

Minutes of: Apr. 13, 2016
Date Approved: May 11, 2016
Date Filed/Village Clerk:

April 13, 2016

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

| | | |
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| Present: | Ronald Gallo | Chairperson |
| | David Scalzo | Member |
| | Tom Ringwald | Member |
| | Nathan Jackman | Member |
| | John Palladino | Member |

Also in Attendance:

| | |
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| Gary Gjertsen | Village Attorney |
| Mike Seminara | Code Enforcement Officer |
| Frank Fish | Village Consultant |

Pledge of Allegiance

Chairman Gallo announced that he was stepping aside as Chairman of the Zoning Board due to his business obligations. He thanked the Board and stated how proud he was of each and every one of them.

Chairman Gallo announced the agenda as follows:

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| Item #1 | Approval of minutes from the February 10, 2016 Regular Meeting |
| Item #2 | 229 Alpine Place Area variance |
| Item #3 | 65 Marbledale Rd. Area Variance |
| Item #4 | 86 Main Street Special Permit |
| Item #5 | 57 Rogers Street Area variance |
| Item #6 | 125 Columbus Ave. Amend Special Permit |
| Item #7 | 27 South High Street Area Variance |
| Item #8 | 10 Fisher Ave. Adjourned |
| Item #9 | 68 Marbledale Rd. Adjourned |

Item #1 Approval of minutes from the February 10, 2016 Regular Meeting
Chairman Gallo motioned to approve the Feb. 10, 2016 minutes, seconded by
Member Ringwald and carried with a vote of 4 – 0, with Member Palladino
abstaining due to his absence.

Item #2 229 Alpine Pl.

Area variance

Chairman Gallo noted that the Board was satisfied with the last presentation.

Member Scalzo offered the following SEQR resolution in the form of a motion:
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 variances 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 Ringwald seconded the motion and upon roll call was carried with a
vote of 5 – 0.

Member Scalzo offered the following Resolution in the form of a motion:
The application for an AREA VARIANCES requested by Spartak Xeneli
whose address is 229 Alpine Place, Tuckahoe, NY

Sec. 43 Blk. 7 Lot 4

for relief from the following sections of the zoning code:

- 1. 4-3.3 – Lot Areas and Width**

2. 4-3.4.6 – Buffer
3. 5-1.2 – Off Street Parking
4. 5-1.6.2 – Enlarging a non-conformity

Recommendation is for the area variances to be granted as the benefit to the applicant of the area variances outweighs the detriment to health, safety and the 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 property is in 2 family zone and most of the properties in the immediate area of the property in question are 2 family homes. The additions sought to the property will not have an undesirable change to the neighborhood. The lot the home sits on is steeply sloped, so the additional height of the enlarged 2nd story will not interfere with the neighbors to the rear. Further, the side neighbor to the North is sufficiently far away from the proposed addition so that the addition will not interfere with that neighbor either.**
2. **The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than the area variances:**

As discussed previously, due to the topography and the layout of the lot, the variances requested cannot be achieved by any other method.

3. **The requested variances are not substantial:**

Even with the requested variances being granted the completed home will still fall well within the FAR and height requirements of the Village's Zoning Code.

- 4. The proposed variances will not have an adverse impact on the physical or environmental condition in the neighborhood.**

Again, the variances requested will not have a physical impact on the neighbors surrounding the property or the properties in the immediate neighborhood. This is a two family zone and most of the other properties already are two family homes. The variance for the front yard parking will add additional on-site parking spaces to the property, thus there will not be a burden to the off street parking, which is a usual problem for the Village.

- 5. The alleged difficulty was not self-created:**

The Difficulty was not self-created as the applicant's property is steeply sloped and due to this topography the variances are required.

Lastly

The approval of the rear variances herein is hereby granted on the condition that work under such variances be commenced and diligently prosecuted within one year of the granting thereof, failing which such variances shall become null and void.

Member Jackman seconded the motion.

Discussion: Chairman Gallo is opposed to this application even though he is an owner of a two family house. He noted that after examination of this application, it would have a negative effect on the village. He added that the Village Board must examine the effects of two family applications and the negative effect on the village.

Member Scalzo is in favor of this application. It is a unique property, which slopes and overlooks Marbledale Rd. It is in a two family zone. If the Village Board wants to change the Zoning Code, they should take the necessary steps to do so. This application will offer on-site parking which will be a benefit to the neighborhood. Member Jackman noted that he concurs with Member Scalzo. The Village Board should change Zoning Code. That is not this Board's purview; this Board must follow the Zoning Code.

Member Ringwald noted that there is no reason to turn down this application.

Upon roll call was carried with a vote of 4 – 1 with Chairman Gallo opposed.

Item #3 65 Marbledale Rd Area Variance

Les Maron, attorney for the applicant, Westy Self Storage facility, noted that Westy has recently been in contract to purchase the adjoining lot to expand their business.

Edward Arredondo, owner of Westy Self Storage, noted that this was a first class operation. Tuckahoe's site was their second building of 15.

Mr. Maron stated that the Tuckahoe site was built in 1996 in the industrial zone. In 2009, the location was changed to general commercial zone. This zone still allowed for indoor storage facilities. The screening requirement changed and the FAR now exists. The prior building, which was built as of right, is now non-conforming. The FAR imposed after the building was built became a prior non-conforming legal use. The FAR code is 1.6, the building is currently 2.1, once the new addition is built, it would increase to 2.12.

Mr. Maron noted that the addition to the building will not be noticeable as it would blend in with the original building .

Mr. Maron continued describing the screening variance. A screen, which is shrubs, bushes or a fence is not required when the property is along the street. If the property abuts a residential property, a screen is required. This lot, which the applicant plans to purchase, has one small section that abuts a residential property. The applicant will screen that property line with shrubs.

Mr. Maron noted that code requires a 10 ft. rear yard for a 40 ft. building. A building over 40 ft. requires a 20 ft. rear yard. This building will measure 42 ft. The two-foot difference requires the rear yard to double from 10 ft. to 20 ft. This is incrementally higher which triggers the variance.

Mr. Maron added that the buffer along the street is not needed, but the residential buffer is needed. The variance is to omit the 20ft. planting buffer in the 11 ft. rear yard. There are no plantings there now. Screening is necessary when there is activity on the property. All activity is in the building, there is no activity on the property.

Mr. Maron stated that there are 24 parking spaces, only two are required. There will be no signage. The streetscape will remain the same. No increase to the number of employees. No increase to sewer use, emergency use etc.

Frank Fish, Village Consultant, suggested that the Environmental Consultant for the Village review the Phase II of the Environmental Study. The Board is unable to check off #11 until Mike Musso, Environmental Consultant reviews the study. He also stated that the increase in the FAR; SEQR does not exempt that and the Board would need to look at that.

John Keegan, architect for the applicant, reviewed the plans. The addition to the existing building will look as if it always was part of the original building. The plans are to extend the sidewalk, extend the monumental fence, extend the mature trees along Marbledale Rd and install a black vinyl chain-link fence along the side of building. Once the lot is purchased, Westy will now abut a residential property. This triggered the need for a landscape buffer. Along Circuit and Rogers, a buffer is not required. Along Circuit St., there is a rock wall and trees will not grow.

Member Scalzo asked if the addition to the building would have an entrance and exit.

Mr. Keegan noted that it would not. The only entrance to the addition is through the original building.

Chairman Gallo noted that he would arrange a visit to the site with the building dept. and the owner.

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

No Public Comments

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

Item #4 86 Main Street Special Permit

Julio and Crystal Rodriguez, applicants, requested a special permit to open and operate a Marshall Arts training facility at this location. They would offer training, fitness training and private training to clients 4 years of age to adult.

Member Jackman noted that the major concern was safety as the location is at a very busy intersection for children.

Mike Seminara noted that a Marshall Arts training facility is categorized as a school in the Zoning Code and therefore requires a special use permit.

Mrs. Rodriguez read a contract that she created for her clients to sign. They must park at meters and walk the child into the building: same procedure with pickup. There will be no refund if the contract is broken.
The hours of operation will be from 6am to 9pm. There will be no more than 12 children at a time. There will be no birthday parties permitted.

A discussion evolved regarding the conditions and restrictions placed on a business for a special use permit. The time limit for the special permit was also discussed.

Julio Rodriguez, a Physics and Forensics teacher at the Tuckahoe HS, noted that he has a two-year lease at this location. He noted that he had an informal meeting with the Planning Board and they recommended that it be mandatory that the student needs to be walked into the building by the parent.

Chairman Gallo motioned to open the public hearing, seconded by Member Ringwald and carried unanimously.

Public Comments

Victoria Angelillo, owner of the building, stated that she would not jeopardize the safety of the children. As a landlord, she will make sure safety comes first. The restriction and conditions to a special use permit makes it very expensive for the tenants to return to renew the special use permit. The cost is \$1000 for the applicants.

Chairman Gallo stated that the Board would need time to discuss the safety issues of this application.

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

***** Member Scalzo stepped in as Chairman. Chairman Gallo departed from the meeting.**

Item #5 57 Rogers Street**Area Variance**

Mike Stein, representing the applicant, noted that there are two vacant lots. One lot does not require a variance. The second lot requires 5000 sq. ft. but the lot measures 113 sq. ft. too small, which triggers a variance to build the house. The owner of the house was granted a variance to build thirty years ago, but circumstances were such that she did not build.

Mike Seminara noted that these two lots are two separate parcels and have two tax maps.

Member Jackman noted that the house would have only a 5ft. backyard.

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

Public Comments

Irene Norman 38 Rogers Street, noted that the area was too small to build two houses, each with three bedrooms. She voiced her concern regarding the rock removal and the amount of drilling.

Mr. Stein noted that he would decrease the size to be compliant with the FAR requirements.

Member Jackman also voiced his concern regarding the amount of drilling on the site.

Mike Seminara noted that the Planning Board could limit the time period for chipping. The chipping can be done during certain hours of the day and perhaps no chipping on Saturdays.

Nancy Morris, owner of the lots, stated that she wanted to build on the lots 30 years ago. She was granted a variance 30 years ago to build.

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

Item #6 125 Columbus Ave. Amend Special Permit

Ryan Boyle, owner, noted that he was granted a Special Use Permit for a fitness center. In the conditions of the Special Use Permit, there was not to be a physical therapist on site. He is now requesting that the condition be revised. A physical therapist would like to use the facility to offer certain exercises for his clients.

Member Jackman noted that the condition was included in response to a comment from the public about the possibility of the fitness center expanding.

Chairman Scalzo spoke about the restrictions some of the conditions place on business owners and then the business owner must return to the Board for an amendment to the Special Use Permit. This is a cost of approximately \$1000 for the business owners.

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

Public Comments

Francis Ozeroff 100 Columbus Ave., noted that she called the Police Dept. because the noise from this facility was too loud too early in the morning. The clients are using the parking lot to work out with heavy medicine balls. The clients drop the medicine balls to the ground. In addition, the clients throw huge tires around the parking lot, which sounds like a sledgehammer. The garage doors remain open while the clients work out in the inside gym. The loud music travels to her apartment.

Mike Seminara, Village Code Officer, noted that he would review the Special Use Permit, but it was his understanding that the parking lot was to be used only as a parking lot.

Member Palladino noted that the applicant presented this application as an interior gym. The parking lot was not to be used as part of the gym.

Mr. Boyle stated that he spoke with Mrs. Ozeroff just now and gave her his personal cell phone number. He apologized for the noise level. He noted that he made adjustments after the visit from the Police Dept. He wants to maintain good relationships with the community. This is a new business and he will notify his personal trainers regarding the use of the parking lot.

Chairman Scalzo motioned to continue the public hearing until next month, seconded by Member Ringwald and carried unanimously.

Item #7 27 South High Street Area Variance

Mr. Stephen Hawks noted that he recently replaced a 6 ft. fence along his property line. He did not apply for a permit as he was replacing an existing fence and therefore did not think one was necessary. Mike Seminara issued a violation for the fence and was informed by Mr. Hawks that he recently replaced a rear patio as well. He was cited for lack of permits for both the fence and patio. The property slopes so the fence looks like a 3ft. fence at spots.

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

No Public Comments

Mr. Hawks noted that three of his neighbors were present to offer support of the patio and fence, but due to the hour, they were no longer present.

Chairman Scalzo motioned to continue the public hearing, seconded by Member Jackman and carried unanimously by the Board.

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| Item #8 | 10 Fisher Ave. | Adjourned |
| Item #9 | 68 Marbledale Rd. | 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.