

Minutes of: Sept. 11, 2013
Date Approved: Oct. 9, 2013
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September 11 , 2013
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
Nicholas DiSalvo Member

Also in Attendance:
John Cavallaro Village Attorney
Bill Williams Building Inspector
David Scalzo Ad Hoc Member

Chairman Gallo announced the agenda of this meeting as follows:

Item #1 Approval of Minutes from the Regular meeting dated August 14, 2013
Item #2 112 Belle Vista St. Area Variance
Item #3 5 Circle Road Return

Chairman Gallo announced that the Board would honor the September 11th tragic day with a moment of silence at the end of the meeting tonight. The Board recited the Pledge of Allegiance to honor the day. Members of the Board summarized the importance of this special day and how it has affected their loved ones. Tuckahoe residents remembered were Village Trustee Michael McHugh and Ronald Paul Bucca, NYC Fire Marshal, both whom lost their lives on Sept. 11, 2001.

Chairman Gallo motioned to open the public hearing to members of the audience to share their thoughts and memories of Sept. 11, 2001. Motion was seconded by Member DiSalvo and carried with a vote of 5 -0.

Dmitri Ostshshkin, 5 Circle Rd. stated that he was new to this country at the time of Sept. 11, 2001. He observed Americans displaying such an overwhelming sense of pride to be an American. He remembered he felt privileged to be a part of this and his desire to become an American grew intensely.

Member Alfasi noted that the display of patriotic flags, as well as the immense feeling of Americans being united was never as apparent as it was after the tragic event of Sept. 11, 2001.

Chairman Gallo thanked all for their thoughts.

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

Item #1 Approval of Minutes from the Regular meeting dated August 14, 2013

Chairman Gallo motioned to approve the August 14, 2013 minutes, was seconded by Member Kubaska and carried with a vote of 5 – 0, with Member DiSalvo abstaining due to his absence.

Item #2 112 Belle Vista St.

Area Variance

Mr. Kumar, owner of 112 Belle Vista St., requested an area variance to enlarge his kitchen over an existing garage. He would not enlarge the footprint. He plans to move the left sidewall of the kitchen out to the end of the garage.

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

No Public Comments

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

Chairman Gallo motioned for a negative declaration pursuant to SEQR for 112 Belle Vista St. Motion was seconded by Member DiSalvo and upon roll call was carried unanimously.

Chairman Gallo offered a Resolution for the application for an area variance requested by Virish Kumar for the relief from the following sections of the zoning code: 4-3.4.1 front yard; 4-3.4.2 Side yard; 5-1.6.3 increase non-conforming use; – for the premises of 112 Belle Vista St. Tuckahoe NY 10707.

Recommendation is for the area variances to be granted as the benefit to the applicant of the area variances outweighs the detriment to health, safety and the welfare of the neighborhood: in this application and applying the balancing test, this Zoning Board finds that the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood.

1. There will not be an undesirable change in the character of the neighborhood and there will not be a detriment to nearby properties: There will not be detrimental changes in that a small kitchen expansion is being proposed although it impacts on the front yard and side yard.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance: There is no other means to achieve the benefit sought other than the instant variances.
3. The requested variance is substantial: Although the variances are substantial, they must be viewed in the content with this application where detrimental effects are not being credited.
4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood in that: Environmental conditions such as noise, parking, and traffic and negative aesthetics will not be increased as a result of this application.

5. The alleged difficulty was self-created: Although the alleged difficulty was self-created, it is not fatal to this application.

A recommendation to approve the requested area variances with the condition that: all work be diligently commenced and completed within one year of the granting of the area variances herein.

Motion was seconded by Member DiSalvo and upon roll call was carried unanimously by the Board.

Item #3 5 Circle Road Return

Mr. Emilio Escaladas, architect for the applicant, summarized the proposed two-family dwelling. It is a non-conforming structure, which the applicant seeks to renovate. The requirement with the Zoning Code is to provide 4 parking spaces for a two family home. The applicant plans to extend the mass of the garage to the front property line and create a façade with two garages. The upper portion of the garage will be used as an outdoor patio. The garage doors will be softened by using evergreens between and on either side of the garage.

Member Palladino voiced his concern regarding the minimal storage space. He stated that he would not like to see the applicant use the 4-car garage for storage and park the vehicles on the street.

Mr. Escaladas noted that he revised the original plans to provide 300 sq. ft., approximately 12% of the house for storage. The applicant is not enlarging the mass of the house, the only element being expanded is the garage to provide the required 4 parking spaces.

Member Scalzo stated that although he appreciates the beautifying of this part of the neighborhood, the substantial increase in the non-conformity by expanding the garage is a concern. He stated that this would be out of character in the neighborhood. He added that the applicant could build a two-car garage and have two parking spaces in the front yard.

Mr. Escaladas noted that the plan to setback the garage was discussed, but that design would leave a hole in the front of the house. He stated that with empty parking spaces in the front of the house, there would be a temptation to leave it untidy, with bikes, garbage cans and such. There are houses in the surrounding area with a similar design.

Member Scalzo noted that there would be substantial yard work done at this site, as a result, the large tree on the property would have to be removed whether the application was approved 'as is' or if granted the set back approval.

Chairman Gallo noted that the applicant agreed to replace the tree. There is no rear patio at this site, the only place for a patio would be on top of the garage. It is not overly large. Even though it appears as if there are substantial variances, this house was built before the Zoning Code was in

effect. There are many homes in Tuckahoe that are non-conforming. This garage is pre-existing and is there as of right. The parking in the Village is a concern. He has visited this site many times. The applicant is taking an ugly building and making it nice.

He stated that he is sympathetic to Member Palladino's concern regarding the storage use in the garage. This would be standard if it was a new construction.

Member DiSalvo supported Chairman Gallo's comments. The current property is currently unattractive.

Chairman Gallo noted that the public hearing has been closed on this application. It was noted that there were no members of the public in attendance.

Bill Williams, Building Inspector stated that there were 6 variances being applied for in this application.

Chairman Gallo motioned for a negative declaration pursuant to SEQR for 5 Circle Rd. Motion was seconded by Member DiSalvo and was carried unanimously.

Chairman Gallo offered a Resolution for the application for an area variance requested by Dmitri Ostshshkin for the relief from the following sections of the zoning code: 4-3.4.1 front yard; 4-3.4.2 Side yard; 5-1.6.3 increase non-conforming use; 4-3.2 Height; 4-3.4.3 rear yard – for the premises of 5 Circle Rd. Tuckahoe NY 10707.

Recommendation is for the area variances to be granted as the benefit to the applicant of the area variances outweighs the detriment to health, safety and the welfare of the neighborhood: in this application and applying the balancing test, this Zoning Board finds that the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood.

1. There will not be an undesirable change in the character of the neighborhood and there will not be a detriment to nearby properties: By granting this application, detriments to the surrounding properties will not be produced. This application concerns renovations to the garage and top floor whose many of the variances are already non-conforming.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance: Based on the lot size and zoning classification, the applicant cannot achieve its renovation, absent the granting of the sought area variances.
3. The requested variance is substantial: Although on its face it appears that the variances are substantial, they must be viewed in the content as a whole where detriments will not inure to the surrounding community.
4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood in that: Environmental conditions such as noise, parking, and traffic and negative aesthetics will not be increased as a result of this application.
5. The alleged difficulty was self-created: Although the alleged difficulty was self-created, it is not fatal to this application.

A recommendation to approve the requested area variances with the condition that: all work be diligently commenced and completed within one year of the granting of the area variances herein

and the applicant must obtain the necessary permit for removal of the tree and replace the same as directed by the Building Dept.

Motion was seconded by Member DiSalvo.

Discussion: Member Palladino requested that the garage not be used for storage. Member DiSalvo supported Member Palladino's addition.

Upon roll call, the motion was carried unanimously by the Board.

Member Scalzo welcomed Mr. Ostshshkin to the neighborhood and wished him well.

Old Business/New Business

Bill Williams, Building Inspector informed the Board that the dog groomer and Broken Bow Bowery, both new businesses in the Village, are opening and have had no problems to report.

John Cavallaro, Village Attorney, summarized the following:

100 Main Street – this application is scheduled to present to the Planning Board for Architectural Review and should be finalized at the Sept. 17, 2013 meeting.

Glenmark – There were issues that were resolved. There is a new partnership. They should be moving forward.

Crestwood – The property has been fenced. There is litigation between the first developer and the owner of the property. The Village has been named as a party due to liens and foreclosure. The first developer and second developer are the prime parties.

Chairman Gall offered a motion to instruct the Village attorney John Cavallaro to send letters to each attorney of these three applications mentioned, requesting a written update and to report the project status, at the request of the Zoning Board. Copies of the letter should be sent to the Village Trustees and the Planning Board.

Member Kubaska seconded the motion and was carried with a vote of 5 – 0.

Chairman Gallo asked for a moment of silence in remembrance of all the victims of Sept. 11, 2001.

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.