

Planning Board  
Village of Tarrytown  
Regular Meeting  
March 27, 2017 at 7:00 p.m.

PRESENT: Chairman Friedlander, Members Tedesco, Aukland, Raiselis, Birgy  
Counsel Zalantis; Village Engineer Pennella; Secretary Meszaros

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

APPROVAL OF MINUTES – February 27, 2017

Mr. Tedesco moved, seconded by Mr. Aukland, with Chairman Friedlander abstaining, that the minutes of the February 27, 2017 meeting be approved as submitted. All in favor. Motion carried.

CONTINUATION OF PUBLIC HEARING - 130 Wildey Street

Joanne Landau, appeared on behalf of Wildey Group LLC, who manages and operates the Walgreens Shopping Center. A variance was approved by the Zoning Board on March 13, 2017 for a small change in the footprint of the building. The applicant is seeking site-plan approval for a change of use from retail to a pizzeria restaurant.

Chairman Friedlander asked if anyone in the public or staff had any comments. No one appeared.

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

Mr. Birgy 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.

**Application of Wildey Group LLC  
Property: 130 Wildey Street, Tarrytown Station Plaza  
(Sheet 1.40, Block 9, Lot 11 and Zone RR)**

**Resolution of Site Plan Approval**

**Background**

1. The Applicant requests site plan approval for a change of use converting a vacant storefront from a retail use (formerly a dry cleaner) to a restaurant (pizzeria) with a small change in the footprint of the building.

2. The Planning Board on February 27, 2017 determined that the Project was a Type II action under SEQRA NYS DEC 617.5 (c) (7) "*construction or expansion of a primary or*

*accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls."* The storefront consists of approximately 1,000 square feet.

3. The Planning Board has conducted a duly noticed public hearing on February 27, 2017 and March 27, 2017 at which time all those wishing to be heard were given the opportunity to be heard.

4. The Planning Board has carefully examined the Application and received comments and recommendations from the Consulting Village Planner in a memorandum dated February 13, 2017 and reviewed the *Parking Accumulation Study* conducted by VHB Engineering dated February 19, 2014 and VHB's updated *Parking Zoning Requirements* completed February 6, 2017 inclusive of the proposed pizzeria. The VHB updated parking tables show that the changes by Chase Bank and other tenants since 2014 have resulted in lower parking requirements with the same number of 218 parking spaces which was previously approved by the Zoning Board of Appeals on October 13, 2016. This parking variance still remains in effect.

5. The Planning Board also reviewed Applicant's updated *Summary of Trash Removal* to accommodate the addition of a new food establishment (pizzeria) dated February 7, 2017. The updated summary includes written details of the new plan including photographs of the existing enclosure and proposed expansion.

6. The Zoning Board of Appeals reviewed the Applicant's request for a side yard variance of 8' to allow a side yard of 0' where 8' is required at a public hearing held on March 13, 2017. The Zoning Board closed the public hearing on March 13, 2017 and approved the requested variance on that date.

7. The Planning Board closed the public hearing on March 27, 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 is 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 reviewed the Applicant's site plan. The vacant storefront is located at 130 Wildey Street in the Tarrytown Station Center. It consists of approximately 1,000 square feet.

The new tenant will be a pizzeria (Luigi’s Pizzeria) which will not be a chain or a fast food restaurant. The Applicant indicates that with the addition of the pizzeria the shopping center will be fully occupied. The interior renovations will result in seating for approximately 40 customers. The previous tenant was a dry cleaner. The shopping center has 182 parking spaces with a total of 218 spaces required. After a site visit and review of the 2014 VHB *Parking Accumulation Study*, the ZBA approved the parking variance for 36 spaces on October 13, 2016. This previously approved parking variance remains in effect. The Applicant’s small change in the building’s footprint will add 25 sf to square off the building. This will require an area variance for a side yard of 8’ where 4’ now exists.

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 as follows:

Plans by Tom Abillama Architects dated January 30, 2017 entitled unless otherwise noted:

- A.1 *Proposed Pizzeria - Plot Plan, Details & Notes*
- A.2 *Proposed Pizzeria – Floor Plan Schedules*
- *ALTA/ACSM Land Title Survey Wildey Group LLC 124-134, Wildey Street Lots P-25 & P-25B, Section 1, Sheet 2, Village of Tarrytown, Town of Tarrytown , Westchester County, New York prepared by Control Point Associates, Inc. dated May 15, 2015*

(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:

1. The Applicant shall comply with the conditions imposed by the Zoning Board of Appeals in their resolution dated March 13, 2016 granting the Applicant’s area variance.
  
2. The Applicant shall implement and adhere to the practices set forth in its letter dated February 7, 2017 regarding trash removal and pest management practices. To the extent that it may subsequently come to the Applicant’s attention that additional measures are needed to ensure clean and sanitary conditions on the Property related to trash and pests, the Applicant will promptly take all reasonable measures to rectify the situation.
  
3. The Applicant shall provide a container for all recyclable materials, including metal, and strongly encourage its tenants to recycle to the fullest extent possible.

Mr. Tedesco Moved, seconded by Mr. Aukland, to approve the Resolution. All in Favor. Motion carried.

CONTINUATION OF PUBLIC HEARING (ADJOURNMENT):

Chairman Friedlander announced that the applicant, Peter Bartolacci, of 67 Miller Avenue had requested that his application be adjourned this evening and continued at the next meeting, which was confirmed by Counsel Zalantis.

CONTINUATION OF PUBLIC HEARING – Toll Brothers -112 Wilson Park Drive

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 introduced her associate, Rick O’Rourke, of Keane & Beane, Rob Dowd, of Toll Bros., and Doug Carver and Jeff Madden, of CMG Engineering. Ms. Gray briefly went over the recent history of the project since November of 2016 and stated that at the January meeting, there was discussion regarding the grading of the site and preservation of tree #170. After the Board went into Executive Session, it was agreed that they would revise plans to install a retaining wall along the dripline of the tree and preserve the natural grades, which we complied with.

At the February meeting, plans were revised extending the wall further back. The layout was also discussed and a question was raised about 3 feet being cut at the rear of the home. Ms. Gray said that their engineers looked at several alternatives to see if the cut could be eliminated and have determined that the alternatives would exceed the maximum FAR requirements for the site requiring a variance from the Zoning Board. She feels that they have presented a reasonable zoning compliant plan that preserves the natural contours as much as possible while still allowing for a design to be

marketable to a young family. She noted that this is already a developed site, so the natural contours have already been disturbed.

After the February 27, 2017 meeting, Ms. Gray said that she, Rob Dowd, John Bianno, the engineer for Toll Bros., all met with Village Engineer Dan Pennella and walked the site. She referred to the plan showing the changes which included extending the boulder wall further all the way to the corner of the home. The plan was revised to better reflect existing conditions on site; specifically, the stone wall surrounding Wilson Park, the rain garden to address the stormwater, and the existing gravel in the parking lot for the stone house.

Ms. Gray said she is in receipt of the staff memo from the Village Engineer, dated March 23, 2017 and they have no objections to his comments. Additional comments from Landscape Architect Lucille Munz, dated March 26, 2017, have also been received, requesting that non-native plants be replaced with native species, which they will comply with. She also referred to the letter to the Planning Board from Nancy Curry, of 110 Wilson Park Drive, dated 3-24-17, who is in support of this project and the proposed layout of the house, which has been made part of the record. She again introduced Rob Dowd, Doug Carver and Jeff Madden, PE, of CMG who will be happy to answer any questions.

Chairman Friedlander asked if any staff members had any questions or comments.

Mr. Pennella said that we had a site visit and the applicant has made significant improvements to the stormwater by adding an additional rain garden in the backyard. With regard to the fill in the back, that section of grading is actually placed fill from a prior construction when they started to do the work. If the house is pushed up, the visibility will be more obtrusive and additional soil would be needed, resulting in a steeper slope and greater runoff. Tree #170 has been preserved. From an engineering perspective, he is satisfied with the plan.

Mr. Birgy said that while it is true that the lot has had fill added there is still a 20 foot grade change from the southwest corner to the northeast corner which hasn't changed. He referred to the March 16, 2017 letter from CMG Engineering outlining changes to the plan, explaining options and alternatives that the engineer explored and asked why they have not been discussed with the Board.

Mr. Tedesco said he did read the letter which explained why the options would not work.

Ms. Gray said this letter outlined changes to the plan and each of the options that would result in the FAR being increased for the site. She said they are preserving the natural grades as much as possible while still developing a house that is marketable for a young family.

Mr. Pennella suggested that Ms. Gray go through the options in the letter.

Mr. Birgy said that the applicant is proposing a house that is impossible to work due to the FAR requirements, so they are building something that doesn't fit. He feels that the Board's hands are being tied since the applicant has proposed a house not in the best interest of the site. Further, Ms. Curry is the only home next to the site, but the lot is adjacent to Tarrytown parkland, which affects more than one neighbor. He is troubled because Toll said they would not do this anymore but they are doing it again with this house.

Ms. Gray said they have made a number of revisions including moving the house and have responded to the comments of the Village Engineer. They have not proposed a different house model, but the plan is zoning compliant. The Village Engineer is satisfied with the stormwater and this is the best plan that can be presented.

Respectfully, Mr. Birgy said we have a responsibility to tell you what we think is right and what isn't right. Ms. Gray asked Mr. Birgy to tell her what she said since she did not recall making that statement. Mr. Birgy said in the past Toll has agreed to site the houses respecting the natural contours of the property.

Ms. Gray did not recall making that statement. She said that originally, they did create steep slopes, but have since eliminated them to below what is allowed by the code. They are preserving grades to the best of their ability. She said it is unrealistic to think that you can put a house up without upsetting the grade.

Mr. Birgy said most developers design a house that works with the site not against it.

Dr. Friedlander said this has been going on for a long time. This house is not fitting into the contours of the land since you have to fit the model into the land. Toll does not want to move from that position. It is a corporate model. You want to stick this model into this piece of land and you want us to bend to make you happy when you know it is not the best siting on the property. The plan got better, but it is not the best and you don't want to put a different house due to the FAR. Mr. Birgy is pained because he feels the Board is not doing the best job in the interest of Tarrytown.

Dr. Friedlander was hoping that some resolution has occurred but it hasn't. He asked if anyone in the public had any comments.

Greg Gall, of Heritage Hill Road, commented that the Planning Board is not locked into a model. The Board can create the model. Toll is locking you into their model. When one designs a house for a site, if the cube does not fit the site, you have to modify the cube so the house fits the context, not the opposite. He feels a revised home should be presented so the FAR is not an issue.

Mark Fry, Friends of Brace Cottage, commented that the footprint of the house can be revised provided that there is a lot of fill in the rear yard.

You could revise the footprint of the house. A solution could be in the rear yard, it has to do with exposure of foundation wall, but it would be possible to cut and provide wing walls at existing walk out basement.

Mr. Pennella said this is no different than a modular being put on the property and the plan proposes the house the farthest away from the trail and it is somewhat tucked away into the sloping hillside. It is the less obtrusive. It is a box; we are trying to work around it. It is nothing different from other homes placed in the community. From what they have proposed, this is the best plan.

Ms. Raiselis said Mr. Birgy is saying the house is not suited for the property.

Mr. Pennella said this is similar to what we do with modular homes placed on properties in the village. Mr. Raiselis said this is a more involved. We should learn from past decisions. Ms. Gray said this is part of subdivision approval which was granted to Toll Bros. Ms. Raiselis said yes, but each lot was required to come back for site-plan approval. Ms. Gray said that you can't expect Toll Bros. to design differently from what they do elsewhere in the entire country. Ms. Raiselis said we do not have to abide by other communities.

Dr. Friedlander said Toll always said this is the way the house has to be. There is a history here and this is the end of the road and we want to do better than what we did before. These issues have been raised each time and it resonates. We want to have homes fit the contour, not the contour fit the homes. He said Toll has cooperated, but they have not made the house smaller.

Mr. Tedesco said, at the last meeting, the Board said they would be opened to supporting a variance in the FAR. He agrees with Dr. Friedlander that Toll has tweaked the plan. If we don't accept it, we can request a smaller home, or revising an option to support the FAR.

Mr. Birgy referred to the March 16, 2017 letter again regarding the alternatives submitted. He said that the Board never asked them to bring the house parallel with the front access driveway. They only asked them to rotate it partially. Ms. Gray said we responded to the options showing the different alternatives that the engineers have tried to come up with to still be within the FAR and lessen the amount of grading.

Mr. Birgy said we asked for something specific and we got something else. Ms. Gray said this was in response to comments at the last meeting. This is one of the alternatives we explored, independent from requests of the Board, and we did respond to the cut issue due to the FAR, which was requested by the Board.

Dr. Friedlander said you had an option of rotating the house, but it interfered with the FAR. Ms. Gray said we do not wish to go to the ZBA to seek a discretionary approval for a variance when we are proposing a zoning compliant plan.

Dr. Friedlander said if this was done 3 months ago, it would have been done. So the argument about time does not register. The fact that we encouraged you to do this was not powerful enough to encourage you to go back and do something different.

Dr. Friedlander said you don't care how we feel and we could say we don't care how you feel, but we want to work with you. We have cooperated with you fully to make the soccer field work, completing the trails, and trying to get the infrastructure items finished. We are only asking you to rotate the building to protect the tree and site the house better and your response is that you are not willing to do it.

Ms. Gray said that you can ask your counsel but she does not think the Board has the legal liability to make Toll go to zoning for a variance.

Counsel Zalantis referred to the zoning code and stated that one of the criteria for granting a variance is whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance. So essentially, if the applicant has a zoning compliant plan, it could be considered a discretionary approval.

Mr. Birgy asked Counsel to confirm again if the Planning Board has the right to ensure that new homes are sited properly. Counsel Zalantis said the Board does have this authority. In this case, the applicant feels they have responded to the plan and the plans are better than the previous ones.

Mr. Birgy again expressed his frustration. When we ask for something, Toll goes back to corporate and they tell us they don't want to do it.

Ms. Gray said we have responded and revised the plans. The house was shifted back, the tree was saved and we have maintained the existing contours at top of the wall. They have been through so many revisions. She believes that this plan respects the grading, and the contours are not virgin contours.

Mr Birgy said there is a 22 foot grade change from the front to the back of the property.

Dr. Friedlander asked Counsel to weigh in with regard to the zoning compliant plan.

Mr. Tedesco moved to go into executive session at 7:50, seconded by Mr. Aukland, to go into executive session. All in favor. Motion carried.

The Board returned to the meeting room at 8:00 pm.

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

Dr. Friedlander asked if anyone had any comments before we close the Public Hearing.

Mark Fry returned and said he was pleased with the revision to the resolution made at the last meeting and accepts the current language in paragraphs f and g, in the most recent version as written. As member of the Tarrytown Lakes Committee, he has been asked by Cathy Ruhland, Chair of the Lakes Committee, who could not attend this evening, to comment on the conditions of site-plan approval as listed in the 3 exhibits relating to the completion of the trail and various elements by Toll Bros. He said that the committee appreciates the completion of the trail on Lot 10 and are happy to see that it is a condition of issuing a building permit. They would ask further to add in as a condition that all trail related work in the punch list items, be completed 60 days from today or May 31, 2017. There are people waiting to get the trail completed. They are grateful for the work of the Planning Board to get these easements and thanked the Planning Board and the Village Attorney. They are, however, disappointed, that it has taken years to get this work accomplished. The committee would request that all trail work completed by a date certain.

Dr. Friedlander asked if anyone else would like to speak.

Brian Langloss, of 37 Hamilton Place, moved to Tarrytown, to take advantage of the trails. He is concerned about the trees that are gone and would like a unified trail experience to the park. He said it is an asset to attract urbanites and millennials. He thinks the trail work is very important.

Kent Langloss, 37 Hamilton Place, is also in support of the trails. The connection is so important to walk the trails. Five years is a very long time to wait. He is asking that the trail be completed before anything moves forward. He feels there should be no more waiting.

Mr. Tedesco asked Ms. Gray if the construction of all trail related work can be completed 60 days after the site plan approval.

Ms. Gray said effort will be mobilized to start trail work and remaining punch list items. The trail can be completed by June 1, 2017. The original obligation was for Toll to clear the trail, but we are constructing it, which would run from the date of site plan approval.

Ms. Raiselis asked her to ask her team if they would agree to this. Ms. Gray agreed to complete the trail work by June 1, 2017 and the punch list items by July 1, 2017.

Mr. Pennella said he has had a number of conversations with Greg Otis, of Toll Bros., to do the trail behind lot 10 and other repairs which they agreed to. Mark Fry referred to the punch list saying that Toll had no obligation to build the trail on Lot 10 or repair the trail. He thanked Toll Bros. to agree to build the trail and also for building the path in Wilson Park and installing culverts to prevent future washouts down below. He appreciates the effort to get work done which was not originally required.

Ms. Raiselis moved, seconded by Mr. Aukland, to close the Public Hearing. All in favor. Motion carried.

Counsel Zalantis read portions of the resolution and made revisions where necessary as discussed; 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.

**RESOLUTION**  
**VILLAGE OF TARRYTOWN PLANNING BOARD**  
**(Adopted March 27, 2017)**

**Application of Toll Brothers, Inc.**  
**Property: Wilson Park Lot 2 (Sheet 1.50, Block 20, Lot 60.2 and Zone RA-30 (Bulk) and RA-60 (dwelling))**  
**Resolution of Site Plan Approval**

**Background**

1. The Applicant Toll Brothers, Inc. (“Applicant” or “Toll”) requested site plan approval to construct a single family residence on an approved lot.
  
2. The Planning Board has conducted a duly noticed public hearing on November 28, 2016, January 30, 2017, February 27, 2017 and March 27, 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 and considered written comments from the Consulting Village Planner (in a memorandum dated November 14, 2016), from the Village’s Landscape Architect (in a staff report dated January 30, 2017 and March 26, 2017), as well as from the Building Inspector/Village Engineer (in a memorandum dated November 28, 2016 and then revised January 20, 2017, revised on January 30, 2017 and last revised March 23, 2017). In addition, the Planning Board considered comments from the Applicant (in letters dated September 16, 2016, November 23, 2016, January 6, 2017, February 22, 2017 and March 17, 2017), and from the Friends of Brace Cottage (in a letter dated November 15, 2016).
  
4. At the November 28, 2016 public hearing, the Planning Board determined this to be this to be a Type II Action under NYS DEC 617.5 (c) (9) “*construction or expansion of a single-family, a two-family or a three-family residence on an approved lot...*” and, therefore, no further SEQRA review is necessary; and
  
5. The Village Landscape Architect has reviewed the site and landscape plan last revised March 16, 2017 and found the changes made in that plan to be acceptable subject to her additional comments/recommendations set forth in her March 26, 2017 Staff Report. The March 26, 2017 Staff Report stated that Tree No. 170 is no longer slated for removal and the grading in

the areas has been modified to minimize damage to the root system. However, the March 26, 2017 Staff Report notes that prior comments raised in her January 30, 2017 Staff Report have not been incorporated into the plans. The Village Tree Commission has also reviewed an earlier version of the landscape plan and found it to be acceptable.

6. The Planning Board closed the public hearing on March 27, 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 is 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.

##### **a. Background**

On February 22, 2016, the Supreme Court, Westchester County issued a Decision and Order overturning this Board's determination directing that Toll prepare a Supplemental Environmental Impact Statement ("SEIS") relevant to Brace Cottage's historical significance in connection with Toll's site plan application for Lot 2 and remitted the matter to the Planning Board for further review consistent with the Court's decision. The Court ruled that the Planning Board's determination requiring preparation of an SEIS was arbitrary and capricious as the issue of Brace Cottage's architectural significance did not constitute "newly discovered information." Although the Court ruled that "newly discovered evidence" is a basis for an SEIS, the Court ruled that the removal of Brace Cottage was "explicitly addressed in the scoping, DEIS, and FEIS, and the final subdivision plat filed in January 2011 explicitly states that the cottage is to be removed." The Court found that the new comments submitted to the Board in site plan review did not constitute "'genuinely new' information."

The Court rejected Friends of Brace Cottage's claim that the original subdivision EIS was incomplete since certain submissions were not made to the New York State Historic Preservation Office ("SHPO") until after the Planning Board issued its SEQRA findings statement as the Court ruled that "issues of procedural noncompliance with SEQRA requirements during the original subdivision review were required to be raised in a CPLR article 78 petition challenging that final determination." Thus, the Court granted those branches of Toll's Petition to vacate

and annul the Board's November 3, 2014 positive declaration and the Board's determination dated October 27, 2014 directing that Toll prepare an SEIS.

Nonetheless, the Court "denied as premature" Toll's request that the Court direct the Planning Board to classify its site plan application as a Type II Action exempt from SEQRA. The Court remitted the matter to the Planning Board for further proceedings on the site plan application.

After this litigation was fully submitted to the Court, the Village learned on October 22, 2015 that SHPO issued a determination that the Cottage is eligible for listing on the National and State Registers of Historic Places as set forth in its Resource Evaluation dated May 28, 2015 ("Resource Evaluation"). Subsequently, the Resource Evaluation was circulated to this Board and made part of the record.

As a result of the litigation, Toll's site plan application for Lot 2 had previously been adjourned for many months and given the delay, Toll re-noticed the public hearing for November 28, 2016 to give an opportunity for the public and any interested parties to be heard and the public hearing was continued in January, February and March.

b. Determination

In considering the approval of the site development plan, the Planning Board considered the public health, safety and general welfare and the comfort and convenience of the public in general and the residents of the immediate neighborhood in particular and in so doing considered the standards and/or guidelines set forth in Zoning Code §§ 305-135 and 305-142 in making its findings. Many of the standards and/or guidelines set forth in Zoning Code § 305-135 and 305-142 were also previously considered as a part of the Planning Board's site subdivision approvals, including but not limited to the layout of all the lots, traffic access, ingress and egress from the Property and the relation of the proposed lots to the other surrounding lots, including open space parcels, that compromise the overall subdivision.

Some of the standards set for the Zoning Code §§ 305-135 are not applicable to the development of this proposed single family house. The proposed house is located on the Property so that it is in harmony with both surrounding homes and adjacent open space parcels. The proposed home has no adverse effect on any properties in adjoining residence districts. The Board has reviewed the drainage system and layout and it affords the best solution for any potential drainage problem. The overall subdivision provides for the preservation of open space and affords active and passive recreation areas. The proposed landscaping for the Property provides for plantings compatible with the natural topography, site characteristics and existing natural landscaping. The landscape plan has been reviewed and found acceptable by the Village's tree commission and consultant landscape architect.

As part of the Planning Board's review guidelines, § 305-142(C)(1)(A) provides that "[a]ttention must be paid to the preservation of historic artifacts" and in accordance with such directive, the conditions set forth herein consider and attempt to preserve Brace Cottage to the greatest extent feasible.

II. Approved Plan:

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

Plans developed by CMG Engineering Surveying Landscape entitled: (a) Site Plan Lot 2 Block 117, Legends at Wilson Park dated 5/7/14 and last revised 3/16/17 (Sheet 1 of 3); and (b) Landscaping Plan Lot 2 Block 117, Legends at Wilson Park dated 5/7/14 and last revised 3/16/17 (Sheet 2 of 3); (c) Stormchamber Plan dated 6/4/14 and last revised 3/16/17(Sheet 1 of 3); (d) Cross Section Plan dated 6/18/14 last revised 3/16/17 (Sheet 1 of 1); and Plans developed by Toll Architecture entitled: (a) Elevation Plan dated April 23, 2014; and (b) Streetscape Plan dated April 23, 2014. (collectively 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/Building Inspector, 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.
- iv. The Applicant shall prepare a declaration of easement or easement agreement in a form acceptable to the Planning Board’s attorney with respect to the area depicted as the “proposed expansion of easement” on the Site Plan Lot 2 Block 117, Legends at Wilson

Park dated 5/7/14 and last revised 3/16/17 (Sheet 1 of 3) and provide proof of recording of such easement agreement/declaration prior to the Planning Board Chair signing the Final Site Plan.

- (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 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.
- (f) Landscaping: All landscaping shall be native plants and installed in a healthy and vigorous state and shall be inspected at the beginning and end of the growing season within the first year of installation. Individual species that do not survive beyond the first year shall be replaced at the beginning of the next growing season.

## IV. Specific Conditions

- (a) All driveways will be constructed of permeable pavers or an equivalent permeable surface approved by the Village Engineer.
- (b) During construction, a chain link fence will be placed around the drip line of any significant tree to be preserved within the proposed area of disturbance.
- (c) The Applicant acknowledges that Lot 2 is part of a larger subdivision and there are open items that were conditions of prior approvals, including but not limited to the subdivision approvals, that need to be completed. As part of the site plan approval for another lot in the subdivision (known as Lot 10), the Applicant acknowledged receipt of the attached letter dated June 22, 2015 from former Village Engineer/Building Inspector Michael J. McGarvey, P.E., attached hereto and made a part hereof and to which the Applicant consented to the terms therein (“McGarvey Letter”; a copy of which is attached as Exhibit “A”). Despite the fact that the site plan approval for Lot 10 was issued over a year ago, there still remain open issues outlined in the McGarvey Letter that have not been addressed or fully addressed to the satisfaction of the Village as outlined in a letter to Toll’s counsel dated October 26, 2016 (“Punch List Letter”; a copy of which is attached hereto as Exhibit “B”). At the direction of the Planning Board at the November 28, 2016 meeting, the Applicant was directed to meet with Village staff and the Planning Board’s counsel to discuss the still outstanding items. At that meeting and in discussions thereafter, the Applicant reconfirmed its commitment to address and resolve the open issues as detailed in the January 30, 2017 letter from the Applicant with Attachments “A” through “E”, which letter was agreed to and acknowledged by the Village Engineer on January 30, 2017 (“Consent Letter”; attached as Exhibit “C”). Accordingly, the Applicant consents and agrees that the following items enumerated in the McGarvey Letter (items 13, 15 and 18), discussed in the Punch List Letter and clarified and agreed to in the Consent Letter and any and all other requirements set forth in the Consent Letter must be fully completed to the satisfaction of the Village Engineer/Building Inspector by July 1, 2017 **and** prior to the issuance of any building permit for this lot (Lot 2) or the conveyance of Lot 2 per subparagraph (f) below, whichever happens sooner, .
- (d) With respect to the walking trail reflected on the approved site plan for Lot 10 (which is also part of the subdivision which Lot 2 is part of), the Applicant consents and agrees that given the passage of time since obtaining site plan approval for Lot 10, the Applicant will clear and establish the trail depicted on the approved site plan for Lot 10 by completing the required tree clearing and grading, including

grubbing/stumping to allow for installation of the walking trail and then construct and install the trail as per the specifications (as set forth in the Consent Letter) and such work must be fully completed to the satisfaction of the Village Engineer/Building Inspector by June 1, 2017 **and** prior to the issuance of any building permit for this lot (Lot 2) or the conveyance of Lot 2 per subparagraph (f) below, whichever happens sooner. During construction of the home on Lot 10 all efforts must be made to protect the completed and constructed path/trail on Lot 10 from erosion or other damage.

- (e) The Applicant consents and agrees that prior to the issuance of any certificate of occupancy for Lot 2 or the conveyance of Lot 2 as provided in paragraph (f), whichever occurs sooner, Toll must first provide proof of existence of a Homeowners Association (“HOA”) that has the duty to maintain the various ponds and stormwater infrastructure as well as to maintain Wilson Park Drive, which HOA must have a mechanism in place to ensure collection of funds for such maintenance and further consents and agrees that the HOA agreement will conform to the requirements set forth in the Consent Letter.
- (f) Friends of Brace Cottage (“Friends”) has represented to the Planning Board that they are “ready, willing, and financially able” to purchase Lot 2 and Toll has previously advised that it has offered to sell Lot 2 in its current undeveloped “as is” condition to the Village for a price certain within 60 days of the date of this approval. Based upon SHPO’s determination that Brace Cottage is eligible for listing on the State and National Registers of Historic Places, the Planning Board determines that it would be beneficial to explore the sale of Lot 2 to any third-party, including Friends (or a designee of Friends) who may be interested in preserving Brace Cottage. Toll represented that it is not opposed to such sale provided the sale of Lot 2 be for an amount that is mutually acceptable and upon such terms as are mutually acceptable. As such, the Applicant consents and agrees that Toll will give Friends (or Friends’ designee) 60 days from the date of this resolution to enter into a contract of sale to purchase Lot 2 in its current “as is” condition as an approved lot in an amount that is mutually acceptable to Toll and Friends (or a designee of Friends) and upon such terms as are mutually acceptable to both Toll and Friends (or Friends’ designee). If Friends/Friends’ designee and Toll do not enter into such contract of sale for the purchase of Lot 2 for an amount that Toll and Friends (or Friends’ designee) agree upon and upon such terms as are mutually acceptable within 60 days from the date of this resolution and/or Friends informs Toll within 30 days that it is no longer interested in purchasing Lot 2, then Toll may sell Lot 2 in the usual course and this condition shall be null and void.

- (g) Prior to the issuance of a demolition permit from the Building Inspector for Brace Cottage, in the event there is no agreement to convey Lot 2 to Friends in accordance with paragraph (f), Toll shall give notice of intent to demolish: (1) by mail to all property owners within 200 feet of the boundary lines of Lot 2 and to The Historical Society, Inc. of Tarrytown and Sleepy Hollow; and (2) by publication: (i) in the newspapers (both the Journal News and The Hudson Independent); and (ii) an online publication (the Tarrytown Patch or similar type of publication) giving notice and allowing not less than 60 days from the last date of publication for any interested party, including but not limited to Friends, to remove or relocate Brace Cottage in whole or in part. Such removal or relocation of Brace Cottage shall occur within said 60-day period, but not while the 60-day time period set forth in paragraph “f” remains open. Following the 60-day notice period, a demolition permit may be issued provided the Applicant shall provide proof that the required notice has been given.
- (h) The plantings on the landscape plan should be revised to accommodate all native plantings – the dogwoods should be revised to indicate native dogwoods and all plants indicated in yellow in the 1/30/17 Staff Report and March 26, 2017 Staff Report should be replaced with native plantings. The planting for the rain garden should be included in the final plant list and should be native species. The Landscape Plan must be revised in accordance with the recommendations set for in the 1/30/17 and 3/26/17 Staff Reports, which this Board agrees with and accepts and makes a condition of this approval.

Ms. Raiselis asked Counsel about the Homeowner’s Association and was concerned that this site has a vulnerable adjacency to our Lakes. She asked Village Engineer who sets the standards for pond and stormwater, since we have had problems with this in the past.

Mr. Pennella said ponds are regulated by the NYSDEC. If work does not get done, a court appearance ticket is issued to enforce it. It requires annual inspection and annual maintenance. Counsel Zalantis said she included language for the collection of funds from the homeowners in the resolution.

Dr. Friedlander asked if there was a Homeowner’s Association agreement for these homes. Ms. Gray said yes, it has been amended several times. Counsel Zalantis said she is in receipt of the last version of the HOA. Toll agreed to maintain the road, and some sewers; the consent letter details the sewer agreement. In addition, a copy of the HOA is a condition of getting a Certificate of Occupancy for all of the lots. Ms. Gray confirmed that the HOA agreement will be amended to include everything in the consent letter.

Mr. Aukland referred to special condition (f) and asked Counsel if the property is sold to someone else can she confirm that all of the work will be completed by Toll Bros.

Counsel Zalantis referred to the resolution at the end of section (d), confirming that the trail has to be completed by June 1, 2017, which is a condition of issuing a building permit for Lot 2. The same language prior to the conveyance is also found in section C. punch list items are to be completed by July 1, 2017 prior to the issuance of the building permit, or the conveyance of Lot 2, whichever happens sooner.

Dr. Friedlander said that all of this should have been done and this is an example of the extreme cooperation of the village to encourage Toll to be good neighbors and developers, but in my opinion, they have not been with this lot.

Mr. Pennella said we also hold a bond, and it is in Toll's best interest to do this work.

Counsel Zalantis confirmed with the applicant if they convey the lot by end of May, everything has to be done prior to the conveyance.

Mr. Tedesco moved, seconded by Mr. Aukland, to approve the Resolution.  
The following votes were recorded.

Chairman Friedlander:	Yes
Mr. Tedesco:	Yes
Mr. Aukland:	Yes
Mr. Birgy:	No
Ms. Raiselis:	No

The Resolution was approved by a 3 to 2 vote.

#### NEW PUBLIC HEARING – SALVATION ARMY - 115 WILDEY STREET

Chairman Friedlander read the Public Hearing Notice.

PLEASE TAKE NOTICE that the Planning Board of the Village of Tarrytown will hold a public hearing on Monday, March 27, 2017 at **7:00 p.m.** at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

The Salvation Army of Greater New York  
115 Wildey Street  
Tarrytown, NY 10591

For an additional two (2) year extension of the April 22, 2013 site plan approval for site improvements to the portion of property located in the Village of Tarrytown as part of the construction of a new building located in the Village of Sleepy Hollow.

The property is located at 115 Wildey Street and is shown on the Tax Map of the Village of Tarrytown as Sheet 1.40, Block 7, Lots 1 and 2 and is located in the M 1.5 zoning district.

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

By Order of the Planning Board

Lizabeth Meszaros  
Secretary to the Planning Board

DATED: March 17, 2017

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

Daniel M. Laub, of Cuddy & Feder, LLP, appeared on behalf of the Salvation Army of Greater NY- 115 Wildey Street, there are no changes proposed he is just seeking another two (2) year extension to the site-plan approval, originally approved on April 22, 2013.

Chairman Friedlander asked if anyone in the public or staff had any questions.

Mr. Aukland made reference to the Station Area Revitalization Project and stated that this application will not affect this project.

No one else in the public had any comments.

Mr. Aukland moved, seconded by Ms. Raiselis, 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.

**Application of The Salvation Army of Greater New York  
Property: 86-96 Valley Street, Sleepy Hollow, NY (Sheet 115.15, Block 3, Lots 42, 43 and 44) and 115 Wildey Street (Sheet 1.40, Block 7, Lots 1 and 2 and Zone M1.5)**

**Resolution of Two-Year Extension of Site Plan Approval**

**Background**

1. The Applicant requests a two-year extension of the Site Plan approval originally granted by the Planning Board on April 22, 2013 and previously renewed by the Planning Board by resolution dated May 27, 2015 which extended the site plan

approval from April 21, 2015 to April 22, 2017 in connection with the construction of a new Salvation Army Community Center and Chapel on the above premises.

2. The Property straddles the municipal boundary between the Village of Sleepy Hollow and Tarrytown. The new Salvation Army Community Center and Chapel will be constructed at the former Chevrolet dealership on Valley Street in the Village of Sleepy Hollow portion of the Property. The two parking areas and landscaping area that comprise appurtenant improvements for the new facilities will be constructed on the Village of Tarrytown portion of the Property.

3. The Applicant has indicated in a letter from Cuddy & Feder, Applicant’s Attorney, dated March 7, 2017 that due to financial constraints additional time is required beyond the existing renewal which will expire April 22, 2017. Moreover, the Applicant proposes no changes to either the use or design of the facility. There have been no other material changes that have occurred in the community that affect the substance of the decision adopted by the Planning Board in their initial site plan approval.

4. As the Property is primarily in the Village of Sleepy Hollow, the Village of Sleepy Hollow Planning Board acted as Lead Agency under SEQRA in connection with the Applicant’s proposed action and conducted a coordinated review.

5. As Lead Agency, the Village of Sleepy Hollow Planning Board previously determined that the proposed action was an unlisted action and would not have a significant adverse effect on the environment and that a Draft Environmental Impact Statement would not be required and recorded a Negative Declaration for the proposed action.

6. The Planning Board has conducted a duly noticed public hearing on March 27, 2017 on the Applicant’s extension request at which time all those wishing to be heard were given the opportunity to be heard.

7. The Planning Board closed the public hearing on March 27, 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 the Application for a two-year extension to expire on April 22, 2019 is granted subject to the identical conditions contained in the original site plan approval issued on April 22, 2013 (a copy of which is attached herein) and the following general conditions.

II. General Conditions

- (a) 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.

- (b) 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.
- (c) The Applicant shall pay all outstanding consultant review and legal fees in connection with the Planning Board review of this Application.

Mr. Tedesco moved to approve a two (2) year extension, seconded by Mr. Aukland. All in favor. Motion carried.

NEW PUBLIC HEARING – Theresa Beyer, Architect - 63 Storm Street

Chairman Friedlander read the Public Hearing Notice.

PLEASE TAKE NOTICE that the Planning Board of the Village of Tarrytown will hold a public hearing on Monday, March 27, 2017, at **7:00 p.m.** at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

Theresa Beyer, Architect  
 30 Oakdale Avenue  
 New Rochelle, NY 10801

for site-plan approval to legalize the conversion of a one-family home into a two-family home.

The property is located at 63 Storm Street, Tarrytown, NY and is shown on the tax maps as Sheet 1.40, Block 11, Lot 18 and is in M1 District.

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

Additional approvals will be required from the Zoning Board of Appeals.

By Order of the Planning Board

Lizabeth Meszaros  
Secretary to the Planning Board

DATED: March 17, 2017

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

Theresa Beyer, Architect, representing the owner, Ioannis Hantzaridis, also present, explained to the Board that Mr. Hantzaridis inherited this home from his father. While he was away in the army, around 1979, the home was converted from a one family into a two family. Permits were issued, but there are no records in the building department. The home is over 100 years old and it has not been enlarged. The parking lot has been there since 1976. The parking requirements for a two family home are 5 spaces and there is only room for 4 parking spaces in the existing lot.

Village Engineer Pennella advised Ms. Beyer that there was an error in the EAF form and she will have to correct the form and resubmit it. Counsel Zalantis advised that the corrected form will need to be submitted before this action can be declared under SEQRA.

Mr. Tedesco advised that the applicant will go to zoning and come back if and when variances are granted.

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

Mr. Tedesco moved, seconded by Mr. Aukland, to go into executive session at 8:50 pm to discuss procedural matters. All in favor. Motion carried.

The Board left the meeting room at 8:50 pm and returned back at 9:08 pm.

Mr. Tedesco moved, seconded by Mr. Aukland, to go out of executive session at 9:08 pm to discuss procedural matters. All in favor. Motion carried.

#### ADJOURNMENT

Mr. Tedesco moved, seconded by Mr. Aukland and unanimously carried, that the meeting be adjourned – 9:10 p.m.

Liz Meszaros  
Secretary