

Minutes of: Jan. 13, 2021
Date Approved: _Feb. 10, 2021
Date Filed/Village Clerk:

January 13, 2021

TUCKAHOE ZONING BOARD AND BOARD OF APPEALS
Online due to Covid-19 – 7:30pm

Present:	Tom Ringwald	Chairperson
	John Palladino	Member
	Nathan Jackman	Member
	Anthony Fiore Jr.	Member

Absent:	David Scalzo	Member
	Christopher Garitee	Member
	Michael Martino	Member

Also in Attendance:

Bill Williams	Building Inspector
Gary Gjertsen	Village Attorney
Carolina Fonseca	Village Consultant
Mike Seminara	Asst. Building Inspector
Noah Levine	Village Consultant

Chairman Ringwald announced the agenda as follows:

Item #1	Approval of minutes from the December 9, 2020	
	Regular Meeting	
Item #2	70 – 72 Marbledale Rd.	Return
Item #3	174 Marbledale Rd.	Return
Item #4	7 Gifford Street	Area Variance
Item #5	22 Underhill St.	Adjourned
Item #6	15 Hollywood East	Adjourned
Item #7	69 Main St.	Adjourned

**Item #1 Approval of minutes from the December 9, 2020
Regular Meeting**

Chairman Ringwald motioned to approve the Regular Meeting minutes dated December 9, 2020, seconded by Member Fiore and upon roll call was carried with a vote of 4 – 0.

Item #2 70 – 72 Marbledale Rd. Return

Steven Accinelli, attorney representing the applicants, noted that there were no changes to the submitted plans.

No Public Comments

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

**Chairman Ringwald offered the following resolution in the form of a motion:
The application for AREA VARIANCES requested by Compass One LLC**

For the property located at 70-72 Marbledale Road, Tuckahoe Sec 35, Block 2 Lot 1

for relief from the following section of the zoning code: 4-8.5 Front Yard, Side Yard and Rear Yard

Applicant, Compass One LLC, is the owner of 70-72 Marbledale Road, which consists of an existing business, Paws and Play, and a vacant dilapidated building. Applicant is seeking a subdivision of the property where the existing business will continue its operation at its current location while expanding to part of the vacant building. The remainder of the vacant building will be demolished and be set aside for future development. Since the applicant needs to subdivide its property this approval will be conditioned on the Planning Board approving the subdivision, which they cannot do until this Board approves the proposed variances. It should be noted that if the Planning Board approves the subdivision the existing building will trigger the necessity for the requested variances. The Applicant is not seeking at this time to add to the buildings that currently exist.

Approval of the Proposed Action is classified as an Unlisted Action under Part 617 of the State Environmental Quality Review Act (“SEQR”).

The applicant will require 3 variances if the Planning Board approves the subdivision. The variance that will be required are front yard, side yard and rear yard. The required front yard in this district is 10 feet and the applicant is proposing 1 ft 6 ½ inches. The required side yard is 10 feet the applicant is proposing 3 feet. The required rear yard is 20 feet and the applicant is proposing 1ft 5 inches. Although these variance look substantial they represent the conditions of the existing non-conforming building. The granting of the variance will allow for this underutilized property to be adaptively reused.

It is determined by this Board that the area variance be granted as the benefit to the applicants outweighs the detriment to health, safety and the welfare of the neighborhood. We have applied the 5 prong test as follows:

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. The yard variances are triggered by the existing non-conforming building. The applicant proposes to demolish a portion of the non-conforming building, thereby reducing the non-conformity.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance: Again since the building is already existing and the variances are only triggered by the proposed subdivision the relief cannot be achieved by some other method.
3. The requested variances are not substantial: Although on its face the variances appear to be substantial the applicant proposes to utilize the existing non-conforming building. The variances are only triggered by the proposed subdivision. It would be debatable that this Board would grant said variance if this building was not in existence and was being proposed to be built from scratch. However, it is important to note that the applicant

proposes to demolish a portion of the existing building, thereby reducing the non-conformity.

4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood. It is anticipated that there will be a substantial improvement in the neighborhood. Applicant is seeking to remove a substantial portion of a dilapidated building and make improvements to the remaining portion of the building that the existing business will move into. The demolished portion of the site will be opened up for redevelopment, which would be an improvement to the neighborhood. The existing building has a driveway located directly at the Jackson Avenue intersection. Demolishing the building will help to improve the streetscape and pedestrian conditions, in particular at the Jackson Avenue intersection.
5. The alleged difficulty was self-created: Although the alleged difficulty was self-created, it is not fatal to this application. These are existing structures and the variances are only triggered by the subdivision.

Therefore, the requested variances are approved conditioned upon the Planning Board granting the applicant the requested subdivision.

Member Fiore seconded the motion and upon roll call was carried with a vote of 4-0.

Item #3 174 Marbledale Rd. Return

Leonard Brandes, architect representing the applicant, indicated that there were a few changes to the submitted plans. The proposed building will be moved back which would make more green space on Marbledale Rd. There will now be a bike rack in the front of the building.

Member Fiore asked if the plans could include access to the back of the building for the Fire Dept. The side has only a 5ft. alley way.

Bill Williams indicated that the requirement for the code is that the building have access on one side of the building, which would be the front of the building.

The rear property is a hill, therefore the back of the building will butt up against the hill. The second floor of the building will have access to the rear property. The first floor is a retaining wall holding the earth back.

Mr. Brandes noted that the FAR has been reduced as a result of pulling back the building. The right side and left side need side yard variances. The height of the building is within code. The 40ft. height is measured to the parapet. The height of the parapet is excluded from the height measurement. 46.4in with the parapet, 40 ft. without the parapet.

Member Jackman voiced his concern regarding the side yard variance. The side of the building is beautiful, with many windows. The view will be obstructed if a building is constructed on the adjacent property.

Chairman Ringwald noted that this is a commercial property and the applicant could actually build up two more stories.

Jack Seminara, applicant, noted that the three story building matches the surrounding buildings on the road. Four stories would be too high and would obstruct the view of the houses in the rear. He noted that he needed a certain amount of square footage to make it viable and did not want to build higher. This building also has a 14 ft. high garage. The garage will be well lit.

Member Fiore asked if there were any issues with the removal of the soil.

Mr. Brandes noted that there has been soil tested on Marbledale Rd. and there seems to be no issues with the soil on this side of Marbledale Rd., but the other side is another story.

Public Comments

Carolina Fonseca, Village Consultant, reviewed the sidewalk area. There will be 10ft. from the curb to the front door, 17ft. from the curb to the garage and 5 ft. side yards.

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

Item #4 7 Gifford Street Area Variance

Member Jackman recused himself from the this application as the applicant is his neighbor.

Antonio Leo, architect for the applicant, stated that the existing house sits on a 50ft. x 100ft. lot. The property consists of a house, garage and a playset in the rear. There is an 80ft. driveway.

The proposed plans are to demolish the existing garage, and place a new garage 20ft. forward in the driveway. This will allow a little more green space for the children to play in the yard.

The new garage would be smaller than the existing garage, reduced from 220sq. ft. to 216sq. ft. and 14ft. high.

The applicant shares her driveway with the neighbors. The neighbors have given their approval to the proposed plans.

Mike Seminara asked if the neighbor could draft another letter stating that they give their permission for the construction to happen and they are aware that some of the construction will be on their property.

Mr. Leo noted that the existing tree is dying and will be removed. He noted that the patio will be placed 4ft. from the property line as per code.

Bill Williams noted that the gutters on the garage must not overhang onto the neighbor's side of the driveway.

Mr. Williams suggested a site visit with the Board members to get the full picture of the property.

Mr. Leo noted that there is a similar arrangement with the garages on Columbus Ave. near the Metro North station. The two houses there have the same configuration with their garages. This will not be setting precedent.

The entire shared driveway, both sides, will be sealed with new blacktop when the garage is completed.

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

No Public Comments

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

Chairman Ringwald requested a letter from the neighbor stating that they give their approval of the project and that some construction trucks will be on their property. Also a photo of the houses on Columbus Ave. The Board members will conduct a site visit.

Item #5	22 Underhill St.	Adjourned
Item #6	15 Hollywood East	Adjourned
Item #7	69 Main St.	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.