

June 9, 2021

TUCKAHOE ZONING BOARD AND BOARD OF APPEALS

Online due to Covid-19 – 7:30pm

Present:	Tom Ringwald	Chairperson
	John Palladino	Member
	David Scalzo	Member
	Nathan Jackman	Member
	Anthony Fiore Jr.	Member (ad hoc)
	Christina Brown	Member

Also in Attendance:

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

Chairman Ringwald announced the agenda as follows:

Item #1	Approval of minutes from the May 12, 2021	
	Regular Meeting	
Item #2	86 Main St.	Special permit
Item #3	11 Henry St.	Pool Deck
Item #4	65 Main St.	Return
Item #5	15 Hollywood Ave East	Return
Item #6	109 Wallace St.	Site Plan
Item #7	145 Main St.	Site Plan
Item #8	377 Marbledale Rd.	Site Plan
Item #9	69 Main St.	Adjourned
Item #10	22 Underhill St.	Adjourned

**Item #1 Approval of minutes from the May 12, 2021
Regular Meeting**

Member Brown motioned to approve the Regular Meeting minutes dated May 12, 2021, seconded by Member Fiore and upon roll call was carried with a vote of 5 – 0, with Member Scalzo abstaining due to his absence.

Item #	Address	Permit Type
86	Main St.	Return/Special permit

Heidi Tejeda, applicant, noted that there were no changes to the application.

Chairman Ringwald noted that the public hearing is still open.

No Public Comments

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

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

**The application for a Special Permit requested by Pilates Unleashed Corp.
whose address is 86 Main Street, Tuckahoe, NY Sec. 28_Blk. 5 Lot_1
for relief from the following section of the zoning code: 6-1 Special Permit**

Applicant, Pilates Unleashed Corp., seeks a Special Permit from this Board to open a Pilates' studio at 86 Main Street, Tuckahoe. The applicant will run the studio on a mostly 1 on 1 basis and have several classes during the week. It is determined by this Board that the usage of the space will be minimal and have little to no impact on the surrounding areas.

In applying Section 6.1 of the Zoning Code to this application this Board finds that the Applicant has met the standards for a Special Permit and thus this application is approved.

It is determined that the use proposed by this applicant is compatible with the district: the location and size of the use, the nature and intensity of the operations involved in or conducted in connection with such use, the size of the site in relation to the use, the assembly of persons in connection with the use and the location of the site with respect to streets giving access to the site are such that the use will be in harmony with the appropriate and orderly development of the district in which the use is proposed to be located.

It is further determined that the use proposed is compatible with Comprehensive Plan..

Since this is a pre-existing building it is determined that all proposed structures, equipment or material will be readily accessible for fire and police protection and that the location, nature and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall not hinder or discourage the appropriate development and use of adjacent land and buildings.

Since this business will be run as a mostly 1 on 1 Pilates studio it is determined that the operations in connection with the use will not be offensive, dangerous, or destructive of basic environmental characteristics or detrimental to the public interest of the Village and not be more objectionable to nearby properties by reason of noise, fumes, vibration, flashing of or glare from lights and similar nuisance conditions than would be the operation of any permitted use not requiring a special permit.

The Board has determined that the neighborhood character and surrounding property values are reasonably safeguarded and that the use will not cause undue traffic congestion or create a traffic hazard.

Since the use will have little to no impact on the surrounding parking we are requiring the applicant to obtain only one off premises parking space.

Attached to this resolution document is the Zoning Board of Appeals Approved Drawings, described as following:

- **Total of 1 (one) Drawing-Page, labeled: ‘Existing Storefront On File’**
- **Drawing’s date, received: 03-24-2021**

SEQRA

Based on the foregoing, the Zoning Board of Appeals of the Village of Tuckahoe finds and determines that:

1. The action taken herein is an Unlisted Action subject to the requirements of SEQRA.
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 application for the proposed special use permit.
3. The action taken herein shall not have any significant impacts upon the environment and declare that a Negative Declaration be adopted with respect to this action.

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

Item #3 11 Henry St. Pool Deck

Allison Kubaska, applicant noted that there have been no changes to the submitted plans.

Chairman Ringwald noted that the public hearing was still open.

Public Comments

Margaret and Peter Eller, 9 Henry St., voiced their concern regarding the noise and safety of the pool deck. She asked if the board members took her letters of opposition into consideration.

Member Jackman indicated that the input is useful and the board considers all the concerns.

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

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

The application for AREA VARIANCE requested by _Alison Koutsis whose address is 11 Henry Street, Tuckahoe, NY Sec._30 _Blk. 1_ Lot_23___ for relief from the following sections of the zoning code: 5-1.1

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 Jackman 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:

Applicant resides at 11 Henry Street in Tuckahoe. Applicant is seeking to build a deck to attach to her existing pool. Village code section 5-1.1 limits the size of the deck to 1/4 the area of the pool. Applicant is seeking to construct a 330 sq. ft deck where 69 sq. ft is allowed. The proposed deck will be built towards and attach to the existing house. The deck will in no way encroach in the setbacks for this district. Further, due to the topography of the property the deck will in no way

“hang over” or “loom” over the adjacent properties. Thus, we find that based on the location of the deck we find that the deck will have no impact on the surrounding properties.

Therefore, recommendation is for the 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. The applicant has demonstrated through its submissions and presentation that it has met all aspects of the 5 prong test to the satisfaction of this board.

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.

Attached to this resolution document is the Zoning Board of Appeals Approved set of drawings, described as following:

- Total of 3 (three) Drawing-Pages: A-100.00, A-101.00 and A-102.00
- Drawings' date: 02-22.21 (labeled: 'issued for review')

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

Item #4 65 Main St. Special Permit

Marion Anderson, applicant for Cornerstone Children Center, added that she has obtained 10 parking spaces and there are two on site.

Member Jackman asked if the Building Dept. or the Village Attorney had any concerns with this application.

Gary Gjertsen stated that the Planning Board will oversee the drop off procedure and it will be specified in the resolution.

Chairman Ringwald noted that 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 Brown offered the following resolution in the form of a motion:

The application for a Special Permit requested by _Management Organization & Support Services, LLC whose address is 65 Main Street, Tuckahoe, NY Sec._
33_Blk. 8 Lot_11_____

for relief from the following section of the zoning code: 6-1 Special Permit

Applicant, Management Organization & Support Services LLC, seeks a Special Permit from this Board to open a day care facility at 65 Main Street, Tuckahoe, NY. The applicant is seeking to open said daycare facility in the Village Hall of Tuckahoe and occupy the same space as the Village's tenant Andrus, who previously operated a day care facility at the location, but has ceased its operation at the Tuckahoe Village Hall location. Andrus was operating its day care facility under a special permit granted by this Board on December 14, 2011.

The applicant, Management Organization & Support Services LLC, is making no interior changes to the layout of the space and there will be no significant changes to the operation of the day care facility. There will be no appreciable changes other than the name of the operator. The occupancy limits of the space will be dictated by State Law and applicant will be required to obtain the necessary licenses from the State.

This Board in its decision dated December 14, 2011 analyzed the standards of the special permit and how it applied to the operation of the business. Since there will be no appreciable changes as to the operation we agree and adopt the previous findings of this Board to the current applicant.

Therefore the application of Management Organization & Support Services LLC for a special permit is approved. As a condition of this approval the applicant must obtain 10 off premises parking spaces. These off premises parking spaces are in addition to the 2 spaces that the applicant will have on site and is part of the lease with the Village.

Attached to this document are the Zoning Board of Appeals Approved set of drawings, described as following:

- Total of 7 (seven) Pages:
Being 5 narrative pages and 2 drawing-pages, labeled: 'First Floor and Third Floor'
- Drawings' date: received on 03-29.21

SEQRA

Based on the foregoing, the Zoning Board of Appeals of the Village of Tuckahoe finds and determines that:

4. The action taken herein is an Unlisted Action subject to the requirements of SEQRA.
5. This Zoning Board of Appeals is in possession of all information reasonably necessary to make the determination as to the environmental significance of the application for the proposed special use permit.
6. The action taken herein shall not have any significant impacts upon the environment and declare that a Negative Declaration be adopted with respect to this action.

Conclusion

Based on the foregoing, it is resolved that the special use permit referenced herein be and is hereby granted to the Applicant in accordance with this decision. The Applicant and/or interested third parties are notified of their respective rights to appeal this decision or any part thereof in accordance with the New York Civil Practice Law and Rules.

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

Item #5 15 Hollywood Ave East Return

Jorge Paiva, owner of the property indicated that this application requires 4 variances. There are a few options, he could keep the patio as is and remove the pavers and replace them with planters and install a privacy fence. He stated that he was willing to change the picket fence to a solid privacy fence. He will work on the cinder block wall to correct any drainage issues.

Member Scalzo added that there are three issues to consider – privacy, aesthetics and drainage.

Mr. Paiva noted that the pool area is 4ft. set down from the rest of the yard. The property was set that way so the place for the pool was perfect. The Zoning Code requires a 5ft. buffer to the property line, this is 4.4ft. if you measure from the lip of the pool. If you take the lip of the pool off, and measure from the pool wall, it is 6ft. from the property line. He noted that he would be happy to remove the lip of the pool but it gives the pool wall stability.

Chairman Ringwald noted that the drainage issues must be addressed.

Mr. Paiva noted that the pavers to the property line can be replaced with evergreen bushes.

Chairman Ringwald noted that the applicant's property is so much higher than the surrounding properties and therefore the neighbors can see the privacy fence up so high. His property is looming over the neighbors.

Member Jackman noted that the fact that his property is higher than his neighbor's is a fact and the property owner has rights to install a pool and privacy fence. The topography is what it is.

Bill Williams noted that there are two variances to consider; the pool deck exceeds the 25% of the circumference of the pool and the pool encroaches into the side yard not the rear yard.

Member Jackman added that the neighbor's garage is on the property line.

Gary Gjertsen, Village Attorney noted that the applicant must only install a 6ft. high fence as per code. A higher fence is not permitted.

Mr. Paiva stated that he would install a stone veneer on the cinder block wall for aesthetics. He would install a privacy fence on top of the patio and along the property line. He would check the drainage and stability issues.

Chairman Ringwald noted that the public hearing was still open.

Public Comments

Valerie Hexner 17 Hollywood Ave. East noted that she was in favor of the pool, but would like the stone veneer on the wall and extend the privacy fence. She lives next door and her concern is that her property will not be compromised. She claims water leaks through the cinder block wall onto her property. She voiced her concern as to whether the drainage issue could be fixed with just some plantings. The rear fence is wedged under the gutter of her garage. She cannot get access to clean her gutters.

Member Jackman noted that this is a pre-existing encroachment issue, which requires a good relationship with your neighbors.

Alex Viafore 116 Belle Vista St. noted that the pool deck is 4.2 inches from the property line.

Mr. Williams stated that the land survey that was submitted displays the pool deck at 5ft. from the property line.

Mr. Viafore indicated that the cinder block wall is 4ft. tall, and the fence on top of the wall is 6ft. The view from his yard is a wall of high fences. He asked the Board members to stop by and stand in his yard to view the fences.

Member Jackman noted that the applicant could install a pool as of right. The side yard setback created the need for a variance.

Member Scalzo added that the three neighbors should sit down and discuss options that all may be in favor of.

Public Hearing will remain open.

Item #6 109 Wallace St. Site Plan

Jonathon Villani, architect for the applicant, noted that the house is a two family house. At one time, the owner's cousin occupied the basement. There is no longer a kitchen area or a bedroom in the basement. The plans are to keep the finished full bathroom in the basement and make the basement accessible to the tenants on the first floor. In so doing, it increases the FAR.

The removal of the outdoor staircase reduces the footprint of the house.

Bill Williams, Building Inspector noted that the basement is excluded from the FAR in single-family homes. The basement area had a kitchenette and a bedroom, which raised red flags to the Building Dept. Any finished basement in a two-family house is considered in the FAR.

Mike Seminara, Assistant Building Inspector, advised the applicant to eliminate the door into the unfinished space

John Viglia owner of the house indicted that he tried to legalize the basement apartment in 2003. It was not approved, as it did not have a parking space. He permitted his cousin to live in the basement. He paid over \$3000 in fines and permits. He now would like to allow the first floor tenants to access the laundry room and he will not rent out the basement as he learned his lesson.

Jonathon Villani stated that he could eliminate the door to the bottom of the stairs. This is a safety issue and the applicant would not let anyone live in the basement.

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

No Public Comments

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

Item #7 145 Main St. Site Plan

Steven Accinelli, attorney for the applicant indicated that this application was for a reduction in the parking requirements.

Leonard Brandes, architect for the applicant, stated that this was the PTI building which has been empty for two years. The applicant has plans for a new office space and an ecommerce business. The applicant will occupy the basement and the first floor and a future tenant will use the second floor. There will be two to three trucks making deliveries per week during off peak hours.

The UPS and Fed Ex trucks will make stops as well. There are currently three parking spaces and the Zoning Code requires 14 parking spaces. The applicant is seeking relief for the 11 parking spaces. This building predates the current zoning code. There are 12 – 16 hour parking meters in a very close proximity to the building. The applicant hopes to hire local residents, which may walk to work, use

the train, buses or metered spaces. The former occupant was never required to have parking spaces.

Chairman Ringwald noted that the parking relief from 14 parking spaces to 3 is a significant request.

Oliver Stauffer, owner of the building, noted that this is located in the Business/Residential Zone. The application will not affect the neighborhood, as there will be no customers and no clients. The application is better suited for this area than an alternative use. The second floor tenant has not been determined.

Chairman Ringwald suggested that the applicant return once the tenant is determined.

Mr. Brandes noted that the second floor may be difficult to rent out if the need to return to the Board is required.

Bill Williams added that the use is for an office space. If the use changes than the parking requirements change. Any change to the use, the applicant must return to the Board for approval.

Gary Gjertsen noted that the space has to be only for business use. There is no other choice.

Mr. Stauffer added that this building has been a cornerstone in the Village. It has never been required to provide parking spaces. It does not have room for parking spaces. It cannot be compared to other buildings. Fourteen space requirement does not align with how the building has served the community. There were 42 employees at one time and no parking spaces were required. It is not fair to mandate that number of spaces now.

Member Scalzo added that this is a preexisting condition. However, he was more concerned with the traffic impact than the parking.

Mr. Stauffer added that the long-term parking meters that future employees may choose to use would be very lucrative to the Village. Let the employee decide if they want to use long-term parking or apply for a parking permit from the Village.

Mike Seminara added that there is no practical way to enforce parking requirements to the number of employees. The Building Department cannot go to the site and count employees.

Noah Levine, Village Consultant, noted that the building does have this preexisting condition. There are ample long-term metered spaces in close proximity. The only concern would be if the employees park in the residential areas.

Charles Stauffer requested a reasonable number of parking spaces that the Board would consider.

Chairman Ringwald noted that 6 – 7 parking spaces may satisfy the Board.

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

No Public Comments

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

Item #8 377 Marbledale Rd. Site Plan

Jonathon Giahn, owner of 377 Marbledale Rd. noted that he and his wife moved here in 2015. This application is to demolish his existing house and build three single-family homes on the property. The property measures 135.4 ft. by 150ft. The proposed houses will mimic the neighbor's homes. The property will be cut into three building lots. Each home will measure 2592 sq. ft. There will be a garage and three levels above the garage. The safety during the construction is his number one priority and he will be on the premises during construction.

Rebecca Valk, attorney representing the applicant, noted that the applicant currently receives five separate tax bills for the properties that he owns. It was originally subdivided in June 30, 1906 when the lots were created. The applicant is not creating a new lot rather he is moving the lot line.

Rebecca Valk submitted a packet with the measurements and description of the proposed variances.

Lot #1 Northern Lot

Lot #2 Middle Lot

Lot #3 Southern Lot

The determination from the Building Dept. for Lots #2 and #3 would require lot size, lot width, front yard and side yard variances. All three lots require area variances for the height, number of stories and the retaining walls.

The project is not for low-income housing or multi-family houses. There will be only three single-family houses. The application does not result in the creation of a new lot.

Interpretation Height

Zoning Ordinance Section 3.1.1.17 defines Height as follows:

For one and two-family dwellings, the vertical distance from the average level of the finished grade along the wall or walls of the building facing the street to the highest level of the roof surface of roofs the slope of which is not more than one-inch vertical to one-foot horizontal or the mean point between the eaves and the highest point of the roof is on any other type.

High point calculation

to the highest level of the roof surface of roofs the slope of which is not more than one-inch vertical to one-foot horizontal or the mean point between the eaves and the highest point of the roof is on any other type.

Low point calculation

For one and two-family dwellings, the vertical distance from the average level of the finished grade along the wall or walls of the building facing the street

Gary Gjertsen, Village Attorney, indicated that there is a difference of opinion in the Zoning Code and the interpretation of the rules. Bill Williams determined that by merging the lot lines is creating new lots and subject to the new zoning code.

Bill Williams asked the members to view the owner's deed. The deed is for a single parcel of land. There are two 25ft. x 100ft. lots with no structure on it. The applicant can combine those lots and build a house. It is now considered vacant land. The old code would result in the new construction because it is vacant land. Lot #1 the applicant is not moving any lot line. Pre 1999 regulations govern the set-back.

Noah Levine, Planning Consultant noted that he concurred with Bill William and Gary Gjertsen's assessment of the creating of a new lot.

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

Public Comments

Marie Pelligrino 376 Marbledale Rd. voiced her disapproval of the application. This will have a long-term impact on the Village and neighborhood. It would be detrimental to the nearby properties. The green space will disappear, the value of their homes will decrease, and there would be essentially three row house on two lots. The drilling and possibly blasting that will take place may affect the surrounding homes for years to come. The increase of impervious land will cause runoff and possibly flooding into our basements. Who will benefit from this project? The developers and owner, not the Village or neighbors.

Anthony DiNapoli resident added that he was concerned of the drilling and excavation. He agreed with all that Mrs. Pelligrino stated.

Michelle Chiodi 378 Marbledale Rd. agreed with the previous statement and is opposed to the project.

Isaac Sacolick 9 Stewart Ave. indicated that most neighbors are working remotely. The construction and excavation would be tremendous, as the applicant would have to move 30ft. of mountain. There are sinkholes in Marbledale Rd. There are special needs children in the area and the heavy construction would be problematic.

Tristen McDonald 351 Marbledale Rd. this application only benefits the applicant. Monique Johnson 2 Stewart Ave. noted that there may be huge drainage issues, and she agrees with everything Mrs. Pelligrino stated.

John Callahan 347 Marbledale Rd. opposed that application.

Jonathon Giahn noted that the construction would not start until after next summer and so most of the remote employees would be back in their offices.

Joe Sabelja 374 Marbledale Rd. begged the board to reject the application. He noted that the five-prong test fails on every facet. The applicant has a right to build two houses not three row houses. 90% of the houses on Marbledale Rd. are two story houses. The 1999 Zoning Code was written to keep green space and reduce impervious surfaces. The property is a hill and the applicant would need to remove 200 tons of rock. This would cause an environmental impact.

Michele Lawlor 11 Eaton Place noted that the run off was a concern for her. She added that the three new houses would impact the Eastchester School District.

Phyllis Ciamarra 366 Marbledale Rd. voiced her opposition to the application.

Mr. Buckley 5 Stewart Ave. added that the applicant is a good neighbor but agrees with the residents that oppose the application. Two houses would be better than three.

Nick Lange 368 Marbledale Rd. opposed the application.

Maria Pelligrino noted that she is fond of the applicant. She was disappointed when the application changed from two houses to three houses.

Linda Calaicone 65 Warren St. opposed the application.

William Christiano 391 Marbledale Rd. opposed the application.

Noah Levine, Village Consultant noted that the Planning Board would address the drainage concerns.

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

Item #9	69 Main St.	Adjourned
Item #10	22 Underhill 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.