016. The Zoning Board closed the public hearing on December 12, 2016 and approved the requested variances on that date.

6. The Planning Board at its meeting on January 30, 2017 reviewed and considered the *Narrative on Steep Slopes Waiver Request* prepared by Giovanni Manilio, P.E., the applicant's engineer, dated November 16, 2016 and revised December 9, 2016. The Narrative indicates that the proposed retaining wall will serve the same purpose as the existing wall and will have no greater disturbance and/or impact to the currently existing steep slopes.

7. In response to the Planning Board's request and to concerns raised by the public and community members, the Applicant has proposed certain conditions regarding restricting the number of automobile carriers for Tarrytown Honda at the 460 and 480 South Broadway properties in a memorandum to the Board dated October 28, 2016. The Planning Board has reviewed and accepted these conditions and incorporated them as specific conditions into this site plan resolution. The Applicant has also agreed to the continuance of conditions in the original 480 South Broadway site plan approval in a letter from Applicant's Attorney dated September 21, 2016. These conditions have similarly been made part of the conditions of this resolution and are noted on the Applicant's Cover Sheet last revised January 5, 2017.

8. The Village Engineer and Planning Board requested the Applicant to provide a *Narrative on Green Infrastructure Practices* for the Project. The Applicant provided this Narrative dated November 10, 2016 for the review of the Board and Village Engineer. The Narrative indicates the Applicant's intention to develop solar paneling and/or solar arrays on the building's roof within five years after project is built. This has been included as a condition of this resolution and noted on the Applicant's Cover Sheet last revised January 5, 2017. The

Applicant has also noted on the Cover Sheet the elements to be implemented as part of the Gold Category of the Honda Corporate Environmental Leadership Program. The Applicant has also agreed to include an approximately 1,100 sf rain garden in the southern portion of the property adjacent to the parking area. The rain garden has been added to the Project's Landscape Plan and will improve stormwater management on the site.

9. The Planning Board closed the public hearing on January 30, 2017. After closing the public hearing, the Planning Board deliberated in public on the Applicant's request for approval.

Determination

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

I. Findings

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

The Planning Board has extensively reviewed the Applicant's site plan. The Application is a redevelopment project situated on a 1.6 acre property at 460 South Broadway. It includes the demolition of an existing restaurant and construction of an automotive sales/service building with improvements for Tarrytown Honda. The Applicant maintains an existing automotive sales facility to the south at 480 South Broadway. The Applicant has revised its Application in response to comments made by the Planning Board, other land use boards and the public. The revised plans show a reduced building footprint of 20,168 sf with 20 service bays. The number of parking spaces has been increased to 107 spaces. Coverage has been reduced to 29%. The application's impervious coverage has been decreased to 55,024 sf or 79%. The front two-way driveway has been increased to 24'. The revised plans show a front yard setback of 50'. The revised setback is based on the existing front yard setbacks of the three properties on South Broadway to the north of the site. The plans provide decorative stone walls on either side of both driveways. The number and size of shade trees along South Broadway have been increased together with new evergreen trees along the NYS Thruway property at the recommendation of the Village Consulting Landscape Architect. VHB (the Village Traffic Engineer) has reviewed the applicant's *Traffic Evaluation* and confirmed that the proposed automotive service facility will not have any significant traffic impacts on the area roadways nor an impact on accident rates. VHB concluded that the proposed dealership will generate less traffic over the entire day and at peak hours than the existing dinner. The project's proposed impervious surface coverage will be less than the impervious surface coverage of the existing diner.

In addition, the Planning Board has reviewed the Applicant's *Narrative on Steep Slopes Waiver Request* dated November 16, 2016 and revised December 9, 2016 and finds that the

applicant has satisfactorily addressed the criteria for granting the waiver for steep slope disturbance under 305-67(F) (1)(b). The Planning Board also finds that the applicant has established that the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant.

Specifically, the parking configuration requires the removal of the existing tie wall. A proposed retaining wall will replace the existing wall in approximately the same location with the top of the new wall remaining at the same height as the existing wall. The final wall will serve the same purpose as the existing wall and have no greater disturbance and/or impact to the currently existing steep slopes. The new wall will be moved towards the curb, reducing the proposed area of disturbance to be less than 282 sf. The new wall is replacing the existing wall in the northeastern section of the property which is not readily visible from the street. Granting the waiver will be consistent with the purposes, objectives or general spirit and intent of the “Visual Character and Environmentally Sensitive Areas” Chapter in the Zoning Code.

II. Approved Plan:

Except as otherwise provided herein, all work shall be performed in strict compliance with the plans submitted to and approved by the Planning Board for Realty 460 SB LLC as follows:

The following set of plans including the site plan and civil drawings for a total of 8 drawings prepared by Gregory J. Redington, P.E. dated February 1, 2016 and last revised January 5, 2017; Landscape Plans by Maser Consulting, P.A. (total of 2 drawings) prepared by Jeffrey P. Allen, R.L.A all dated February 1, 2016 and last revised January 5, 2017; and Proposed Floor Plan and Elevations (total of 2 drawings) prepared by Redcom Design & Construction LLC dated February 1, 2016 and last revised November 21, 2016 entitled:

Site Plan and Civil Drawings

- 1 *“Cover Sheet”*
- 2 *“Existing Conditions, Demolition & Tree Removal”*
- 3 *“Site Layout & Dimensions Plan”*
- 4. *“Grading, Drainage & Utility Plan”*
- 5. *“Lighting Plan”*
- 6. *“Erosion & Sediment Control Plan”*
- 7. *“Construction Details #1”*
- 8. *“Construction Details #2”*

Landscape Plans

- “Landscape Plan “*
- *“Landscaping Details”*

Floor Plans and Elevations

- SK-8A *“Proposed First Floor Plan”*
- SK-8B *“Proposed Elevations”*

(the “Approved Plans”).

III. General Conditions

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

comply with this provision shall result in the immediate revocation of all permits issued by the Village along with the requirement to reapply (including the payment of application fees) for all such permits, the removal of all work performed and restoration to its original condition of any portion of the site disturbed and such other and additional civil and criminal penalties as the courts may impose.

IV. Specific Conditions:

- A. The Applicant shall submit a revised landscape plan that incorporates the addition of shade/canopy trees along South Broadway pursuant to the recommendations noted by the Village landscape architect Lucille Munz in her Staff Report dated January 20, 2017.
- B. The Superintendent of the Village of Tarrytown DPW has reviewed the waste disposal and refuse removal from the site and indicated that they will be the responsibility of the applicant and/or property owner.
- C. As a condition of site plan approval for the 460 South Broadway Honda site and as noted on Applicant’s Cover Sheet (last revised January 5, 2017), the following conditions in the original 480 South Broadway Site Plan Approval shall be continued during the ownership and operation of the 480 South Broadway property by Dachnowicz Automotive, Inc. d/b/a Tarrytown Honda:
 - 1. Signs: The "No Left Turn" sign and the "No U Turn" sign that have been installed on the property at the exit onto Walter Street will remain.
 - 2. Repair Work: No repair work shall be performed on a vehicle on the outside of the facility.
 - 3. Test Drives: Test drives by prospective purchasers and by mechanics testing repairs to vehicles shall not occur on Walter St. or Sheldon Ave. Honda will also instruct employees and potential buyers that neighborhood streets are not to be used for test drives or the road testing of repaired vehicles. Honda is to provide employees with specific routes that must be followed to ensure compliance with this condition. In addition, an employee is to be present in all new and used cars taken for test drives by potential buyers to ensure that the required routes are followed.
- D. Also as a condition of site plan approval for the 460 South Broadway Honda site, the Applicant consents to the following condition to be maintained during the ownership and operation of the 480 South Broadway property by Dachnowicz Automotive, Inc. d/b/a/Tarrytown Honda: Cars Displayed – No

more than forty-five (45) cars shall be displayed in the side front parking lot (Walter St. by Broadway in the southwest portion of the property).

- E. During the ownership and operation of both 460 South Broadway and 480 South Broadway or either property individually by Dachnowicz Automotive, Inc. d/b/a Tarrytown Honda (“Dealership”), the following conditions regarding automobile carriers shall apply:
1. On or before January 1 of each and every calendar year, the Dealership shall provide evidence of a designated off site location for the loading and unloading of automobile carriers.
 2. The Dealership agrees that bills of lading with respect to the delivery of all new cars shall be addressed to the designated off site location.
 3. In certain circumstances, for example, a bridge shutdown, a single unit delivery, a blockage which might impede the entrance or exit of the storage facility or any unforeseen error by any car carrier, which error would be corrected immediately, car carriers will be allowed to load/unload at the dealership premises. This will occur no more than seven (7) times per month for both properties together. The loading/unloading will occur entirely on the dealership premises at a location which will provide the least disturbance to the residential Neighborhood.
- F. The Applicant will reserve the roof for future solar paneling and/or a solar array. To assist in reflecting heat, the roof will be specified as a white thermoplastic polyolefin (TPO). Prior to issuance of a final Certificate of Occupancy, the Applicant will use his best efforts and investigate commercial grants, rebates, and/or initiatives associated with solar energy to install solar paneling and/or solar arrays within a five year period after the project is built. This condition of approval has been noted on the Applicant’s Cover Sheet (last revised January 5, 2017) as well as the elements to be implemented as part of the Gold Category of the Honda Corporate Environmental Leadership Program.

Dated as of January 30, 2017

After Mr. Aukland read the resolution, Dr. Friedlander noted that the correct square footage (23,168 sf) should be corrected where applicable.

Dr. Friedlander asked Counsel Zalantis if either of these properties is sold separately, does the new owner have to abide with the conditions. Counsel Zalantis said, no but if there is a change of ownership, the new owner would have to come back to the Planning Board for site-plan approval.

Dr. Friedlander inquired about the landscape improvements at 480 site. We are lowering the number of cars at the site to 30 and there are 2 strips of landscaping that could be improved. Mr. Galvin and Mr. Aukland said there are no specific conditions about the landscaping, but the applicant will be coming in with a new application for 480 South Broadway.

Mr. Hughes said he is satisfied with the conditions but what is new to us is the limitation on the cars at the 480 site. The number of cars was never discussed. Village Planner Galvin said that this was in the original conditions that you agreed to at the 480 site, which became a condition of this site plan approval.

Mr. Hughes said we need to think about it. We extended the 480 site plan but would be surrendering that site plan on approval of this application. Ms. Zalantis said that we wanted to continue those conditions. Mr. Galvin said to Mr. Hughes that he gave the Board the language.

Mr. Hughes said we need to discuss the number of cars on the lot. Our business capacity is being decreased at the 480 site. Mr. Galvin said we just took those 480 conditions and put them in the 460 which you agreed to.

Dr. Friedlander asked how many cars are at this site now. Jack Ryan said about 50 to 60 cars. Dr. Friedlander said maybe we can adjust. The site doesn't look good now. He suggested taking the first row of cars on Broadway and putting some nice landscaping in the area. Mr. Ryan said there is landscaping on the Broadway side.

Mr. Hughes said we did not get into this discussion until now so we are on our heels a little bit; otherwise, the Resolution is fine.

Mr. Tedesco asked if we approve it with thirty (30) cars, can the applicant come to us in a separate meeting with a plan that would follow the Chair's idea with landscaping with another number for the cars. Mr. Galvin said you might want to do this now and incorporate it into the Resolution. You may want to say, "no more than whatever number of cars displayed with landscaping on all sides of the lot subject to the approval of the village landscape architect".

Dr. Friedlander suggested getting a number that can work with the landscaping.

Mr. Ryan said we would like to think about it since this is a business decision.

Mr. Manilio asked if they can come back with a plan. Dr. Friedlander asked if they are looking for approval this evening. Mr. Hughes said we have to discuss it with the owner.

Mr. Birgy wants a plan with a specific number of spaces available for the display cars. Ms. Zalantis said it specifies the side front parking lot. Mr. Birgy wants a real number. Mr. Pennella agreed and said we need a real number.

Mr. Hughes asked if they could discuss it and come back after the next application. He would like to get approval tonight.

The Board agreed that the applicant take a recess and come back after the next application.

CONTINUATION OF PUBLIC HEARING – Toll Brothers -112 Wilson Park Drive (Lot 2)

Jennifer L. Gray, of Keane & Beane, PC appeared on behalf of Toll Bros, Inc. for the continued public hearing on Lot 2 of the Wilson Park Subdivision for the construction of a single family home. She said they were last here on November 28, 2016 at which time we received a memo from the Village Engineer. They have since had some meetings with the Village Engineer and have made minor adjustments to the plans to address his comments. Revisions were submitted on January 6, 2017, and they have submitted more revisions earlier today electronically; hard copies have been brought for this evening.

Ms. Gray presented the plan and briefly went over the plan changes; specifically, the house was shifted to the rear of the lot approximately 3 feet to reduce the steepest of the slope in the front yard for a gradual slope, they added a rain garden, the driveway was adjusted slightly, and a third sheet was added to provide stormwater details as per the stormwater report. The sanitary pump was also relocated from the front to the side of the house at Mr. Pennella's request.

Ms. Munz's memo was addressed, landscaping was added, and plant varieties were adjusted. Mr. Tedesco asked about tree #170 – the large oak, identified on the plan which was mentioned in the Munz report dated 1/30/17. Ms. Munz made a recommendation that this tree be saved. Ms. Gray said she had not seen the 1/30/17 Munz memo but did have the opportunity to look at the draft resolution and is aware of this tree and her client is fine with preserving this tree to the best of their ability. Counsel Zalantis gave Ms. Gray a copy of the 1/30/17 updated landscape memo from Ms. Munz.

Ms. Gray introduced Doug Carver, Land Surveyor, from CMG Engineering, and Robert Dowd, of Toll Brothers, to answer any questions the Board may have.

Mr. Tedesco asked Dan Pennella if there are any remaining items that need to be done. Mr. Pennella said he is satisfied with the drainage and improvements to runoff. The tree issue will need to be addressed in final approval. He is satisfied with the plan as submitted.

Mr. Birgy asked about the elevations in the front southwest corner of the lot going from 324 to 306, which is about 18 feet. Mr. Pennella said the basement elevation is about 300. The front door is 306 but there is a good 10 foot cut into the slope.

Mr. Birgy said it looks like we are going down 18 feet. He is concerned about the creation of steep slopes and working with the existing topography. Mr. Pennella confirmed that they are definitely going into the ground. The further away they push it back, will create FAR issues for them.

Mr. Birgy is concerned because these houses are not working with existing topography and it affects the community in a negative way. Ms. Gray referred to the cross section analysis from various viewpoints which she said was revised based on the shifting of the home. It shows the proposed vs. the existing grade. She pointed out that the grade is similar to the existing grade and the slope is also below the requirements of the code.

Ms. Raiselis said that she agrees with Mr. Birgy more so with respect to the amazing 24 inch Oak tree that is sitting there. She said that the village has a very sloped environment and the trees hold us together and we rely on these trees. To plop a house in the middle and kill a tree, she feels, is irresponsible to our community.

Ms. Gray said we are amenable to hiring an arborist to propose a tree well. Ms. Raiselis said they are already cutting into the roots of the tree which she thinks is unfortunate. Either way they are going to have to cut into the tree and you don't show the tree on the cut line.

Dr. Friedlander asked how far away the tree is from the house. Ms. Gray said the tree is near the property line and pointed to it on the plan.

Mr. Birgy wanted to remind Ms. Gray that at the beginning of the project, their representative made a commitment to building these houses with respect to the land and the trees. He asked why they can't build a house and put the grade back to where it was. He feels they are not living up to this commitment. Ms. Gray said the slopes here are minimal and the threshold is below the code.

Mr. Birgy said this is a site that borders on the trail and asked why they have to reconstruct the site to meet the house. Ms. Gray said the cross section demonstrates that the proposed grade is similar to the existing grade.

Mr. Birgy asked why do we have to take the tree down. If you don't change the grading then you don't have to. Ms. Gray said they will make their best effort to save the tree. Mr. Birgy asked how close the tree is to the foundation.

Chairman Friedlander asked the Engineer representing Toll for the square footage of the house. Doug Carver, of CMG Engineering, came up and said 6,835 SF with a 3,200 s.f. footprint.

Dr. Friedlander asked why they can't place the house anywhere else. Mr. Carver said the house will not fit with the FAR regulations.

Dr. Friedlander said the house would have to be smaller if you had to move it. He asked Mr. Carver how much smaller will the house have to be. Mr. Carver said it is a complicated formula. Dr. Friedlander said we have bent over backwards to accommodate you and we have had very little problems.

Mr. Carver said the submission has not changed since the original submission in 2012, and Lucille Munz indicated that the large oak tree could be removed at that time.

Mr. Birgy asked, aside from the FAR, is there any reason that the grade has to vary 20 feet from the southwest corner to where the front door is. Mr. Carver said it is the FAR issue.

Mr. Birgy would like something different. Mr. Carver asked to waive the FAR requirement. Dr. Friedlander asked what the amount is to waive to make it work. Mr. Carver said you would have to pull the house back to close to 20 feet to get the grading away from that tree.

Mr. Birgy asked why they just can't dig a hole in the ground, leave the grades alone, put your foundation in, backfill and leave the grades the way they are.

Ms. Gray said if we move house back, it will eliminate a rear yard for the family. A young family wants to have a backyard for their children to play in. Mr. Raiselis said they have a park in their backyard.

Mr. Carver said the whole issue is to alleviate the slope in the front.

The existing grade is not that steep now, so Mr. Birgy asked why they we put the house where it is and leave the grading alone.

Dr. Friedlander said that the house has to fit the way they build it, so there is very little flexibility in the construction model. The model won't let you decrease the FAR. In Ardsley the same thing was done. Just say that corporate won't let you.

Mr. Carver said at last appearance, we responded to everything that was asked of us and now the Board is asking for more. Mr. Birgy said in all fairness, we brought this up before and asked if there is a reason that this house can't be built into the existing grade. Mr. Carver said they give me a house and I fit it.

Mr. Birgy said he is not trying to give them a hard time, but would like to work with them.

Ms. Gray said it is unfortunate that we are here after three years and are hearing this comment now to potentially be asked to choose another house model.

Dr. Friedlander said there is so much inflexibility. Every time we ask for something it does not comes easily. We are asking you to do the right thing. Maybe the other models are smaller and there are other options.

Ms. Zalantis asked if the applicant would consider making a stronger commitment to save the tree.

Mr. Birgy said it is not just about the tree. He is tired of driving by a Toll Bros site where 14 feet of fill was brought in to make a house fit. Mr. Carver said he is very appreciative that Mr. Birgy is so concerned about how much money Toll Bros. spends to build a house.

Mr. Birgy said we live here, but you don't. We hope one day you will present a plan that does not create a steep slope. Mr. Birgy said he would like a way to dig a foundation that does not re-invent the entire topography and slope of the land. Mr. Carver said they could we put a retaining wall around the tree. Mr. Birgy said you are not listening to what I just said. Mr. Carver said Toll Bros. does not want to change the house. Five years later it is the same house.

Ms. Zalantis asked to go into executive session. Dr. Friedlander made a motion to go into executive session to discuss procedural matters, moved by Mr. Tedesco, and seconded by Mr. Aukland. All in favor. Motion carried.

The Board left the meeting room at 8:30 pm. and returned to the meeting room at 8:37 p.m.

Mr. Tedesco moved, seconded by Mr. Aukland, that they go back into regular session. All in favor. Motion carried.

Ms. Raiselis asked the applicant if they would agree to leave the slope certainly to the drip line, and a little beyond, and create a 2 or 3 foot retaining wall that will hold that line in and give them the space they require in front of the house. This will preserve the tree as much as possible and respect the terrain that exists in accordance with the Board's environmental concerns.

Mr. Carver said they are agreeable to this solution.

Ms. Raiselis asked if Mr. Pennella would like to make a comment about this.

Mr. Pennella said this could be accomplished. They can leave the existing terrain which will not affect the drainage in any way. We can drain it around the house and leave the existing topography 60 feet away from the tree.

The Board was agreeable to this solution. Ms. Raiselis asked Counsel how to proceed.

Ms. Zalantis said the applicant will need to submit a revised plan. Ms. Raiselis asked if them to submit a revised plan by our next work session.

Ms. Gray asked if the Board would be amenable to having revised plans be a condition of site plan approval in the Resolution.

Ms. Raiselis said we need to see the plan and Mr. Tedesco agreed. Mr. Aukland said the public will need time to review the plan as well.

Ms. Gray asked if Board is amenable to closing the public hearing tonight.

Ms. Raiselis asked why. Mr. Tedesco said site plan-approval is always done at a public hearing.

Counsel Zalantis said a new plan needs to be submitted. Ms. Gray said the content of the plan is known and we discussed it tonight and there will be no changes. Ms. Raiselis said that the people here tonight can't imagine what was discussed unless they actually see it on a plan.

It was agreed by everyone that a new plan be submitted prior to the next work session for review.

Mr. Tedesco asked if anyone in the audience wished to make a comment.

Cathy Ruhland, 17 Walden Road, said she thought there were 90 days to the effort to find the sale of the property which would permit the stone house to continue to exist. Counsel Zalantis said the applicant is consenting from 60 days of site-plan approval. The approval is not happening tonight so you will probably end up in the same place.

Ms. Gray came back up and said the 90 days was initially offered when we thought the application was going to be approved in November. There was no December meeting. We are now offering 60 days from the date of site-plan approval.

Ms. Ruhland was pleased that this effort will continue.

Ms. Ruhland, as Chair to the Tarrytown Lakes Committee, referred to the Tarrytown Lakes Trail that connects down and around the Toll property to the high school. She explained that parts were built but destroyed due to corrosion and parts were not built because there was an encroachment on lot 10. She thought this would be dealt with in a timely fashion so the trail could be built all the way around lot 10 to the high school.

Counsel Zalantis said the applicant has agreed as a condition to the building permit for this lot that they will not only clear the trail for lot 10 but they will also be constructing the trail on lot 10 to the standards required by the Village Engineer. They also agreed to do this prior to getting a building permit for lot 10. The trail will be constructed on lot 10 and once the house is constructed on Lot 10, Toll Bros. will protect the trail. Ms. Ruhland referred to a January 19, 2017 letter. Ms. Zalantis said there is an updated letter that was revised that just was received today, January 30, 2017.

With regard to the section of trail behind lot 10, a part of the trail below lot 14 was washed out when they were building lot 14. Counsel Zalantis said this has also been resolved. Village Engineer Pennella said they will be restoring this section and putting piping underneath and when we did our walk through as it turns around going down to the high school they will be putting in piping and cleaning out the basin and doing some modifications.

Ms. Ruhland also added that next to lot 14, they were not able to build the trail because of the curb, the easement and construction. Mr. Pennella said he did not see anywhere in the bid for the trail work to show a trail connecting between the easement and the trail at that point so it is not part of Toll Bros. scope to rebuild it. Ms. Ruhland thanked the Board.

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

Mark Fry, President of Friends of Brace Cottage, submitted comments on this application on November 15, 2016. He said he is here to respond to the November 23, 2016 and January 26, 2017 letters from Keane & Beane. Mr. Fry said there was a misstatement in the document in the November 23, 2016 letter for the purpose of correcting the record. The statement said all of the information regarding Brace Cottage was before the Planning Board when it adopted its October 27, 2014 decision to require a supplemental EIS.

Mr. Tedesco said we are getting into murky waters here and I will defer to counsel. Mr. Tedesco said there is a proposal for the Friends of Brace cottage or others to purchase the property. You have to tell me what the relevance is of this past history.

Mr. Fry said let me let these points slide for now, but the one that was most recently alluded to, in the November 23, 2016 letter, read that Toll Bros. is willing to consider a sale and would accept the inclusion of a condition in the resolution provided any party a period of 90 days from the date of approval to enter into a contract of sale.

Mr. Fry is asking Toll Bros. to agree to retain that 90 day period since, in the January 6th letter, Toll Bros. asked that it be reduced to 60 days. However, if the site plan is not going to be approved tonight and Toll Bros. agrees to give us 90 days from February 1st that will be sufficient. He is informing the Board that they have an interested applicant who is willing to purchase the entire property and have another appointment tomorrow. Also, Toll Bros. has agreed as per a telephone conversation to make arrangements with Mr. Dowd so that candidates make arrangements to view the property.

Mr. Fry said there is a disagreement as to the property valuation, which is a private matter, but because Toll Bros. did bring it up in their 11/23/16 letter, he submitted documentation of assessed values to the Board. Mr. Tedesco said if you get a contract of sale within the time allotted it is up to you to work out what that price will be.

Mr. Fry said the first thing they will do when they buy this property is guarantee the survival of the oak tree forever. He is happy that the Board is giving the public the opportunity to view the new plans.

Mr. Tedesco wished him well in his efforts to save the Brace Cottage.

Ms. Gray confirmed that they are agreeable to make arrangements to have Toll Bros. personnel available for site views as necessary.

Counsel Zalantis wanted to confirm with Ms. Gray that the offer is to sell the property, “As-is”, in its current approved state once the site-plan approval is granted. Ms. Gray agreed that the property will be sold, “As-is” condition, with no contingencies.

For clarity, Mr. Fry said the site-plan approval would be accepted but they would surrender this approval and they would move onto a new plan which would involve a smaller house.

Mr. Tedesco moved, seconded by Mr. Aukland, to continue the public hearing. Ms. Raiselis asked if anyone else had any comments, no one appeared. Motion stands, seconded by Ms. Raiselis. All in favor. Motion carried.

CONTINUATION OF PUBLIC HEARING - Realty@460 SB LLC – 460 S. Broadway

Mr. Tedesco welcomed back Mr. Hughes to continue where they left off.

Mr. Hughes said he spoke with his principal and cannot accept a thirty (30) car limitation on the property at 480. They can accept a limitation on the south side of forty-five (45) cars. His client does not want to get involved in any landscaping, but will be willing to abide by a forty-five (45) car limitation to move forward tonight.

Mr. Aukland asked what their intention was for the 480 site in the future. Mr. Hughes said no new site plan is planned. There is no volume change. We just want to give it an update so there will be interior and exterior renovations which will be done after the new site is built.

Mr. Aukland is asking this because if the number of cars will get addressed then, we could possibly make an arrangement for half a year or so. Mr. Hughes said there will be no Planning Board application; it will only be an ARB application and building permit issue only. Mr. Galvin and Mr. Pennella confirmed that if it is just interior and exterior then it will just be an ARB application and Building Permit.

Dr. Friedlander does not understand the reluctance for landscape screening. Mr. Hughes said the display of the cars on Broadway is extremely important to his business. The presentation of the cars sells these cars.

Dr. Friedlander does not agree. He said people know there are used cars there. The cars are so crowded you can't even view the cars. He thinks you can certainly have a hedge bush to shield it from the ugliness of a used car lot.

Mr. Hughes defers to the owner’s assessment of his business who he is representing. Dr. Friedlander said he is only asking for a row of hedges.

Mr. Hughes said we heard this restriction tonight for the first time. If the board wishes to entertain the forty-five (45) car request, this is a good faith effort. If not, then we will ask to adjourn.

Mr. Galvin said could we add in appropriate landscaping of hedges. Ms. Raiselis thinks that hedges along there is dubious. She does not feel as strongly as Dr. Friedlander. Ms. Raiselis said the edge on Walter Street is landscaped and that is the neighborhood area. Dr. Friedlander said we need to be consistent.

Mr. Tedesco asked Ms. Raiselis to recommend something else. She said maybe deciduous trees would work with a canopy; however, she does not think they should design it now.

Dr. Friedlander said he wants to approve this. He said you can have more as long as we can’t see it. Just make it attractive and softer. These are simple requests. You can’t see anything but the front row. Mr. Ryan said you would be surprised how many cars we sell that are in the front. He can’t stress enough how important it is that these cars be shown. Mr. Ryan is asking the Board to meet them in the middle; they need sixty (60) cars, the Board allowed thirty (30) cars, so they are asking for forty-five (45) cars. Mr. Hughes said we are not trying to dispute this. We have been cooperative with regard to the car carriers. There are more than forty-five (45) cars on the lot now. The used car business is about 25% of his client’s business.

Ms. Raiselis made a recommendation to vote. Mr. Aukland said we would have to revise the conditions in the Resolution.

Mr. Tedesco moved that the Board approve the site plan as read with the following amendment to Part C, item 4 which would be revised to read “no more than forty-five (45) cars displayed”. Mr. Aukland suggested creating this as a new condition “D” to include the forty-five (45) cars, instead of thirty (30) cars, with the same wording. Mr. Hughes came over and went over the changes with Counsel Zalantis and it was agreed.

Mr. Aukland moved to amend the Resolution as discussed, seconded by Ms. Raiselis. All in favor. Motion carried.

ADJOURNMENT:

Mr. Tedesco moved, seconded by Mr. Aukland, and unanimously carried, that the meeting be adjourned – 9:23 p.m.

Submitted by: Liz Meszaros - Secretary