

**Minutes of: Nov. 10, 2021**  
**Date Approved: \_Dec. 8, 2021**  
**Date Filed/Village Clerk:**

**November 10, 2021**  
**TUCKAHOE ZONING BOARD AND BOARD OF APPEALS**  
**Village Hall – 7:30pm**

<b>Present:</b>	Tom Ringwald	Chairperson
	David Scalzo	Member
	Nathan Jackman	Member
	Anthony Fiore Jr.	Member
	Christina Brown	Member

**Also in Attendance:**

Bill Williams	Building Inspector
Mike Seminara	Assistant Building Inspector
Gary Gjertsen	Village Attorney
Carolina Fonseca	Village Consultant
Noah Levine	Village Consultant – BFJ Planning

**Chairman Ringwald announced the agenda as follows:**

<b>Item #1</b>	<b>Approval of minutes from the October 13, 2021</b>
	<b>Regular Meeting</b>
<b>Item #2</b>	<b>41 Armourvilla Avenue      Site Plan</b>
<b>Item #3</b>	<b>377 Marbledale Rd.      Return</b>
<b>Item #4</b>	<b>69 Main St.      Adjourned</b>
<b>Item #5</b>	<b>22 Underhill St.      Adjourned</b>

**Item #1     Approval of minutes from the October 13, 2021  
Regular Meeting**

**Member Scalzo motioned to approve the Regular Meeting minutes dated October 13, 2021, seconded by Member Fiore and upon roll call was carried with a vote of 4 – 0, with Member Jackman abstaining due to his absence.**

**Item #2     41 Armourvilla Avenue     Site Plan**

Mike Finelli, architect for the applicant, is seeking a variance for parking in the front yard. The submitted plans are to widen the existing driveway from 8 ft. to 18 ft. This will only increase the current 10ft. curb cut by two additional feet, to measure 12 ft. The distance from the applicant's current curb cut to the next curb cut to the left is 54 ft. and 70ft. to the next curb cut to the right. Most houses in the area have a wide driveway and wide curb cut. The sidewalks are in disrepair and will be repaired.

Member Scalzo stated that the driveway would be 4.5 ft. from the fence. He asked if the neighbors to the right and left were in agreement as they are the neighbors that would be most impacted by this application.

Mr. Finelli noted that the neighbors were in favor of the application and he will submit letters from them.

Member Jackman noted that this was not standard to grant approvals for parking in the front of the house, but the parking situation is very tight in this area.

Chairman Ringwald stated that the application was technically not for parking in the front yard but rather the side yard. This application seems like a reasonable request.

Member Fiore asked if the driveway would be blacktop. He also asked that the mature tree near the driveway be preserved.

Mr. Finelli indicated that the driveway would be repaved with new blacktop. There will be a drywell in the center of the driveway.

Gary Gjertsen, Village Attorney noted that the applicant must get approval from the DPW for the curb cut prior to the granting of this approval.

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

### **No Public Comments**

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

### **Item #3    377 Marbledale Rd.            Return**

Max Mahalek, attorney for the applicant, noted that the interpretation for the lots were in dispute. He noted that in 1999 the Zoning Code changed. These lots are not being created as the lot lines that are being changed were in an established lot pre 1999. The applicant is only adjusting the lot line. In so doing, the Zoning Code that existed pre 1999 should be in effect. No new lots are being created. The lots all exist pre 1999.

Member Scalzo noted that the application is to demolish a house, and split an existing lot into two lots. He indicated that any lot in the Village that exists now, the owner could potentially demolish their house and make two lots.

Chairman Ringwald stated that the adjustment of the lot line is creating a new lot.

Mr. Mahalek stated that the lot exists and two additional lots will be adjusted. There is no new additional space as it is the same size property on the deed.

Member Brown asked if this application is not for the creation of a new lot, than what is?

Mr. Mahalek noted that an undeveloped land that was going to be subdivided and needed utilities etc. would be considered a new lot. A lot line adjustment is just moving the lot lines to accommodate or comply with the Zoning Code. This is a unique property and there is no precedent. The Zoning Code was changed to reduce density. These proposed changes will adhere to the open space requirements.

Member Jackman noted that this specific topic has been raised before. An applicant can build a very large house on the lot. It was his understanding that this is what the Village Board would prefer.

Gary Gjertsen, Village Attorney noted that the applicant can build a very big house as of right. The Planning Board must oversee the application, as it must be in harmony with the neighborhood.

Member Scalzo added that diversity in the Village is a good thing. A multimillion-dollar mansion may be welcomed into the village rather than a few high-density homes.

Mr. Mahalek noted that the proposed application is based on the Zoning Code. It was his understanding that the Planning Board had no problem with splitting up the lots.

Gary Gjertsen noted that he would forward the letter from the Planning Board regarding this application.

Bill Williams, Building Inspector, stated that the Zoning Code is clear and any newly created lot including moving lot lines must adhere to the post 1999 Zoning Code.

At the time of the code changes, the Village had a public hearing and notices were sent out to the residents. The residents were given the opportunity to move lot lines prior to the Zoning change; otherwise, they would have to adhere to the new Zoning Code. The Village Board at that time made it clear that any building lot in that district must be a minimal of 10,000 sq. ft. The residents had the opportunity to move lot lines at that time.

Noah Levine, Village Planning Consultant, noted that he spoke to Les Maron, the Village Attorney at the time of the Zoning Code changes in 1999, said that the changes to the code were to reduce density. All the lots must conform to the minimum standards. The adjustment and merging of lot lines, is the creation of new lots.

Gary Gjertsen stated that he was in complete agreement with the Building Inspector and Village Planning Consultant. He defined a lot as – any parcel of land occupied or to be occupied by a building. The only reason to adjust lot lines is for two pieces of property to build two houses. The only reason to move a lot line is to build something. Two newly created lots to build two houses.

Member Scalzo added that the demolition of the existing house and to adjust the lot lines is introducing a lot line that does not exist today.

Noah Levine noted that the Zoning Board would set a precedent with this decision.

Chairman Ringwald added that when one adjusts a lot line – one creates a new lot. The applicant then needs to adhere to the post 1999 rules.

Jonathon Giahn, owner of the property asked what the buildable rights are with this property. The question is if he were to build a large house as of right, would that be in harmony with the surrounding neighborhood. He stated that harmony is subjective. A very big house is not within character of the neighborhood.

Mr. Mahalek also asked for FAR clarification for each lot in this district with the design of the three houses and with what could be built as of right.

Bill Williams noted that he could try to clarify the questions but does not have an application in front of him. He believes that if the applicant were to combine the lots 50 x 100 on one side and three lots together 15000 sq. ft. lot, larger house could potentially be 7000 sq. ft. with an FAR of .50  
He added that he looked at the ordinance when adopted, .50 FAR one house on small lot and a big house on the larger lot.

Member Jackman noted that this exact type of application came before the Board a few years ago and the applicant decided to build one larger house rather than two smaller houses.

Chairman Ringwald noted that there are approximately 25 letters from neighbors that are in opposition to this application. He asked the applicant that if he has letters from neighbors that are in support of this application, to please submit them. The letters do not decide the outcome, the Board members use the five-prong test and the details of the application to determine the result, but the letters are indeed a good resource.

Mr. Mahalek the applicant is looking for finality on the interpretation of the lots to determine the variances requested in the subsequent presentations.

**Chairman Ringwald stated that the public hearing was still open on the interpretation of the creation of new lots.**

### **Public Comments**

Joe Sabelja 374 Marbledale Rd. right across the street from the property being discussed noted that he appreciates that the developer wants to develop the property but he was speaking for most of the neighbors that he and the neighbors support the Master Plan and Zoning Code. These lots should be considered new lots and should adhere to the new lot requirements.

Bill Maher 350 Marbledale Rd. stated that he too agrees that this adjustment of lot lines is creating new lots. The character of the neighborhood should be considered. There is a major problem with water runoff in the neighborhood. He recently paid \$50,000 for a water problem. FEMA designated this area a disaster area after Hurricane Ida. The neighbors are very concerned.

**No Comments from the public on the Zoom link.**

**Chairman Ringwald motioned to close the public hearing regarding the Village's interpretation of the creation of new lots, seconded by Member Fiore and carried unanimously by the Board.**

**Chairman Ringwald reminded the applicant to discuss the FAR requirements with the Building Inspector.**

<b>Item #4</b>	<b>69 Main St.</b>	<b>Adjourned</b>
<b>Item #5</b>	<b>22 Underhill St.</b>	<b>Adjourned</b>

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.