

**Minutes of: Nov. 8, 2017**  
**Date Approved: Dec. 13, 2017**  
**Date Filed/Village Clerk:**

**November 8, 2017**

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

<b>Present:</b>	Tom Ringwald	Chairperson
	John Palladino	Member
	Nathan Jackman	Member
	Daniel Lang	Member
	Anthony Fiore Jr.	Member (Ad Hoc)

<b>Absent:</b>	David Scalzo	Member
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**Also in Attendance:**

Gary Gjertsen	Village Attorney
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**Pledge of Allegiance**

**Chairman Ringwald announced the agenda as follows:**

**Item #1    Approval of minutes from the October 11, 2017**  
**Regular Meeting**

<b>Item #2</b>	<b>5 Circle Rd.</b>	<b>Return</b>
<b>Item #3</b>	<b>180 Lake Ave.</b>	<b>Adjourned</b>
<b>Item #4</b>	<b>173 Marbledale Rd.</b>	<b>Return</b>
<b>Item #5</b>	<b>198 Midland Ave.</b>	<b>Adjourned</b>
<b>Item #6</b>	<b>100 Marbledale Rd.</b>	<b>Renew Special Permit</b>
<b>Item #7</b>	<b>138 Columbus Ave.</b>	<b>Return</b>

**Item #1    Approval of minutes from the October 11, 2017 Regular Meeting**  
**Chairman Ringwald motioned to approve the October 11, 2017 minutes,**  
**seconded by Member Jackman and carried with a vote of 5 – 0.**

Mr. Anthony Lore 123 Wallace St., voiced his disappointment with this application. He asked why he had not received a notice regarding the extension of the variance. Mr. Lore also submitted a bill for \$150 for damage to his oil fill due to the cement being delivered to the applicant's address.

Gary Gjertsen, Village Attorney, noted that Mr. Williams should have the mailings. Regarding the \$150 bill, Mr. Gjertsen advised Mr. Lore to submit the claim through the small claims court for his reimbursement.

**Chairman Ringwald announced that the public hearing was closed.**

**Member Palladino offered the following resolution in the form of a motion:**

**The application for AREA VARIANCES requested by \_ Dmitri Ostshshkin**

**whose address is 5 Circle Road, Tuckahoe, NY**

**for relief from the following section of the zoning code: : 4-3.4.1 front yard;  
4-3.4.2 Side yard; 5-1.6.3 increase non-conforming use; 4-3.2 Height; 4-3.4.3 rear  
yard**

### **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.

**Chairman Ringwald seconded the SEQR resolution and was carried with a vote of 5 – 0.**

**Member Palladino offered the following resolution in the form of a motion:**

The applicant, Dmitri Ostshshkin, had made an identical application for identical variances to this Board in the past. On September 11, 2013 the Zoning Board of Appeals approved the application in total and as a condition of said approval the applicant was to complete his renovations within one year of the approval. The applicant failed to complete his renovations in the year following the approval and his variances lapsed, thus this application in made to this Board.

After months of this Board requesting that the exterior of 5 Circle Road be completed as to not be an eye sore to the neighboring properties it is now determined that the exterior is substantially compete and this Board is now in a position to approve the variances requested. As the requested variances are identical to the ones requested in 2013 this Board agrees with the findings of the ZBA in 2013 and approves the requested variances on the following grounds:

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: in this application and applying the balancing test, this Zoning Board finds that the benefit to the applicant 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: By granting this application, detriments to the surrounding properties will not be produced.

This application concerns renovations to the garage and top floor whose many of the variances are already non-conforming.

2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance: Based on the lot size and zoning classification, the applicant cannot achieve its renovation, absent the granting of the sought area variances.
3. The requested variance is substantial: Although on its face it appears that the variances are substantial, they must be viewed in the content as a whole where detriments will not inure to the surrounding community.
4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood in that: Environmental conditions such as noise, parking, and traffic and negative aesthetics will not be increased as a result of this application.
5. The alleged difficulty was self-created: Although the alleged difficulty was self-created, it is not fatal to this application.

**Member Fiori Seconded the motion.**

**Discussion: Member Jackman voiced his displeasure and the amount of time consumed by this application. This applicant should have had fines along the way and it should never have gotten to this point.**

**Upon roll call was carried with a vote of 5 – 0.**

**Item #3 180 Lake Ave**

**Adjourned**

**Item #4     173 Marbledale Rd.     Amend Site Plan/Special Permit**

Mr. Lyle Lamothe, owner of Broken Bow Brewery, stated that he was seeking approval to expand the existing beer garden, invite high-end food trucks on the premise and get clarity regarding hosting functions outdoors on the premise.

Member Jackman noted that the expansion of the beer garden and the use of high-end food trucks sound appealing. The future events on the premises may be a burden for the neighbors. The Board suggests a limit on the number of outdoor events.

He offered a suggestion of 12 days of events, which include 4-tented events. The 12 events would not include the food trucks. The food trucks would be permitted on the premises during the Thursday through Sunday hours that would be open to the public.

Mr. Lamothe noted that he would like to continue to be good corporate neighbor. He would be mindful of the community. The local restaurants could offer food to their patrons as long as the restaurant is fully licensed.

A discussion evolved regarding the length of time the permit should be valid. Gary Gjertsen offered the suggestion of a 10-year special permit for the Brewery and an ancillary permit for the food trucks and events for two years. The Broken Bow's current Special Use Permit is due for renewal in 5 years. There have been no complaints documented. Member Jackman suggested the permits coincide with the 2022 renewal date. At that time, extend the Special Use Permit 10 years but review the ancillary permit every two years.

Member Fiori noted that the parking agreement with the adjacent property must be submitted.

Public hearing is still open.

Mike Giordano 62 Chestnut St., suggested the push for local restaurants to offer food at the brewery to boost the local economy.

Mike Denning 125 Marbledale Rd. noted that the Broken Bow Brewery was a very good neighbor. This Board should help this business thrive.

**Chairman Ringwald motioned to close the public hearing, seconded by Member Jackman and carried unanimously.**

**Item #5 198 Midland Ave.**

**Adjourned**

**Item #6 100 Marbledale Rd. Renew Special Use Permit**

Mr. Edward Quintieri, owner of the auto body shop, indicated that the Special Use Permit was due to be renewed as it has been 5 years. He asked if the Special Use Permit could be extended for 10 years and requested approval to extend his hours of operation to Saturday 8:00am to 5:00pm. He noted that all other businesses are open on Saturday.

Member Palladino noted that the auto body shop on Columbus Ave has Saturday hours, but close at 3:00pm. He noted that the Board should be consistent.

Chairman Ringwald noted that he received a letter from a neighbor stating that on occasion, there has been use of the spray booth during Saturday hours. The fumes from the spray booth have an odor and is almost unbearable to use the backyard. He is concerned of the health issues for his children.

Mr. Quintieri noted that the wintertime is a very busy season. He stated that he is in discussion with his partner to move the stack from the present location, to the front of the building. The stack releases the fumes from the spray booth.

Chairman Ringwald added that the Zoning Code for Auto Body Shops is specific that renewal of the Special Use Permit is every 5 years.

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

### **Public Comments**

Perry Guilianti 8 Hall Ave indicated that there have been many times that he has been unable to enjoy his backyard due to the intense fumes. He noted that the applicant has not adhered to the rules. The spray booth should be limited so as not be releasing intense fumes into his backyard.

Member Lang noted that every aspect of auto body work requires paint.

Mr. Guilianti suggested the hours for the spray booth begin early and end early so that his children could play outdoors in the afternoons. Maybe in the summer

months, the Saturday hours should be only very early hours. He noted that if he plans a BBQ with his family in a Saturday afternoon, the family cannot sit outside.

Member Jackman noted that this auto body shop is located in the correct district. The applicant could keep his business open until 7:00pm. He noted that the use of the spray booth on Saturdays is not great, but the Board is hesitant to put restrictions on the applicant if they are abiding by the laws. He noted that the idea of moving the stack might help.

Mr. Guilianti noted that he submitted health papers and will contact the health inspector. The fumes are not odorless. There are many neighbors concerned. If the applicant redirects the stack to the front, that may help.

Mr. Guilianti noted that he has a letter from Mayor Ecklund stating that he stopped by the auto body shop at 8:30am on a Saturday and the spray booth was operating with fans. No fines were given. Mr. Guilianti noted that he does not want to call the police and report the applicant; he would rather work with the applicant for a solution.

Possibly change the hours of operation from 5:00am to 5:00pm instead of 7:00am to 7:00pm?

Mike Giordani indicated that he has studied wind patterns. If the stack is moved to the front of the building, the only way that would be successful was if the height of the stack was very high to release the fumes.

Mike Denning noted that his most recent tenant has moved out due to the Brownfield next door. He voiced his concern that if the smoke stack were to be placed at the front of the building, it would essentially be right across the street from his building and could potentially affect his property. He added that the documented VOC levels from the Brownfield could possibly include the spray booth fumes.

Mr. Denning added that the applicant, Edward Quintieri had once operated his auto body shop at his building. He received his Special Use Permit as his tenants. He has since moved his business across the street bringing the Special Use Permit with him. The Tuckahoe Zoning Code does not allow two auto body shops to be located within 200ft. As a result, he cannot rent out his space to an auto body shop.

Mr. Denning added that the Village should notify the landlord if the tenant has a violation on file.

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

**Item #7 138 Columbus Ave. Return**

Joseph Fernandez, architect for the applicant, noted that this was for the renewal of a Special Use Permit.

Chairman Ringwald noted that the original approval required the applicant to plant a tree. The applicant complied and the tree was planted. The tree has since fallen and the DPW informed the applicant that the area was not suitable to sustain a tree.

**Chairman Ringwald motioned to close the public hearing, seconded by Member Fiori and carried unanimously.**

**Member Jackman offered the following resolution in the form of a motion:**  
**SPECIAL PERMIT RESOLUTION**

This application is for an extension of a Special Permit requested by 138-140 Columbus Ave, LLC whose address is 138 Columbus Ave, Tuckahoe, NY, Sec 38 Blk.9 Lot 17.

Applicant is seeking a renewal of its Special Permit originally issued on December 8, 2010 by the Village of Tuckahoe Zoning Board of Appeals. Pursuant to 6-2.1 of the Zoning Code of the Village of Tuckahoe a Special Permit for a motor vehicle repair/body shop issued by this Board terminates by law after a five year period, thus the applicant, a motor vehicle repair/body shop, is seeking its renewal of its Special Permit as the original approval has expired.

The applicant has submitted an identical application to the application it submitted to obtain its 2010 approval. This Board has inquired to the Building Department if there were any complaints filed against this business and has



received from the Building Department that there has been none. This applicant has been operating its business since 2010 on a main corridor of this Village and it is clear from its operation that it is an extremely well run business and an asset to the community.

This Board has reviewed the application and the prior approval of this Board and finds that granting of the renewal of the Special Permit is approved. The Findings of Fact and Conclusion of Law of the original approval are hereby affirmed and continued by this approval. Further, the conditions imposed by the 2010 approval are hereby reiterated and incorporated into this approval and shall be attached to this approval as Exhibit A.

Lastly , 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.

**Member Fiori seconded the motion and upon roll call was carried with a vote of 5 – 0.**

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.