

Minutes of: Mar. 11, 2020
Date Approved: _May 13, 2020
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March 11, 2020

TUCKAHOE ZONING BOARD AND BOARD OF APPEALS
TUCKAHOE VILLAGE HALL – 7:30pm

Present: Tom Ringwald Chairperson
 John Palladino Member
 Nathan Jackman Member
 Christopher Garitee Member
 Anthony Fiore Jr. Member ad hoc

Absent: David Scalzo Member

Also in Attendance:

 Bill Williams Building Inspector
 Gary Gjertsen Village Attorney

Pledge of Allegiance

Chairman Ringwald announced the agenda as follows:

Item #1 Approval of minutes from the January 8, 2020
Regular Meeting
Item #2 145 Main St. Return
Item #3 21 Columbus Ave. Return
Item #4 77 Lake Ave. Area Variance

Item #1 Approval of minutes from the January 8, 2020
Regular Meeting

Member Fiore motioned to approve the January 8, 2020 Regular Meeting minutes, seconded by Member Palladino and upon roll call was carried with a vote of 4 – 0 with Chairman Ringwald abstaining due to his absence.

Item #2 145 Main Street**Return**

Leonard Brandes, architect representing the owner, noted that there have been no changes to the plans since the last presentation.

Chairman Ringwald stated that this is a voluntary Board and always have the best interest of the village in mind when making decisions. He thanked the Board for their diligence and the applicants for their patience.

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

VILLAGE OF TUCKAHOE**ZONING BOARD OF APPEALS****SPECIAL PERMIT RESOLUTION**

The application for a SPECIAL PERMIT is requested by Instinct Dog Behavior & Training LLC

whose address is 145 Main Street, Tuckahoe, NY Sec. 29 Blk. 3 Lot 16

The Applicant is seeking to open a dog training facility/school at the premises located at 145 Main Street Tuckahoe. The Building Inspector has determined that the proposed use by the applicant falls under the category of school. The applicant requires a special permit as the use as a school requires a Special Permit in the Business District pursuant to 4-6.1 of the Village of Tuckahoe's Zoning Code. Thus, a Special Permit is required, and this instant application is made before this Board.

Applicant is proposing to open a dog training/school at the premises located at 145 Main Street Tuckahoe. The premises are an existing building that previously housed a light industrial tenant. The applicant is proposing no exterior alterations to the building but is seeking to make significant interior alterations.

The Standards of a Special Permit Use in the Business District are located in section 6-1.6 subsections (a) through (i) of the Village of Tuckahoe's Zoning Code. These nine prongs are (a) compatibility with the district, (b) compatibility with the comprehensive plan, (c) accessibility for police and fire services, (d) physical compatibility with adjacent properties, (e) nuisances, (f) neighborhood character and property value, (g) traffic, (h) parking, and (i) conformity to the Village Laws and Codes. For the sake of brevity, this decision will only address prongs that are not satisfied by the Applicant. Our analysis of same is as follows:

(a) Compatibility with district. Compatibility is determined if by examining the location and size of a proposed use, the nature and intensity of the operations involved in connection with a proposed use, the size of the site in relation to the proposed use, the assembly of persons in connection with the proposed 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.

The proposed use would house, at max capacity, approximately 68 dogs while operating 24-hours a day, 7-days a week, directly abutting residential property. The number of animals in such close proximity to surrounding residents would be reasonably expected to result in a change in nighttime noise levels and activity. The requested Special Permit Use will not “be in harmony with the appropriate and orderly development of the district in which the use is proposed to be located.”

(c) Services: that all proposed structures, equipment or material will be readily accessible for fire and police protection.

The premises located at 145 Main Street do not currently have a sprinkler system for use in the event of a fire and no plans to construct a sprinkler system have been submitted. The proposed use would house up to approximately 68 dogs and/or puppies with behavioral issues, most of them in a basement also occupied by an operational mechanical room, with limited means of entry and exit. In the event of a catastrophic fire at 145 Main Street, most, if not all, of the dogs housed on the premises will likely die. Placing the Fire Department in a situation where they would have to attempt to save 68 scared animals with behavioral issues and/or animals undergoing behavioral training from an area with limited entry and exit points in a building confined by gates would place an unreasonable burden upon them. The proposed use creates an unreasonable risk for the loss of life while placing an extremely unreasonable burden on the Fire Department.

(e) Nuisance: that 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.

Again, the proposed use would house, at max capacity, approximately 68 dogs while operating 24-hours a day, 7-days a week, directly abutting residential property. The number of animals in such close proximity to surrounding residents would be reasonably expected to result in a change in nighttime noise levels and activity.

(f) Neighborhood character and property values. The neighborhood character and surrounding property values shall be reasonably safeguarded.

Placing a 24-hour, 7-day a week, business directly adjacent to residential property is reasonably likely to have an adverse effect on the neighborhood character and surrounding property values will likely suffer.

(i) That the use conforms in all respects to all the regulations of the Village of Tuckahoe Zoning Code and particularly to the specific supplemental regulations that apply to such use.

This proposed use does not conform to the requirements laid out in the Village of Tuckahoe's Zoning Code section 6-1.6 subsections (a), (c), (e), and (f), thereby also failing to satisfy subsection (i).

Based on the above, the application for a Special Permit is hereby denied.

Member Fiore seconded the motion and upon roll call was carried with a vote of 3 -2 with Chairman Ringwald and Member Palladino voting in opposition.

Member Jackman added that the Board received numerous letters from residents regarding this application. The Board takes all the comments and concerns very seriously, but the Board does not respond to public opinion or mass protests that do not serve in a positive manner.

Item #3 21 Columbus Ave. Return

Chairman Ringwald offered the following resolution in the form of a motion:

SPECIAL PERMIT RESOLUTION

The application for a SPECIAL PERMIT is requested by _21 Columbus LLC whose address is 21 Columbus Avenue, Tuckahoe, NY Sec. 33_Blk. 2 Lot_28__ The Applicant is seeking to open a nationally branded child daycare and early development center at 21 Columbus Avenue. 21 Columbus Avenue is an existing building used in the past as retail. The applicant requires a special permit as the use as a day care facility requires a special permit in the Business District pursuant to 4-6.1 of the Village of Tuckahoe's Zoning Code. Thus, a special permit is required and this instant application is made before this Board.

In making this determination for a Special Permit this Board has received input from the Village of Tuckahoe's Planners, BFJ Planning, the Village of Tuckahoe's Planning Board, by letter dated December 5, 2019, the Chief of Police. We have heard from the applicant at a number of work sessions and public

hearings. We have also heard from the public at several public hearings about this application.

The Standards of a Special Permit in the Business District are located in Article 6 of the Village of Tuckahoe's Zoning Code. The standards and our analysis of same are as follows:

- 1. Compatibility with district: that 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.**

Currently existing on the premises is Epstein's a retail store that has been a staple in the community for countless years. There has been a diminished clientele over the past decade and the over that time there has been little to no impact on the surrounding area. The premises is one of the larger commercial buildings in the downtown area and use of the premises will have some impact of the surrounding area no matter what business goes into the premises.

The applicant's proposed project will have the most impact on the community in the morning and late afternoon to early evening hours. This corresponds with the drop off and pickup times for children. We will impose safeguards to ensure a safe orderly drop-off and pick-up that we will make part of this approval. We, further, find that this use is appropriate for the orderly development of the District. The site has excellent roadway access, being located along Columbus Avenue and in close proximity to Main Street. It is located in the downtown area and is surrounded by other commercial uses. The use will bring in a number of employees that will hopefully utilize the other businesses in the area. It is our understanding that there is a significant demand for childcare services in the community. Having a location near the train station will make it easier for parents that wish to drop their children off before commuting to work.

2. Compatibility with Comprehensive Plan: that the proposed use will be compatible with the goals and objectives of the Comprehensive Plan.

We find that the proposed use is compatible with the goals and objectives of the master plan. The premises is located in the business zone and a day care facility is an allowed use by special permit in said zone. We find that the use of this existing building as a daycare facility will help to enhance this business district in attracting patrons to support the nearby local businesses. This is specifically compatible with Goals 3 and 4 of the 2008 Comprehensive Plan.

3. Services: that all proposed structures, equipment or material will be readily accessible for fire and police protection.

The premises is an existing building that currently complies with the Building and fire codes. The site is on a major road – Columbus Avenue - and is within close proximity to the Tuckahoe Police Department and the Eastchester Fire Department Station. As a condition of this approval the applicant shall receive letter of no objection from the police and fire department.

4. Adjacent properties: 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.

As stated previously the application will be utilizing an existing building. No proposed exterior features would impact surrounding buildings. Since this is an existing building we find this condition is satisfied.

5. Nuisance: that 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.

Putting aside the impact of traffic and parking there will be little to no activities that would cause a nuisance to surrounding properties. The day care facility

will be primarily housed within the existing structure. There will be a small outdoor playground in the back/side of the building that will not cause any impact to the surrounding area.

6. Neighborhood character and property values. The neighborhood character and surrounding property values shall be reasonably safeguarded.

The proposed use will ensure that the property values will be safeguarded. The premises is located in the business district. The use will attract potential customers to the surrounding business and should help to revitalize the surrounding community.

7. Traffic: that the use will not cause undue traffic congestion or create a traffic hazard.

As discussed earlier, the site will be most active in the morning peak hour and the evening peak hour. There is a concern about impacts to traffic congestion and the logistics and safety during drop-off and pickup. With regard to traffic, this area is already congested during the peak hours. A large cause of the congestion is the traffic light at Main Street and Columbus. A complete cycle at this light is approximately 150 seconds which is quite long for traffic lights. The issue with this light is not new and is being reviewed by the Village in coordination with the County. The proposed project is expected to add approximately 1 second of delay on average compared to the “No Build Scenario”, which does not qualify as a significant impact. The Village’s planning consultant agrees with this conclusion.

Our concern is not only about the additional traffic, but also the movements in and out of the short term spaces, which may occasionally cause additional delay. The other concern is human nature, there are times when parents will be running late and may double-park to drop their children off at the facility, potentially creating a hazardous condition for all. Traffic enforcement will be needed to monitor this, on top of additional measures the Applicant can provide, (i.e. signage, attendants, noticing to parents) to ensure that conditions are safe, particularly during those peak periods. This can be addressed in the site plan approval process.

8. Parking: that parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

The proposed project has only space on-site located in the driveway. According to the applicant, the total number of parking spaces needed to support this facility is 19 spaces. The parking demand was determined in the Parking Utilization Study and the August 16, 2019 Traffic Impact Study prepared by Stonefield Engineering and Design. The Village's consultant, BFJ Planning reviewed the study and provided a memo which supports the conclusion that the parking demand is 19 spaces. This included a 27% reduction in comparison to the number of spaces needed for suburban locations, largely due to the proximity to public transportation and denser urban context, where people can walk instead of drive. The Zoning Board of Appeals supports the use of 19 spaces as a demand for parking.

When considering whether existing parking facilities are adequate to support the application, we looked at visitor parking and employee parking separately. According to the applicant's Parking Utilization Study, there appears to be enough supply of public parking during the day to satisfy demand, as confirmed by the Police Chief. Recognizing that parking is an on-going issue (not just for this application), the Village has already made some significant improvements to increase parking capacity along Columbus Avenue. This includes the addition of 11 spaces in areas that were previously striped off, 10 of which would be 4-hour spaces intended for employees. According to the applicant's parking demand estimates, the peak period for visitor parking is in the morning when 14 spaces are needed for drop-offs. The applicant has explained that it has flexible hours for drop off and pick-ups which helps to eliminate the queueing and bunching that one can observe at typical schools and other nursery schools. The Village has agreed to modify parking along Columbus to provide six short term spaces adjacent to the project. Three spaces would be provided on the southbound and northbound sides of the street. The 15-minute parking spaces would not be dedicated to The Learning Center, but will help with drop off and pick up. Ensuring the safety of children is of paramount concern. The applicant has agreed to repaint the crosswalks and provide signage with flashing beacons to warn drivers of pedestrians needing to cross.

With regard to employee parking, a primary concern was ensuring that employees utilize the available parking facilities and not exacerbate the parking issues experienced in the surrounding residential areas. The applicant has agreed to provide a subsidy to mitigate this impact. This would be in the form of purchasing parking permits in public lots or subsidizing the cost of on-street parking. The details of this condition can be clarified during the site plan approval process. We recognize that this subsidy is not typically asked for commercial applications in the downtown area. However, the Zoning

Board has also not seen anything close to the same scale with the unique parking patterns, and limited available off-street parking.

9. That the use conforms in all respects to all the regulations of this Appendix and particularly to the specific supplemental regulations that apply to such use.

As stated previously the use of this building as a daycare facility is permitted in this district by special permit and we find that the use is appropriate at this location. There will be impacts on traffic and parking, however, we find that the use day care facility will have a no larger impact than other uses allowed by right in this district. We agree with the Planning Board of their concerns in their December 5, 2019 letter to this Board and believe that the conditions to be imposed by this Board will address those concerns. We would encourage the Planning Board to impose any further conditions it feels necessary to make this facility a safe and positive addition to the surrounding district.

The conditions to this approval are as follows:

1. The applicant shall implement the improvements to the Underhill and Columbus, namely restriping the intersection and placing a flashing crossing beacon at said intersection to allow for a safer crossing for pedestrians across said intersection. The costs for said improvements shall be borne by the applicant and since the improvements will be made on the Village of Tuckahoe property the Village Board must approve the improvements.
2. The applicant shall pay for new meter heads for the short term parking meters in front of the premises and across the street from the premises. The Village currently does not have meter heads that can be set for 15 minutes, thus the cost will be paid for by the applicant.
3. The applicant shall subsidize parking for its employees. This would be in the form of purchasing parking permits in public lots or subsidizing the cost of on-street parking. The details of this condition can be clarified during the site plan approval process.
4. Employees of the facility shall not use the residential neighborhood for parking. This shall be a policy of the applicant and shall be enforced by the applicant. If it is determined that the employees are utilizing the residential neighborhoods for parking the applicant shall be brought before this Board to determine whether this special permit shall be revoked.
5. Applicant shall have a monitor stationed outside during the hours of 7 am to 9 am and then from 4 pm to 6 pm on days the center is in operation. The

monitor shall insure that the drop off and pick up are in accordance with the facilities regulations and that no cars may be double parked.

6. The applicant shall obtain form the Tuckahoe Fire Department and Tuckahoe Police Department a letter of no objection to this project.

Member Palladino seconded the motion and upon roll call was carried with a vote of 3-2 with Member Jackman and Member Garitee voting no.

Member Jackman voiced his concern that this approval will impact the resident's permit parking. He noted that he did not agree with the traffic expert's traffic studies based upon his own experience with that busy intersection. This is a national corporation which will care very little of the impact of the commute and the daily life of the residents.

Chairman Ringwald noted that the applicant must follow the six clear rules and regulations. If the applicant does not follow these rules and regulations, the approval will be revoked.

Item #4 77 Lake Ave. Area Variance

Dom Devito, applicant and property owner noted that this application was to pave the front of his property to park their vehicles. Each house on this street is attached. Each house has already converted the front space to a parking space. There is not enough parking spaces on Lake Ave for all the residents. The applicant stated that he would not remove the mature trees on the property. The pavers will be porous type pavers. This renovation will maintain the image of the block. He and his wife just had a baby. The action of taking their baby and their belongings out of the car while it is double-parked is not safe. The house sits close to the busy intersection.

Mr. Devito submitted photos of the planned space.

Member Jackman advised the applicant to consider safeguarding the staircase that leads to the basement with a short fence and curb.

Bill Williams noted that a railing was not required.

Member Fiore added that the applicant would need approval from the DPW for the curb cut.

The applicant noted that he has indeed spoke with the supervisor of the DPW.

Chairman Ringwald that this is a unique home. The row houses do not have enough parking spaces on the street. Every house on this street has this type of driveway. He thanked the applicant that the mature trees will stay.

Chairman Ringwald motioned to open the public hearing, seconded by Member Fiore and carried unanimously by the Board.

No Public Comments

Chairman Ringwald motioned to keep the public hearing open, seconded by Member Fiore and carried unanimously.

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.