

Minutes of: May 13, 2009
Date Approved: June 10, 2009
Date Filed/Village Clerk: _____

May 13, 2009
TUCKAHOE ZONING BOARD AND BOARD OF APPEALS
TUCKAHOE VILLAGE HALL – 7:30pm

Present: Gloria Rosell Chairperson
Philip Allison Member
Kevin McBride Member
John Santos Member

Absent: Susan Crane Member
Thomas Giordano Member

Also in Attendance:
John Cavallaro Village Attorney
William Williams Building Inspector

Chairwoman Rosell announced the agenda as follows:

Item #1 Approval of Minutes of the April 7, 2009 meeting.
Item #2 4 Henry Street Area Variance
Item #3 82 Lake Avenue Area Variance
Item #4 19 Young Place Area Variance
Item #5 20 Bronx St. Adjourned
Item #6 100 Sagamore Rd. Adjourned
Item #7 11 Jackson Ave. Adjourned
Item #8 184 Midland Ave. Adjourned

Item #1 Motion by Chairwoman Rosell to approve the minutes of the April 7, 2009 meeting was seconded by Member McBride and approved by the Board with a vote of 4-0.

Item #2 4 Henry Street Area Variance

Antonio Leo, architect for the applicant, Mr. Brown, indicated that there were two variances being sought with this application. The front yard and side yard set back. The Zoning Code requires a 25ft. front yard set back, the applicant is requesting a 1 ft. reduction in set back. There is an existing concrete patio, which is need of replacement, as it causes flooding in the basement during storms. The Zoning Code requires 4ft. for the side yard set back, the applicant is requesting a 0ft. set back. The submitted plans display a portico on the left side of the house for protection from the weather.

Member Allison motioned to open the public hearing, seconded by Member McBride and unanimously carried.

No Public Comments

Member Allison motioned to close the public hearing, seconded by Member Santos and unanimously carried.

Member Allison offered a Resolution for the application of an area variance requested by Michael Brown 4 Henry Street for relief of the following sections of the Zoning Code; Section 4-2-4.1 Front Yard set back and 4-2-4.4. Paved Terraces.

Recommendation is for an area variance to be granted as the benefit to the applicant of the area variance outweighs the detriment to the health, safety and welfare of the neighborhood.

1. There will not be an undesirable change in the character of the neighborhood and there will not be a detriment to nearby properties: Re: The Front Yard Portico- It is necessary for the occupants to be protected from the elements.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance. This is the only way to accomplish the same result.
3. The requested variance is not substantial. The requested variance is minimal.
4. The proposed variances will not have an adverse effect on the physical or environmental condition in the neighborhood in that; Re: Side Yard set back – it is a small encroachment into the setback.
5. The alleged difficulty was not self-created, as the front step existed prior to the purchase of the home.

Member Allison made a recommendation to approve the requested area variance, to be completed within one year. The board adopts a negative declaration pursuant to SEQR.

Member McBride motioned to adopt this resolution, seconded by Member Santos and upon roll call was carried with a vote of 4 – 0.

Item #3 82 Lake Ave.

Area Variance

Ms. Rebecca Rivera, architect for the applicant, submitted plans to finish 692sq. ft., which is 1/3 of the basement of the two-story structure. This portion of the basement will be used for a bathroom area for employees, an office, laundry room and a break room. The employees will only have access to the basement. Ms. Rivera summarized the plans for the first and second floor of the structure. The first floor will have a reception area and the salon. The second floor will consist of 4 spa rooms, changing room, manicure area and a reception area. There are approximately 8 employees with 8 parking spaces in the lot and 4 additional spaces leased from the Village.

Chairwoman Rosell motioned to open the public hearing, seconded by Member Santos and unanimously carried.

No Public Comments

Member McBride motioned to close the public hearing, seconded by Member Allison and unanimously carried.

Member McBride offered a Resolution for the application of an area variance requested by Louis Chiarentie, Section 32 Block 7, Lot 1E in a business district for relief of the following sections of the Zoning Code; Section 4-6.2 intensity of use, that no building shall be erected or enlarged in which the floor area shall exceed 1.6 times the area of the lot on which such buildings stands.

Recommendation is for an area variance to be granted as the benefit to the applicant of the area variance outweighs the detriment to the health, safety and welfare of the neighborhood.

1. There will not be an undesirable change in the character of the neighborhood and there will not be a detriment to nearby properties: The variance will not result in a change to the character of the neighborhood. The proposal is a sight increase and will not create an adverse impact. The density will remain undisturbed.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance. The applicant could not configure or otherwise relocate the desired basement area improvements without taking up and utilizing valuable and revenue producing first and second floor operational space.
3. The requested variance is not substantial. The requested variance is currently exists, namely 1.87 to 2.19. A difference of .32 is minimal.
4. The proposed variances will not have an adverse effect on the physical or environmental condition in the neighborhood in that; The requested variance is generated by proposed interior work and will not affect the already existing exterior or envelope of the building rather an increase in usable space within. Environmentally the water, pollution, energy use, drainage run off will not be affected.
5. The alleged difficulty was self-created, but this does not bar the granting of this application.

Member McBride made a recommendation to approve the requested area variance, to be completed within one year. The board adopts a negative declaration pursuant to SEQR.

Member Allison motioned to adopt this resolution, seconded by Member Santos and upon roll call was carried with a vote of 4 – 0.

Member Allison stated that he received the mailings, which means that he lives within 200ft. of the applicant's home. He stated that there is no conflict.

The architect for the applicant requested a variance for a third floor addition to a two family dwelling. The additional floor will only exceed the height requirements by 6 inches. The third floor will be constructed to appear as a dormer rather than an entire floor. The topography of the back yard does not make it feasible to add onto the back of the house. The addition to the house will not exceed the required FAR. The plans are to upgrade the house including replacing the asbestos shingles.

Chairwoman Rosell indicated that the plans to upgrade the home are very creative.

Member McBride motioned to open the public hearing, seconded by Member Santos and unanimously carried.

No Public Comments

Member McBride motioned to close the public hearing, seconded by Member Allison and unanimously carried.

Member Santos offered a Resolution for the application of an area variance requested by 19 Young Place; Section 43, Block 5, Lot 11.

The application is for a permit to add a third story and other improvements to an existing two-family house at by Fred C. Madonna as set forth in plans submitted to the Building Department dated **April 27, 2009** (the "Plans"), and specifically for relief from Section 4-3.2 of the Zoning Code, which provides as follows:

"Height. Except as provided in Paragraph 4-1.1.3 hereof, no building shall be erected to a height in excess of 35 feet, nor shall the number of stories at any point along the periphery of any building exceed 2 1/2 stories."

The application is for administrative relief from the requirements that the dwelling not exceed 2 1/2 stories or a height of 35 feet, as the proposed improvements increase the building to 3 stories, and to a height of 35 feet, six inches.

In addition, the proposed portico to be constructed over the side entrance to the building as set forth in the Plans encroaches within the 9 foot setback requirement of the side yard in violation of Section 4-3.4.1 of the Zoning Code, which provides in pertinent part as follows:

"Side Yard. There shall be a side yard along each street line with a depth of not less than 9 feet. . . ."

While the applicant does not expressly request relief from the requirements of Section 4-3.4.1, inasmuch as the Plans clearly depict this encroachment, we will address this issue as well.

Recommendation is for a variance to be granted as to both the height and story requirements of Section 4-3.2, as well as to the side yard setback requirement of section 4-3.4.1, as the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood.

Addressing the five factors to be considered in making such a determination:

There will be neither an undesirable change in the character of the neighborhood, nor a detriment to nearby properties:

Proposed Third Story - The proposed third story as set forth in the Plans will result in a floor area ratio (FAR) of 0.483, which is within the permissible FAR of 0.5 required for the property. There would be no separate entrance to the proposed third floor addition, so there is no danger of a subsequent owner converting the proposed third floor to an additional apartment within the premises. The proposed third story would cause the height requirement of the dwelling to be exceeded by only 6 inches – not so high as to create a marked discrepancy from the neighboring buildings. Moreover, there is precedent for granting such height and story relief.

Portico - The proposed portico over the side entrance to the dwelling as depicted in the plans would be only a de minimus encroachment (approximately 2.5 feet) upon the side yard setback. Again, there is precedent for granting such relief.

The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than a variance:

Proposed Third Story - While voluntary, we do not believe that the proposed third floor or portico could be achieved by other methods without undermining the character of the property and neighborhood.

The variance to be granted is not substantial:

Proposed Third Story - Given the fact the height requirement for the dwelling of 35 feet is exceeded by only 6 inches, and the fact that the additional square footage created by the proposed third floor does not exceed the FAR for the property, we find that the variance requested for the proposed third story is not substantial.

Portico - As set forth above, the proposed portico over the side entrance to the dwelling would be only a de minimus encroachment (approximately 2.5 feet) upon the side yard setback, and is not a substantial encroachment upon the side yard.

The proposed variance will have no adverse impact on the physical or environmental condition in the neighborhood in that:

Proposed Third Story - For the reasons set forth above, namely that the proposed third story does not result in the FAR for the property being exceeded, we find that the variance with respect to the height and story requirements would not significantly impact the environmental conditions of the neighborhood, including water use, pollution, energy use, drainage, run-off or flooding.

Portico - We do not find that the encroachment caused by the proposed portico would have any adverse impact on the physical or environmental condition of the neighborhood.

The alleged difficulties are self-created: however, the applicant has come before the Zoning Board seeking a variance prior to the commencement of any improvement to the dwelling.

Accordingly, it is recommended to that the requested variance be granted as to Section 4-3.2 of the Zoning Code, provided that the proposed improvements not result in the height of the building exceeding 35 feet, six inches, nor exceeding three stories as set forth in the Plans. In addition, we grant a variance Section 4-3.4.1 of the Zoning Code to construct the portico as shown in the Plans, provided that the portico not encroach upon the side yard setback more than 2.5 feet .

Member Santos made a recommendation to approve the requested area variance, to be completed within one year. The board adopts a negative declaration pursuant to SEQR.

Member McBride motioned to adopt this resolution, seconded by Member Santos and upon roll call was carried with a vote of 4 – 0.

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.

