

Minutes of: September 10, 2014
Date Approved: Nov. 12, 2014
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September 10, 2014
TUCKAHOE ZONING BOARD AND BOARD OF APPEALS
TUCKAHOE VILLAGE HALL – 7:30pm

Present:	Ronald Gallo	Chairperson
	John Palladino	Member
	Nicholas DiSalvo	Member
	David Scalzo	Member
	Janice Barandes	Member

Also in Attendance:

Gary Gjertsen	Village Attorney
Bill Williams	Building Inspector
Mike Seminara	Code Enforcement Officer

Pledge of Allegiance

Chairman Gallo announced the agenda of this meeting as follows:

<u>Item #1</u>	Approval of Minutes of April 9, 2014	
	Approval of Minutes of the Special Meeting August 6, 2014	
<u>Item #2</u>	109 Marbledale Road	Return
<u>Item #3</u>	150 Lake Avenue	Area Variance
<u>Item #4</u>	125 Marbledale Road	Adjourned
<u>Item #5</u>	28 Hollywood Avenue	Adjourned

Item #1 Approval of Minutes from the Regular meeting dated April 9, 2014
Chairman Gallo motioned to approve the April 9, 2014 minutes, was seconded by Member DiSalvo and carried with a vote of 5 – 0.
Approval of Minutes from the Special meeting dated August 6, 2014
Chairman Gallo motioned to approve the August 6, 2014 minutes, was seconded by Member Palladino and carried with a vote of 4 – 0, with Member Scalzo abstaining due to his absence.

Item #2 109 Marbledale Rd. Area Variance

Rocco Salerno, attorney for the applicant, Bill Weinberg, summarized the application for a proposed Marriott Springhill Suites Hotel and restaurant to be located on this site, which is 3.4 acres.

He noted that the applicant requires two variances, one for the rear set back with the landscape buffer and height of the building. He stated that the applicant plans to build a green building, but is not certain that the project would comply with all the standards.

Member Palladino asked which requirements were the applicant unable to meet.

Mr. Warshauer noted that it will be a green and sustainable building with a green roof, recycling rainwater, LED lighting on site with no spillage off property line and no equipment on the roof. All systems will be Energy Star and the hotel will use low flow toilets. The rain gardens have not yet been designed, but will work out the details with the Planning Board.

Member Barandes asked if it would be a LEED building design.

Mr. Warshauer noted that he would not file as a LEED building but will meet the many requirements for it. All the designs mentioned are on the LEED checklist. Marriott has very stringent requirements as well and all the specifics will be worked out with the Planning Board.

Member Scalzo asked if the fifth floor were not to be approved, how many rooms would the hotel lose.

Mr. Warshauer noted that there would be 35 rooms on the fifth floor, approximately 20% of the population. If the applicant were to redesign the plans to forgo a variance, the footprint would need to be extended into the parking lot.

The number of rooms, 163, is the prototype for Springhill Suites. That is the normal amount of rooms.

Chairman Gallo noted that he has noticed that most hotels are five stories. He asked about the A/C units.

Mr. Warshauer stated that each room will have their own mechanical unit. The common areas will have condensers on site with a generator on the ground in the rear of the building. The generators will only run during an emergency.

The bathroom exhaust fans will have a very small pipe which will be on the roof but hidden behind the parapet wall. There is no sound from them.

Chairman Gallo noted that he and the Board members visited the site and there is a tremendous amount of trees on the hill behind the building.

Chairman Gallo motioned to reopen the public hearing, seconded by Member DiSalvo and carried unanimously.

Public Comments

Luigi Marcoccia, 162 Lake Ave., agreed that this hotel would generate revenue and there would be no children added to the school system. However, he voiced his concerns regarding the financial viability with 163 rooms. He asked how long the construction process would take. He stated that he was glad that the Marriott has given their flag to officially operate but was concerned about the revenue projections.

Mr. Salerno, attorney for the applicant, stated that the economic viability is not a factor this Board should consider when determining if a variance should be granted.

Mr. Bill Weinberg, applicant, stated this hotel would be the best use of this property, with the highest tax revenue for the village and no impact on the school system. He noted that events at the local colleges and weddings at Lake Isle require visitors to find hotels in White Plains, New Rochelle or Yonkers. He spoke very highly of the Marriott management. They currently have 300 Marriott Springhill Suites open with 99 more to open soon. Marriott has never had a failed Springhill Suite.

Mr. Weinberg noted that the 163 rooms is the maximum amount of rooms with very few variances. He added that it does not impact the neighbors and it would be a great boost to Marbledale Rd.

He added that he has a great track record as a developer. He is investing 25 million of his money, and he would not if he thought it would not be viable.

Chairman Gallo noted that he was in the transportation business and was shocked by the amount of people coming to Bronxville and needing hotels. He had to shuttle the tourists to New Rochelle and Elmsford to find a place to stay. Before this application even came before the Board, he noticed there was a need for a hotel in this area.

Member Barandes noted that she reviewed the occupancy statistics of the surrounding hotels and found them to have a rate of 80% consistently.

Mr. Anthony Lore, noted that there was asbestos, oil, Preston from radiators, and tires dumped in the quarry at this site. He fears when the property is disturbed, the toxins will escape. He also voiced his concern regarding the news that the local Fire House may close. This is a safety issue as the closest Fire Dept. will be in the next town.

Chairman Gallo stated that there will be fire sprinklers placed throughout the hotel. He assured Mr. Lore that the DEC will oversee the project and will not give their stamp of approval unless it meets their requirements. This site should be safer once the building is built than how the site is presently.

Mr. Gjertsen reviewed a memo from Frank Fish, Village Consultant, stating that the applicant submitted the EAF and it shows that there will be no negative impact. The Brownfield questions should all be answered during the Planning stage. He noted that the DEC will be very involved in the project.

Mr. Weinberg noted that Phase I and Phase II of the SEQR process have been completed. The state will oversee the Brownfield cleanup. This site has a questionable history but it will be cleaned up and will be made into a green site. Most of the site will be capped with concrete. This site will not be a contaminated site any longer.

The building will meet all LEED standards but will not be LEED certified, as that is too costly.

Chairman Gallo motioned to close the public hearing, seconded by Member DiSalvo and carried unanimously.

Chairman Gallo offered the following resolution:

VILLAGE OF TUCKAHOE
ZONING BOARD OF APPEALS

The application for AREA VARIANCES requested by Bilwin Development Affiliates LLC whose address is 109 Marbledale Road, Tuckahoe, NY Sec. 35_Blk. 1____Lot 1A____ for relief from the following section of the zoning code: Sec. 4-8.5(d) Rear Yard Setback, 4-8.5(e) Landscaping Buffer and 4-8.5(a) Height

SEQRA RESOLUTION

Based on this application and the applicant's plans dated 8/18/14, as submitted, this Zoning Board of Appeals finds and determines that:

1. The setback variances requested are exempt from SEQRA review.
2. The action taken herein for the height variance is an Unlisted Action subject to the requirements of SEQRA and its implementing regulations.
3. 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 variance application.
4. 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. Attached to this resolution shall be the Negative Declaration.
5. The applicant in its presentation has represented that the site is classified as a Brownfield and as such the New York State DEC will be involved in this project. This Board has not reviewed the issue of the site being a Brownfield as the only variances before it are the setback variances, which as stated previously are exempt, and the height variance. It is expected that the Planning Board shall address the Brownfield issues with their review of the Site Plan.

Member Barandes seconded the motion and upon roll call, the motion was carried 5 – 0.

Chairman Gallo offered the following resolution:

The recommendation is for the requested area variances to be granted as the benefit to the applicant of the area variances outweigh the detriment to health, safety and the welfare of the neighborhood:

1. It is determined that there will not be an undesirable change in the character of the neighborhood and there will not be a detriment to nearby properties:

With respect to the character of the neighborhood, the proposed hotel and restaurant will improve the present barren site and are in keeping with the Master Plan of the Village.

With respect to whether or not the proposed hotel and requisite rear yard variance pose a detriment to nearby properties, the rear of the subject premises abuts an undeveloped off site sloping landscape buffer that is over 100 ft. in depth in the location that the rear yard variance is sought. The requested variance will therefore have minimal visual impact on the adjoining properties and will afford the Applicant the opportunity to increase the landscaping at the entrance of the hotel along Marbledale Road.

It is also proposed that the landscape buffer be reduced on the North end of the property adjacent to the proposed parking lot where the buffer requirement increases to 20 ft. however, the undeveloped off site sloping landscaped buffer has a depth of over 95 ft..

With respect to the height, the building is proposed to be located adjacent to the said sloping property where the grade at the neighboring single family homes is approximately 40 ft. above the grade of the proposed hotel and large trees located on said slope are an additional 40 ft. or more higher, virtually blocking views of the proposed hotel.

2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance:

If the setback variances were not granted, the applicant would have to move the location of the hotel closer to Marbledale Road and in doing so there would be a loss of available parking and a reduction of landscaping amenities of the project along Marbledale Road.

Further, the applicant has demonstrated that there is a need for the height variance to make the project work as a viable hotel.

3. The requested variances are not substantial:

It is determined the variances are not substantial in that there are only a total of 3 variances requested by the applicant. Further, the topography of the site in relation to neighboring properties (off site sloping landscape buffer approximates 100 ft. in depth) minimizes the impact of the proposed improvement and renders the requested area variances unsubstantial.

4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood in that:

The site is currently a barren field. Tuckahoe's Master Plan calls for among other things a hotel as a recommended use on the site being proposed by the applicant. Having a first class hotel in Tuckahoe would greatly improve the neighborhood and be consistent with the Master Plan. Further, the location is now considered a Brownfield. Having a hotel and parking area encapsulating the location will also greatly improve the site from an environmental perspective.

5. The alleged difficulty was self-created:

However, the applicant has proposed a building on a challenging site that is in conformity with the recommendations of the Master Plan. The applicant has only requested three variances and based on the topography of the site the variances are deemed unsubstantial. Thus, even though the difficulty was self-created the applicant has minimized the non-conformity with the Zoning Code by only seeking three variances.

A recommendation to approve the requested variance with the condition(s) that:

1. Applicant shall construct the building with the “Green Building” features: that are proposed in the applicant’s plans submitted 8/18/14.

The granting of the variances herein is granted on the condition that work under such variance be commenced and diligently prosecuted within one year of the granting of the final approval of the Tuckahoe Planning Board, failing which such variances shall become null and void.

Member DiSalvo seconded the motion and upon roll call was carried unanimously.

Chairman Gallo thanked the Board for all their time and effort with this application. He also thanked Member Palladino for attending two meetings for this application.

Item #3 150 Lake Avenue

Area Variance

Steve Accinelli, attorney for the applicant, noted that a building permit application was denied. The home is a two family home. The home sits on a piece of property that was recently changed from an Industrial Zone to a Residential B Zone. The use now is more in keeping with this residential area. There seems to be a concern about the house possibly being used as a three family house. That is not the owner’s intention. There will be no kitchen in the basement and the finished area in the basement is for the tenant on the first floor. There is a common laundry area in the basement, which is available to both first and second floor tenants. There are two leases; there is no third tenant.

Mr. Williams, Building Inspector, noted the house existed when the zoning changed, but the basement upgrade needs to be approved as it was finished after the zoning change.

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

Public Comments

Joe Hendron 7 Cedar Street, voiced his concern that a bathroom and a playroom on the basement floor would increase the FAR and could potentially become a third apartment. He noted that there is a separate entrance and there are three meters on the exterior of the house.

Chairman Gallo noted that this Board cannot deny an application because the applicant may do something in the future. The third meter is customary for the landlord. The bathroom in the basement does not have a shower. There is no kitchen in the basement as well.

Luigi Marcoccia 162 Lake Ave., noted that the concern in the neighborhood was that this house may potentially have a third illegal apartment in the basement. He also added that parking in the area is a concern.

Steve Leone 9 Cedar Street, noted that he was aware of the zoning change from Industrial to Residential B. He just wants to make sure that there would be no illegal apartment at this site.

Steve Accinelli stated that the third meter was for the landlord as a landlord meter is required for the boiler etc. He added that there is an enforcement mechanism in place to enforce the building code. His client has nothing to hide and his intentions are to be a good neighbor.

Chairman Gallo noted that the Board will have a site visit prior to the next public meeting to familiarize themselves with the basement layout.

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

Item #4 125 Marbledale Road
Item #5 28 Hollywood Avenue

Adjourned
Adjourned

Chairman Gallo closed the meeting with a moment of silence to mark the anniversary of Sept. 11, 2001.

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.