

December 17, 2007

**TUCKAHOE PLANNING BOARD
TUCKAHOE VILLAGE HALL – 8:00pm**

Present: Chairwoman Ann Marie Ciaramella
Commissioner Eric Fang
Commissioner James Vaughan
Commissioner Melba Caliano
Commissioner Raymond Nerenberg

Also in Attendance:
John Cavallaro Village Attorney
Frank Fish Village Planning Consultant
Bill Williams Building Inspector

Chairwoman Ciaramella announced the evening's agenda as follows:

Item #1 Approval of minutes – November 19, 2007
Item #2 100 Main St. Return
Item #3 76 Main St. Sign Approval
Item #4 70 Marbledale Rd. Site Plan
Item #5 4 Union Place Extension – Site Plan
Item #6 146, 150, 160 Main St and 233 Midland Ave. Return

Item #1 Approval of Minutes

Motion by Commissioner Vaughan to approve the minutes from the Nov. 19, 2007 meeting was seconded by Commissioner Nerenberg and carried by the Board with a vote of 3 – 0, with Commissioner Fang and Commissioner Caliano abstaining due to their absence.

Item #2 100 Main St. Return

Chairwoman Ciaramella announced that the public hearing for this applicant has remained open.

Public Comments

Clifford Davis, attorney retained by Mr. and Mrs. Angelillo, owners of 40 Fairview Ave., the apartment building next door to the proposed building, noted that his clients oppose the site plan for this proposed building. He submitted a packet to each member, Mr. Fish and Mr. Williams, detailing the reasons for their opposition. He noted that if this proposed building were to be built, it would cut off the courtyard entrance to their building as well as cut off sunlight exposure. A window analysis concluded that 4 living rooms, 3 kitchens, and 3 bedrooms would have limited light and 3 bathrooms would be cut off from sunlight completely. The courtyard would have stagnant air. Mr. Davis requested that the Board do a full Environmental Review pursuant to SEQRA and must analyze whether the variances should be granted. He noted that the Zoning Code requires that the Board must take into account the adjacent buildings and that new construction must not be detrimental to the existing properties. He stated that no

analysis has been done concerning this matter. The neighborhood and surrounding properties should be reasonably safeguarded. The site plan regulations state that the environmental quality of the adjacent property must be examined. There is no reference of his client's property on Mr. Burd's plans. Mr. Davis noted that a variance for an increase of more than 50% FAR is too much and will greatly impact his client. He noted that the Board should protect the residents of this neighborhood and not the developer. He summarized the five-prong test that the Zoning Board must use when determining if a variance should be granted.

1. There will not be an undesirable change in the character of the neighborhood and there will not be a detriment to nearby properties. He determined that the cut off of the courtyard as well as the reduction of sunlight and stagnant air should be considered.
2. Can the applicant achieve this through an alternative plan? Mr. Davis requested that the applicant apply for a smaller building.
3. The requested variance is not substantial. The applicant must demonstrate why the variances need to be so large.
4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood. Mr. Davis noted that this would impact his client greatly.
5. The alleged difficulty was not self-created.

Mr. Davis requested that the Board apply the five-prong test, an Environmental impact with full analysis, and that the Zoning Board reopen the public hearing. He noted that a parking variance requires the applicant to submit an application for a Use Variance. The applicant could not meet that requirement.

Mr. Nathaniel Parish, Urban Planner, representing Mr. and Mrs. Angelillo, submitted a packet also detailing the reasons why this application must be reviewed carefully. He asked the Planning Board, as Lead Agency, to coordinate a review with the Zoning Board and the Village Board and to look at this project in its totality. He noted that there is no basis for granting the area variances due to the significant and severe impacts of this project. He noted that the Board cannot issue a negative declaration pursuant to SEQRA. Mr. Parish noted that a mixed-use building is a good idea and the architect designed a nice looking building, but should achieve it in an 'as of right' application. He stated that the application requires 81 parking spaces under the current zoning ordinance. This plan provides 61 spaces. Mr. Parish explained in detail (see packet) as to why only 42 of these parking spaces are legitimate. Therefore, it is the opinion of Mr. Parish, that the applicant can only provide 42 spaces. This is a 50% reduction of what is required. This will cause illegal parking due to the inadequate amount of parking spaces, which he stated is not a condition the Planning Board wants for the Village. There will be an unmitigated, adverse impact on 40 Fairview Ave., as the whole environment will change. He also asked the Board to review the potential storm drainage impact as well as the evacuation impacts as this project may require blasting. He noted that the plans for this project should be scaled down.

Noel Degaetano, 33 Terrace Place, stated that he agrees with this attorney. This project will negatively impact the neighborhood.

Jeff Myers, 16 Terrace Place, voiced his concern regarding safety. The bottom of Terrace Place is all ice and extremely dangerous to exit onto Main St. To make a left turn onto Main Street is virtually impossible. Increasing the traffic flow at this spot will be a safety issue. He added that the parking situation in the area is desperate.

Ester Garcia, 43 Terrace Place, stated that she too agrees with the statements made by Mr. Davis and Mr. Parish.

Michael Goldblum, architect for the applicant, Mr. Burd, indicated that he will review each and every statement made tonight and will respond to each item at the next meeting. He asked to clarify for the public, that this building does not require a variance for the height and for the side yard. The building could be built to this height 'as of right' as well as a zero side yard set back. The Angelillos would still be upset with the height of the building, but the height is not variant, the number of stories is variant. He noted that every building built creates its own detriments to the adjacent properties. Some apartments at 40 Fairview Ave. may be negatively impacted, but not severely impacted.

Mr. Davis noted that the Board can require a proper site plan, which protects the community and adjoining properties.

Chairwoman Ciaramella thanked the public for their input and noted that the public hearing will remain open.

Motion by Commissioner Caliano to keep the public hearing open, was seconded by Commissioner Fang and unanimously carried by the Board.

Mr. Frank Fish, Village Consultant, stated that he will review the two memos submitted this evening by Mr. Parish and Mr. Davis. He has asked the applicant to submit an EAF long form. He noted that there is no 'as of right' project in Westchester County anymore. An 'as of right' situation only happens in Manhattan. He also reminded the Board that the applicant is not requesting a height variance, rather a variance for the number of stories. Zoning code allows 42 ft. or 3 stories, the applicant requested 42 ft. and 4 stories.

There is also no side yard requirement in this zone. The applicant did not request a parking variance. The traffic study was completed at the request of Mayor Fitzpatrick (Nov. 7, 2007 memo). The traffic consultant will defend his findings at the next meeting. All three Boards are working in cooperation with regards to this project. This Board must make a negative or positive declaration within 20 days, if the Board needs more information, they must request it before the determination is made.

Mr. Parish suggested that the applicant build a three story building with the existing FAR, which will be an 'as of right' building.

Item #3 76 Main St. Sign Approval

Michael Sans, representing the owners of 76 Main St., requested the approval of a pin-mounted letter sign 'SYNLAWN.' He submitted pictures to the Board members. The hunter green letters measure 9 in. and will be non-illuminated. They will be individually mounted directly to the stucco with silicon. The applicant withdrew the request for his logo.

Motion by Commissioner Nerenberg to accept the sign application as presented tonight. This motion was seconded by Commissioner Fang and unanimously carried by the Board.

Item #4 70 Marbledale Rd. Site Plan

Richard Hopwood, representing the owners of 70 Marbledale Rd., noted that the company received a violation for storage of outdoor equipment. He proposed to erect a fence to screen the equipment. The fence will measure 80 ft. of permanent fencing and an additional 10ft. section for a gate.

Chairwoman Ciaramella noted that storage is not permitted in front of the building. In addition, parking any vehicles is not permitted in front of the building. She noted that during the recent workshop, Mr. Hopwood stated that there are usually vehicles parked in the front of the building. Although the violation was only for the storage, at the time of the citation there were no vehicles parked there. Chairwoman Ciaramella advised the applicant to enclose the area, as parking and storage is not permitted in front of the building.

Mr. Hopwood stated that almost every building on Marbledale Rd. has vehicles parked in front, as there is very limited parking on the street.

John Cavallaro, Village Attorney, stated that parking in front of the building is not permitted without a variance. The applicant may return and apply for a variance.

Item #5 4 Union Place Extension – Site Plan

Mr. Robert Wellner, representing the application for JUMA, indicated that the previous extension granted will expire and requested another extension of 12 months. This will be the last extension application, as the project must begin construction by September 2008 to meet the requirements to receive the necessary funding.

Chairwoman Ciaramella voiced her concern that the project approved by this Board a few years ago may not be affordable at the present construction rates. She asked if the building will be modified.

Mr. Wellner noted that the building will not be 'cheapened' as it will be the same building as approved. He noted that the building will have 37 units available for seniors that fall within 30% - 60% of the area median income.

Mr. Fish noted that the county median income for a family of four is \$95,000.

Mr. Wellner noted that there are income requirements for the existing building on Jefferson. The Tuckahoe Housing Authority can supplement incomes to place seniors currently occupying a two-bedroom unit and place them in the new building in a one-bedroom unit to allow a family to move into the vacant two-bedroom unit. He added that 25% of the population in Tuckahoe is seniors. Many resident seniors may be eligible to live in this building.

Commissioner Vaughan voiced his concern that two years have passed since the approval of this building. In the two years, the Village has changed with more buildings, more traffic etc. The approval of this building was with a completely different set of data. The approval of an extension should require a reassessment regarding the particulars.

Chairwoman Ciaramella asked the applicant to submit an updated EAF.

Mr. Wellner noted that the traffic study completed in 2005 considered future growth. He also noted that the seniors do not usually drive, as there are 9 apartments available to only frail elderly.

Motion by Commissioner Nerenberg to open the public hearing, seconded by Commissioner Caliano and unanimously carried by the Board.

Public Comments

Jeff Myers, 16 Terrace Place, asked for a full reassessment before the extension is approved as the Village has changed tremendously. The 27 parking spaces proposed for 95 units is not enough. Many seniors drive and will need parking. He stated that the building should be scaled down. He added that the Tuckahoe Housing Authority has been in the news lately as not being able to manage themselves. He voiced his concern as to how it will manage this project. No other municipality would approve a building for 95 units with 27 parking spaces. He stated that this was a profit driven endeavor.

Mr. Wellner stated that there are 131 available parking spaces on the street. As for a profit driven endeavor, the state controls this project and it is very controlled. He agreed to submit an updated EAF in January.

Noel Degaetano, 33 Terrace Place, stated that the density in the Village is high. There is a big project being proposed at the Midland Ave. and Main St. area. There are too many buildings in Tuckahoe. There are not enough parking spaces and there are not 131 spaces available on Jefferson.

Motion by Commissioner Caliano to keep the public hearing open, seconded by Commissioner Nerenberg and unanimously carried by the Board.

Item #6 146, 150, 160 Main St and 233 Midland Ave. Return

Frank Fish, Village Consultant, asked the Board to review the submitted memo. He stated that the applicant needs to provide additional information regarding items such as hazardous materials etc.

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 at 9:50pm.

Chairwoman Ciaramella wished all a Happy Holiday and a peaceful, prosperous New Year!
She thanked her colleagues for their service to the Village.