

**Minutes of: May 10, 2023**  
**Date Approved: \_June 14, 2023\_**  
**Date Filed/Village Clerk:**

**May 10, 2023**

**TUCKAHOE ZONING BOARD AND BOARD OF APPEALS**

**Village Hall – 7:30pm**

<b>Present:</b>	Tom Ringwald	Chairman
	Anthony Fiore Jr.	Member
	Christina Brown	Member
	Heather Rinaldi	Member
<b>Absent:</b>	Lauren Porretta	Member
	Carlos Rodriguez	Member (ad hoc)

**Also in Attendance:**

Gary Gjertsen	Village Attorney
Mike Seminara	Asst. Building Inspector

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

<b>Item #1</b>	<b>Approval of the Minutes of April 12, 2023</b>	
<b>Item #2</b>	<b>1 Henry Street</b>	<b>Return</b>
<b>Item #3</b>	<b>104 Yonkers Ave.</b>	<b>Return</b>
<b>Item #4</b>	<b>377 Marbledale Ave.</b>	<b>Area variance</b>

**Item #1 Approval of the Minutes of April 12, 2023**

Member Brown motioned to approve the minutes dated April 12, 2023 was seconded by Member Rinaldi and upon roll call was carried with a vote of 4 – 0 with Chairman Ringwald abstaining due to his absence.

**Item #2      1 Henry Street**

**Return**

Louis Campana, architect for the applicant, noted that there were no changes to the submitted plans.

**Chairman Ringwald noted that the public hearing was still open.**

**No Public Comments**

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

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

**The application for AREA VARIANCES requested by \_Rowley 111 LLC\_\_\_\_  
whose address is 1 Henry Street, Tuckahoe, NY Sec.\_30\_ Blk. 2\_ Lot\_3b\_\_\_\_  
for relief from the following sections of the zoning code: \_\_\_\_\_4-2.4.1 Front 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.

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

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

Applicant is the owner of 1 Henry Street, Tuckahoe. Owner proposes to build on new home on the lot, which is currently vacant. The lot is an odd shaped lot and is located on the corner of Henry Street and Winter Hill Road in Tuckahoe. Since the property is a corner lot the lot as determined by the Village of Tuckahoe's Zoning Code has 2 front yards. If this lot was not a corner lot this variance would not be required. Further, since this is a lot that is created after 1999 the front yard setback is 35ft as opposed to 25ft. Thus, based on the odd shape of the lot and the more restrictive setbacks the applicant is requesting variances for two pieces of the footprint of the home. One being a variance from 35ft to 25ft and the other being 35ft to 32.8ft. It should be noted that based on the size of the lot the Applicant can build a much bigger house than the one being proposed. We find that the home and the proposed setbacks are consistent with the other homes in the neighborhood. Therefore, based on the more restrictive setbacks due to the corner lot and the odd shape of the lot we find that the variances requested are reasonable.

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.

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

**Item #3     104 Yonkers Ave.                      Return**

Dani Tacei, applicant stated that there were no changes to the submitted plans.

**Chairman Ringwald noted that the public hearing was still open.**

**No Public Comments**

Chairman Ringwald noted that the Board received a letter from a resident that the Village should have more banks and less gyms.

Gary Gjertsen, Village Attorney added that the Board does not have the influence on banks to come to the Village. The banks are in control of their locations.

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

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

**SPECIAL PERMIT AND VARIANCE RESOLUTION**

The application for a Special Permit to Strength Beyond the Barbell whose address is 104 Yonkers Avenue, Tuckahoe, NY Sec.\_32\_Blk. 4 Lot\_3\_\_\_\_for relief from the following section of the zoning code: 6-1 Special Permit

Applicant, Strength Beyond the Barbell, seeks a Special Permit from this Board to open a fitness center at 104 Yonkers Avenue, Tuckahoe. Pursuant to section 4-6.1 of the Zoning Code a sports and health club requires a special permit. It has been determined by the Building Department that the applicant's usage falls under a sports and health club, thus a special permit is required. It should be noted that the space the applicant is proposing to occupy was previously operated as a gym with a similar usage.

Applicant proposes to operate the business generally as 1 on 1 training center. This usage will have a minimal to no impact to the surrounding area and we find that the use will compatible with the surrounding neighborhood.

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

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

**Item #4      377 Marbledale Ave.                      Area variance**

Jonathon Giahn, owner and applicant of 377 Marbledale Rd, noted that he purchased this property in 2015 and his family is growing. He designed two single family homes for these two lots. Each home has a basement, living area floor and bedroom floor. The variance requested is for a half story in only the front of the house.

Joseph Crocco, architect for the applicant, noted that the plans are to tear down the existing house and build two single family homes on the two lots. The two lots measure 75ft. by 135ft and 75 ft. by 163ft. They are considered to be oversized lots measuring 10,600 sq. ft. and 11, 600 sq. ft. respectfully. The garage will sit 10ft. from the property line and match the nearby homes. The half story variance is a similar design to the nearby houses. Each house has a 10ft. side yard with green space and between the two houses will be 26ft. of green space. The applicant is not creating a new lot and therefore the new construction falls under the former Zoning Code regulations. The height of each house will be 34ft.

Mike Seminara, Assistant Building Inspector noted that 2.5 story is allowed. The half story is above 50% of the floor below due to the grade of the property.

Member Fiore asked about the removal of the dirt.

Mr. Crocco noted that the first floor will be level to the rear yard. The removal of the dirt is for the foundation.

Chairman Ringwald added that the nearby houses have mature trees that hide the house.

Mr. Crocco stated that there will be a decent amount of landscaping in the front of the property.

**Chairman Ringwald motioned to open the public hearing, seconded by Member Fiore and upon roll call was carried with a vote of 4 – 0.**

### **Public Comments**

Michelle Chiodi 378 Marbledale Rd. noted that her house faces the applicant's property. She noted that she is not opposed to the building of two new homes but voiced her concern regarding the flooding issues the area has endured during the last 5 years. The drainage issues which in turn causes flooding in the basements and is a real nuisance.

She also voiced her concern regarding the two big garages facing the road.

Chairman Ringwald noted that there are strict new drainage regulations that new construction have to meet. He added that one more house may not have a huge impact on the system.

Member Brown added that the applicant has a right to build on his property and is in front of this board due to the half story variance.

Maria Pellegrino 376 Marbledale Rd. noted that she has built additions twice to her home in the past and followed the Zoning Code. She voiced her concern regarding the drilling into the stone for the foundation. She asked if her house was protected from any damage due to the drilling.

Mike Seminara, Assistant Building Inspector noted that the Zoning Board can in fact require the applicant to submit a construction management plan to review the process.

Edward Brand 97 Highview Ave. added that the idea of a construction plan is a good idea. The Zoning Code was written to keep the integrity of this beautiful village. New construction always stands out.

Gary Gjertsen, Village Attorney offered to ask the Building Dept. to provide a link on the Village website to this applicant's drawings and streetscape views. This link can be accessed by the residents for their review.

Vivian Maher 350 Marbledale Rd. also added that she was concerned with the drainage issues that the sewer system cannot handle. Adding another home will just strain an already stressed sewer system. The removal of any mature trees will actually hurt the drainage issues too.

Chairman Ringwald noted that he will bring the drainage issues and sewer issues to the Village DPW and the Mayor's attention.

Michelle Chiodi 378 Marbledale Rd. asked about the Con Ed ban on adding new gas lines. Mrs. Chiodi also asked about the need for a retaining wall in the rear of the property.

Chairman Ringwald noted that the houses will be fully electric. The applicant has two choices, build the house higher above the earth or remove the earth to build the houses, which in turn would require retaining walls to keep the earth back.

Chairman Ringwald asked for the following: elevations with the streetscape for comparison, a plan for the back slope and a plan to follow the drainage requirements. He asked the applicant to leave as much green space as possible. He asked for a landscaping plan that includes trees not just shrubs.

Member Brown added that the applicant include a plan to illustrate how the excavation will take place and how it will play out.

Chairman Ringwald noted that the public hearing will stay open. The applicant will return to next month's meeting.

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.