

Minutes of: March 14, 2007
Date Approved: _____
Date Filed/Village Clerk: _____

March 14, 2007
TUCKAHOE ZONING BOARD AND BOARD OF APPEALS
TUCKAHOE VILLAGE HALL – 8:00pm

Present: Gloria Rosell Chairperson
Susan Crane Member
Philip Allison Member
Kevin McBride Member
John Kang Member

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

Chairwoman Rosell announced the agenda as follows:

- Item #1 Approval of Minutes of the January 10, 2007 meeting.**
Item #2 201 Dante Ave. Area Variance
Item #3 81 Lincoln Ave. Area Variance
Item #4 30 Elm St. Special Use Permit
Item #5 35 Bronx St. Area Variance

Item #1 Motion by Member Crane to approve minutes of the Jan. 10, 2007 meeting, was seconded by Member Kang, with Member Allison abstaining, and approved by the Board with a vote of 4-0

Item #2 201 Dante Ave. Area Variance

The application requested was for a variance for a second floor to be added over an approved new kitchen extension. The applicant would like to take advantage of the area above the kitchen for a spare bedroom for in-laws. They will not change the footprint. The extension will not be visible from the front elevation, only from the rear.

Member Kang asked why this additional room was not grouped with the initial application for the first floor variance.

The response was that circumstances have changed since construction began.

Motion by Member Allison to open the public hearing, was seconded by Member Crane and unanimously carried by the Board.

No Public Comments

Motion by Member McBride to close the public hearing, was seconded by Member Crane and unanimously carried by the Board.

Motion by Member Crane for the application of Mr. and Mrs. Chilson requesting relief from the following section of the building code: Section 4-2.4.2 – Side yard must be not less than 9ft. along each lot line. (Proposed is 6’11”).

Recommendation is for an area variance to be granted as the benefit to the applicant of the area variance outweighs the detriment to the health, safety and welfare of the neighborhood.

1. There will not be an undesirable change in the character of the neighborhood and there will not be a detriment to nearby properties: The proposed second story addition is to the right rear of the property over the kitchen addition. The proposed addition will stay within the line of the structure and will stay within the existing footprint of the variance that he has now.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance. Addressed in 1 and 3.
3. The requested variance is not substantial. The proposed addition will not exceed past the first floor wall, nor will it extend beyond the kitchen addition variance already approved at the May 10, 2006 meeting.
4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood in that: Many homes in and around the subject home have added additions to the side, rear, and second stories of their property. The plan of this construction is in keeping with the appeal of the neighborhood.
5. The alleged difficulty was not self-created.

Member Crane made a recommendation to approve the requested area variance and that the construction to adhere to and be in compliance with the existing building code. If this variance is granted, it is stipulated that completion be one year after the issuance. The Board adopts a negative declaration pursuant to SEQR.

Member McBride seconded the motion and upon roll call was carried by the Board with a vote of 5-0.

Item #3 81 Lincoln Ave. Area Variance

Mr. Canteris, architect for the applicant, indicated that the original application was for a renovation of all three floors. The storage space will now count in the FAR which increases it by 2%. The applicant is requesting permission for the construction to continue even with the additional 2%. The original plans also were for a livable third floor attic, this is now changed to a storage area with a pull down attic ladder.

Motion by Member Crane to open the public hearing, was seconded by Member Kang and unanimously carried by the Board.

Public Comments

Mr. Ed Keenan, neighbor of the applicant, indicated that this site has been an eyesore. One code violation was the applicant dug with a trenching tool and disturbed the gas line. A major concern for the neighbors was that there is no bathroom facility on the premises for the construction crew.

Bill Williams, Building Inspector, noted that the construction has been halted several times due to not having sufficient permits. He advised the Board that a condition could be added to the approval for the applicant to provide a bathroom for the crew.

Member Kang voiced his concern as to whether the Board should add such a condition rather than ask the applicant to use common sense here and comply with the building code and regulations.

Chairwoman Rosell read a letter into the record. (See attached)

Motion by Member McBride for the application of Agron-Gjonbolt requesting relief from Section 4-2.6 for an area variance be granted as the benefit to the applicant of the area variance outweighs the detriment to the health, safety and welfare of the neighborhood.

- 1 There will not be an undesirable change in the character of the neighborhood if the variance were granted in that we find that there will be no change in the neighborhood as this is a 2% variance.
- 2 The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance.
- 3 The requested variance is not substantial. This is not substantial. The house is being renovated to original footprint.
- 4 The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood. Refer to 1, 2 and 3.
- 5 The alleged difficulty was not self-created.

If this variance is granted, it is stipulated that completion be one year after the receipt of the granting of this variance. The Board adopts a negative declaration pursuant to SEQR.

Member Allison seconded the motion and was carried by the Board with a vote of 5-0.

Item #4 30 Elm St. Special Use Permit

Leonard Retsin, representing the applicant, noted that this application was for a request to build a squash court facility. The facility will house four squash courts with a small exercise area and a juice bar. There will be 13 parking spaces on the ground level with the facility built above the parking level. The entrance will be located on Yonkers Ave. and the exit on Lake Ave. to avoid traffic congestion. There will be a wall built in front of the parking level to protect residents from the lights of the vehicles and to buffer the noise. Each court measures 19'6" in height.

Chairwoman Rosell indicated that a sports facility requires a special use permit. If approved, the applicant would appear before the Planning Board with the plans. The applicant would need to submit a landscape plan, a traffic study and a lighting plan. Chairwoman Rosell also indicted that the noise from the air-conditioning unit could be a big issue, as it must meet the noise ordinance.

Mr. Retsin indicated that the air-conditioning unit will meet the requirements, and he noted that he would rather have the units placed on the roof so the noise will travel up and away from the homes.

Member Allison asked about the roofline.

Mr. Retsin noted that the facility would indeed be higher than the small house next door. He plans to landscape that area between the two, to buffer the building.

Member McBride voiced his concern over the traffic. He insisted that a traffic study be submitted.

Mr. Jamal Amur, squash coach and trainer, indicated that having a squash court in the Village would be great. He has worked with many students who went on to receive college scholarships. There is a demand for this sport on the college level. He described the sport to be similar to racquetball.

There will be 150 – 200 members. Open from 6:30am to 9:00pm during the week and on Sundays 7:00 am to 7:00pm.

Motion by Chairwoman Rosell to open the public hearing, was seconded by Member McBride and unanimously carried by the Board.

Public Comments

Mr. John DiBendictis, owner of the property next door, indicted that this would be good for the kids here in Tuckahoe but not at this location. The kids will be hanging around. If snacks are served, there will be trash and maybe mice. He noted that he did not think 13 parking spaces would be adequate for this facility. The area was congested already. He noted that the property is an eyesore, but was concerned with the traffic, pedestrians, and the school buses in the area.

Mr. Amur noted that the courts would be used in a manner that will lessen the need for additional parking. Two courts will begin on the hour and the other two will be on the half hour.

Mr. Retsin indicated that the building could house six courts but due to parking, he will only build four courts. The parking needed is not like retail or commercial requirements.

Mr. Jerry Murray, a parent of one of the students of Mr. Amur, noted that 95% of the students would be brought to this site and dropped off. There will not be kids hanging around.

Mr. Roth, resident of Tuckahoe, also voiced his concern about the parking and if the facility has a juice bar, the clients will not leave right away and therefore will not free up a parking spot.

Mr. Steve Aldrich, President of the management of 1 Elm St., noted that this was a very busy intersection. He also noted that four parking spaces would be eliminated for the two curb cuts that would be needed for this site. He voiced his concern regarding the noise, traffic and parking.

Chairwoman Rosell indicated that the public hearing would remain open.

Item #5 35 Bronx St. Area Variance

Chairwoman Rosell began with stating that a day care center would require a special use permit. Bill Williams, Building Inspector, indicated that this application was for an education facility.

Mr. Jim Stout, attorney representing 35 Bronx St., noted that it was determined by the building inspector that this facility was an educational facility.

John Cavallaro, Village Attorney, indicated that the zoning code for the Village of Tuckahoe clearly states that a day care center requires a special use permit, a school is a permitted use and an educational facility is a term not found in the code.

Mr. Williams will revisit his determination based upon the zoning board's finding.

Member Crane summarized the variances requested;

Front yard should not be less than 25ft.; 35 ft. for buildings after 1999, the proposed is 20ft.

Rear yard should not be less than 25 ft.; 35 ft. for buildings after 1999, proposed is 10ft.

FAR Res. B is .5, proposed is .71

Parking encroaches on Village's right of way and screening and shrubs or fencing should be provided, proposed 5 spaces in front with no screening.

Parking spaces should be suitable maintained, graded with drainage, proposed has no drainage.

Required car space not less than 9ft. wide and 20ft. long, proposed 8ft. wide.

Mr. Stout indicated that this was an application for a new building and all members of the Board have received packets of the plans. He indicated that it was important for the public to know that this was not an application to continue use as it is a permitted use, and it was not an application to build a building as they have the right to a building, rather the variances requested were to operate a permitted use. He introduced Marion Anderson, Executive Director of Family and Community Services who has been working with this project since 2000.

Ms. Anderson summarized the history of the facility from 1908 – the present time. She indicated that Head Start, which is a federally funded program and educationally based, funds this center. The center serves both issues, it provides full day education along with day care. It is licensed by NYS for 44 children up to age 5 years old. The plans are to increase the center to hold 54 -58 children. September 2003 there was a re-dedication with local officials, signed by Gov. Pataki, to authorize Eastchester to allow this parkland to be used by ECDC. The original plan was to build an 18,000sq. ft. center, reduced to 12,600 sq. ft for 54 -58 children.

John Cavallaro, Village Attorney, indicated that this parkland was owned by Eastchester, an unzoned parcel of land sitting in Tuckahoe.

Ms. Diane Kaufman Fredette, architect for the center, indicated that she has studied the neighborhood and designed a building to resemble a manor house in the neighborhood. There will be 3 floors, the first for parking, the second for classrooms and offices and the third for a multipurpose room.

Chairwoman Rosell asked about the parking in the Village's right of way.

Mr. Stout noted that the parking will be discussed with the Planning Board for site plan approval. He noted that this was Res. B and even though parking was not required, the plans are to provide parking.

Member Kang asked if this would be an encroachment on the Village's property.

John Cavallaro, Village Attorney, indicated that the Village Board of Trustees would have to grant an approval for this, this Board has no authority to grant this.

Member Allison asked if the applicant would consider reducing the size of the building to eliminate some of the zoning variances.

Mr. Stout noted that the plans were already reduced. The number of variances are not substantial as the parking variances are not required due to the code not requiring parking, for a pre – 1999 lot.

Chairwoman Rosell displayed a map depicting this property dated 1858. There is no updated survey or map filed with the county.

Mr. Stout indicated that there is no need to file a new map, the property description was taken from this old map.

Bill Williams, Building Inspector, indicated that the legislature created this new lot for ECDC in 2003.

Member Kang asked if the lot is pre 1999 or post 1999.

Mr. Cavallaro, Village Attorney, noted that he would need additional documents, the survey at the time of de-dedication, both surveys, the title report on the lot, and changes, if any, to the title. In his conclusion, the records are incomplete.

Member Kang asked if the Board should consider this an education center or a day care center.

Ms. Anderson noted that the Head Start program is not funded by the Education Department but rather by the Health and Human Services Dept. The Head Start program mandates certain curriculum.

Mr. Cavallaro noted that a school is permitted, a day care center would require a special use permit and if it is called something else, it would need a use variance. The Board would have to weigh the characteristics to determine what type of use it is, and there would need to be consultants to look at the documents.

Member McBride asked how the state classifies the FSC.

Mr. Stout noted that the variances requested were minimal – FAR from .5 - .71, front set back requires 25ft, proposed 20ft, rear yard requires 25ft., proposed 10ft.

Mr. Cavallaro stated that this is a two-prong process.

1. The Board needs to first issue an interpretation; in applicant's favor or opposes the applicant.
2. Based on the interpretation, then the Board would need to analyze the percent of variances. This application has not been categorized. If categorized as a school it does not need parking, if categorized as a day care center it would need to meet the parking requirements.

Chairwoman Rosell noted that the term center was used 17 times in the memo. Center would refer to as a day care center, not school.

Mr. Stout reminded the Board that the center provides education and is part of the Head Start Program.

Ms. Anderson noted that there is a pending merger with Andrus Children Services, which is targeted to service all over Westchester with a broad range of services.

Chairwoman Rosell voiced her concern that Andrus will take over the facility in the future.

The President of Andrus Children Services addressed the Board and stated their commitment to keep services local to the community. They have been operating with a management agreement for 3 years.

Mr. Stout submitted photos of the proposed building which show the building 40ft. more narrow than the existing building which would provide parking in the set back. The building complies with height requirements. As for the FAR, the lower level falls off into the park, but the lower level gets counted. It is designed so to fit into the neighborhood. The rear yard variance is not substantial as the rear is a park. The front yard will be 5ft. more set back than what exists now.

Chairwoman Rosell read a letter from a resident. (See attached)

Motion by Member Crane to open the public hearing. This motion was seconded by Member McBride and unanimously carried by the Board.

Public Comments

Mr. D'Agostino, former mayor, was mayor at the time of this center being built. He noted that at the time there was need for a center for children to receive the necessary tools required to begin kindergarten. He noted that the children that were not prepared for school would drain the schools as remedial programs would be needed, which would be a big cost to the residents. This center costs the Village nothing. At the time, traffic was studied along with fire trucks being able to maneuver, noise etc. As a result, Tuckahoe received an award for the first Village to install such a facility.

Jeff Zuckerman, Bronx St., indicated that Ms. Amy Paulin was shocked with the initial plan of 21,000 sq. ft. It is disingenuous to call this a school. The term school is used to avoid the parking requirements and a special use permit.

Elise Rizzo, member of FSC, resident of Bronxville, noted that this is clearly not a day care center, it is a pre-school. This center was recognized at the Federal and state levels. School readiness is very important – ECDC is the jewel for the Tuckahoe schools.

Antoinette Martino, 6 Triangle Place, asked the Board to research if the center is licensed by the NYS Education Dept. She voiced her concern about there not being a guarantee of what will be at the center 20 years from now.

Ruth Sheppard, Director of ECDC, indicated that there is no legal requirement for a pre-school to be licensed by the state. This is an educational facility, but it is licensed by the state of NY as a day care center.

Steve Leone, 9 Cedar Sr., would like the center to work together with the neighbors.

Mike Simone, 32 Bronx St., voiced his concern regarding the size, use, noise level, the hours of operation, and the traffic with school buses. He submitted photos of the parking situation. He stated that this area is for 2 hour parking and noted that ECDC employees were provided with parking permits but the residents cannot park for longer than 2 hours.

Chris Debase, resident, asked where the construction vehicles would be parked along with the building supplies. He voiced his disappointment about the plans to remove the bleachers. This was not community friendly and the center should be more sensitive to the neighborhood. He asked if the center explore a different location to house this facility.

Trustee Marcoccia noted that this would impact the neighborhood. The traffic, parking and diagonal parking were major issues.

John Fix, member of the Board of ECDC, noted that the facility is well known in the area. The facility did look for new lots, too costly.

Claire Gorman, Bronx St., noted that she is a long time resident and this was always a day care center, not a school.

Barbara Luciano, resident, stated her support for this center.

Mr. Stout noted that the center is providing parking whether it is called a school or a day care center. He stated that the former Mayor D'Agostino stated that this center originated for school readiness. To lessen the traffic burden, the center will avoid double parking and create a drop off area for vehicles to pull in and out.

Member Allison noted that this would adversely affect the quality of life and impact of the neighborhood.

Ms. Anderson indicated that it is not ECDC's intention to adversely impact the neighborhood. Will return with a traffic study and will discuss options with regards to the bleachers.

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 at 11:45p.m.