

Minutes of: Nov. 9, 2011
Date Approved: January 11, 2012
Date Filed/Village Clerk:

November 9, 2011
TUCKAHOE ZONING BOARD AND BOARD OF APPEALS
TUCKAHOE VILLAGE HALL – 7:30pm

Present: Nicholas DiSalvo Acting Chairperson
David Kubaska Member
John Palladino Member

Absent: Ronald Gallo Chairperson
Steve Alfasi Member

Also in Attendance:
Bill Williams Building Inspector
John Cavallaro Village Attorney

Chairman DiSalvo announced the agenda as follows:

- Item #1 Approval of Minutes from the October 12, 2011 meeting**
- Item #2 100 Marbledale Rd. Special Use Permit**
- Item #3 100 Marbledale Rd. Area Variance**
- Item #4 Crestwood Station Plaza LLC Return**
- Item #5 42 Yonkers Ave. Adjourned**

Item #1 Approval of Minutes from the October 12, 2011 meeting
Motion by Chairman DiSalvo to approve the minutes of the October 12, 2011 meeting was seconded by Member Kubaska and was carried by the Board with a vote of 3-0.

Item #2 100 Marbledale Rd. Special Permit

Mr. Leonard Brandes, architect for the applicant Fleetwood Collision, requested a Special Use Permit for an auto repair facility. The repair shop is currently renting space at 125 Marbledale Rd., Mr. Denning's property, and plans to move across the street to a larger facility. The auto body shop repairs vehicles, boats, motorcycles and completes all repair work in the facility. There will be a new spray booth and all the equipment will be up to code.

Site Plan – there will be a parking space towards the front area for customers to park for a short amount of time. There will be an additional 7 parking spaces in the rear of the property for employees. There are usually 4 employees and periodically a sub-contractor on the premises. The loading dock and platform will be removed and the façade will be updated.

Public Comments

Louis Bauman, attorney representing Mr. Phil Denning, the owner of the facility that Fleet Collision currently occupies, stated that there is a rule in the zoning code that prevents an auto body shop from existing less than 200 ft. from another auto body shop. The current facility is all set up for an auto body repair shop. The equipment is very expensive. If the Board grants Fleet Collision a Special Use Permit for an auto body shop at 100 Marbledale Rd. how can Mr. Denning rent out the space at 125 Marbledale Rd. for an auto body repair shop. The two locations are within 200 ft.

The Fleet Collision currently has a hold over lease dated 2003 for 5 years. The tenants are in very substantial default of approximately \$43,000 plus penalties and interest. Mr. Denning's property has been set up for an auto body repair shop for many years, even prior to this tenant. The value of the lift and spray booth is approximately \$75,000 - \$80,000.

If the Special Use Permit is permitted without conditions of a future auto body shop within 200 ft., there will be a substantial monetary loss for his client. Mr. Bauman asked the Board to defer their decision and consider the ramifications of this approval.

Mr. Brandes noted that a Special Use Permit belongs to the business, not the site. Mr. Denning must apply for a Special Use Permit for a future tenant. The current site was vacant before Fleetwood Collision decided to rent it.

Bill Williams, Building Inspector indicated that the previous auto body shop located at 125 Marbledale Rd. was illegal and the Village needed a court order to remove it.

John Cavallaro, Village Attorney, noted that the Special Use Permit terminates when the business leaves the premises and a new application for Special Use Permit must be filed.

Mr. Joe Marinello 4 Coolidge St. stated that Marbledale Rd. is the most toxic piece of property in Westchester. The local children in the area must be affected by the shops on Marbledale Rd. He stated that he opposes the Special Use Permit for Mr. Denning's property. Proper borings must be done and not just by the applicant, the Village should do their own and compare it to the results from the applicant's test. He added that Fleetwood Collision is a good tenant and voiced his concern regarding granting the approval for a second auto body shop within the 200 ft. rule.

Mr. Michael Denning, son of Phil Denning, and current property owner of 125 Marbledale Rd. indicated that all parties are entitled to make a living. This site has been an established auto body shop for over 13 years. He pays the taxes for the property and stated that Marbledale Rd. is an industrial zone.

Chairman DiSalvo motioned to close the public hearing, was seconded by Member Palladino and unanimously carried by the Board.

Item #3 100 Marbledale Rd.

Area Variance

Mr. Brandes, representing Elide Building, noted that a side yard variance was being requested for a new warehouse. The warehouse will store large equipment and supplies. The property has storm and sewer drains throughout the property. He consulted with engineers whom reviewed the plans. Mr. Brandes noted that the neighbor, Mr. Lucente, is not in opposition to the plans.

The storage building will need 40ft. width, which is 35% lot coverage. There will be two 14 ft. x 14 ft. doors on the storage building. There will be a small bathroom, and a loft of 875 ft. to store additional materials. The building will be concrete blocks with stucco finish. There will be additional plantings planted on the property line.

Member Palladino asked if the storage building would be used by the auto body shop. Mr. Brandes indicated that it would only be used by Mr. Seminara's business, not Fleetwood Collision.

Chairman DiSalvo noted that the side yard and set back requirements are for 10 ft. on each side of the building.

Mr. Brandes noted that this storage building will have 10 ft. on one side and zero ft. on the other side. There will be an open space between the buildings with an easement.

Chairman DiSalvo motioned to open the public hearing, was seconded by Member Kubaska and unanimously carried by the Board.

Public Comments

Mr. Michael Denning noted that the Seminara's family has a good reputation. This building will be great for the Village and generate more tax revenue. It will look nice on Marbledale Rd.

Chairman DiSalvo motioned to close the public hearing, was seconded by Member Palladino and unanimously carried by the Board.

Item #4 Crestwood Station Plaza LLC Return

Mr. John Richman, cofounder and partner of Streetworks, a company known for restoring Main Streets across the country, noted that there were minor revisions to the plans. The parking spaces were still 61, but now included 3 handicap spaces. The handicap spaces require 8ft. width and an 8ft. access isle. The tandem spaces were reduced from 12 to 6 and the width of the spaces were changed from 9ft. to 8.5 ft.

Member Palladino noted that the zoning code requires 9ft. width per parking space. He asked if the applicant were requesting an additional variance now regarding the width.

John Cavallaro, Village Attorney, noted that the number of parking spaces and the width of parking spaces would be separate variances.

Mr. Richman asked if the attorneys could straighten the parking variance issue out. He continued with the changes and noted that the building was reduced by 200 sq. ft. There is a reduction of 5 units, the total reduced from 49 units to 44 units. The 12 smallest units were eliminated, restructured and combined to make one and two bedroom units. There will now be 37 lofts, 3 two-bedroom units and 4 one-bedroom units, for a total of 44 units.

The height of the building was decreased from 38 ft. to 37 ft. This change was accomplished by changing the structural system of the building to a higher and more expensive system, which could carry a heavier load.

Chairman DiSalvo asked about the ratio of parking spaces to units.

Mr. Richman displayed a chart comparing the results of different consultants' findings.

ITE Parking Generation recommends 31 – 45 spaces, Streetworks Consultant recommends 44 spaces, BFJ Planning recommends 45 – 51 spaces and the Village Zoning Code requires 88 spaces. The application offers 61 spaces.

Chairman DiSalvo noted that if the plan includes more tandem spaces, the total number could be increased.

Mr. Richman noted that there were 45 vacant parking spaces at 4:00pm and 60 vacant spaces later in the evening. The number of spaces increased as the evening progressed. This project will also add 8 additional metered spaces for the Village. At the busiest times, 113 spaces will be available both on site and off site.

Member Palladino asked about the total number of commercial parking spaces.

Mr. Richman noted that BFJ Planning prefer not to allocate spaces to commercial. If the Board chooses to allocate, the applicant will comply. He added that the Zoning Board has the authority to allow shared parking which would mitigate the variance. The Zoning Board could also change the ratio from 1 space per 200 sq. ft. to 1 space per 300 sq. ft.

Bill Williams, Building Inspector stated that he started to review the plans but has not formulated an opinion.

Mr. Richman noted that the church, which sits behind the property, is 17 ft. above Columbus Ave. The top of the church is one foot higher than the height of the building on Lincoln Ave.

Bill Williams, Building Inspector noted that the church is in a two-family residential zone and can only be 35 ft. high.

Mr. Richman noted that the church will be higher than the building on Lincoln Ave. The project always had three stories. If the plans were for two separate buildings, there would be no need for a variance. The revised plans are one foot lower and there will be no entry on Lincoln Ave. He compared this building to the building on 160 Main St. which sits in a Business/Residential Zone and was granted 4 stories with a height of 43.9ft.

John Cavallaro, Village Attorney, noted that the character of the community is a concern when considering the balancing points to grant a variance. Main St. Tuckahoe is not Crestwood.

Mr. Richman continued with the summary and noted that the additional height is less than a 10% variance; there is no standard cornice line; there are other tall buildings in the vicinity, including the church and noted the economic benefits to the area's 20 businesses.

Mr. Richman asked the Board to start a resolution for this application.

Mr. Robert Davis, applicant's attorney, noted that the variance requested for the parking spaces is broad so as to include the width of 8.5 ft. It was his opinion that ample public notice was made, as the public notice was broad to encompass the parking variances.

John Cavallaro, Village Attorney, read the public notice published on Sept. 27, 2011, which noted that, a request for a variance for off-street parking to permit 61 on-site spaces, where 116 spaces were required. Today's variance is for the width of the parking space, not the number of spaces. It was his opinion that a separate variance must be requested for the width of the parking spaces to be reduced to 8.5 ft. to accommodate the 61 spaces.

On Sept. 27, 2011, there were 4 variances requested, 3 variances and a Special Use Permit. Now the width of the space is a new variance. The December meeting should be re-notified for the public to know what it is that is being asked for.

Mr. Davis stated that the width of the parking spaces is a subsection of the parking variance.

John Cavallaro, Village Attorney, stated that the public notice specifically states 61 spaces with no reference of width. The public should be given fair notice that the applicant requests the approval to shrink the size of the space.

Mr. Davis noted that the applicant must return in December and will re-notice the public for the December meeting.

John Cavallaro, Village Attorney, stated that he will speak with Mr. Davis regarding the resolution. He stated that he would need to speak with the Board concerning the resolution.

Public Comments

Louis Kunda 138 Oakland Ave. noted that he was concerned about the egress on Fisher Ave. He stated that the former Mayor Fitzpatrick was adamant that the parking requirement of 2 spaces per unit would never change. He voiced his concern regarding the right turn from Columbus onto Lincoln, this will most certainly cause a traffic jam.

Richard Pearson, traffic consultant noted that there will be angle parking in front of the Columbus building. The angle parking will extend 30 ft. The applicant will propose a stop light at the intersection of Columbus and Oakland.

Mr. Kunda asked what the benchmark was to start digging.
Bill Williams, Building Inspector stated – 97.30ft.

Tracey Shivone 27 Fisher Ave. Tuckahoe, noted that this was her third meeting regarding this application. She voiced her concerns regarding the changes from all lofts to one and two bedroom units. She claimed that the applicant should have re-noticed the public concerning the width of the parking spaces. She added that the Village has Zoning Codes for a reason and this applicant should go home and come back with a plan that fits into the Zoning Code. Parking, set-backs, green space, traffic etc. are all major issues. This applicant should not compare older buildings with new construction. New buildings should be subject to the code. The applicant will not

commit to what the commercial space will be. She noted that any couple that moves in will need a car, probably two cars. She finds the plans to be exceedingly dangerous. The egress on Fisher Ave. has safety issues. There is no setback. Both sides of the building are at zero setback. There is no green space. The intersection at Oakland and Columbus is very dangerous.

Tammy O'Bradavich Lake Ave, noted that she attended the meetings regarding the plans for the Rivervue and the Fountains. Those meetings were difficult for the Board members and the community, but the result was that it looks nice and fits into the neighborhood. Some of the conditions made to the resolution were never met. This is an opportunity to make Crestwood better. This project is too big for the neighborhood. The tenants will certainly need a vehicle. Parking is a major issue. She added that there is wisdom in the code.

Mr. Davis added that the height does comply with the code, the Board should rely on traffic consultants and experts, the parking requirement should be revised as the two-space requirement is too much. The code does provide for shared parking. The Board should listen to the experts.

Ms. Shivone added that the best resources regarding these plans are the people who live in the Village. She said the residents are the best resource, not the professionals that sit at their desks crunching numbers.

Chairman DiSalvo motioned to keep the public hearing open, was seconded by Member Kubaska and unanimously carried by the Board.

Item #5 42 Yonkers Ave.

Adjourned

There being no further comments from the public or business before the Board, upon motion duly made, seconded and unanimously carried, the meeting was adjourned.