

**Minutes of: Feb. 10, 2016**  
**Date Approved: April 13, 2016**  
**Date Filed/Village Clerk:**

**February 10, 2016**  
**TUCKAHOE ZONING BOARD AND BOARD OF APPEALS**  
**TUCKAHOE VILLAGE HALL – 7:30pm**

**Present:** Ronald Gallo                      Chairperson  
              David Scalzo                      Member  
              Tom Ringwald                      Member  
              Nathan Jackman                      Member

**Absent:** John Palladino                      Member

**Also in Attendance:**

              Gary Gjertsen                      Village Attorney  
              Mike Seminara                      Acting Building Inspector

**Pledge of Allegiance**

**County Legislator Sheila Marcotte offered this American flag to be used this evening in honor of President’s Day. Chairman Gallo gave a brief summary of the flag’s history noting that it flew over George Washington’s estate in August 2015.**

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

**Item #1    Approval of minutes from the October 14, 2015 Regular Meeting**  
**Approval of minutes from the November 4, 2015 Regular Meeting**

**Item #2    10 Fisher Ave.                      Interpretation of the code - Return**

**Item #3    229 Alpine Place                      Area variance**

**Item #1 Approval of minutes from the October 14, 2015 Regular Meeting**  
**Chairman Gallo stated, as per the applicant's request, that two phrases be revised in the minutes; Page 3 of 5, 'baked goods' changed to 'baked items' and 'catering companies' to 'country clubs'.**

**Chairman Gallo motioned to approve the revised minutes, seconded by Member Ringwald and carried with a vote of 3 – 0, with Member Scalzo abstaining due to his absence.**

**Approval of the November 4, 2015 Regular Meeting**

**Chairman Gallo motioned to approve the minutes from the November 4, 2015 Regular Meeting. Member Ringwald seconded the motion and was carried with a vote of 3 – 0, with Member Scalzo abstaining due to his absence.**

**Item #2 10 Fisher Ave.**

**Interpretation of the code - Return**

Chairman Gallo noted he received a letter from a resident in favor of this application. This letter will be placed in the file.

Chairman Gallo stated that each member of the board visited this site individually.

Member Scalzo noted that he visited the site at 6 AM.

Member Ringwald visited the site and spoke with several tenants, and met with DPW, David Burke and Ron Gallo to discuss this application.

Member Jackman stated that he visited the site and also spoke with David Burke and DPW.

Chairman Gallo thanked the members for their time and concern with this unique application. This board has never faced an application like this before.

Chairman Gallo referred to the October minutes and noted that there are conflicts as to what the applicant has presented to the board. Chairman Gallo submitted a brief summary to each attorney, Les Maron and Rocco Salerno, for their review. (This excerpt can be viewed on the Tuckahoe website under videos of the Board meetings; October 14, 2015 Zoning Board meeting, at the 45 minute mark.)

Les Maron, attorney representing the applicant Martine's Bakery, claimed that his client has not been deceptive at all. He noted that his client clearly indicated what the percentages were and clearly indicated that there was baking at the Scarsdale location as well as a small amount of items that are baked in the Crestwood bakery

and brought to the Scarsdale bakery. He indicated that there is an oven in Scarsdale, prep cabinets etc. Tal Campana has been consistent with stating that baking is done at both sites as there is a night baker at the Crestwood location baking through the night. He added that Leonard Brandes was the architect at both sites and is present this evening.

Member Jackman noted that the board is having trouble with the submitted data which claims that 80% of baked items are sold in Crestwood, 18% of baked items are delivered to the Scarsdale site and 2% are delivered to country clubs. He stated that he visited the Scarsdale bakery and it is one third larger than the location in Crestwood. There are numerous cakes and pastries in the display cases. The oven in question is a warming oven with an interior space 18 inches wide and 21 inches in height. He questioned how all those cakes and pastries can be baked with an oven that size.

Les Maron stated that the volume of space in the bakery does not necessarily indicate that the location has more customers. He stands by the numbers submitted.

Mike Seminara, Acting Building Inspector, contacted the Scarsdale Building Department regarding this location. The Scarsdale Building Department shared a copy of the 2011 approved drawings for the Scarsdale bakery. The Building Department acknowledged that there is very limited baking done at this location. The Scarsdale Building Department made a site visit on October 20 and 22<sup>nd</sup> 2015 with the Fire Inspector and concluded that it was in compliance. The email from the Scarsdale Building Department dated February 8, 2016 states, "Due to the limited space there is no cooking or baking at this location, they only have a convection oven for warming/heating."

Les Maron stated that Tal Campana has indicated that there is baking done at that premise. There are night bakers. He asked the architect for both bakeries, Leonard Brandes, to speak.

Leonard Brandes architect on record for the Scarsdale location stated that the basement has two big walk-in boxes, refrigerators, freezers, 35 linear feet for counter space for prep areas, and sinks. The bakery sells sandwiches and salads which are all prepared there. There is a small kitchen area on the first floor with the convection oven and a ventilation system that travels up two stories and through the roof to offer proper ventilation. This convection oven can cook 5 trays at a time of baked goods and it is used all night long. The night baker arrives after midnight and bakes until 6:00am. Some cakes are baked in Tuckahoe and delivered to Scarsdale.

He added that they do not sell as many cakes at the Scarsdale shop as they do salads and sandwiches.

Member Jackman stated that the board was led to believe that only mousse cakes and specialty cakes were baked in Crestwood and delivered to Scarsdale.

Mr. Brandes noted that the confection oven can hold up to five trays. The Building Inspector in Scarsdale did not want a gas oven and only approved an electric oven. The ventilation system was installed for this confection oven because it generates a lot of heat. Mr. Brandes noted that Martine's bakery is no different than a local pizza place.

Mr. Maron stated that this Board is asked to interpret the law, and should ignore public comments. No site plan is required, no variances are requested, no special permit is requested, and the site is not being changed. The board is asked to interpret Mr. Williams's letter and determine whether Mr. William was correct or incorrect.

Member Ringwald stated when Martine's opened, the applicant encroached into the basement without a permit. Sometime later the applicant encroached into the garage without a permit.

Mike Seminara noted that Martine's bakery did not have to appear before the Zoning Board or the Planning Board as it took over an established bakery. Mr. Williams made a site visit to close out the basement permit and noticed that they expanded into the garage. To legalize the garage use, Mr. Williams told the applicant to file the paperwork and apply for a permit.

Mr. Brandes stated that the front section of the basement area was already being used. The violation was that Martine's expanded further into the basement. Once his client was notified of the violation they made it legal and safer. Mr. Williams noted that the applicant should add a handicapped bathroom in the garage and a small area for the employees to eat and to use for storage.

Member Ringwald asked Mr. Maron why the board should ignore public comments. He noted that he spoke with many area residents and they all love Martine's. They all agreed that there are so many trucks coming and going.

Mr. Maron noted that Martine's needed a large prep area because everything they bake at Martine's is made from scratch.

**Chairman Gallo motioned to reopen the public hearing, seconded by Member Jackman and carried with a vote of 4 – 0.**

### **Public Comments**

Rocco Salerno, attorney representing Crestwood Station Plaza 269 – 273 Columbus Ave., objected to this application. It is a complete farce. The applicant stated that the Scarsdale bakery is its own entity, yet uses an 18-inch convection oven. Mr. Salerno requested that the board require an independent audit as per the percentage of outgoing products. Martine’s bakery is the victim of its own success and outgrew its location.

Sandra Arnan, Property Manager of Crestwood Station Plaza, Columbus Ave., stated that she has been located at this site for 16 years. Ms. Arnan submitted photos of tractor trailers double parked. She noted that the bakery receive deliveries on Tuesdays, Wednesdays, Thursdays and Fridays, not two days a week. She added that the deliveries are no longer at 3:30 AM. There is a tremendous amount of traffic, which affects the commercial businesses in the area. All businesses must abide and follow the rules. She stated that she does not want Martine’s bakery to leave Crestwood, rather take factory space elsewhere and protect the neighborhood.

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

**Chairman Gallo added that he requested a site visit at the Scarsdale location and it was denied. This application has been a real challenge for the board.**

### **Item #3 229 Alpine Pl. Area variance**

Doug Vaggi, architect for the applicant, indicated that this application is for a one family house to be converted to a two-family house in a two-family zone. There are three variances requested; Front yard setback, 5-foot side-yard buffer, and lot width.

Mr. Vaggi noted that the existing garage is on the property line which is a pre-existing condition.

There is an existing one car garage. The plans are to widen the driveway from 14 feet to 26 feet to allow for two tandem parking spaces and one additional space, for

a total of four parking spaces. Parking in the front yard is not a permitted use. He added that there is no street parking allowed on his side of the street. These plans will bring vehicles off the street by offering four parking spaces.

Mr. Vaggi described the plans for the house. The left side will have a family room, dining room and kitchen on the first floor and will have three bedrooms and one bath on the second floor.

The right side of the house will have a kitchen, dining room, and living room and on the second floor two bedrooms and two bathrooms.

**Chairman Gallo motioned to open the public hearing seconded by member Ringwald and carried unanimously by the board.**

### **Public comments**

Linda Laird 206 Alpine Pl. noted that parking on Alpine Place is at a premium. There are 18 rental units nearby with no on-site parking. She asked the board if they determine the granting of a variance by administering the five prong test.

Member Scalzo noted that the board considers all the prongs when deciding to grant a variance.

Ms. Laird questioned the applicant's use of non-conforming after buying a one family house in 2012 and requesting to change it to a two family house in 2016. She questioned the front yard parking as right now it is an impervious surface.

Mike Seminara, Acting Building Inspector, noted that the Planning Board addresses drainage site issues.

She voiced a concern regarding the plans of the parked cars in the front yard backing out on Alpine Place. It was her determination that there would not be enough space to maneuver the vehicles.

Ms. Laird also asked if the trees could be preserved and not removed.

Susan Abrams 212 Alpine Place noted that she owns a four-family house and agreed that parking is an issue. She also voiced her concern regarding the vehicles not able to maneuver out of the driveway onto the narrow Alpine Place. There is a tremendous amount of traffic on Alpine Place.

The homeowner's son stated that the parents plan to move into the new part of the house. He and his sister will share the other part. The extra bedroom would be for future grandchildren to stay at the grandparent's house.

Member Scalzo noted that the 8-foot parking space is tight and Alpine Place has a steep hill and is treacherous when icy. It is quite hard to navigate. The board has to balance between the amount of the green space and the amount of parking. The Zoning approval is for the house, not for the family that resides in the house.

Mr. Vaggi noted that the parking requirement is 8 feet. There are 20 feet to the front steps and 25 feet to the garage. This meets zoning requirements.

Mr. Vaggi noted that there is no on-street parking permitted where this house is located so the vehicles would be able to maneuver out of the driveway.

**Chairman Gallo motioned to close the public hearing, seconded by member Ringwald and carried with a vote of 4 – 0.**

Chairman Gallo stated that the zoning laws require parking spaces per apartment but it does not take into consideration the number of bedrooms. He stated that he has an issue with this second bedroom in the new apartment. The present owners could sell and the new owners would move into a huge house.

Member Jackman noted his only concern is the parking, he is not concerned with the second bedroom.

Member Ringwald noted that the second bedroom was not a concern too, rather the balance between green space and parking.

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.