

Minutes of: March 14, 2012  
Date Approved: April 11, 2012  
Date Filed/Village Clerk:

**March 14, 2012**

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

**Present:** Ronald Gallo Chairperson  
Steve Alfasi Member  
Nicholas DiSalvo Member  
John Palladino Member

**Absent:** David Kubaska Member

**Also in Attendance:**

John Cavallaro Village Attorney  
Frank Fish Village Consultant  
Bill Williams Building Inspector

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

**Item #1 Approval of Minutes from the February 8, 2012 meeting**

**Item #2 146, 150, 160 Main St. 233 Midland Avenue**

Extension for Special Permit Use

Extend Special Permit

**Item #3 100 Main Street**

Variance for multi-family residential with commercial component

Area Variance

**Item #1 Approval of Minutes from the February 8, 2012 meeting**

Member DiSalvo motioned to approve the Feb. 8, 2012 minutes, seconded by Member Palladino and carried with a vote of 4 – 0.

**Item #2 146, 150, 160 Main St. 233 Midland Avenue**

Mr. Null, attorney representing the applicant, stated that the Special Use Permit was granted back in 2008. During the financial debacle of 2008, the project was delayed considerably. The Planning Board reviewed the application for over a year and granted Site Plan approval in December 2011. Within a short time after approval was granted, there was litigation action. An agreement was met with the reduction of units and as a result, the case was withdrawn. The applicant is now eager to move forward. The applicant will appear before the Architectural Review Board within the next few months.

John Cavallaro, Village Attorney, noted that if the Board grants the approval of the extension of the Special Use Permit, the decision would be written for next month's meeting. The applicant can present before the Planning Board.

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

### **No Public Comments**

**Chairman Gallo motioned to close the public hearing, was seconded by Member DiSalvo and unanimously carried by the Board.**

### **Item #3 100 Main Street**

Mr. Les Maron, attorney for the applicant, indicated that this building sits in a Business/Residential zone. The property has already been granted variances and a Special Use Permit with the previous owner, but was never granted Site Plan approval. The proposed building has since been revised and reduced in size. The Planning Board was asked to make a recommendation to the Zoning Board, but has not yet done so. The proposed building will have a smaller footprint. The proposed building is for 3315 sq. ft., which is 600 sq. ft. less than the previously approved building. There will not be any evacuation plans. The front of the retail sites will run along the street line. The second and third floors do not run parallel to the street and will be set back from the road. The required FAR is 1.2, the previous variance granted was for 1.96, and the proposed building will be 1.49, which is within the existing variance.

The original plans were for 22 apartments and 61 parking spaces, the updated proposed plans are for 18 apartments and 33 parking spaces. The 18 apartments will be 14 two-bedroom apartments and 4 one-bedroom apartments. The variance requested is for the approval for the reduction of parking spaces. The original plan was for the building to have two levels of parking, the current owner plans to have only one level of parking as the building was reduced by the number of apartments. The required amount is 1 space per 200 sq. ft. The applicant is providing 1 space per 183 sq. ft. The Zoning Code requires 36 spaces for the 18 apartments and 17 spaces for the commercial property with the 1:200sq. ft. ratio. The applicant plans to have no less than 33 spaces. Since the building is close to the train, residents may not have two cars per apartment and may plan to take the train to work. Residents will not get a parking space if they do not own a vehicle. The spaces will be shared by the residents and employees of the retail property.

Mr. Maron added that the Planning Board had previously discussed changing Terrace Place into a two-way street to prevent vehicles driving up and around the block to enter the parking garage.

Mr. Maron noted that the applicant has decided to build a 6ft. corridor between this building and Mrs. Angelillo's building to allow light and space between buildings. This corridor will be between the two buildings at the second and third floors. There will not be a 6 ft. corridor on the first floor. There is an ongoing water issue, which Mr. Murray plans to build a waterproof wall along the property to protect Mrs. Angelillo's property. As a side, Mr. Murray has already rebuilt the retaining wall with the adjacent property on Terrace Pl. and shared the cost with the owners. Mr. Maron stated that the original Special Use Permit was carefully crafted and may not need any changes to it. He requested a one-year extension.

Mr. Maron asked for a favorable review from the Planning Board to the Zoning Board.

Mr. Maron reviewed the five-prong test for approval and concluded that the application passes the test.

John Cavallaro, Village Attorney, stated that the Planning Board has referral and recommendation authority and according to Section 7-1.4D3 - The Planning Board could make a recommendation for the Special Use Permit and the variances as well. The Planning Board plans to make a referral to the Zoning Board but has not had the opportunity to do so yet.

Member Alfasi noted that this Zoning Board cannot act until the Planning Board forwards a resolution, referral, recommendation or a letter to this Board.

Chairman Gallo stated that the Planning Board may make a recommendation on the extension of the Special Use Permit and the new parking variance under Section 7-1.4D3. The Planning Board is not required to, but they may.

Member DiSalvo noted that everything in the application has been scaled done since the prior approval. The footprint is smaller, the fourth floor has been eliminated, and the second parking level has been removed from the plans. The only new variance is the number of parking spaces and the joint use of parking or shared parking.

Chairman Gallo stated that the discussion of making Terrace Place a two-way street is not within the Zoning Board's purview. The approval can only be granted by the Village Board with the consultation of the Police Dept.

Chairman Gallo asked about the plans for the commercial use of the property.

Mr. Maron noted that the applicant would rather not have retail in the current market, but the Master Plan and code requires retail on the first floor with residential above. He would prefer no restrictions to the retail space. The prior approval did not have a condition regarding the retail restrictions.

Mr. Frank Fish, Village Consultant, noted that the Village Board, Police Dept. and Planning Board studied the conversion of Terrace Place to a two-way street for the previous applicant. The residents of the building would not have to drive around the block to access the garage. The applicant should submit an EAF due to the new parking variance. The original applicant did have a fourth floor, so with the removal of the fourth floor, the parking levels have been reduced to only one level. The ratio of 1:183sq. ft. is sufficient. The building is primarily two-bedroom units. There are no three-bedroom units. If the spaces were unreserved, with no labels, the shared parking for the residents and employees would work.

The Crestwood Lofts approval of 1 space per 125 sq. ft. should not be compared, as this building is studio lofts only.

Mr. Fish noted that it was his experience that a parking ratio of between 1:180sq. ft. and 1:200sq. ft. should work. This ratio is 1:183sq. ft.

Mr. Fish noted that the Village Board is considering reducing the parking space size from 9ft. x 20 ft. to 9ft. x 18ft.

Member Palladino asked how many employees are anticipated for over a 3000 sq. ft. retail space. Mr. Fish suggested that it would be between 2 – 5 employees. If the applicant desires a restaurant, he would have to request a specific approval for that. He suggests that the Board add a condition to the approval.

John Cavallaro, Village Attorney, stated that he could write the condition to state that there would be no restaurant, cabaret or theatre use on the retail first floor.

Mr. Fish added that if Terrace Pl. becomes two-way, there would be a possibility of losing 2 – 3 parking spaces.

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

### **Public Comments**

Noel Degaetano 33 Terrace Place has been a resident for 30 years and noted that the vacancies for retail are due to the parking issue. This new building will make the Main St. look like a narrow corridor. He voiced his opposition regarding Terrace Pl. becoming a two-way street. There is poor visibility when exiting onto Main St. He asked the Board to require the building to have a substantial setback.

John Lambert 43 Terrace Place noted the change for Terrace Pl. to become a two-way street would eliminate a few parking spaces that are necessary for the residents. He does not have a driveway and therefore needs to utilize the street parking spaces. He voiced his concern regarding the value of his home as well as the safety issue with the increase of traffic flow.

Member DiSalvo noted that it was neither the applicant's nor the Zoning Board's decision to change Terrace Pl. to a two-way street. The Village Board would decide this, so he encouraged the public to attend the Village Board public meetings to voice their concerns.

Mr. Frank Fish, Village Consultant, noted that there are two options, both are not perfect. The tenants of the proposed building could enter and exit on Terrace Pl., or there could be an access driveway on Main St. The Village Board will determine the change of Terrace Pl. to a two-way street and the Planning Board will decide the enter and exit plan. The access on Main St. is a safety issue with vehicles having to make a left turn into the driveway from Main St. crossing the traffic lane and sidewalk. There will be one or two spaces lost on Main St. if there is access to the building from Main St. and one or two spaces lost on Terrace Pl. if made two-way street.

John Cavallaro, Village Attorney, stated that the EAF, which will be required to consider the new parking variance, would show a net effect of loss /gain of off-street parking.

Phyllis McDonald 95 Main St. works at this location and has 8 employees in a 1600 sq. ft. office space. Her employees do not utilize the metered spaces. She voiced her concern that the number of parking spaces offered by the applicant was not sufficient. She noted that the Village might be better off if the residents enter on Main St. and exit onto Terrace Pl. so to leave Terrace Pl. a one-way street and prevent traffic flow from going up through the streets. She asked why the Planning Board requires retail on the lower level as there are so many retail vacancies at the present time.

Mr. Maron noted that a residential first floor requires a variance as a Residential/Business Zone must have a business on the first floor with residential use on the second and third floors.

Chairman Gallo noted that regarding the parking spaces, the Village Zoning code requires two spaces; the applicant is offering 1:183sq. ft. parking spaces, which is very close to 1:200sq. ft.

Mrs. Victoria Angelillo, owner of 88 Main St., the building next door to the proposed building, commended the Board on their due diligence. She voiced her concern regarding a long lasting water issue, which needs to be taken care of. The water seeps in through the wall ever since the previous owner, Mr. Byrd, abandoned the building.

There are 9 apartments in her building and some residents travel via the train to NYC to work, while others drive. There are 2 two-bedroom apartments and 7 one-bedroom apartments.

Mrs. Angelillo stated that there was a fire in her building a short time ago and she publicly thanked the Tuckahoe Police Dept., Fire Dept., EMS and Mayor Ecklund for their concern and care. All 9 families have been temporarily displaced.

Mr. Murray, owner of the property, stated that he has spoken with Mrs. Angelillo and once he receives the necessary variances and the project was moving forward, he would work with engineers to tackle the water issue with the proper seals and sump pumps.

Bill Williams, Building Inspector noted that proper drains placed in front of the wall would prevent water from seeping through the wall. The drain would carry the water to a dry well or into the storm drain, which is legal. As for parking, Mrs. Angelillo's building has no parking lot and therefore all of her tenants and retail space must find alternate parking.

As for the driveway access from Main St. to the proposed building, the Village Board would not allow another curb cut on Main St.

John Cavallaro, Village Attorney, stated that regarding the water issue, it is not a land use, rather it requires two private property owners to rectify.

Mrs. Angelillo stated that Mr. Maron represented her when Mr. Byrd was the owner, so he and Mr. Williams both are aware of what needs to be done to fix the water problem.

Noel Degaetano added that Terrace Pl. is a 90-degree hill and fire trucks have difficulty with the hill.

Chairman Gallo stated that this was a serious application and would like to have additional input from the residents.

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

Chairman Gallo noted that he received letters from residents regarding the Crestwood decision and noted that the public hearing was open for quite a long period of time and the residents had ample time to come and voice their opinion at the time of the public hearing.

Chairman Gallo referred to an article mentioning Harrisburg PA and the difficulties with decreasing of revenue sources. There are stagnate and decreasing revenues with increasing demands financially. The need for towns to continue to drive economic growth is a very serious issue.

Member Alfasi stated that some residents concluded after viewing the Planning Board meeting in Feb., that the Zoning Board had exceeded their authority regarding the approval of the Crestwood Project. He noted that the Zoning Board did nothing wrong. He asked John Cavallaro, Village Attorney, if it was his opinion that the Zoning Board exceeded their authority and Mr. Cavallaro answered no. It was his opinion that the Planning Board has the authority to steer the Site Plan approval. He noted that he even sought a second opinion to make sure that the Planning Board was not boxed into a position as per the argument set forth by the applicant. Member Alfasi announced that the resolution carried by the Zoning Board was legal and did not usurp the power of the Planning Board.

Chairman Gallo noted that he was shocked by the Planning Board's comments at the last meeting regarding the Zoning Board's approval of the Crestwood Project. He noted that some of the members were professional in their roles, while others were not. He did receive comments from the Planning Board that they were not in favor of the plans, but they did not offer any specifics. There were 4 months of public hearings and the Zoning Board did not receive specifics until the very last minute. He added that he was looking forward to working with the Planning Board in the future.

#### **Next meeting April 14, 2012**

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.