

Minutes of: Oct. 10, 2007
Date Approved: November 14, 2007
Date Filed/Village Clerk: _____

October 10, 2007
TUCKAHOE ZONING BOARD AND BOARD OF APPEALS
TUCKAHOE VILLAGE HALL – 8:00pm

Present:	Gloria Rosell	Chairperson
	Kevin McBride	Member
	John Kang	Member
	Philip Allison	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 September 5, 2007 meeting.**
- Item #2 51 Wallace St. Return/Area Variance**
- Item #3 35 Bronx St. Return/Special Use Permit**
- Item #4 69 Lincoln Ave. Area Variance**
- Item #5 146, 150, 160 Main 233 Midland Area Variance/Special Use Permit**

Item #1 Motion by Member McBride to approve minutes of the September 5, 2007 meeting was seconded by Member Allison and approved by the Board with a vote of 5-0.

Item #2 51 Wallace St. Return/Area Variance
Mr. Alfredo Colon requested a variance for a finished basement for a family room and storage space. The necessary paper work has been filed and all fees have been paid.

Chairwoman Rosell indicated that the Board had viewed this property.

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

No Public Comments

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

Member Crane offered a Resolution for the application of an area variance requested by Mr. Alfredo Colon, for relief of the following section of the building code: Section 4-3.6 Floor Area Ratio. The Floor Area Ratio for Residence B request is to legalize a building permit to add it to the existing certificate of occupancy.

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.

1. There will not be an undesirable change in the character of the neighborhood and there will not be a detriment to nearby properties: The area in question is located in the basement of the home and is being used by the homeowners for family leisure and storage.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance, since construction has already been completed.
3. The requested variance is not substantial. The requested variance is 26%.
4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood in that the addition of this space will not have an affect on traffic, parking, pollution, school population, or density since the space will be solely occupied by the immediate families, which are the sole occupants.
5. The alleged difficulty was not self-created in that all variances are self-created as Mr. Colon commenced with construction prior to obtaining all proper building permits, despite that finding, that does not tip in favor of this application being denied.

Member Crane made a recommendation to approve the requested area variance with the following stipulations:

1. A stove will not be permitted in the basement area.
2. The house is to remain a two-family dwelling.
3. The area cannot be used as a separate apartment for rental or permanent dwelling quarters.
4. The owner is to allow annual inspections by the Building Inspector to verify compliance with the stipulations set forth.
5. All fines imposed by the Building Dept. be paid within 10 days of this application to the extent they have not been paid.

The Board adopts a negative declaration pursuant to SEQR.

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

Item #3 35 Bronx St. Area Variance/Special Use Permit

Chairwoman Rosell announced that the public hearing was still open for this application. Member Kang stated that he was just made aware that the ECDC program was awarded the contract for Universal Pre-Kindergarten and voiced his concern whether the FCS would be able to meet the conditions that were discussed.

The attorney representing the applicant indicated that the facility would be able to meet all the requirements of the resolution including the drop-off time of 7:15am – 9:15am.

Marion Anderson, Director of FCS, noted that this application is for the new facility and they will comply with all the conditions. Being awarded the Universal Pre-Kindergarten will have no

impact on the current application. The facility is licensed for 54 children, as per the application, including Pre-K. The drop-off will be the same, as there will not be any drop-off for an afternoon session.

Public Comments

Jeff Zuckerman 24 Bronx St., asked if the center would have any evening events.

John Cavallaro, Village Attorney, noted that periodic parent workshops may be held during the evening hours and the proposed facility shall not be operated on the weekends during any time of the year subject to periodic parent workshops that are to be held on weekends, which will not exceed four per year.

Jeff Zuckerman asked the number of employees employed by the center, and where would they park.

Marion Anderson indicated that there are 10 full-time employees, and a few part-time employees. The facility provides five parking spaces, some employees would park on Consulate Dr., which has 4-hour parking limits. The employees will exit the facility and move their vehicles every 4 hours. She noted that most part-time employees walk to the facility. She also noted that the drop-off area would be available to the public for parking outside the hours of operation, and on weekends. The employees will not use paper marked ECDC in their windshield.

Jeff Zuckerman also voiced his concern regarding the new Pre-K and asked if this would now allow the center to be classified as a school rather than a day care center.

John Cavallaro, Village Attorney, noted that this center is a day care center, to change to a school, the center would need approval from this Board. As for the parking issue, Mr. Cavallaro noted that the Zoning Ordinance does not regulate parking for day-care facilities.

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

Member Kang offered the following Resolution:

ZONING BOARD OF APPEALS
VILLAGE OF TUCKAHOE, NEW YORK

In the Matter of the Application of

FAMILY AND COMMUNITY SERVICES, INC.,

Premises: 35 Bronx Street
Tuckahoe, New York,

Applicant.

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
DECISION

Background

The Applicant is the lessee of the premises commonly known as 35 Bronx Street, Tuckahoe, New York and known on the tax map of the Village of Tuckahoe as Section 37, Block 3 and Lot 2 (also known as 2A) (the October 10, 2007

"Premises"). The Premises is currently improved by an affixed structure that is one story in height which is located adjacent to an existing bleacher stand located on the parkland known as Parkway Oval.

The Applicant is a non-profit, non-sectarian social service agency that provides child care services to children ranging in age from 18 months up to 6 years. The Applicant has operated this day care facility use at the Premises since the mid-1960s. In connection with this application, the Applicant seeks to remove the existing structure and replace the same with a structure of 8,900 square feet. In connection with the Applicant's proposal, the Applicant seeks a special use permit from the Zoning Board of Appeals as well as front yard and rear yard area variances.

Specifically, the Premises is approximately 17,730 square feet and is currently improved by a one-story pre-fabricated building, outdoor recreation area and a bleachers/grandstand overlooking the adjacent park. The existing building was built in 1968, with additions having been made in 1986. The interior layout of the existing building is a "railroad" style, which appears limited in size. The Applicant is proposing to redevelop the Premises by constructing a new building of 8,900 square feet with five off-street parking spaces and a designated area for pickup/drop-off that would be limited to 15-minute increments.

The Premises is located adjacent to a parkland use. This parkland was originally owned by Westchester County (the "County") and was deeded to the Town of Eastchester in 1949. That deed contained a reverter clause restricting the use of the land to playground or park uses. In 1967, the Town, with the County's approval, entered into a lease agreement with the Applicant allowing it to operate its facility on a portion of the parkland. The County issued its consent after it rendered a determination that the proposed use of the land as a day care center was consistent with recreational activities and other parkland purposes.

Since land designated for parkland use cannot be alienated without approval of the State Legislature, a bill was introduced before the New York State Senate on May 16, 2003. On September 30, 2003, state legislation was enacted permitting alienation of the parkland, allowing the Town of Eastchester, the owner of the Premises, to enter into a long-term lease with the Applicant for the purpose of providing day care services.

Finally, Premises is located in a Residence B Zoning District, which requires, in pertinent part, that day care facilities be operated pursuant to special use permits issued by the Zoning Board of Appeals. Although the Premises has a history of being unzoned, on July 25, 2005, the Village Board of Trustees adopted a local law zoning the Premises as part of the Residence B Zoning District.

The Nature of the Application

In connection with this application, the Applicant seeks to remove the existing structure and replace the same with a structure of 8,900 square feet. To that end, the Applicant seeks a special use permit from Zoning Board of Appeals as well as a front yard area variance and a rear yard area variance. The Applicant has additionally requested that the Zoning Board of Appeals issue a determination as to whether the lot constituting the Premises was created prior to July 1, 1999.

The Area Variances

The nature and degree of the variances sought are as follows:

	Required (pre-7/1/1999)	Required (post- 7/1/1999)	Proposed
Front yard setback	25 feet	35 feet	20 feet
Rear yard setback	25 feet	35 feet	10 feet

In total, the Applicant seeks two area variances from this Board. The Applicant presently represents to this Zoning Board that it would continue to utilize the Premises as a day care facility consistent with the plans submitted by Diane Kaufman Fredette, the Applicant's architect.

In order to grant the requested variances, this Zoning Board must consider five factors in reaching its determination as follows:

1. Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties?
2. Whether the benefit sought by application can be achieved by a feasible alternative to the variance?
3. Whether the requested variances are substantial?
4. Would the variances have an adverse impact on the physical or environmental conditions in the neighborhood?
5. Whether the alleged difficulty was self-created?

In considering the above-mentioned factors, this Zoning Board is left to consider whether the benefit to the Applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community. In applying the five factor test and considering the benefit to the applicant weighed against the detriment to health, safety and welfare of the neighborhood or community, this Zoning Board resolves to grant the area variances as presented because the Applicant, in this Board's opinion, has satisfied the five factor test.

Moreover, with this application, this Zoning Board finds that the Premises constitute a lot that was created post-July 1, 1999. According to the Applicant's submissions, it appears that the Premises was carved out of the larger

tract of parkland by the aforementioned 2003 New York State legislation. This Board finds that the Premises was not an alienable or separate lot until the enactment with the 2003 State legislation.¹

1. Whether An Undesirable Change Would Be Produced In The Character Of The Neighborhood Or A Detriment To Nearby Properties?

This Zoning Board finds that an undesirable change in the character of the neighborhood would not result from the granting of the requested front yard and rear yard area variances. With respect to the rear yard area variance request, although the Applicant is only providing a rear yard measuring ten feet, open parkland is located adjacent to the rear yard. Thus, no neighboring properties to the rear of the Premises would suffer any type of detrimental effects from the granting of the rear yard variance. With respect to the front yard area variance request, this Board finds that an undesirable change in the character of the neighborhood would not be produced since the Applicant would be providing a landscaped front yard setback of twenty feet, which is an adequate setback for the proposed structure.

In addition, the Applicant has centrally-sited the proposed building on the Premises in order to avoid any negative effects to nearby properties. Based on the siting of the proposed building in the context of the surrounding parkland, the insufficient front and rear yards would not create any further density issues with respect to the neighboring properties. Any density or buffer zone issues are mitigated by the siting of the structure as proposed.

2. Whether The Benefits Sought By the Applicant Can Be Achieved By A Feasible Alternative to the Variances?

Over the course of several applications, the Applicant has reduced the size of the structure from approximately 21,000 square feet to the now proposed structure of approximately 8,900 square feet. In addition, the Applicant has represented to this Board that it has state-mandated minimum square footage requirements that are directly correlated to the number of children enrolled at the facility. Thus, based on the configuration of the lot and the Applicant's minimum space requirements, there appears no feasible alternative absent the instant variances.

3. Whether The Requested Variances Are Substantial?

Here, this Zoning Board finds that the requested variances are not substantial in relation to the proposed building and surrounding properties. The Applicant requests a fifteen-foot front yard variance; however, it has attempted to mitigate the impact of the variance by landscaping the front of the building and, providing for a screened area and improved aesthetics. In response to the rear yard variance, although the Applicant requests a twenty-five foot variance, open parkland exists to the rear. Any negative impacts of the rear yard variance are sufficiently offset

¹ This finding does not change the type of variances needed by the Applicant but only the degree or scope of the variances requested.

by the added “buffer zone” provided by the adjacent, open parkland. Thus, the substantiality of the rear yard variance does not produce negative impacts of appreciable substantiality.

4. Would The Variances Have An Adverse Impact On The Physical Or Environmental Conditions in the Neighborhood?

This Zoning Board finds that the requested variances will not produce adverse impacts on the physical or environmental conditions in the surrounding neighborhood. The parkland remains unaffected by the variances, and these variances will not produce any greater environmental impacts such as poor aesthetics, increased traffic, greater parking demands, pollution, noise pollution or other negative environmental conditions. Aesthetically, the proposed new building appears more pleasing than the existing double-wide, trailer-like structure that currently exists on the Premises.

5. Whether The Alleged Difficulty Was Self-Created?

On this record, it does appear that the alleged difficulty was self-created in that the Applicant could have a designed smaller structure. However, this self-created difficulty is not fatal to this application. The Applicant has minimum space requirements that must be satisfied pursuant to New York State Department of Education regulations. Additionally, the Applicant has dramatically reduced the size of the proposed building in comparison to prior submissions for similar projects.

In connection with the grant of the area variances herein, it is worth noting that the Applicant is fully compliant with the following requirements: 1) lot area; 2) lot width; 3) frontage; 4) side yard setbacks; 5) building coverage; 6) floor-area ratio; and 7) building height.

The Special Use Permit

Pursuant to Section 6-1 of the Tuckahoe Zoning Code, the Zoning Board of Appeals is granted the authority to issue special use permits specified within the Zoning Code. “Any use designated in a given district as requiring a special use permit shall be deemed to be a permitted use in such district subject to satisfaction of the conditions and standards set forth in this article in addition to all other requirements of this Zoning Ordinance.” See Tuckahoe Zoning Code, Section 6-1.1. Under the Tuckahoe Zoning Code, this Zoning Board is mandated to apply certain conditions to ensure that the Applicant meets or exceeds the requirements of the Zoning Code.

1. Compatibility with District

This Zoning Board finds that the proposed use is compatible and harmonious with the orderly development of the Zoning District in which the Premises is located. The Zoning Board has required that the size of the proposed structure be reduced from the Applicant's initial application of approximately 21,000 square feet to the current application, which proposes a building of approximately 8,900 square feet. The day care facility use has been in existence continuously on the Premises for nearly forty years. Additionally, the Applicant currently serves approximately forty-four children at its day care facility. Thus an increase to fifty-four (subject to a plus/minus ten percent deviation) children at the facility will not heighten the assembly of persons in connection with the use of the Premises to an incompatible degree with the surrounding neighborhood.

Finally, the site is located on a public street and is surrounded in the rear by open parkland. Thus, the development of the proposed building poses no greater negative impacts to properties in the surrounding community in light of the abundant open space to the Premises' rear. Notwithstanding that Applicant has requested front and rear yard area variances, it has exceeded and satisfied the side yard setback requirements set forth in the Zoning Ordinance, thus enhancing the degree of space between it and neighboring buildings.

2. Compatibility With Comprehensive Plan

The project is compatible with the Comprehensive Plan in that the Comprehensive Plan document neither recommends the elimination of day care facilities from the Premises nor the re-zoning of the Premises to a classification different from that presently existing at the Premises. Moreover, as mentioned, in July 2005, the Premises were rezoned to Residence B, thus furthering the goals of the Comprehensive Plan by eliminating unzoned parcels within the Village.

3. Services

The proposed building will be readily accessible for fire and police protection. The building is located on a public street that is navigable by fire and police protection services. Nothing in this record suggests police or fire protection services will be diminished by the project as proposed.

4. Adjacent Properties

The location, nature and height of the building as proposed would not hinder or discourage the development and use of adjacent buildings. The Premises is located in an area of the Village that is fully developed and surrounded by residential uses. From the Bronx Street perspective, a one-story building is proposed; thus, the building height is compatible with that of the residential uses in the surrounding community. In addition, landscaping

will be provided on the southerly and easterly boundary lines of the property, which will provide a landscape buffer between the proposed building and the surrounding dwellings.

5. *Nuisance*

Again, it is worth repeating that the use in this community has existed for nearly forty years. As a day care facility with limited hours of operation and other restrictions, the project will not produce noise, fumes, vibration, flashing of lights or other similar nuisance conditions to the surrounding neighborhood. Moreover, offensive, dangerous or destructive elements to the surrounding community are not produced as a result of this project.

6. *Neighborhood Character and Property Values*

On this record, there appears no evidence that the property values in the surrounding community will be diminished by the completion of the project as proposed. Additionally, the new proposed building may prove more aesthetically pleasing than the current structure, which is outdated in appearance.

7. *Traffic*

This Board recognizes that the proposed structure might produce increased traffic on public roadways. In an effort to mitigate the same, this Board has required a fifteen minute loading zone to be provided in front of the proposed structure. Additionally, deliveries will be restricted to general business hours and busing to the Premises has been prohibited. Thus, this Zoning Board finds that it has imposed reasonable conditions in an effort to mitigate any adverse traffic impacts that may arise from the project as proposed.

8. *Parking*

Pursuant to the Tuckahoe Zoning Code, a minimum number of off-street parking spaces are not set forth and/or regulated under the Code. However, the Applicant has proposed five off-street parking spaces in an effort to mitigate any negative parking impacts. The aforementioned loading zone will be available to the public for off-street parking during time periods falling outside of the facility's hours of operation.

9. *Conformance with Regulations*

With the exception of the front and rear yard setback requirements, the Applicant has complied with or exceeded the zoning regulations for lot area, lot width, frontage, side yard setback, building coverage, floor-area ratio and height.

Based on the foregoing, this Board finds that the Applicant has reasonably satisfied the general conditions applicable to the issuance of special use permits as set forth in the Tuckahoe Zoning Code.

Conditions

The approvals granted herein are subject to the conditions set forth and contained on Schedule A, attached hereto, made a part hereof and incorporated by reference herein. This Board finds that the conditions set forth and contained on said Schedule A are reasonable conditions imposed on the Applicant in an effort to make this project more compliant with the Tuckahoe Zoning Code standards as well as to reduce any negative environmental impacts associated with this project.

SEQRA

Based on the foregoing, the Zoning Board of Appeals of the Village of Tuckahoe finds and determines that:

1. The action taken herein is an Unlisted Action subject to the requirements of SEQRA.
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 special use permit and variance application.
3. That the action taken herein shall not have any significant impact upon the environment and declared that a Negative Declaration is hereby adopted with regard to this action.

Conclusion

Based on the foregoing, it is resolved that the area variances and the special use permit referenced herein be and are hereby granted to the Applicant in accordance with this Decision subject to the conditions set forth and contained on Schedule A, attached hereto. The applicant and/or interested third parties are notified of their respective rights to appeal this decision or any part thereof in accordance the New York Civil Practice Law and Rules.

Dated: Tuckahoe, New York
October ____, 2007

Gloria Rosell,
Tuckahoe Zoning Board Chairperson

SCHEDULE A

CONDITIONS TO A CERTAIN APPROVAL FOR A SPECIAL USE PERMIT AND AREA VARIANCES GRANTED TO FAMILY AND COMMUNITY SERVICES FOR THE PREMISES 35 BRONX STREET, TUCKAHOE, NEW YORK FROM THE ZONING BOARD OF APPEALS OF THE VILLAGE OF TUCKAHOE

1. The use of the proposed structure shall be limited to a day care facility, inclusive of the head start program currently operated at the facility and a universal pre-kindergarten program that is to be operated at the facility, which use shall not be enlarged, modified, expanded and/or amended in any manner whatsoever without the further approval of this Zoning Board of Appeals;
2. The ages of the children that shall utilize the proposed structure shall not be greater than six (6) years nor less than eighteen (18) months of age;
3. The number of children constituting the enrollment and/or membership at Family and Community Services ("FCS") shall be limited to fifty-four (54) children subject to a plus/minus 10% deviation;
4. The time period for the drop-off of children utilizing the Family and Community Services proposed structure shall be limited to 7:30 a.m. to 9:15 a.m. Monday through Friday but notwithstanding the foregoing the Village shall not enforce *de minimis* violations of this condition;
5. There shall be no mezzanine levels, loft levels and/or second story levels constructed and/or erected within the proposed structure without the further approval of this Zoning Board of Appeals. It being understood between the parties that from a rear yard perspective, a basement level and first floor level is proposed at the site and from a front yard perspective only a first floor is proposed at the site;
6. As part of this Application, the Applicant is removing the existing bleachers currently situated on the subject premises. In the event the Town of Eastchester determines to relocate or re-install the same or new bleachers on the surrounding parkland, the Applicant will reasonably cooperate with the Town, if the same is necessary, in connection with such relocation or re-installation of the existing or new bleachers.
7. The proposed structure shall not be a 24-hour facility and shall operate five (5) days a week Monday through Friday from approximately 7:30 a.m. to 6:30 p.m. subject to periodic parent workshops that are to be held during the evening hours;
8. No part of the proposed structure shall be utilized for dwelling quarters or for dwelling purposes;
9. The proposed facility shall not be operated on the weekends during any time of the year subject to periodic parent workshops that are to be held on weekends, which will not exceed four (4) per year;
10. The loading zone, as depicted and illustrated on the Applicant's site plan, shall be utilized by the Applicant during its hours of operations (7:30 a.m. to 6:30 p.m.) and shall be available for public parking at times outside of the Applicant's hours of operations;
11. All deliveries of any kind or nature shall be made to the proposed facility after 7:30 a.m. and prior to 6:30 p.m. five (5) days a week Monday through Friday;
12. In order to avoid traffic impacts, there shall be no daily busing of children to and from the proposed facility, however this condition shall not apply to children who require the services of a bus, ambulance, ambulette or other similar vehicle because of handicaps or other special needs; and
13. The representations, illustrations, depictions and statements made by the Applicant in its: (i) application; (ii) Memorandum in Support; (iii) plans, drawings and renderings; and (iv) presentations during the course of the public meetings before this Zoning Board of Appeals are

incorporated by reference herein and shall constitute conditions to the approvals granted herein. In the event that any of the foregoing (i-iv) conflict with this Findings of Fact, Conclusions of Law and Decision, the terms, provisions and conditions set forth herein shall control.

Member McBride motioned to accept this recommendation, was seconded by Member Crane and was approved upon roll call with a vote of 5 – 0.

Item #4 69 Lincoln Ave.

Area Variance

Mr. Justine Minieri, architect representing the applicant Ms. Christine Ferrante, requested an area variance for a two-story addition, to a non-conforming house. The addition would be at the end of the driveway for a one-car garage and a bedroom on the second floor. Plans were also submitted for a one story addition in the rear of the house for a small den. There is a 25 ft. set back, the one-car garage will measure 12ft. x 21ft. The applicant complies with the side yard set back and lot coverage, but would need relief for the rear yard due to the shape of the property. There will be minimal impact for the small den, as it will sit in the rear of the home. Plans displayed a small mud room between the house and the garage which does not change or eliminate the need for the variance. The depth of the garage is the cause for the variance. Behind the applicant's property is the neighbor's big yard with an in-ground pool.

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

No Public Comments

Motion by Member McBride to close the public hearing, seconded by Member Allison and unanimously carried by the Board.

Bill Williams, Building Inspector, indicated that the applicant must provide two parking spaces. Mr. Minieri noted that he would provide the second parking space adjacent to the garage and extend the blacktop of the driveway to the end of the garage for the additional parking space.

Member Crane read letters from neighbors in support of this application. (See attached)

Member Allison offered a Resolution for the application of an area variance requested by Ms. Christine Ferrante, 69 Lincoln Ave., for relief of the following section of the building code: Section 4-2.4.3 Rear yard.

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.

1. There will not be an undesirable change in the character of the neighborhood and there will not be a detriment to nearby properties: Because the location of the proposed building is bordering on the rear yard of the neighbor, and there is no detriment to the nearby properties.

2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance. In order to have the benefit sought, the applicant was not able to use any other method other than a variance.
3. The requested variance is not substantial. The Board has determined, due to the location of the proposal, the variance the applicant seeks is not substantial.
4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood in that the addition will not have an effect on traffic, parking, pollution, school population, or density and the applicant is compliant with the side yard set back, front yard set back, and height requirements.
5. The alleged difficulty was not self-created in that all variances are self-created.

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

Item #5 146, 150, 160 Main 233 Midland Area Variance/Special Use Permit

Mr. William Null, attorney representing the applicant, indicated that this is a 2.4-acre site, proposing three new buildings (150, 160 and 233) and a reconstructed building converted to two residential work/loft units (146). 150 Main St. will be residential and commercial, 18,000 sq. ft. commercial with 5000 sq. ft. of the total on the ground floor for a retail business or restaurant, with remaining commercial space on the upper floors for offices. There will also be 18 residential units with 53 parking spaces accessible from Midland Place. 160 Main St. and 233 Midland Ave. will be two residential buildings with an automated parking garage. 160 will have 55 dwelling units, 233 will have 15 dwelling units. The height of the building on Main St. will measure 39ft. but on Midland Place it will measure 43 ft. due to the slope. If the Planning Board considers Main St. to be the front of the building, then there will be no need for a variance for the height. There will a minimum of open parking, as there will be an automated stacked parking facility beneath the building on Midland.

Mr. Null indicated that the application is for a Special Use Permit to allow residential units in a Business/Residential district. Also needed is a variance to have shared parking between the buildings provided by the automated garage. The FAR for 160 Main St. is 1.48 which exceeds the requirement of 1.2. Mr. Null noted that there would be some residential units on the first floors, as the applicant does not believe commercial space for all these buildings is appropriate.

Mr. Norman Cox, architect representing the applicant, indicated that the plans offer much open, green space. He displayed street views, both existing and proposed, three dimensional views and aerial views, and noted that the sketches displayed were preliminary sketches of the proposed buildings. There will be a 'green roof,' which will be attractive when seen from a higher elevation and will also reduce storm water runoff. 150 Main St. will be two buildings attached with two lobbies. 160 Main St. will have residential apartments on grade level with a parking garage under ground. 233 Midland Ave will be a three-story apartment building sitting above an

automated garage. The automated parking system is a grid of steel that holds between 140 – 150 cars, more than necessary parking for all the four buildings.

John Cavallaro, Village Attorney, indicated that he and Bill Williams, Building Inspector, were in agreement that the stacked parking facility will not require a variance.

Chairwoman Rosell summarized the requests - Special Use Permit for residential in a Business/Residential zone, shared parking, FAR for 160 and 233 as it now measures 1.48 exceeding the required FAR of 1.2, additional stories for 160 Main St. and height unless the main address is Main St.

Member Allison asked for the total amount of apartments between all the proposed buildings. Mr. Null stated 90 units, 278 parking spaces and 18,500sq. ft. commercial space.

Member Crane asked if the applicant would consider these apartments as condominiums or rentals.

Mr. Raffiani noted that this was a financial decision which was not decided at the present time.

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

No Public Comments

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

John Cavallaro, Village Attorney, noted that the Planning Board would declare lead agency for SEQR purposes.

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 9:48p.m.