

Minutes of: Nov. 14, 2012  
Date Approved: April 10, 2013  
Date Filed/Village Clerk:

November 14, 2012  
TUCKAHOE ZONING BOARD AND BOARD OF APPEALS  
TUCKAHOE VILLAGE HALL – 7:30pm

**Present:** Ronald Gallo                      Chairperson  
              John Palladino                  Member  
              Steve Alfasi                        Member  
              David Kubaska                    Member  
              David Scalzo                        Member

**Absent:** Nicholas DiSalvo              Member

**Also in Attendance:**  
              John Cavallaro                    Village Attorney  
              Bill Williams                        Building Inspector

**Chairman Gallo announced the agenda of this meeting as follows:**

- Item #1 Approval of Minutes from the Regular meeting dated October 10, 2012**  
**Item #2 1 Midland Pl.                      Site Plan Extension**  
**Item #3 225 Alpine Place                Adjourned**

**Item #1 Approval of Minutes from the Regular meeting dated October 10, 2012**  
John Cavallaro, Village Attorney, asked to revise the minutes, pg. 7 of 7, the sentence that reads... The United States Congress approved ..... should read...Under RLUPA specific standards have to be applied to religious institutions.

**Chairman Gallo motioned to approve the revised minutes, seconded by Member Alfasi and carried unanimously by the Board.**

**Item #2 1 Midland Pl.                      Site Plan Extension**  
Sajid Amjad, architect representing the McGrath family, indicated that there were no changes to the plans. He requested an extension for the site plan approval.

**Chairman Gallo motioned to grant approval for a one-year extension for the site plan as long as there are no material changes.**  
**Member Kubaska seconded the motion and was carried with a vote of 4 – 0, with Member Scalzo abstaining due to his absence.**

**Item #3 225 Alpine Place Adjourned**

Chairman Gallo stated that this Board is working diligently and vigorously with the applicant, Building Dept. and Legal Dept. for this application. The applicant has adjourned again until next month. The applicant does not have to give too much notice to adjourn. Chairman Gallo noted that there were numerous questions and concerns raised by residents regarding the tax lots. He noted that there are three maps with three different tax lots. Each map is different, one shows one lot, one shows 3 lots and one shows 5 lots. The Board requested outside counsel to review the maps.

John Cavallaro, Village Attorney, summarized the history of the land. In 1908 there was a subdivision map filed with the County of Westchester for 5 lots. Over the years, there have been no further subdivisions filed at the county clerk's office. The Village of Tuckahoe has taxed this property as one lot. The Town of Eastchester has taxed this property as 3 lots. Lots #4, 5, and 6 were improved with a single-family house on the 75 x 106 ft. lot. Lots #7 and 8 both 25 x 106 ft., remained vacant. Mr. Cavallaro noted that the issue is whether the act of taxing the property as one lot or three lots acted as a merger of the premises. He sought outside counsel to review the maps. This Land Use Law firm – Zarin and Steinmetz, came to the opinion that there are 5 separate nonconforming lots, a merger did not occur. The Local Law #7 of the Village of Tuckahoe is not applicable. Mr. Cavallaro cited Allen vs. Adami; there is a clear law in New York that statutory merger occurs according to a statute. The vacant lot did not merge with the 3 lots occupied by the single-family house. The ordinance is applicable only if the vacant lot was improved with a structure. The subdivision in 1908 still stands as 5 separate non-conforming lots. A merger did not occur simply because the village or town decided to assess these properties differently. Based on this, the outside legal opinion concurred with the Building Inspector's decision that a subdivision would not be necessary and the lots, because they are subdivided, could be sold separately.

Member Alfasi asked for clarification regarding the lots for sale.

John Cavallaro, Village Attorney, stated that there are 3 lots with one family house and two vacant lots. The two vacant lots are for sale.

Member Alfasi stated that this Board would require the applicant to re-notice the public for the next month's public hearing. They must re-notice if they do not make a presentation. If a presentation is made, we will then follow the normal schedule. The Building Dept. will notify the applicant.

**Member Alfasi motioned that the applicant 225 Alpine Place must re-notice the public for any further presentations made. Once the presentation is made, the Board will conduct business as normal. No subsequent notices would need to be filed.**

**Member Scalzo seconded the motion and was carried unanimously by the Board.**

Chairman Gallo added that the notice is required to be sent out 10 days prior to the public hearing. He asked the residents to understand that the applicant has not presented his plans and therefore the Board cannot open the public hearing to public comments at this time. The applicant must first present his plans. Chairman Gallo agreed to hear some of the residents' concerns regarding the tax maps.

Mike Liscio 19 Hollywood Ave. asked about the measurements of the lots. He also asked if the Board members visited the site.

Chairman Gallo noted that all the members have visited this site. The measurements are Lot #4 - 75 x 106.5 ft. Lot#7 - vacant 25 x 106.6 ft. Lot#8 - vacant 25 x 106.7 ft.

Debbie Maxwell 36 Hollywood Ave. asked who made the decision regarding the subdivisions.

John Cavallaro, Village Attorney, noted that the maps were reviewed by the Building Inspector. Mr. Williams determined that the land remains 5 separate lots. In 1908, the Village of Tuckahoe had no subdivision laws on the books at the time. The Land Use Law firm Zarin and Steinmetz was retained to review the matter.

Member Alfasi noted that this Board has not made a decision regarding the lots. The issue has not come before the Board yet. The members have heard the outside counsel's opinion, but have not made up our decisions. The County considers it 5 lots. As of now, it is 5 lots. If the public should refute that with evidence, the Board will be willing to hear it.

John Cavallaro, Village Attorney, noted that the issue of the lot merger will not be before this Board. This Board does not make the determination regarding whether the lots are 5 or 1. This Board is charged with granting variances or interpretations, its function is not to make determination of lot mergers.

John Cavallaro, Village Attorney, stated that Mr. Williams made the initial determination. The Board reached out for outside counsel for lot determination and the issue of lot merger.

John Gilde 24 Hollywood Ave. stated that there is no application before this Board.

Chairman Gallo stated that there is an application filed with the Building dept. that all the residents can view.

Member Alfasi noted that an application is pending for an area variance, the applicant has not yet made its presentation.

Mike Liscio 19 Hollywood Ave. stated that this was filed in 1908 as 5 lots. The Village of Tuckahoe has been negligent for all these years, as it has sent out only one tax bill each year. It has never occurred to the Village of Tuckahoe that this should be a subdivision. Mr. Liscio noted that the applicant's son works for Mr. Williams in the Building Dept. He asked that Mr. Williams recuse himself due to a conflict of interest.

Member Scalzo noted that there are 5 members on this Board and are aware of the relationship between the owner and Mr. Williams. As of now, we are not sure what will be presented to this Board by the applicant. It is hard to give an opinion, as it is too early. That is why we reached out for an outside legal opinion. Bill Williams, Building Inspector made the initial decision, the outside counsel validated Mr. William's interpretation.

Member Alfasi stated that he hopes the residents appreciate that this Board is taking this application seriously. The Board understands the relationship between an employee of the Village and the potential developer. The Board will be transparent and as open as possible. The outside legal opinion was for 5 lots.

Chairman Gallo thanked the residents. He noted that he too loves this Village. It is a very close-knit community and sometimes there are conflicts. This Board is aware, committed to the balancing test, and committed to this Village.

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.