

Minutes of: Dec. 14, 2011
Date Approved: January 11, 2012
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December 14, 2011
TUCKAHOE ZONING BOARD AND BOARD OF APPEALS
TUCKAHOE VILLAGE HALL – 7:30pm

Present: Ronald Gallo Chairperson
 Steve Alfasi Member
 John Palladino Member

Absent: Nicholas DiSalvo Member
 David Kubaska Member

Also in Attendance:
 John Cavallaro Village Attorney
 Mike Seminara Code Enforcement Officer
 Frank Fish Village Consultant

Chairman Gallo requested a moment of silence for the passing of former Chairwoman of the Board, Gloria Rosell. He also apologized for being absent last week due to a family matter. He assured the applicants that he watched the replay of the meeting several times.

Chairman Gallo announced the agenda as follows:

- Item #1 Approval of Minutes from the November 9, 2011 meeting**
- Item #2 65 Main Street Special Use Permit**
- Item #3 100 Marbledale Rd. Area Variance**
- Item #4 100 Marbledale Rd. Special Use Permit**
- Item #5 112 Sagamore Road Area Variance**
- Item #6 15 Sylvan Avenue Area Variance**
- Item #7 181 Main Street/20 Marbledale Road Special Use Permit**
- Item #8 Crestwood Station Plaza LLC Return**
- Item #9 42 Yonkers Ave. Adjourned**

**Item #1 Approval of Minutes from the November 9, 2011 meeting --
Chairman Gallo postponed the vote until next month.**

Item #2 65 Main Street

Special Use Permit

Mr. Gary Spilatro, representing the applicant, stated that ECDC, which runs a child day care center, plans to rent the third floor and part of the first floor of Village Hall. The day care center provides care for 35 children. The drop off and pick up of the children will be at the rear of the building. Drop off is between 7:30 am – 8:00 am. Some children will stay for half the day, so many are picked up between 12:00 and 3:00pm. A staff member will be in the rear of the building near the street for assistance and monitoring of the children. The day care center has been operating in Tuckahoe for over 20 years and is currently at the Church of the Assumption.

Member Alfasi motioned to open the public hearing was seconded by Member Palladino and unanimously carried by the Board.

No Public Comments

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

Member Palladino offered the following Resolution: In the matter of Julia Dyckman Andrus Memorial, Inc., 65 Main Street Tuckahoe, NY

Background and Findings of Fact

The Applicant is the lessee of part of the premises commonly known as 65 Main Street, Tuckahoe, New York and identified on the tax map of the Village of Tuckahoe as Section 33, Block 8, Lot 11 (the “premises”). The premises is currently improved by the Village Hall building, which is a former schoolhouse building.

The Applicant is a non-profit, non-sectarian social service agency providing child care services to children from the ages of 18 months to 5 years old. The Applicant holds a lease with the Village of Tuckahoe to utilize the premises as a daycare facility subject to the issuance of the necessary approvals.

The Applicant seeks relief from the Village of Tuckahoe Zoning Code (the “Zoning Code”) by means of the issuance of a special use permit to operate its day care facility in a Business Zoning District.

The premises is located in a Business Zoning District, which requires, in pertinent part, that daycare facilities be operated pursuant to special use permits issued by the Zoning Board of Appeals. Currently, the demised premises is approximately 10,000 square feet of space comprised of the entire top level of the premises known as 65 Main Street, Tuckahoe, New York and approximately 2,000 square feet of space comprised of part of the ground floor of such premises.

The Nature of the Application

The Applicant seeks a special use permit from this Zoning Board of Appeals. Pursuant to Section 6-1 of the Tuckahoe Zoning Code, the Zoning Board of Appeals is vested with the authority to issue special use permits specified within the Zoning Code. “Any use designated in a given district as requiring a special use permit shall be deemed to be a permitted use in such district subject to satisfaction of the conditions and standards set forth in this article in addition to all other requirements of the zoning code.” See Tuckahoe Zoning Code, Section 6-1.1. Under the Tuckahoe Zoning Code, this Zoning Board must apply certain conditions to ensure that the Applicant meets or exceeds the requirements of the Zoning Code.

1. Compatibility with District

The Applicant’s proposed use on the premises is compatible and harmonious with the orderly development of the Zoning District in which the premises is located. The daycare facility will not infringe on the adjacent uses within the district and such use as a daycare facility has been found to be compatible with the zoning district in which it is located by virtue of the requirement that only a special use permit be issued for such use.

The remodeling of the demised premises poses no negative impacts to the properties in and among the surrounding community in light of the fact that there will be no exterior expansions of the footprint of the Village Hall building or renovations that will impact on other properties in this zoning district.

2. *Compatibility with Comprehensive Plan*

The Project as presented herein is compatible with the Comprehensive Plan in that the Comprehensive Plan does not recommend eliminating daycare facilities from the premises or the rezoning of the premises to a different classification.

Allowing a well-established, reputable daycare facility that has been successfully operating for years to operate in the community will provide residents with more choices for early childhood education. Clearly this is harmonious with the purpose and intent of the Master Plan, which is to offer competitive options for private schools to its residents and to provide the best available school system to its residents. Adding a private daycare facility to this area of the Village will, indeed, be a positive contribution to the Village's school system and will provide new found educational opportunities and alternatives to its residents.

The proposal will be compatible with the Master Plan because one of its indirect net effects will be to enhance the economy of the Village. By allowing a daycare facility to operate in a Business District in the Village, it is very likely that any nearby local businesses can benefit from the increased daily thoroughfare to and from the proposed daycare facility.

Providing outstanding educational opportunities and diversifying private school alternatives for the Village's use is consistent with the goals of the Master Plan. Granting the relief requested will positively contribute to educational opportunities currently available to Village residents, and could provide additional benefits to local businesses and contribute to the economic base of the adjacent and greater community. Thus, this proposal is clearly harmonious with the express and implicit goals of the Village's Master Plan.

3. *Services*

The remodeled building on the premises will continue to be readily accessible for fire, police or any other municipally provided services. The existing building and the remodeled building will still be located on a public street that is navigable by fire and police protection services. Nothing in this record suggests police or fire protection services will be affected or diminished by the Project as proposed.

4. *Adjacent Properties*

The proposed use will only effect a portion of the existing structure on the premises and will not be any more intense than the current use for the premises. The proposed use for the premises will not appreciably affect the value of the premises to the detriment of adjacent and nearby lots. Thus, any properties adjacent or nearby the premises will suffer no injury or deleterious effects from the proposed use of the premises.

5. *Nuisance*

The intensity of use on the premises will not appreciably change as a result of the granting of the special use permit discussed herein. The nature and scope of the proposed use of the premises will be such that no noise, fumes, vibrations, flashing of lights or other similar nuisance conditions to the surrounding neighborhood will occur. Additionally, no offensive, dangerous, destructive or hazardous conditions affecting the health of the surrounding community will be produced as a result of the proposed use on the premises. Bringing children to the premises on a daily basis will not generate any conditions tantamount to a nuisance on or nearby the premises. Any perceived or potential nuisance conditions will be effectively mitigated by the constant supervision and monitoring by staff of the daycare facility, in addition to the fact that daycare services will be primarily furnished indoors.

6. *Neighborhood Character and Property Values*

On this record, there is no evidence that the property value of adjacent and nearby lots in the community will be diminished by granting approval for this proposal. The existing character of the immediate and surrounding neighborhoods will not be affected whatsoever. This proposal will add to the overall economic and tax base, school district support and diversity in the Village.

As a result of the influx of capital, economic support and overall appeal of this proposal, property values for lots adjacent to and nearby the premises can only increase. These potential changes in neighborhood character and property values would only yield positive socioeconomic effects in the immediate vicinity and greater community. As discussed above, the proposal is consistent with developmental and aspirational goals for the Business Zoning District and the greater community.

7. *Traffic*

The Zoning Board acknowledges that the traffic volume to and from the premises will change if the special use permit is granted, but the anticipated effects of this increased traffic volume will not be significant. Despite this

fact, however, any increases in traffic volume to the area as a result of the proposed use for the premises will only occur during times when children are either dropped-off or picked-up from the premises for daycare services. These time periods will be before morning rush hours, sporadically throughout the late morning and early afternoon.

Because so few children attending the daycare facility will remain on the premises during peak afternoon traffic hours, the net effects of this slight increase in volume will be insignificant. The Applicant has presented sufficient information to the Zoning Board demonstrating that any increase in traffic volume to the area near the premises will be effectively mitigated. Thus, the Zoning Board of Appeals has that determined the effects on traffic from this proposal will be reasonable in nature.

8. *Parking*

Pursuant to the Tuckahoe Zoning Code, a minimal number of off-street parking spaces are not set forth; however, the Applicant has proposed that twelve (12) off-street parking spaces be leased from the Village in adjacent and nearby parking lots to mitigate any negative parking impacts. Thus, any parking concerns are mitigated by the additional off-street parking spaces provided on the premises.

9. *Conformance with Regulations*

In connection with the Project, the Applicant does not seek any zoning variances from this Zoning Board of Appeals and the Applicant has adequately met the zoning regulations applicable to this zoning district.

Special Use Conditions

Based on the foregoing, this Board finds that the Applicant has reasonably satisfied the general conditions applicable to the issuance of special use permits as set forth in the Tuckahoe Zoning Code.

SEQRA

Based on the foregoing, the Zoning Board of Appeals of the Village of Tuckahoe finds and determines that:

1. The action taken herein is an Unlisted Action subject to the requirements of SEQRA.
2. This Zoning Board of Appeals is in possession of all information reasonably necessary to make the determination as to the environmental significance of the application for the proposed special use permit.
3. The action taken herein shall not have any significant impacts upon the environment and declare that a Negative Declaration be adopted with respect to this action.

Conclusion

Based on the foregoing, it is resolved that the special use permit referenced herein be and is hereby granted to the Applicant in accordance with this decision. The Applicant and/or interested third parties are notified of their respective rights to appeal this decision or any part thereof in accordance with the New York Civil Practice Law and Rules.

Member Palladino motioned to accept the resolution, seconded by Member Alfasi.

Discussion: Chairman Gallo noted that this was fantastic for the Village with today's real estate market; it will benefit the Village residents. He thanked the Mayor, the Village Board and all for their hard work. Motion was carried with a vote of 3 – 0.

Item #3 100 Marbledale Rd.

Area Variance

Mr. Leonard Brandes, architect for the applicant Fleetwood Collision and Elite Bldg. Corp., requested a side yard variance and a Special Use Permit for an auto repair facility and a subdivision.

John Cavallaro, Village Attorney, stated that both public hearings for the Special Use Permit and the side yard variance were closed.

Member Alfasi offered a Resolution for the application for an area variance requested by Elite Bldg. Corp. 100 Marbledale Rd. Tuckahoe, NY for a subdivision for a new storage garage. The applicant is seeking a side yard variance from Section 4-8(a)3 side yard. Where 10 ft. side yard is required and the applicant proposes a 0 ft. side yard. Based on the balancing test of NYS law, the variance is granted based on the application of the 5-prong test. The Board adopts a negative declaration pursuant to SEQR.

Member Palladino seconded the motion.

Discussion: Chairman Gallo noted that he paid very close attention to Mr. Marinello's comments and concerns, but the environmental health standards are extremely high today. The Denning family concerns are also important and the Board will do their best to reach a balance.

Motion was carried with a vote of 3 – 0.

Item #4 100 Marbledale Rd. Special Permit

Member Alfasi offered a Resolution for the application for a Special Use Permit requested by Fleet Collision Corp. 100 Marbledale Rd. Tuckahoe, NY.

The applicant is seeking, under a Special Use Permit, a motor vehicle filling station or motor vehicle repair/body shop. Pursuant to Section 7-725(b) of the Village Law, after public notice and hearing, this Zoning Board finds that the applicant has satisfied the General and Specific Conditions for the issuance of said Special Use Permit, thus the Special Use Permit is hereby granted with the conditions that the Special Use Permit will expire within 5 years. The Board adopts a negative declaration pursuant to SEQR.

Member Palladino seconded the motion.

Discussion: Chairman Gallo noted that the applicant has done an outstanding job with the upkeep of the property. The applicant is a great member of the community.

Motion was carried unanimously with a vote of 3 – 0.

Item #5 112 Sagamore Road Area Variance

Mr. Matt Mariani requested a variance for a bathroom to be installed in their finished basement.

Member Palladino motioned to open the public hearing was seconded by Member Alfasi and unanimously carried by the Board.

No Public Comments

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

Chairman Gallo noted that he met with the Building Inspector regarding this application and it was determined that this was a minimal addition.

Chairman Gallo offered a Resolution for the application for an area variance requested by Matthew Mariani 112 Sagamore Road Tuckahoe, NY.

The applicant is seeking a variance from Section 4-3.6. FAR, where 0.5 is allowed and the application is for 0.6, for the construction of a bathroom in the finished basement of the two-family house. No additional space will be created.

Member Alfasi seconded the motion, which was carried with a vote of 3 – 0.

Item #6 15 Sylvan Avenue

Area Variance

Dorothy and Steven Fusaro, owners of the property, requested a variance to install a portico over the front steps. Mrs. Fusaro submitted a letter of support from her neighbor whom resides at 15 Maple Ave.

Member Alfasi motioned to open the public hearing was seconded by Member Palladino and unanimously carried by the Board.

No Public Comments

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

Chairman Gallo offered a Resolution for the application for an area variance requested by Steve and Dorothy Fusaro 15 Sylvan Avenue Tuckahoe, NY.

The applicant is seeking a variance from Section 4-2.4.1. Front Yard, which requires a 25 ft. front yard. Based on the application of the applicable balancing test under the NYS Village Law, the application is hereby granted as the applicant has satisfied the five-prong test under the NYS Village Law. This is a Type II action requiring no further determinations under SEQR.

Member Alfasi seconded the motion, which was carried with a vote of 3 – 0.

Item #7 181 Main Street/20 Marbledale Road Special Use Permit

Mr. Leonard Brandes, architect for the applicant, explained that this building has been vacant for the past two years. It is currently a factory with offices on the second floor. The applicant plans to keep the building ‘as is’ and relocate their business, as they outgrew their facility in Mamaroneck. The small factory takes products, such as baby formula Similac, and refines the powder. It is a very quiet and clean process. Trucks will deliver approximately twice a week. The product comes in drums or bags, which are then put on stages in a clean room. The product is sifted through the stage to be refined. There is an exhaust system with HEPA filters.

Greg Riter, manager of facility, noted that there is very little waste. It is a refining plant. The material comes in, gets refined and goes out. It does not require government oversight, there are no hazardous materials. There is no heating process, just a warm room to stretch the screens. It is all extremely controlled. There is very little noise and the facility sits behind the storage building on Marbledale Rd. There are no residents nearby. There will be eight employees with eight parking spots in the rear. Plans are to occupy immediately. The only change would be to the exterior entry door. There are no plans to change the loading dock. Hours of operation are from 7:00am to 5:00pm. On occasion, the facility may stay open late due to customer needs.

Mr. Mike Seminara noted that the Planning Board would address the parking. There is no need for an area variance for parking.

Member Alfasi motioned to open the public hearing, was seconded by Member Palladino and unanimously carried by the Board.

No Public Comments

Chairman Gallo motioned to keep the public hearing open until next month, was seconded by Member Palladino and carried with a vote of 3 – 0.

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 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.

The parking spaces total 61, but now include 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.

John Cavallaro, Village Attorney, indicated that the applicant is requesting variances for the number of parking spaces as well as the size of the parking space.

Mr. Davis, attorney representing the applicant stated that the re-notice was mailed stating the size and number of the parking variances sought.

John Cavallaro, Village Attorney, stated that the Planning Board is formulating a memo to the Zoning Board with a recommendation. The variances must be resolved for the applicant to get site plan approval from the Planning Board.

John Richmond noted that if the church next to the Lincoln side of the building were to be torn down and rebuilt, it could potentially be 42 ft. tall, which is 11 ft. taller than this application. If the application were for two separate buildings, the building could be 6 ft. taller without the need for variances. Approval for this one building is actually a reduction of the potential height on the property.

Member Palladino noted that if this were approved, the approval would require business on the first floor with residential on the upper floors.

Mr. Davis noted that a Special Use Permit was granted to the applicant, Mr. Raffiani, to allow residents on the first floor.

John Cavallaro, Village Attorney, stated that Bill Williams, Building Inspector and the applicant differ with their interpretation of the code. The applicant reads the code to say that the parking level is not enclosed and therefore is not the first level or considered a story of the building.

Mr. Davis noted that the code has several different methods to measure the height of the building and what constitutes a story. The Zoning Code is contradictory and complicated.

John Cavallaro, Village Attorney, stated that the Planning Board will determine the front of the building. The building measures 45.9 ft. if measured from Columbus.

Mr. Richmond 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. The variances requested by this applicant has been approved in the past.

Chairman Gallo asked about the number of bedrooms and the change to now include three two-bedroom units and four one-bedroom units. It was his opinion that the lofts were great as there was no impact on the school system.

Mr. Richmond noted that the change was a response to the Planning Board's concern regarding the smaller lofts. The applicant created four one-bedroom units and three two-bedroom units. He added that he received a second letter from Westchester County in support of the parking plan. One parking space per unit was acceptable. The total parking spaces on site are 61 with 6 tandem spaces, which will be allocated to the three two-bedroom units. The three two-bedroom units will share the three groups of two spaces. The remaining 55 spaces will not be specifically assigned. They will be shared by residents, commercial customers and employees. The applicant will hire someone to patrol the lot so as to avoid commuters using the spots.

John Cavallaro, Village Attorney, stated that a condition to an approval could be added to require the lot to be monitored. He would need to explore how the applicant could prove that they are monitoring the lot.

Mr. Richmond stated that the plans are for 3600 sq. ft. of commercial space. The plan is for 2 – 3 parking spaces per 1000 sq. ft. for employees as the train is nearby. There are no plans for a nightclub, restaurant, or a cabaret. There may be 2 – 4 establishments, which could be approximately 800+ sq. ft. each.

Mr. Fish noted that a revised school calculation could be completed. Three two-bedroom units will generate maybe two children whereas the lofts would generate no school-aged children. The original plan for 26 units, which had more two and three bedroom units, generated 5 students. He added that a commercial space of 700 – 900 sq. ft. could have one to two employees. He predicts that the commercial space would be two establishments. He agreed that the three two-bedroom units would have two spaces, using the tandem spaces. As for the lofts, 1.1 – 1.25 spaces per unit would be appropriate, as they would be shared spaces.

Chairman Gallo voiced his concern that parking was a very sensitive issue in this Village.

Mr. Davis noted that the code calls for 1 parking space per 200 sq. ft. of commercial space, which would be 18 parking spaces. Even one space per 300 sq. ft. of commercial space, which would be 12 spaces. There will be 61-shared spaces available and 8 additional new spaces added to the street due to this project.

Richard Pearson, Traffic Consultant representing the applicant, noted that the parking will be adequate at the site. During commercial hours, the residents will often take their vehicles out, freeing up the lot. A parking ratio of 5 spaces per 1000 is excessive. He added that there will be 86 permit spaces available after 4:00 weekdays, weekends and holidays. He projects that 40% of

residents will commute to the city by train. The applicant is willing to have an agreement with Zip car, where a vehicle is used on an 'as need' basis. It would be open to all residents in the development.

John Cavallaro, Village Attorney, noted that a condition for approval could include the requirement of a Zip car.

John Richmond summarized the parking- 41 lofts and 4 one-bedroom units share 46 spaces. The three two-bedroom unit have 6 tandem spaces – $46 + 6 = 52$ with 4 retail spaces for a total of 56 spaces. This application offers 61 spaces with 8 additional on street spaces. There are extra spaces during the evening at Crescent Place parking lot.

Chairman Gallo motioned to re-open the public hearing, seconded by Member Palladino and carried with a vote of 3 – 0.

Public Comments

Chairman Gallo submitted two letters from residents, which will be added to the file, one from Carol Macioci 136 Oakland Ave. Tuckahoe, whom asked to hold the applicant to the Village Code and ordinances. She wrote that this project is out of scale with the Crestwood area. One letter from Tracy Shivone 27 Fisher Ave. whom Chairman Gallo stated cares greatly for this Village.

Chairman Gallo responded to the letters stating that the height variance is 3ft., if it is not granted, a different building could be taller.

Louis Kunda 138 Oakland Ave. noted that he was concerned about the traffic, which is already congested in this area. He asked the Board not to consider what the traffic engineers report, but rather listen to the residents. The area includes traffic produced by Crestwood Taxi, restaurants on Fisher Ave, and students being dropped off at the train. He tried unsuccessfully to get speed bumps on Oakland, the Chief of Police indicated that a stop sign and speed bump would not be permitted due to the slope. This will be a major impact on the area.

Chairman Gallo noted that he too understands the congestion, but stated that the tax base would be great for the Village and residents. The lack of impact that this project has on the schools is a financial windfall for the schools. The Board cannot deny the project due to the vehicles, which are currently parked on the site, which will be dispersed.

Chris Shopinski 328 Columbus Ave. Tuckahoe stated that Columbus Ave is not Main St. This project does not fit this site. The displacement of the vehicles on the site are not accounted for by this application. He asked the Board to keep with the required two spaces per unit. He believes in the development of this site, he just asked the Board to do it responsibly. There is not one resident who is in favor of this particular project. Show some respect for the residents in the area for 20 – 30 years. This project is too big.

Jeff Boyer 20 Oakland Ave. noted that this economy is tough so therefore, these lofts will be shared by two tenants to decrease the living expenses. He asked the Board to downsize the

building and consider the congestion with regards to the traffic. He noted that he also could not get a stop sign installed, but his pet got killed by a speeding car in front of his home. The egress onto Fisher Ave. is not a good plan. The residents will need a vehicle to go grocery shopping. There is not enough parking spaces. A Zip car will not work here. He asked if the building would be taller than the church's roof.

Mr. Richmond responded that the height of the building will not exceed the height of the flat roof of the church. He also added that the owner of the site has paid the taxes owed to the Village. The construction of the site if approved, would last 12 – 15 months.

Member Palladino asked if the applicant could decrease the number of units, keep the lofts and add more parking spaces per unit.

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

Chairman Gallo stated that he realizes that this is a very touchy subject and he believes that the Village of Crestwood needs some improvement. His research shows that this applicant is an upstanding developer. The applicant could ask high rents due to the hard work of the prior Board members' diligent work. The Board is very concerned about this decision. He has spoken to the former Board members, the Building Inspector etc. He asked that the Board go into executive session.

10:15 pm Executive session

10:45 pm Meeting resumed

Chairman Gallo thanked the applicant, Mr. Fish, legal department, building department and Board for their efforts. He understands that time is money. The Board will continue to review this application.

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.