

Minutes of: Jan. 8, 2020
Date Approved: __March 11, 2020
Date Filed/Village Clerk:

January 8, 2020
TUCKAHOE ZONING BOARD AND BOARD OF APPEALS
TUCKAHOE VILLAGE HALL – 7:30pm

Present: David Scalzo Acting Chairman
 John Palladino Member
 Nathan Jackman Member
 Christopher Garitee Member
 Anthony Fiore Jr. Member ad hoc

Absent: Tom Ringwald Chairperson

Also in Attendance:
 Bill Williams Building Inspector
 Gary Gjertsen Village Attorney
 George Jacquemart Village Traffic Consultant

Pledge of Allegiance

Chairman Scalzo announced the agenda as follows:

- Item #1 Approval of minutes from the December 11, 2019 Regular Meeting**
- Item #2 14-16 Columbus Ave Return**
- Item #3 22 Warren Ave Return**
- Item #4 122 Belle Vista St Return**
- Item #5 145 Main St Return**
- Item #6 21 Columbus Ave. Return**

Item #1 Approval of minutes from the Dec. 11, 2019 Regular Meeting

Member Fiore motioned to approve the minutes from the Dec. 11, 2019 meeting, seconded by Member Jackman and upon roll call carried with a vote of 5 – 0.

Item #2 14-16 Columbus Ave Return

Louis Campana, architect for the applicant requested a Special Use Permit for a new fitness center. This personal fitness center hours of operation will be from 7:00am to 8:00pm daily with group classes held at 7:00pm and Saturday and Sunday mornings. This center focuses on one to one training.

No Public Comments

Chairman Scalzo motioned to close the public hearing, seconded by Member Fiore and carried unanimously.

Member Garitee offered the following resolution in the form of a motion:

SPECIAL PERMIT RESOLUTION

The application for a Special Permit requested by _Michelle Demasi whose address is 14-16 Columbus Ave, Tuckahoe, NY Sec._ 33_Blk. 8 Lot_1_____ for relief from the following section of the zoning code: 6-1 Special Permit

Applicant, Michelle Demasi, seeks a Special Permit from this Board to open a fitness center at 14-16 Columbus Avenue, Tuckahoe. Applicant has represented that the business to be operated from said location is not a “typical” gym, but is a “one-on-one” training center where a trainer will train one client at a time. The applicant does propose several small group classes during the evening and possibly on the weekend, when there is ample parking in the area.

The location at 14-16 Columbus Avenue is a pre-existing building and it should be noted that prior to the last tenant there was a fitness studio operated out of this space.

In applying Section 6.1 of the Zoning Code to this application this Board finds that the Applicant has met the standards for a Special Permit and thus this application is approved.

It is determined that the use proposed by this applicant is compatible with the district: the location and size of the use, the nature and intensity of the operations involved in or conducted in connection with such use, the size of the site in relation to the use, the assembly of persons in connection with the use and the location of the site with respect to streets giving access to the site are such that the use will be in harmony with the appropriate and orderly development of the district in which the use is proposed to be located.

It is further determined that the use proposed is compatible with Comprehensive Plan..

Since this is a pre-existing building it is determined that all proposed structures, equipment or material will be readily accessible for fire and police protection and that the location, nature and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall not hinder or discourage the appropriate development and use of adjacent land and buildings.

Since this business will not be run as a traditional gym it is determined that the operations in connection with the use will not be offensive, dangerous, or destructive of basic environmental characteristics or detrimental to the public interest of the Village and not be more objectionable to nearby properties by reason of noise, fumes, vibration, flashing of or glare from lights and similar nuisance conditions than would be the operation of any permitted use not requiring a special permit.

The Board has determined that the neighborhood character and surrounding property values are reasonably safeguarded and that the use will not cause undue traffic congestion or create a traffic hazard.

The Planning Board has recommended this project to this Board and the recommendation includes that based on the usage that there should be no parking requirement implemented. We agree and find that the use will have little to no impact on the surrounding parking, therefore, there shall be no parking requirement implemented by this Board.

Based on the foregoing this Board adopts a negative declaration pursuant to SEQR

Member Fiore seconded the motion and upon roll call was carried with a vote of 5 – 0.

Item #3 22 Warren Ave

Return

Craig D’Anna, owner of the property, noted that there were no changes to the submitted plans.

No Public Comments

Chairman Scalzo motioned to close the public hearing, seconded by Member Jackman and carried unanimously by the board.

Member Palladino offered the following SEQR resolution in the form of a motion:

AREA VARIANCE RESOLUTION

The application for AREA VARIANCES requested by _Nancy D’Anna and Craig D’Anna whose address is 22 Warren Avenue, Tuckahoe, NY Sec._47_Blk. 2_ Lot__46____ for relief from the following sections of the zoning code: 4-2.4.2 Side Yard and 5-

1.6.3 Increasing a non-conformity.

SEQRA RESOLUTION

Based on this application as submitted, this Zoning Board of Appeals finds and determines that:

1. The action taken herein is an Unlisted Action subject to the requirements of SEQRA and its implementing regulations.
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 proposed area variance application.
3. That the action taken herein shall not have a significant adverse impact on the environment and it is declared that a Negative Declaration is hereby adopted with regard to this action.

Member Fiore seconded the motion and upon roll call was carried with a vote of 5 – 0.

Member Palladino offered the following Area Variance resolution in the form of a motion:

Applicant resides at 22 Warren Ave. Tuckahoe. Applicants are seeking to put an addition onto their non-conforming house. The addition will square off the house so as not to encroach any further into the side yard as the existing house already does. The addition will encroach 6.1 feet into the mandated 9-foot setback.

As the existing house already encroaches on the side yard, the addition will have little to no impact of the neighboring properties.

Therefore, recommendation is for the area variances to be granted as the benefit to the applicant of the area variances outweigh the detriment to health, safety and the welfare of the neighborhood. The applicant has demonstrated through its submissions and presentation that it has met all aspects of the 5-prong test to the satisfaction of this board.

Further, the granting of the variance(s) herein is granted on the condition that work under such variance be commenced and diligently prosecuted within one year of the granting thereof, failing which such variance(s) shall become null and void.

Member Fiore seconded the motion and upon roll call was carried with a vote of 5 – 0.

Item #4 122 Belle Vista St Return

Oscar Ovalle, architect representing the owner, requested approval to convert an existing garage to a photo studio. The plans are to lower the roof by 2ft.4in. remove the dormers and create a one-story garage with a sloped roof. The garage will extend out 4ft. to the left side into the applicant's property. There will be a small powder room, storage area and office in the garage. The clients will park in the driveway.

Member Jackman noted that the applicant had originally asked for a second floor to their garage, which the board responded as unacceptable. The garage has kept a front opening that could fit a vehicle so as to be converted back.

No Public Comments

Chairman Scalzo motioned to close the public hearing, seconded by Member Jackman and carried unanimously by the board.

Member Jackman offered the following SEQR resolution in the form of a motion:

The application for AREA VARIANCES requested by _Henry Kravchenko whose address is 122 Bella Vista Street, Tuckahoe, NY Sec._42 _Blk. 6_ Lot__6____
for relief from the following sections of the zoning code: 4-1.1.4 Accessory Uses, 4-2.4.3 Rear Yard and 4-2.7 Off Street Parking

SEQRA RESOLUTION

Based on this application as submitted, this Zoning Board of Appeals finds and determines that:

1. The action taken herein is an Unlisted Action subject to the requirements of SEQRA and its implementing regulations.
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 proposed area variance application.
3. That the action taken herein shall not have a significant adverse impact on the environment and it is declared that a Negative Declaration is hereby adopted with regard to this action.

Member Fiore seconded the motion and upon roll call was carried with a vote of 5 – 0.

Member Jackman offered the following Area Variance resolution in the form of a motion:

Applicant resides at 122 Bella Vista Street in Tuckahoe. At said premises there exists a non-conforming garage. Applicant is seeking to expand the garage and use the garage for storage and for a photo studio. The proposed garage would include a bathroom for clients. To achieve the desired use the applicant needs

meeting in the parking lot. The dogs that would be walked outside will be one to one training with a certified dog trainer for polite leash walking practice. One dog per handler and the dogs will be double leashed.

The kennels will be located in the basement level of the building. There should be no noise from barking. The facility will have an employee on the premises 24 hours a day 7 days a week. The dogs will never be unattended.

The dogs will never be permitted to go into the park next door.

Gary Gjertsen, Village Attorney stated that vicious dogs are not permitted in the Village. Village Code 5 -29 states

‘No owner or other person may possess, harbor or have care or custody of a vicious dog, including those specifically described in § 5-28, nor shall the training of such dogs be permitted in any dwelling unit, house, building or premises in any residential zone in the Village of Tuckahoe.’

Gary Gjertsen noted that this facility is not permitted to accept dogs with a bite history. He noted that the enforcement of this is tough.

Megan Coryat noted that if a dog has a bite history, the trainer would go to the owner’s house to train the dog. The dogs with bite history will not be accepted into this facility.

Public Comments

Sarah Mangum 21 S. High Street noted that she is a 40-year resident of Tuckahoe. She voiced her concern that this location is too close in proximity to the children’s playground, school bus stop, and residential homes with children, grandchildren playing, and ECAP. The concern regarding air quality was mentioned. She noted that trucks use the Main Street corridor all day and now to have the air from a facility with 60 dog kennels being filtered out into this residential area is not healthy. Mrs. Mangum asked why the applicant does not look for a vacant building on Marbledale Ave, which would be more suited for this type of facility. She voiced her concern regarding vicious dogs.

Leonard Brandes, architect, noted that the air will be purified. The ventilation system will emit no fumes or exhaust outside.

He added that the current loading dock would have a 10 ft. solid fence for the dogs. The dogs will not be visible to any children walking to the park. The dogs will not be in the parking lot.

Jennie Steinhagen 85 S. High Street noted that her property line is shared with this facility. She has two young children playing in the backyard. The barking is a concern as well as dogs being trained walking up right passed her house on a continuous basis. She stated that this location does not work; it does not fit into a residential area. The playground is next door, the apartment buildings, the busy Main St., the community center... this is all a perfect storm. The dogs being brought to the facility are in need of training. What if they get loose going into the facility? The facility location is not safe for the children in the area.

She noted that the parking is very congested. The members of Orange Theory park on S. High Street every single day. She stated that the dog training facility stated that she would provide classes in the evenings for dog owners for 10 to 20 people. Where are they going to find parking?

She added that the dog day training, which meets twice per week, would have 26 incidents per day of dogs being dropped off and picked up. The potential of something going wrong is high.

The facility has room for 68 kennels. She asked if that was even legal. All the dogs kept in the basement or indoors for 2 – 3 weeks at a time.

She noted the applicant presented last month and stated that a dog with a bite history would be considered with stipulations. This is very concerning for the residents nearby. The air quality is also a major concern. The air must be ventilated out of the building. Her children are playing right next door.

She stated that the pedestrian traffic right past the facility includes strollers and toddlers going to the park, the Orange Theory members, every hour every day, the condominiums, ECAP and school bus stops.

Mrs. Steinhagen asked the board to consider another location for this facility. This location is a perfect storm.

Marguerite Climent 65 Circuit Ave noted that she works next door to a dog training facility. The dogs are wonderful but there is a tremendous amount of barking. There are accidents such as a dog leashed dropped and the dog goes running into traffic or

to a nearby child. The safety of the children should be the number one priority. The facility and the plans sound beautiful, but in reality, this location would not be safe.

Odean Mangum 21 S. High Street voiced his concern regarding health and safety of the residents as well as the effect on the property values. The ventilation of the air filter system will exit through the basement windows, which are located right at the kiddie section of the park next door. He asked if alternate sites were explored. The Special Use Permit should not be granted.

Eddie Lennon noted that he walks to the train station every morning. The traffic on Main St. is constant. He voiced his concern regarding so many vehicles turning in and out of the small parking lot on Main St. He asked if a traffic study, an environmental study, a ventilation study and a sound study were conducted.

There are too many safety concerns with this location with the playground right next door.

He added that it sounds great on paper, but in reality, the applicant should find a better location in Tuckahoe.

Mr. Lennon added that he called the website number and was told that the franchise holds doggie day school every day.

Member Jackman noted that he understands the concerns, but if this application were approved, the condition would be that the facility could only provide doggie day school twice a week for a limit of 10 dogs.

Gary Gjertsen, Village Attorney, noted that if there are dogs barking continuously, the resident should call the Police Dept. The Police Officer would arrive and sit for 15 minutes. If the barking continues for more than 15 minutes, a \$250 citation would be given for each occurrence. A condition to the resolution could be added that states after 3 – 4 fines, the Special Use Permit would be revoked.

Mr. Mangum reiterated that the safety of the children in the area should be the priority. Their lives would be a risk between the dogs and the air being filtered into the kiddie section of the park. He asked the board to reconsider this application.

Leonard Brandes noted that the previous tenant was a manufacturing company, PTI. There were no noise complaints with the machines because the building is a solid building. Any potential vicious dogs are trained at their house, not on the premises.

He added that the kennels would be in the basement. There are two forms of egress for emergencies. There is no sprinkler system and there is none required.

Bill Williams, Building Inspector noted that the code does not require a sprinkler system for this facility.

Member Jackman stated that he would like more information and the specs of the proposed air filter system for the Board to review.

Chairman Scalzo motioned to close the public hearing, seconded by Member Jackman and carried unanimously.

Chairman Scalzo noted that the Board has 60 days to review the information and make their decision.

Item #6 21 Columbus Ave. Return

Mr. Adam Wekstein, attorney for the applicant, The Learning Experience, stated that this application is to house a day care center at the Epstein's location. It is a business zone, which permits day care centers with a Special Use Permit.

The applicant has been before the Planning Board to discuss parking. The on-street parking availability meets the needs of this day care center. The employees may park one vehicle on site, there are 5 parking permits acquired and the franchise will subsidize the remaining metered parking for the employees, which will be determined by the Planning Board. He added that there has been expert opinions given with regards to the pedestrian traffic, the vehicle traffic and the intersection of Columbus and Main Streets. These experts predict that there will be no significant impact.

Andrew Villari, Traffic Consultant, noted that he has consulted with George Jacquemart Village Traffic Consultant, and provided numerous studies to support this application.

Member Jackman noted that his concern was regarding a certain number of parents that change their commute route to drop their children at this site, then park and take the Metro North from the Tuckahoe station to the city. He stated that he did exactly that, when his children were younger. He changed his commute to take the train closer to the day care center. He voiced his disappointment that this was not addressed and a specific number or percentage was not presented.

Matthew Jarmel, architect for the applicant, stated that 85% of the parents will reside within 1-2 miles from the center and 10 to 15% may change their commute route.

Mr. George Jacquemart, Village Traffic Consultant, noted that no one could come up with a specific number. He added that it was a complicated question.

Member Jackman noted that the potential commuters would try to park on the residential areas, which are congested already.

Member Fiore added that the Village has two train stations, which could affect the number of commuters.

Mr. Villari noted that there is really no peak time such as school drop-offs. There is a rolling drop-off in the morning hours and rolling pick-up in the late afternoon.

The intersection study conducted noted that the average wait time at the Main Street and Columbus Ave. intersection was at 50+ seconds; which is a Level D.

Chairman Scalzo noted that the intersection is currently at its tipping point. An increase of the projected 4.5% will flip the wait time to a Level E. This will certainly increase congestion.

Member Jackman added that the morning wait time was 52 seconds, the afternoon was 55 seconds. The future will certainly extend beyond 55 seconds brings the intersection to a Level E.

Mr. Jacquemart noted that the intersection is at its tipping point because it is an inefficient traffic signal. The estimated cost of an intersection study could be approximately \$20,000 to \$30,000. His recommendation was that the traffic signal be updated. A 4.5% increase in traffic at an intersection is not typical and the traffic signal is inefficient.

Member Jackman noted that a traffic study was conducted recently for numerous developments in the Village, including the hotel, The Quarry, etc. and the residents are annoyed with the traffic and now the Village is contemplating entering a Level E; at a very important intersection in the Village.

Gary Gjertsen, Village Attorney noted that increase would result in a 1- 2 seconds per vehicle at the intersection. He added that a study of the intersection was not completed yet.

Member Jackman noted that this may be a massive impact on the intersection. He added that he does not have faith in the study.

Mr. Villari noted that the increase is distributed to an increase of 1% from the North of the intersection, 1% from the East and 2% from the South of the intersection.

Mr. Wekstein noted that the law is clear, both the Village expert and the applicant's expert agree that the increase in traffic will have no significant impact. A Special Use Permit could be denied if the proof in the record is that the impact is greater than what can be at the site as of right, such as a restaurant or a theatre.

Public Comments

Ms. Adriana Kierszenbaum, Attorney for Andrus Early Learning Center noted that this board could deny a day care center due to facts presented. There is a major issue in the village regarding the parking for the staff of the potential day care center. If approved, this application would add to a dangerous traffic situation. It also may potentially be a hazard regarding emergency services such as fire drills.

Ms. Frances Clayton, Director of Operations at Andrus, noted that the estimate of 29 employees for this facility is very low. She noted that the two facilities were quite similar; same tuition costs, same geographic draw, but the ratio of staff to children is too low from the applicant. Ms. Clayton provided a chart to highlight the actual number of staff compared to the operating number of staff. She added that all the numbers provided by the applicant are based on operating staff and not actual staff. It is misleading and the numbers are quite different. She added that most staff are required during mid-day. As some staff members leave and others arrive, there would need to be more parking spaces available for the turnover.

She added that she asked the parents of the Andrus Learning Center to fill out a questionnaire. So far, 88% of the parents returned the survey. She will provide the results to this Board.

Ms. Clayton noted that the examples of other locations of the TLE cited were not this close proximity to the train station. She also added that the requirements differ from NJ to NY.

Ms. Clayton quoted from a letter sent from Stonefield, that half of their staff park in unmetered parking spots; which in her opinion will not change even if subsidized. This cannot be enforced. She repeated that the staff estimates were baffling low and the estimated parking needs are baffling low. She will submit the survey recently

conducted by the clients of Andrus to the Board to review. The majority of the clients reside in the immediate area; Tuckahoe, Bronxville, Eastchester, but the families drive to the center, they do not walk.

Member Garitee asked that Andrus submit the survey for review.

Chairman Scalzo asked for a routine of a normal day.

Ms. Clayton stated that 40% are dropped off between 7:30 to 8:00am
30% are dropped off between 8:00 to 8:30am and
40% of families pick up between 5:30 to 6:00pm.

She added that there are currently 10 children enrolled in a Special Education program and they are in school for a half day. These students have services provided such as therapists etc. that come to the facility throughout the morning.

Mr. Kawer, owner of the Benjamin Paint store next to Epsteins noted that this proposed day care center is in a dangerous intersection. The parents may have to cross Columbus Ave. in the early morning hours. Commuters already fill the 12-hour parking spaces.

The Fire Dept., Police Dept., Library and Community Center are nearby. This is not the area for this center. The children's safety is a concern. There is no guarantee that the intersection would get better.

The paint store has delivery trucks, 40 ft. trucks, and most of their contractors arrive between 7:00 – 10:00 am. This will be a nightmare of traffic.

Ms. Clayton added that there are fire drills once per month and the children are escorted across the street to the parking lot. The Police Dept. closes Underhill Rd. for the duration of the fire drill.

There is a cook on staff, a milk delivery truck, food delivery truck, office supplies delivered periodically, and the therapists for the Early Intervention Services for the Special Education Program that all add to the equation.

Mr. Jarmel noted that the TLE does not cater to the special needs population so there would be no early intervention services. There are currently 250 TLE's around the country with responsibility of 30,000 children. There are different requirements for NJ and NY and that was taken into consideration. The centers operate at 85% capacity. The drop off and pick up time window is 5 – 7 minutes. There is no cook. There will be a food truck delivery once per week with snacks for the children.

Mr. Jarmel added that there are currently new TLE's under construction, close to the train stations in New Rochelle, White Plains, Briarcliff Manor and Hoboken NJ.

Member Jackman noted that if the TLE's are placing their facilities near the train stations, they are targeting two income parents, who commute to the city.

Ms. Kierszenbaum added that the applicant should provide traffic studies and supply the board with a staffing model, including the directors and receptionist.

Mr. Wekstein noted that the arguments are arbitrary and capricious.

Chairman Scalzo motioned to close the public hearing, seconded by Member Jackman and carried with a vote of 5 – 0.

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.