

Minutes of: June 13, 2007
Date Approved: Sept. 5, 2007
Date Filed/Village Clerk: _____

June 13, 2007
TUCKAHOE ZONING BOARD AND BOARD OF APPEALS
TUCKAHOE VILLAGE HALL – 8:00pm

Present:	Gloria Rosell	Chairperson
	Philip Allison	Member
	Kevin McBride	Member
	John Kang	Member
	Susan Crane	Member

Also in Attendance:

John Cavallaro	Village Attorney
William Williams	Building Inspector

Chairwoman Rosell announced the agenda as follows:

- Item #1 Approval of Minutes of the May 9, 2007 meeting.**
- Item #2 28 Bronx St. Area Variance**
- Item #3 51 Wallace St. Area Variance**
- Item #4 35 Bronx St. Return/Special Use Permit**

Item #1 Motion by Member Allison to approve minutes of the May 9, 2007 meeting, was seconded by Member McBride and approved by the Board with a vote of 4-0, with Member Crane abstaining due to her absence.

Item #2 28 Bronx St. Area Variance

Mr. Chris Pinto, applicant, indicated that he was requesting a side yard variance. There is no dining room in this little house, so the owner would like to build a small deck to entertain and enhance the rear of the property. The existing lot is already nonconforming. He indicated that he was not expanding the footprint. The first floor has a living room, a kitchen, entranceway, stairs, and he noted that he is building a powder room and a pantry.

Chairwoman Rosell noted that the members visited the property and noted that the lot has depth not width, the rear is screened with arborvitae and a left side fence. The deck proposed is not a large deck.

Mr. Pinto noted that there are no plans for a shed as it would take up too much space in the small backyard. He hopes to have a gardener to take care of the landscaping so as not to have to store garden supplies.

Mr. Pinto explained that this was an existing house and the proposed deck would be an intermediate step from the kitchen to the rear yard. The deck will be 2.5ft. in height from the grass.

Motion by Member McBride to open the public hearing was seconded by Member Crane and unanimously carried by the Board.

Public Comments

Jeff Zuckerman, resident two houses from the applicant, noted that this was a 100-year-old house, which the applicant has fixed up beautifully. He indicated that he was in favor of this proposed deck.

Nora Rossi, Lake Ave., noted that she was in favor of this application.

Elizabeth Rossulo, 26 Bronx St., noted that the arborvitae was on her property and that she was in favor of this application.

Motion by Member Allison to close the public hearing was seconded by Member Crane and unanimously carried by the Board.

Chairwoman Crane offered a Resolution for the application of an area variance requested by Mr. Chris Pinto, 28 Bronx St., for relief of the following sections of the building code: Section 4-3.4.2 - Side yard - along each lot line must be at least a width of 9 ft., and for any lot created after July 1, 1999 the width must be at least 15 ft. The proposed is 6.6ft and 3ft. respectfully.

Section 4-3.6.6 Buffer - There shall be a 5ft. wide landscape buffer located within the required side and rear yard where they abut a property line. This buffer must be maintained as open space with natural material such as grass, plants or shrubs.

Section 5-1.6.3 – A property that does not conform to current zoning codes may not be altered or enlarged as to increase the degree of nonconformity.

Recommendation is for an area variance to be granted as the benefit to the applicant of the area variance outweighs the detriment to the health, safety and welfare of the neighborhood. The neighborhood consists of charming, well-maintained and closely built homes. The subject home is under renovation that will enhance its appearance in the neighborhood. Landscaping exists on side yard property lines satisfying the goal of the 5ft. buffer.

1. There will not be an undesirable change in the character of the neighborhood and there will not be a detriment to nearby properties: as the proposed deck will be at the rear of the property. It is of modest size and will not exceed the width of the home's proportions. It will not be evident from the front of the house.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance. Because the lot size is nonconforming, there is not another method for the owner to achieve this benefit other than an area variance.
3. The requested variance is not substantial. The requested variances range from 2.4ft. to 6ft.

4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood. This project will not create any more water run off because impervious surfaces are not created at the property line.
5. The alleged difficulty was not self-created in that the home, based on today's zoning code, is non-conforming.

Member Crane made a recommendation to approve the requested area variance and that the construction adhere to and be in compliance with the existing building code. If this variance is granted, it is stipulated that completion be one year after the issuance. The Board adopts a negative declaration pursuant to SEQR.

Member Kang motioned to accept this recommendation and Member McBride seconded the motion and upon roll call was carried by the Board with a vote of 5 – 0.

Item #3 51 Wallace St. Area Variance

Mr. Tom Abillama, architect for the applicant, requested a variance to legalize a portion of the basement. The home is located in a Residential B zone with a .5 FAR. The requested variance will bring the FAR to .68. The applicant has three young children, two grown children that visit on weekends, a wife and a mother whom lives with the applicant. There is storage area and a boiler room in the basement. One part of the basement would be used as an office and the remaining area will be a family room for the children.

Chairwoman Rosell noted that the Board visited the property and were denied access to the basement. It is important that the Board reviews the area for the requested variance.

Mr. David Colon, the owner, indicated that he purchased the home with the bathroom already in the basement. Several walls and the ceiling were already in the basement. He indicated that he put up two walls and two doors for his makeshift office and some kitchen cabinets for storage.

Chairwoman Rosell asked if the title company picked up on the finished bathroom in the basement.

Mr. Colon indicated that the Certificate of Occupancy was received 5 months after the applicant moved in.

Chairwoman Rosell asked if the applicant understood that an apartment in the basement with a full bathroom lends itself to an illegal apartment. The variance, if approved, goes with the property, not the owner.

Bill Williams, Building Inspector, indicated that if the variance were to be approved, he would need to inspect the plumbing, waste line, water closet and check if the vent system is hooked up properly.

Member Crane asked if the applicant was the original owner.

Mr. Colon noted that he was and he closed with a temporary CO.

Chairwoman Rosell stated that the Board would like to see the basement.

Motion by Member Crane to open the public hearing, was seconded by Member McBride and unanimously carried by the Board.

No Public Comments

No Written Comments

Motion by Member Crane to hold the public hearing open so the Board members could view the basement. The motion was seconded by Member McBride and unanimously carried by the Board.

Item #4 35 Bronx St.

Return/Special Use Permit

Chairwoman Rosell summarized the revised plans that have been submitted by this applicant.

Date: May31, 2007

	Required (post 7/1/1999)	Proposed
Lot area	10,000 sq. ft.	Approx. 17,730 sq. ft.
Lot Width	80 ft.	Approx. 199 ft.
Frontage	80% of 80 ft.	199.87 ft.
Front yard	35 ft.	20 ft.
Side yard	15 ft.	35 ft. (left side yd.) 66 ft. 1 7/8 in (right side yard)
Rear yard	35 ft.	10 ft.
Coverage	40%	27%
FAR	.5	.48
Height	35 ft. or 2.5 stories	25 ft., 2 stories
Parking	Unspecified	5 off street spaces including one handicap van accessible.

Chairwoman Rosell stated that the original 3-story building was reduced to two floors, one floor with a basement (12,600sq. ft. to 8,900 sq. ft.) The number of students was reduced from the original 90 to 54 and now 44. The hours of operation will be from 7:30 am to 6:30 pm. There will be a 15-minute loading zone in the front, which will be noted with a 'Loading Zone Only' sign. Chairwoman Rosell stated that the Village code also states that any Day Care facility in a Residence B Zone is required to apply for a Special Use Permit.

Mr. Jim Stout, attorney for the applicant, indicated that the proposed building has been reduced from 21,000sq. ft. to 8900 sq. ft. All parking has been removed from the front yard and the Day Care categorization has been accepted. The proposed 5 ft. set back is more than what exists at the present building. The applicant needs only 2 variances; front and rear yard set backs. The front will be 5 ft. more that the present building and the rear yard abuts to open space.

Ms. Diane Kaufman Fredette, architect for the center, noted that the parking will be on the east side of the building and the playground on the west side. The basement floor will only be visible from the back and sides of the building due to the slope. The first floor will have classrooms and offices. The plan for the property is for a residential style building.

Member Kang asked about the three stories of windows on the plans.
Ms. Fredette indicated that the plans are for cathedral ceilings to offer additional light.

Member Kang asked about the removal of the bleachers.
Ms. Marion Anderson, Executive Director of Family and Community Services, indicated that the bleachers were within the property lines. She noted that she will discuss the topic of the bleachers with the Eastchester Town Supervisor.

Member Kang voiced his concern regarding foul balls and the danger of the windows getting broken and a child in potential danger.

Ms. Fredette indicated that the plans would include laminated glass.

Member Kang asked about the danger of open windows.

Ms. Anderson indicated that she was not prepared to answer specifics about the details of the materials.

Member Kang asked about the 15-minute loading zone.

Ms. Anderson stated that the neighbors voiced their concern about the traffic at drop off and this plan would allow the vehicles to get off the main road while the children are being dropped off. This area will have signs, which will indicate the drop off time from 7:30 am to 6:00pm Monday thru Friday. The spaces will be available to the residents after hours and weekends.

Chairwoman Rosell stated that deliveries will not be made until after 7:30 am.

Member Kang asked about the terms of the lease.

Ms. Anderson indicated that she will supply the Village with the lease after it is completed.

Member McBride asked about the traffic study with the traffic light on Main St. taken into consideration and the increased volume of 54 children.

Ms. Anderson noted that a traffic study was completed when the proposed plan was for 88 children, the traffic engineers updated their findings for 54 children. They took counts at Lake Ave. and Main St., Lake Ave. and Cedar St. and around the neighborhood.

Member Allison asked about the height of the building compared to the adjacent houses.

Mr. Stout asked the Board to review previously submitted photos of the surrounding homes.

The hours of operation will be from 7:30 am to 6:30 pm, M –F with no overnight guests, no weekends and the ages of the children range from 18months to 5 years of age.

Motion by Member Allison to open the public hearing, was seconded by Member Crane and unanimously carried by the Board.

Public Comments

Mr. Zuckerman, Bronx St., noted that he was satisfied that the plans of the building were keeping with the neighborhood. He asked if the hours of operation would stay with the building.

John Cavallaro, Village Attorney, indicated that this is a Special Use Permit for a day care center, if transferred to a new owner, the conditions stay with the building.

Nora Rossi, resident, asked if a condition be made that this facility only remains as a day care center for pre-school children so that the Andrus Foundation may not use the facility for different reasons.

John Cavallaro indicated that he would look into that matter. This Board is a Land Use Board and cannot attempt to control the business. If the use changes from a day care center, the permit could be revoked.

Chris Bias, 156 Lake Ave., asked if the Eastchester Town Supervisor agreed to the removal of the bleachers.

John Cavallaro stated that this land was re-dedicated, owned by Eastchester and leased to the applicant. The removal of the bleachers would need approval by the Supervisor.

The lease was not finalized as the Town wants to hear the Village's input. The State of NY de-dedicated the land from parkland to non-parkland.

Chris Bias noted that it was not community friendly to remove the bleachers for residents to use. He also voiced his concern regarding the danger of foul balls. He asked if the center was classified as a school or a day care center and if there were future plans to apply for school status. Chairwoman Rosell noted that the classification was Day Care Center, with 18 months – 5-year-old children only.

Nancy Woodruff Ment, President and CEO of the Andrus Memorial, indicated that there is no intention to change the use of the facility from a day care center. The Andrus Memorial cannot sell the property and the de-dedication was for a day care center only.

Member Allison indicated that the Zoning Board has reduced the scope of the building and the variances requested were not too large.

Motion by Member Kang to keep the public hearing open was seconded by Member McBride and unanimously carried by the Board. The Board will render their decision at the next meeting.

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 9:23p.m.