

**Minutes of: May 9, 2018**  
**Date Approved: \_June 13, 2018**  
**Date Filed/Village Clerk:**

**May 9, 2018**

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

<b>Present:</b>	Nathan Jackman	Acting Chairperson
	John Palladino	Member
	Anthony Fiore Jr.	Member

<b>Absent:</b>	Tom Ringwald	Chairperson
	David Scalzo	Member

**Also in Attendance:**

Gary Gjertsen	Village Attorney
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**Pledge of Allegiance**

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

- |                |                                                        |
|----------------|--------------------------------------------------------|
| <b>Item #1</b> | <b>Approval of minutes from the April 11, 2018</b>     |
|                | <b>Regular Meeting</b>                                 |
| <b>Item #2</b> | <b>150 Main St. Return</b>                             |
| <b>Item #3</b> | <b>100 Main St. Return</b>                             |
| <b>Item #4</b> | <b>242 White Plains Rd. Area variance</b>              |
| <b>Item #5</b> | <b>283 Marbledale Rd. Enlarging non-conforming use</b> |

**Item #1 Approval of minutes from the April 11, 2018 Regular Meeting**  
**Acting Chairman Jackman motioned to approve the minutes from the April 11, 2018 meeting, seconded by Member Fiore and carried with a vote of 3 – 0.**

**Gary Gjertsen, Village Attorney, advised the applicants, that only 3 Board members were present, therefore, any vote taken on an application must be unanimous. The applicants may adjourn until next month if they so choose.**

**Item #2 150 Main Street**

**Return - Special Permit**

Applicants, Mike and Jake Lewis, stated that the application is for a fitness studio, Orangetheory, a franchise, to be permitted at this site.

Jake Lewis noted that the landlord has permitted the employees to park at 3 parking spaces at the 160 Main St. building.

Acting Chairman Jackman noted that the applicant has paid for a traffic study for this new business at this location. The results concluded that there will be no impact on the traffic as well as there being no need for parking spaces beyond the 10 spaces. The applicant decided to get 3 parking spaces for his employees in addition to the 10.

**No Public Comments**

**Member Fiore motioned to close the public hearing seconded by Member Palladino and was carried unanimously.**

**Member Palladino offered the following resolution in the form of a motion:**

**The application for a SPECIAL PERMIT is requested by \_ Redwing 3637 LLC\_\_\_\_\_**

**whose address is 150 Main Street, Tuckahoe, NY Sec. \_29\_ Blk.9\_ Lot\_\_1\_\_\_\_\_**

**The Applicant is seeking to open an Orange Theory sports club, at 150 Main Street, Tuckahoe, which is located in the Business District. Pursuant to 4-6.1 of the Village of Tuckahoe's Zoning Code, in the Business District a Sports and Health Club are permitted uses under a special permit. Thus, a special permit is required and this instant application is made before this Board.**

## **SEQRA RESOLUTION**

**Based on this application as submitted, this Zoning Board of Appeals finds and determines that:**

- 1. The action taken herein is an Unlisted Action subject to the requirements of SEQRA and its implementing regulations.**
- 2. This Zoning Board of Appeals is in possession of all information reasonably necessary to make the determination as to the environmental significance of the proposed area variance application.**
- 3. That the action taken herein shall not have a significant adverse impact on the environment and it is declared that a Negative Declaration is hereby adopted with regard to this action.**

**Member Fiore seconded the motion and upon roll call was carried with a vote of 3 – 0.**

**Member Palladino offered the following resolution in the form of a motion:**

Applicant, Redwing 3637 LLC, is seeking to open an Orange Theory sports facility at 150 Main Street and is seeking a Special Permit from this Board as one is required for a sports club in the Business District. The location at 150 Main Street where the sports facility is proposed is an existing building and there is currently 2 vacant retail spaces located at the premises. The Applicant is seeking to occupy both retail spaces. The Standards of a Special Permit in the Business District are located in 6-2 of the Village of Tuckahoe's Zoning Code. The standards and our analysis of same are as follows:

- 1. Compatibility with district: that the location and size of the use, the nature and intensity of the operations involved in or conducted in connection with such use, the size of the site in relation to the use, the**

**assembly of persons in connection with the use and the location of the site with respect to streets giving access to the site are such that the use will be in harmony with the appropriate and orderly development of the district in which the use is proposed to be located.**

It should be noted here that Orange Theory is a class based sports facility. Based on Orange Theory being a class based club and not your typical “gym” we believe that the nature and intensity of the use is compatible with the surrounding area. Classes are limited in size to a maximum size of 39.

**2. Compatibility with Comprehensive Plan: that the proposed use will be compatible with the goals and objectives of the Comprehensive Plan.**

The use of a sports club in the Business District is compatible with the comprehensive plan as the comprehensive plan seeks to revitalize the Main Street corridor. This is consistent with the Village Boards permitting sports clubs within the Business District Zone.

**3. Services: that all proposed structures, equipment or material will be readily accessible for fire and police protection.**

The location is a preexisting building. The building is several years old and this will be the first tenant locating this space. This Board in its prior approval for the building reviewed the accessibility for fire and police protection and found the premises to be adequate. We reiterate and confirm our prior approval as to this condition.

**4. Adjacent properties: that the location, nature and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall not hinder or discourage the appropriate development and use of adjacent land and buildings.**

As stated previously the Applicant is seeking to occupy an existing building, therefore this condition was met in the prior approvals for the existing building.

- 5. Nuisance: that operations in connection with the use will not be offensive, dangerous, or destructive of basic environmental characteristics or detrimental to the public interest of the Village and not be more objectionable to nearby properties by reason of noise, fumes, vibration, flashing of or glare from lights and similar nuisance conditions than would be the operation of any permitted use not requiring a special permit.**

The Applicant is seeking to occupy an existing building. We have reviewed the Applicant's noise dampening measures and we find them to be state of the art and more than adequate for the space. Regardless, the Applicant must comply with the noise ordinance of the Village at all times.

- 6. Neighborhood character and property values. The neighborhood character and surrounding property values shall be reasonably safeguarded.**

The location was built as a retail space and we believe that a sport club will be compatible with the neighborhood and will enhance the surrounding neighborhood and property values will be safeguarded.

- 7. Traffic: that the use will not cause undue traffic congestion or create a traffic hazard.**

The Applicant is going to operate an Orange Theory franchise, which as stated previously is a class based facility. As this is a class based facility we find that a minimum of fifteen minutes between classes would be adequate to allow one class to end and vacate and another class to commence. With a mandatory gap in time between classes this will ensure that there will be no undue taxing on the traffic in the area.

- 8. Parking: that parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential**

**uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.**

The applicant has proposed twenty off street parking spaces to be used by the patrons of the facility. Ten of the twenty spaces will be dedicated solely to the Applicant. Of the remaining ten spaces one is handicapped and nine shall be shared with the residents as a first come first served basis.

In addition to the off street parking for the patron the applicant has secured three additional off street parking spaces located and the parking garage across the street from the premises to be used by the applicant's employees.

The Board has requested BFJ Planning to review the parking and BFJ Planning has found the parking to be adequate. We have also received a recommendation from the Village of Tuckahoe's Planning Board who recommends that the parking is adequate. We hereby attach to this resolution and incorporate the recommendation to this approval. We agree with the Planning Board and the Village's Planners that the proposed parking is adequate.

**9. That the use conforms in all respects to all the regulations of this Appendix and particularly to the specific supplemental regulations that apply to such use.**

We find that the use conforms in all respects to requirements of a Special Permit and note that there are no supplemental regulations that apply to a sport club.

Based on the above, the application for a Special Permit is hereby approved with the following conditions:

1. At all times there shall be ten dedicated off street spaces for the applicant. Said space shall be designated as Orange Theory parking only. At all times the applicant shall have access and use of the 10 remaining off street space located at the premises on a first come first served basis.
2. The applicant shall comply with the Villages noise ordinance.

3. There shall be three dedicated spaces for the employees of the applicant located at the parking garage across the street from the applicant's site.

**Member Fiore seconded the motion and upon roll call was carried with a vote of 3 – 0.**

**Item #3 100 Main St. Return-Amend Site Plan**

Les Maron, attorney for the applicant, stated that this application is to modify and reduce the previous granted permit. The original approval for retail on the first floor will be changed from commercial business space of 2632 sq. ft. to 800 sq. ft.

The first floor will consist of 19 storage units for the 19 apartments and a janitor's closet. This change as proposed would not change the streetscape, as there are no signs to be installed on the front of the building. This building looks smaller than the adjacent buildings. There will be less traffic due to the reduction of the commercial space. The storage is a permitted use but will be accompanied by a reduction of parking. The required parking spaces were 52 and the applicant was granted a variance for 37 parking spaces. The 19 units now require 42 parking spaces and the applicant would still offer 37 parking spaces, which is a significant reduction in the variance.

Mr. Maron added that this was not self-created as after the original plans were approved, the market has changed and the commercial space is not needed in the Village.

He asked that the original special permit be amended to include the following changes:

- 2682 sq. ft. to not more than 800 sq. ft.
- Refer to the first floor from commercial retail space to business use
- change 4 bedroom unit to 3 bedroom units
- not exceed 41 bedrooms to 39 bedrooms
- parking proposal of 2 parking spaces assigned to each 2 and 3 bedrooms apartments and all other 37 units will have parking spaces assigned to their unit with 2 handicap spaces. The business unit will have 2- 4 parking spaces which will be visitor spaces after hours.

Member Palladino asked if the parking spaces would be designated to each unit.

Mr. Maron said yes, the parking spaces would be deeded to the apartment dwellers.

Chairman Jackman voiced his concern regarding the windows on the first floor with the storage units. He added that he would refer that to the Planning Board.

### **No Public Comments**

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

**Member Fiore offered the following resolution in the form of a motion:**

**In the matter of the Application: MCEQUITIES LLC 100 Main St. Tuckahoe NY:**

**Decision modifying and reducing approved variances and modifying the  
approved special permit  
originally granted by this Board on June 10, 2015**

The Applicant, MCEQUITIES LLC (hereinafter “MCE”), is the record owner of the premises commonly known as 100 Main Street, Tuckahoe, New York and known on the tax map of the Village of Tuckahoe as Section 28, Block 5, Lots 3, 5 and 7 (the “Premises”). On or about June 10, 2015 this Board granted the Applicant various area variances and a special permit to construct a new building at 100 Main Street, Tuckahoe. The Premises are now substantially complete and the applicant is now seeking to modify and reduce the variances granted and to modify its special permit, based on the market conditions of the area. Attached hereto and incorporated herein is the June 10, 2015 approval from this Board.

Due to difficulties of the applicant in finding a tenant for the retail space and the demands of potential new owners for assigned parking it has necessitated the applicant to file this revised application. The proposal is now to modify the ground/first floor to provide for 800 sq. ft. of business space, a room for storage units for residents of the building, a janitor’s closet and enlarged garbage storage.



The applicant is seeking to amend the prior approval by changing the approved 2,642 sq.ft. of commercial/retail to 800 sq.ft. of business space and amend the approved conditions as follows:

CONDITIONS:

1. No change
2. Delete and replace with:

**In no event shall the business space on the ground floor of the Project exceed 800 square feet. In the event the Applicant seeks to increase the square footage of the business space, such increase shall require the further approval of this Zoning Board of Appeals.**

3. No change
4. No change
5. Delete and replace with:

**That the business space consisting of not more than 800 square feet shall not be used for more than 1 business space. Any division of the business space to more than 1 business unit shall require the further approval of this Zoning Board of Appeals.**

6. Delete and replace with:

**The residential component of the Project shall be limited to 19 residential units comprised of 8 three bedroom units, 4 two bedroom units and 7 one bedroom units with one having a study/den. Included in these totals is the fourth floor, which shall have no more than 2 three bedroom units and 1 one bedroom unit with a study/den. Any deviation from the total number of residential units set forth as 19 residential units shall require the further approval of this Zoning Board of Appeals.**

7. No change

8. Delete and replace with:

**At least one parking space shall be designated or assigned to each one bedroom residential unit. At least two parking spaces shall be designated for all units larger than a one bedroom. All 37 parking spaces may be designated or assigned, except for the 2 handicapped parking spaces. The business user may be assigned at least 2, but not more than 4, parking spaces which spaces may be shared with visitors. The remaining parking spaces may be assigned to residential units or visitors.**

9. Delete as not applicable

10. Delete and replace with:

**The business component of this Project consisting of not more than 800 square feet of business\_ space shall not be used for restaurants, food-related uses (any business where food is served, sold or prepared), theaters or cabarets.**

**11. Delete and replace with There shall be a total of two 3 bedroom units and one 1 bedroom unit located on the fourth floor.**

12. No change

13. No change

The requested amendments substantially reduce the parking variance previously granted by this Board as the retail/commercial space, which will now be business, has been slashed by more than two thirds. We find that the reduction will be a net overall parking benefit to the project and surrounding areas. Since the parking variance is substantially reduced we find that assigning spaces to the units and business area as proposed in the amended conditions would be appropriate. This is consistent with the Village's planner's, BFJ Planning, conclusion.

Therefore, request to amended this Board's June 10, 2015 decision is granted in all respects. All findings and conclusions of law previously determined by this

Board are reiterated and incorporated herein. Further, since the amended variances are now reduced all findings and conclusions as to this Board's SEQR determination in its June 10, 2015 approval are reiterated and incorporated into this approval.

**Member Palladino seconded the motion and upon roll call was carried with a vote of 3 – 0.**

**Item #4 242 White Plains Rd. Area variance**

Louis Campana representing Matthew and Maria Campana are requesting a subdivision of their property. They currently live in their house for 30 years. The house they live in predates the 1999 Zoning Code changes. The application is to subdivide the property into two parcels. The proposed plans are for Mr. and Mrs. Campana to move to the newly constructed one story house.

Parcel 6A has the existing dwelling. There are 3 variances necessary, lot width, rear yard setback and side yard setback. It is currently non-conforming and the applicants would like to make it a legal non-conforming dwelling.

Parcel 6B would have the new house. The lot size is 7943 sq. ft. This house would require four variances: lot area- relief and to conform to the 1999 requirements.

Front yard setback – relief and to conform to the pre 1999 requirements, which was a 25 ft., set back, the current zoning code requires a 35 ft. set back.

Side yard setback – relief and to conform to the pre 1999 requirements, which was a 9 ft., setback, the current zoning code requires a 20ft. side yard.

Rear yard setback – relief and to conform to the pre 1999 requirements, which was 25 ft., setback, the current zoning code requires a 35 ft. setback.

Mr. Campana noted that this new house would simply fit better into the character of the neighborhood. He added that the house would not have a negative impact on the traffic or the environment. It will enhance the adjacent neighborhood.

Chairman Jackman noted the absence of Bill Williams, the building inspector. The Board members would need to have Mr. Williams input.

Member Palladino noted that the requested variances are quite substantial. He asked why the applicant would not consider a smaller footprint and build a two-story house rather than a one-story house.

Mr. Campana noted that this house was for his parents to enjoy and a one-story house is what they desire at the age that they are. He added that the adjoining houses have a 9 ft. set back. It would fit into the neighborhood.

Chairman Jackman noted his concern regarding the access to Route 22.

Gary Gjertsen, Village Attorney, noted that Route 22 is a state road and therefore, the applicant would have to apply to the state for approval for a curb cut.

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

### **Public Comments**

Michael Beverley 240 White Plains Rd. noted that the applicants have been amazing next-door neighbors for the 4 years he and his wife have lived there. He added that the open space next door was one of the keys to purchasing his house. His property value would possibly decrease with the new house. He requested more information, such as the possibility of blasting the bedrock, but his main concern was the possible decrease in his property value.

Chairman Jackman noted that he shared the concern regarding the bedrock. The Board would need to speak with the Building Inspector.

Thomas McTigue 6 Crawford Drive voiced his concern regarding the bedrock. Blasting would be required. There would be no front lawn if this house were to be approved. He voiced his objection to the application due to the density issue since there would not be ample setbacks.

Gary Gjertsen, Village Attorney, noted that the Village does not permit blasting. The permitted process is to drill the bedrock.

Chairman Jackman stated that this application would be held open until next month.

### **Item #5 283 Marbledale Rd. Enlarging non-conforming use**

Mr. Abillama, architect for the applicant, indicated that this house is a pre-existing non-conforming dwelling. The application is for an enlargement to this dwelling,

which is a two-family home in a single-family zone. There is a small open area under the first floor that sits on stilts. The applicants would like to enclose that section. In addition, the applicant would like to improve and close up the storage area under the porch. The updated porch would stay within the footprint, except for a small staircase to the porch. The side yard and rear yard would not be affected. The owner displayed a few photos from his phone. The Board members requested that the applicant present numerous photos of the area including the porch, side of the porch, back area and the ground level section of the part of the house on stilts.

The owner noted that she would just like a little more space at the home as she sometimes works from home. She could get access to the yard from the newly proposed space under the stilts.

Chairman Jackman noted the full bath in the basement could potentially become an apartment.

The owners stated that there is no intention to have an apartment in this space.

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

#### Public Comments

No Public Comments

This application will continue until next month.

Jenny Steinhagen 8 S. High St. noted that she lives near the car wash on Marbledale Rd. She has called the Police Dept. on a number of occasions due to the noise of the blowers. The Police Dept. brought their decibel reader and clocked it at 65, which falls within the allowable limit. She stated that this car wash is open until 11pm and the noise of the blowers is too loud at that hour.

Gary Gjertsen, Village Attorney, noted that there are two issues here. One is if the car wash is violating the noise ordinance, which is the Building Department's

jurisdiction. Call the Building Dept. to have them use their noise meter and possibly issue a violation. Second, if the noise ordinance is too high for that hour, the resident must appeal to the Village Board members to possibly change the code.

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.