

Minutes of: Mar. 10, 2021
Date Approved: _May 12, 2021
Date Filed/Village Clerk:

March 10, 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
	David Scalzo	Member
	Christopher Garitee	Member
	Anthony Fiore Jr.	Member (ad hoc)

Absent:	Michael Martino	Member (ad hoc)
----------------	-----------------	-----------------

Also in Attendance:

Bill Williams	Building Inspector
Mike Seminara	Assistant Building Inspector
Gary Gjertsen	Village Attorney
Carolina Fonseca	Village Consultant

Chairman Ringwald announced the agenda as follows:

Item #1	Approval of minutes from the February 10, 2021
	Regular Meeting
Item #2	69 Main St. Return
Item #3	22 Underhill St. Return
Item #4	88 Maple Ave. Return
Item #5	25 Main Street Return
Item #6	15 Hollywood East Adjourned

**Item #1 Approval of minutes from the February 10, 2021
Regular Meeting**

Member Garitee motioned to approve the Regular Meeting minutes dated February 10, 2021, seconded by Member Scalzo and upon roll call was carried with a vote of 5 – 0.

Item #2	69 Main St.	Return
Item #3	22 Underhill St.	Return

Architect, Andrew Coleman, noted that the Masonic Temple on Main St. is currently the office of Dr. Peter Zheng, a pain management specialist in the Village. The application is for the FAR and a Special Use Permit. The building has two floors. The second floor, which is currently vacant, is a double height assembly space. The applicant proposed plans to convert the second floor into a second and third floor for two additional physician offices.

This modification will change the FAR from 2.17 to 2.75. The zoning code would require 8 additional parking spaces.

This application would require additional parking spaces, so the applicant intends to purchase the two family house, 22 Underhill St., to demolish it and create a parking lot. If you combine the two properties, the FAR would be 1.28.

The plan would be to create a parking lot at 22 Underhill. There is currently a parking lot on Cameron Place, which is owned by the Village for permit commuter parking. The applicant presented the idea of a land swap so as the applicant's patients would use the Cameron Place parking lot. The patients are for pain management, so they would not have to walk so far to the entrance of the doctor's office. The land swap would allow the pain management patients to park in the rear and access the rear entrance to the building.

After discussion with the Village Administrator, the architect noted that the Village Board would consider an easement rather than a land swap, where as any site improvements must be paid for by the applicant.

Gary Gjertsen, attorney, noted that the land swap would require surveys and appraisals of each piece of land.

Mike Seminara, Assistant Building Inspector, noted that the easement agreement might get lost in the file, so his recommendation would be to place a deed restriction, which will coincide with the building. The village would rather not be potentially stuck with a building with no parking lot in the future.

Bill Williams, Building Inspector, stated that a deed restriction might not be enough. Any resolution should have a condition as part of the approval. A Certificate of Occupancy would not be granted without proof of a deed restriction.

Mr. Coleman noted that the applicant cannot move forward with the changes to 69 Main St. without the resolution of 22 Underhill. The application would need to resolve parking before it could move forward with architectural drawings.

Carolina Fonseca, Village Consultant, indicated that there are too many parking lots in that area of the Village.

Member Scalzo noted that the plans to redevelop the Masonic Temple is important to the Village. The building needs a parking lot. The owner wants to spend the money to provide a parking lot and beautify the Masonic Temple. It was his opinion that the Village should do the land swap, instead of an easement, which just kicks the work down the road. An easement and deed restrictions seem a bit complicated. If the applicant gets the appraisals done, the village would be clear as to what it is getting versus what it is giving up.

Gary Gjertsen noted that if the Zoning Board is agreeable to the concept, he will discuss with David Burke. Mr. Burke would have to discuss this matter with the Village Trustees and provide answers before the applicant can move forward.

Item #4 88 Maple Ave. Return

Edward D'Amore representing the applicant Cara Kronen indicated that he would place two posts under the deck so that the stonewall is not higher than 6ft. He also added that he received an approval from the DPW for the curb cut.

Bill Williams noted that the handrail on the stonewall is not counted in the height as it is needed for safety.

Chairman Ringwald noted that during his site visit he noticed that the stonewall on the left side of the driveway is in disrepair. He requested that the applicant fix that wall.

Chairman Ringwald noted that the public hearing was still open.

No Public Comments

Chairman Ringwald motioned to close the public hearing, seconded by Member Palladino and carried with a vote of 5 – 0.

Member Scalzo offered the following resolution in the form of a motion:

AREA VARIANCE RESOLUTION

The application for AREA VARIANCES requested by: Quinn and Cara Kronen

whose address is: 88 Maple Avenue, Tuckahoe, NY Sec: 44 Block: 8 Lot: 38

**for relief from the following sections of the zoning code: 4-2.4.1 Front Yard
and 5-1.2 Off-street Parking**

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.

Member Palladino seconded the motion and upon roll call was carried with a vote of 3 - 2, with Members Jackman and Garitee voting No.

Member Scalzo offered the following resolution in the form of a motion:

The Applicants reside at 88 Maple Avenue in Tuckahoe and are seeking to expand their driveway to create an additional parking space in the front yard.

The Applicants' property is unique in several ways. First, the lot is only 37.5 feet wide, which is much narrower than the standard lot found in the Village. Second, the property is on the side of a hill with the house located far above street level, and the front of the property contains a large retaining wall at the sidewalk line in the front yard. Third, a very narrow driveway has been carved out of the hill and was clearly built at a time that vehicles were smaller, which renders the driveway virtually un-useable as car doors cannot be easily opened.

Further, the driveway, retaining wall and stairway from the sidewalk to the house are aging and in need of repair, so the applicants need to act soon.

The retaining wall at the sidewalk is large and unsightly, rising more than 5 feet from the ground. For neighbors walking along the sidewalk or driving in their car, the wall creates a 'canyon' effect on the street and overall cramped feeling.

Maple Avenue is narrow with parking allowed only on one side of the street, creating a parking shortage and spaces are difficult to find. The applicants' property is located on the side of the street where parking is prohibited, thus the additional curb cut that would be needed to add the space for the applicant will not take away a space of on-street parking.

The Applicants' proposed solution of eliminating the retaining wall, removing excess dirt to bring the front yard to street level and expanding the driveway is a creative solution that creates more open space, beautifies the property and improves the neighborhood.

Based on the uniqueness of the property and the beneficial aspect of the proposed solution, the board finds that the conditions of the 5-Prong Test have been met and the application for the area variance is granted.

The granting of the variance(s) herein is granted on the condition that work under such variance be commenced and diligently prosecuted within one year of the granting thereof, failing which such variance(s) shall become null and void.

Member Palladino seconded the motion and upon roll call was carried with a vote of 3 - 2, with Members Jackman and Garitee voting No.

Member Garitee offered the following statement-

Before I cast my vote, I need to make a statement.

This is the third similar application regarding the same issue that this Board has reviewed recently.

If we vote in favor of this application, it will be the third such variance granted by this Board. The result of that, is the Board creating a precedent that will eventually undermine the Village Code.

When another applicant comes before this Board seeking the same relief that is before us today, and this Board denies them with good cause, eventually, someone will file an Article 78 proceeding.

When a judge sees how many similar variances have been granted, that denial will be overturned as being arbitrary. As the only attorney on the Zoning Board of Appeals, I find this prospect unacceptable.

The Zoning Code as written is designed to maximize green space and limit impervious surfaces. This application, and all similar applications, seek a reduction of green space.

On the other-hand, there is a significant number of residents who own properties built prior to the modern Zoning Code and have tight, walled-in, driveways that are not designed to fit large modern vehicles.

If we, as a Village, want to establish a right to expand these antiquated driveways at the expense of green space, that should be addressed by the Village Board of Trustees.

It is my recommendation that, instead of the Zoning Board addressing this issue, applicant-by-applicant, and pretending every one of these identical situations is somehow unique, the Board of Trustees should reexamine this section of the Zoning Code.

My recommendation is strictly for the Board of Trustees to reexamine this section of the Zoning Code and does not suggest a specific determination.

Accordingly, I vote no and recommend that this issue be addressed with the Board of Trustees.

Member Scalzo noted that he appreciates the votes of his fellow members but was disappointed that the members voted no for the SEQR when there was no discussion regarding the application having an environmental impact. The Zoning Board is charged with considering the five-prong test in determining the application; there is no prong to consider precedent. That is essentially going

against the applicant because of a possible future applicant. The Zoning Board should look at the unique features of every single property and application. In fact, if the Zoning Board considers possible future hypothetical situations, that would put the Village at a more risk of an Article 78.

Member Jackman added that he concurred with Member Garitee regarding precedent and it was his opinion that the application before us had issues that were self-created due to the need for two driveways.

Item #5 25 Main Street Return

Leonard Brandes architect representing the owner Peter Borducci noted that Mr. Borducci is requesting a reduction in the amount of parking spaces required by the Board. Once commuters return to work and things go back to normal, the applicant will return to the Board. Mr. Brandes noted that the annual fee runs from March to March. The applicant will return next February to reevaluate the situation.

Chairman Ringwald noted the public hearing was still open.

No Public Comments

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

Member Scalzo offered the following SEQRA 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 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 Garitee 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:

Due to the Coronavirus pandemic, the number of parking spaces are temporarily reduced from 21 – 15 from March 1, 2021 to February 28, 2022 at which time, the applicant will return to the Zoning Board to determine if the parking spaces will revert back to 21.

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

Item #6 15 Hollywood East 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.