

Minutes of: April 8, 2015
Date Approved: May 13, 2015
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April 8, 2015
TUCKAHOE ZONING BOARD AND BOARD OF APPEALS
TUCKAHOE VILLAGE HALL – 7:30pm

Present: David Scalzo Acting Chairperson
 John Palladino Member
 Janice Barandes Member
 Tom Ringwald Member

Absent: Ronald Gallo Chairperson

Also in Attendance:
 Gary Gjertsen Village Attorney
 Bill Williams Building Inspector

Pledge of Allegiance

Acting Chairman Scalzo announced the agenda of this meeting as follows:

<u>Item #1</u>	Approval of minutes from the March 11, 2015 Regular Meeting
<u>Item #2</u>	100 Main Street Return
<u>Item #3</u>	44 Fulling Ave. Area Variance
<u>Item #4</u>	73 Main Street Area Variance
<u>Item #5</u>	56 Underhill Street Area Variance
<u>Item #6</u>	10 Fisher Ave. Adjourned
<u>Item #7</u>	93-95 Main Street Adjourned
<u>Item #8</u>	32 Pleasant Place Adjourned
<u>Item #9</u>	50 Columbus Ave Adjourned

Item #1 **Approval of minutes from the March 11, 2015 Regular Meeting**
Acting Chairman Scalzo motioned to approve the minutes from the March 11, 2015 meeting, was seconded by Member Barandes and upon roll call was carried 4 – 0.

Item #2 **100 Main Street Return**
Acting Chairperson Scalzo noted that the Board received two letters regarding this application, including one from the Chairman of the Planning Board, Antonio Leo. (See file)

Les Maron, attorney for the applicant, MC Equities, LLC., noted that the applicant has made several revisions over the past few years. Frank Fish, Village Consultant prepared recommendations to the plans that the applicant has agreed to.

The small retail space will now be Mr. Murray's office space. This small office space allows for two tandem parking spaces in the rear of the building. The front façade no longer has the appearance of four stories except for the stair and elevator space. The proposed building is within the height requirements and may be shorter than Mrs. Angelillo's building next door. This site is quite difficult with the mountain in the back, ground water issues and a lot of rock.

Mr. Maron continued that the revised plans provide 37 parking spaces with the four tandem spaces reserved for the 3 and 4 bedroom units. The Planning Board recommended that the parking spaces measure 9ft. by 18 ft. with the tandem spaces 15ft. in length. The Planning Board also requested a 6ft. sidewalk along Terrace Pl. The FAR was reduced from 1.92 to 1.83, which includes in its calculations all the mechanical space throughout the building, as this building does not have a basement. The building coverage allows for 50%, the application has 77%. The final application has 20 residential units and 2 retail units.

Mr. Maron noted that in regard to Chairman Leo's memo, he only saw the plans for the full four stories. The plans have been revised and modified due to the input from the Village Consultants Mr. Fish and Mr. Levine.

Public Comments

Claire Mattola 43 Terrace Pl. lives directly behind the site and is very much in favor of the application. She voiced her concern regarding the parking situation. She asked the Board to consider permit parking for the area as a possibility before approving this application. The parking situation must be rectified.

Acting Chairman Scalzo motioned to close the public hearing, seconded by Member Barandes and carried unanimously by the Board.

Acting Chairman Scalzo noted that this is a very important project and the Board will review and discuss the variances requested.

Item #3 44 Fulling Ave.

Area Variance

Louis Fusco, architect for the applicants, requested a variance to construct a new pergola in the rear yard. The pergola will stand 9ft. 2in. and 188 sq. ft. The property is a tight, triangular shape and therefore the pergola would only fit on the existing blue stone patio. There would not be an impact to the neighborhood. This is not a permanent structure and it is a completely open structure.

Acting Chairman Scalzo motioned to open the public hearing, seconded by Member Barandes and unanimously carried by the Board.

Public Comments

Jim Murtaugh 47 Fulling Ave. noted his support of the requested variance.

Sheila Marcotte, Winterhill, noted that her property abuts this site and she is in favor of this application. (See memo in file.)

Acting Chairman Scalzo noted that he did a site visit and stated that this is a nice attractive piece of property and commended the applicant for trying to beautify their space.

Acting Chairman Scalzo motioned to close the public hearing, seconded by Member Barandes and unanimously carried by the Board.

Member Barandes offered the following resolution as a motion:

The application for an AREA VARIANCE requested by Nathan Linn whose address is 44 Fulling Ave, Tuckahoe, NY Sec. 30 Blk.1 Lot 27_____ for relief from the following section of the zoning code: Section 4-1.1.4 Accessory Uses Project – Construct a 200 sq. ft. wood pergola over an existing stone patio

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.**

BE IT RESOLVED that the application for an area variance for the construction of a 200 sq ft pergola over an existing stone patio is granted as the benefit to the applicant of the area variance outweighs the detriment to health, safety and the welfare of the neighborhood. The applicant has demonstrated through its submissions and presentation that it has met all aspects of the 5 prong test to the satisfaction of this board.

A recommendation to approve the requested variance and the granting of the variance herein is granted on the condition that work under such variance be commenced and diligently prosecuted within one year of the granting thereof, failing which such variance shall become null and void.

Acting Chairman Scalzo seconded the motion and upon roll call was carried with a vote of 4 – 0.

Item #4 73 Main Street

Area Variance

Mr. Leonard Brandes, architect for the applicant, Frank Madaio, indicated that the applicant seeks to open up a Subway sandwich shop at this location. The zoning code requires 4 parking spaces for this site. He is requesting a variance for one parking space. The applicant was able to secure a lease for three parking spaces in the lot next door.

Member Ringwald asked the applicant if he were to lease four parking spaces, there would be no need for the applicant to seek a variance and therefore, no need to present their application before the Zoning Board.

Mr. Brandes agreed. He noted that the cost of four spaces is quite expensive. He added that the owner and his wife are going to be the only employees of the Subway, possibly one part time employee and therefore the need to pay for four spaces seems unnecessary.

Bill Williams, Building Inspector noted that he had a letter from the property owner, which stated that as long as the applicant holds the lease for Subway, the parking space lease will be renewed each year.

Mr. Madaio stated that the truck deliveries will be once per week and will be during the off hours. When the traffic is not too heavy. It takes approximately 20 – 30 minutes to unload the truck.

Acting Chairman Scalzo asked if the possibility to deliver take out was discussed.

Mr. Madaio stated that they would not offer delivery service at this time.

Member Ringwald asked about the placement of trash receptacles outside the front entrance for patrons to use.

Mr. Brandes agreed and will place them on the plans. Most customers grab a sandwich and carry it out.

Public Comments

Sheila Clarke, 2 Hollywood Ave. voiced her concern regarding traffic and vehicles cutting through the neighborhood. She noted that when she was a member of the Board, the members considered writing code that would restrict this type of business. The decision was made to not write it into the Zoning Code.

Ms. Clarke summarized a letter opposing the application written by Denise Loukas - Parkview Heights Civic Association

On Wednesday, April 8, 2015, the Tuckahoe Zoning Board will hear an application from the chain sandwich shop, Subway, for area variances for parking at 73 Main Street. The Village Zoning Code requires 4 parking spaces – Subway is asking to reduce that to 2 spaces.

We/I object to locating “Subway,” a national chain shop that sells sandwiches, into the Village for several reasons:

1. Tax Revenue - Tuckahoe has small Mom & Pop shops along Main Street that sell the same kinds of food items that Subway does. Examples – Nicky’s Deli, Cafe 72, Quarry Restaurant, Swirl-N-Joy, Fresco Supermarket, Villagio’s, Bentley’s. Subway will draw customers away from all these shops; some have been in our village for many years. Fewer customers at their shops means fewer sales. Fewer sales mean loss of revenue and eventually, the loss of current taxes that these shops now pay. You will sacrifice current revenue for short term gain, since you will inevitably lose some of the smaller shops.

2. Village character and identity will be lost as each small Mom & Pop shop closes. Each small shop provides a different, unique atmosphere that appeals in a different way to each of our villagers. This gives Tuckahoe its’ small-town charm and is the reason so many of our villagers choose to stay here. Our village’s character identity helps to keep property values up. Subway offers none of this unique charm or atmosphere – it is a cookie-cutter chain that can be found anywhere in the U.S.

3. Town Ordinance prohibits “Fast/casual” food shops – As you know, in 2013, our Town of Eastchester passed an ordinance to keep such shops out of the Town. The reasons included economic challenges to food shops that are already in Eastchester and the loss of the individuality those shops create for Eastchester. Subway is such a shop – “fast/casual”. Bronxville, our sister village, also prohibits these kind of chain shops. Why shouldn’t Tuckahoe follow its sister municipalities and aim to bring a higher-end product to our village residents? If you allow the Subway chain, you will not be able to stop other national chains that decide to locate in Tuckahoe – McDonald’s, Taco Bell, Arby’s. What kind of village will we have then?

4. Traffic will increase. Studies from recent/current projects show as many as 45,000 vehicles per week pass along Main Street. It can only get worse with Subway, despite Subway’s claims that they want to draw only foot traffic..

5. Moratorium on Subway application and similar applications. Like Eastchester, the Village Board can call for a moratorium on chain shops and pass regulations to protect our Tuckahoe village charm, character and identity.

Ms. Clarke added that in the past 15 years, the amount of vehicles that travel through Main St. has increased from 17,000 per week to 45,000 per week. The traffic will eventually cut through the back residential roads.

Gus Dimopoulos, owner of the building and the parking lot, which will lease to Subway, Noted that he does not live in Tuckahoe, but has invested quite a lot of money purchasing this building and moving his business to Tuckahoe. This town has potential. He has been unable to rent this space. Subway will help Tuckahoe. Pedestrians will stop and purchase a sandwich and continue walking through town. This would be a 10 year corporate lease with Subway, which is a billion dollar company. He added that there are meter parking spaces in front of this site, which are always available.

Marilyn Mazzella 28 Hollywood Ave noted that she has lived here her entire life. The traffic has increased tremendously. This is a small village, and it is not trying to be Eastchester, White Plains or New Rochelle. This Village has a charm and fast food would not fit here. She asked about the time the trucks would make deliveries and the hours of operation.

Mr. Madaio stated that the hours of operation would be from 10:00 am to 10:00 pm. The truck would make deliveries once per week at approximately 6:00am to 7:00am or after 9:00pm.

Albert Stein 14 Westview voiced his concern about this application. The Village is breaking down with a Subway. He asked if a Denny's would be next at the new Marriott location. He added that he has read the past 2.5 years of minutes and he noticed all the variances requested were granted. This should be an exception. He added that he agreed with Sheila Clarke and opposes this application.

Mary Baker 43 Fulling Ave noted that she opposes this application.

Adriana Dirusso 189 Dante Ave stated that she opposes this application and warned the Board members that this would sell out the neighborhood.

Leonard Brandes noted that chains do exist in the Village, such as Starbucks and Carvel. This Board must vote on the parking variance only. The approval of the past variances is due to the applicant and Board members revising plans and coming to an agreement. He noted that 100 Main St. is a perfect example as it has been before this Board for many months making many revisions based on the Board's concerns.

Acting Chairperson Scalzo noted that the past variances granted is on record for public review. It is based on many revisions to applications. This Board is open and transparent. The Board is always in communication with legal counsel. Many times, when the applicant is unwilling to compromise, the application is pulled prior to a vote.

Marilyn Mazzella 28 Hollywood Ave added that traffic and trash was a big concern. She stated that she wishes Sheila Clarke and the past Board did indeed vote to put this into the ordinance.

Member Ringwald stated that if the applicant did indeed procure the 4 required parking spaces, they would not have to present before this Board. The public must approach the Mayor and the Board of Trustees to change laws. This Board can only vote of a variance requested which is one parking space.

Member Palladino added that this Board does not make laws, this Board only votes on a variance. This application is for a permitted business if the Board agrees with it or not. We have to follow our charge and if the public wants laws changed, they must go to the Mayor and the Board of Trustees.

Acting Chairman Scalzo motioned to close the public hearing, seconded by Member Barandes and unanimously carried by the Board.

Acting Chairperson Scalzo noted that the Board has heard a lot of comments and are not prepared to vote on this this evening.

Item #5 56 Underhill Street

Area Variance

Peter Constantine, attorney for the applicant, stated that he submitted survey plans for a very minor change to widen the driveway. The widening of the driveway will add up to 156sq. ft. Paver blocks are currently on the driveway and the plan is to continue the pavers to widen the driveway. He noted that neighbor's driveways go up to the property line and are asphalt not pavers. The change will not impact the neighborhood.

Acting Chairman Scalzo noted that this is variance requested impacts a buffer zone. The buffer zone was a line of 4ft. tall bushes. It was a solid wall of bushes. Pictures were submitted to show the site before the pavers were placed. The bushes were removed and replaced with a chain-link fence. The curb on the property line separating this property with the neighbor's property was removed. Pavers were placed to edge the driveway and replaced the curb.

Bill Williams, Building Inspector noted that he received two emails containing video dated April 1 and April 8, exhibiting water rushing into the neighbor's yard from the property next door. The bushes that were lining the property used to provide drainage during a rainfall.

Mr. Constantine requested the video be forwarded to him for review.

Member Barandes noted that the removal of the curb was self-inflicted.

Mr. Constantine stated that no vehicle is parked in the driveway, but the owner parks in the garage. This is a three unit house and all tenants park their vehicles on the street. He added that the property owner had to remove the curb along property line to get access to work on the wall.

Acting Chairman Scalzo motioned to open the public hearing, seconded by Member Barandes and unanimously carried by the Board.

Acting Chairman Scalzo noted that a letter was received from Henry Caporoso 62 Underhill St. (See File.) He supports the application if it indeed alleviates the congested parking situation.

John Fitzpatrick 54 Underhill St., owner of the house next door to applicant said he sent the emails to Mr. Williams depicting the drainage problem. He understands that this owner is an elderly man, but this was a self-inflicted act. When the owner was removing the bushes, Mr. Fitzpatrick called the Building Dept. and was told that the owner has a right to cut down his bushes. Mr. Fitzpatrick then called the Police Dept. when the workers were on his property, as he did not want the workers to take down bushes on his property. He noted that if the applicant was determined to widen his driveway, he could widen it by the side of the lawn rather than the buffer zone. He widen the driveway to store his trash cans. The buffer was there for a reason and now the drainage is a big issue.

Mr. Constantine noted that this is a minor change and any issue of water is new to him. He requested the video footage.

Acting Chairman Scalzo noted that this is a tight Village with very small lots. There was a nice buffer zone between the two houses with high and dense bushes, which was replaced with a chain-link fence. There is now a possible drainage issue.

Acting Chairman Scalzo noted that the Board would leave the public hearing open to allow Mr. Constantine to view the video footage and respond.

Item #6	10 Fisher Ave.	Adjourned
Item #7	93-95 Main Street	Adjourned
Item #8	32 Pleasant Place	Adjourned
Item #9	50 Columbus Ave	Adjourned

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.