

Minutes of: July 8, 2009  
Date Approved: Sept. 9, 2009  
Date Filed/Village Clerk: \_\_\_\_\_

**July 8, 2009**  
**TUCKAHOE ZONING BOARD AND BOARD OF APPEALS**  
**TUCKAHOE VILLAGE HALL – 7:30pm**

<b>Present:</b>	Gloria Rosell	Chairperson
	Philip Allison	Member
	Kevin McBride	Member
	Susan Crane	Member
	Thomas Giordano	Member
	John Santos	Member

**Also in Attendance:**

John Cavallaro	Village Attorney
William Williams	Building Inspector

Chairwoman Rosell announced the agenda as follows:

<b>Item #1</b>	<b>Approval of Minutes of the June 10, 2009 meeting.</b>
<b>Item #2</b>	<b>346 Columbus Ave.                      Return</b>
<b>Item #3</b>	<b>20 Bronx St.                              Return</b>
<b>Item #4</b>	<b>184 Midland Ave.                      Adjourned</b>

**Item #1 Motion by Chairwoman Rosell to approve the minutes of the June 10, 2009 meeting was seconded by Member McBride and approved by the Board with a vote of 5-0.**

**Item #2 346 Columbus Ave.                      Return - Area Variance**

Mr. Ross submitted proof of mailings and publications.

Mr. Williams received all the plans and stated that they were all satisfactory.

Mr. Ross, owner of the property, indicated that the height of the garage was adjusted – first floor increased by 6in. and the second floor decreased by 6in.

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

Mr. Ross continued noting that the original garage had to be demolished as it was deemed unsafe. The new garage will be moved 8ft. to the left. The garage will be used for tenants only, the storage area will be used by the owner.

The total height of the garage is 18.6ft. with the first floor 7.3ft. and the second floor 7.6ft. There will be no change to the driveway. Mr. Ross stated that he will add landscaping to make the property very attractive.

### **No Public Comments**

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

### **Member Crane offered the following Resolution for 346 Columbus Avenue -**

The application is for a permit for an extension of a non-conforming use, and the following variances requested by Mr. Rick Ross, for relief from the following sections of the Zoning Code:

Section 4-3.1.3 – which provides that “an accessory private garage space for not more than three vehicles, one of which may be a commercial vehicle of not more than three-quarter ton capacity, belonging to the owner or lessee of the property may be maintained.

Section 4-3.4.3 – which provides as follows: Rear Yard. There shall be a rear yard with a depth of not less than 25 feet; provided, however, that for any lot created after July 1, 1999, there shall be a front yard along each street line with a depth of not less than 35 feet.

Section 5-1.6.3 – which provides that any building, the use of which is in conformity with the regulations set forth in this chapter, but which building does not conform to one or more of the requirements hereof other than the use requirements, may be altered, enlarged or rebuilt, provided that such building shall not be altered, enlarged or rebuilt so as to increase the degree of nonconformity thereof.

Applicant had submitted its original application to this Board dated September 25, 2008, and been granted variances in order to renovate an existing detached 3-car garage on the premises located at 346 Columbus Avenue at the Board’s meeting dated March 11, 2009. Since that time, the applicant has discovered that problems with the footings of the pre-existing detached 3-car garage have rendered impracticable the renovation of the structure, requiring instead the complete demolition of the pre-existing 3-car garage and ground up construction of a new one. Applicant has presented updated plans to the Board for review. Based upon this review, our recommendation is for the variances requested as previously granted, are similarly granted for the current application, 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 not be an undesirable change in the character of the neighborhood and there will not be a detriment to nearby properties: The roof of the existing 3 car garage is in disrepair, and requires replacement. The proposed revised alteration improves the symmetry of the structure and increases its usefulness, without significant negative impact in and of itself on the neighborhood or nearby properties.

The benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance: The existing footprint of the garage structure does not conform to the zoning requirements. The new structure, while still not in conformance, would increase the current 1.6' rear yard setback to 6.8', rendering less intense the existing non-conformance. With respect to the side yard buffer setback requirement of 5' open space with natural materials, the new proposed structure would result in a 20' side yard setback in satisfaction of the side yard setback requirement of the Code.

The requested variance is substantial: While the proposed rear yard setback of 6' is still substantially less than the 25' setback requirement, the proposed improvement renders less intense the impingement upon the existing setback.

With regard to the rear yard buffer, the existing 7' retaining wall with 6' picket fence above assures the reasonable separation between neighbors that is intended by the buffer requirement.

The proposed variance will have an adverse impact on the physical or environmental condition in the neighborhood in that: In and of itself, the proposed new construction as set forth in the most recent drawings, do not negatively impact on the neighborhood's physical or environmental condition. The height of the structure is not significantly higher than that of the prior-existing structure.

The alleged difficulty was not self-created: but pre-existed with the current structure. The proposed improvements will lessen the impact of these conditions.

Accordingly, it is recommended to grant the requested area variances, however, only with the following condition: that the new garage not be used for commercial storage.

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

**Item #3 20 Bronx St. Return**  
**The applicant was not present.**

**Member Giordano offered the following Resolution for 20 Bronx Street –**

The application for an area variance requested by Mr. William Pisa Jr., for relief from the following section of the Zoning Code Section - 4-3.6 – which provides that the as follows: Floor Area Ratio. The FAR for the Residence B District is 0.5.

Recommendation is for an area variance to be denied as the detriment to the health, safety and welfare of the neighborhood outweighs the benefit to the applicant: The application is to allow for the basement of the dwelling to be kept in finished condition, to allow for additional floor area in the basement for utilization by the first floor occupant. The increase in floor area to the finished basement results in a floor area ratio of 0.6 – 0.1 in excess of the maximum of 0.5 permitted under Section 4-3.5 of the Code.

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

There will be an undesirable change in the character of the neighborhood and there will be a detriment to nearby properties: The residence is located in a Residence B district. In order to further the goal of preserving neighborhood quality, no more than two families may live in a dwelling in such a designated district. The floor plan provided suggests a configuration that – by a subsequent owner of the dwelling – could be used to house an additional family in the dwelling. The proposed play room contemplates a full bath, storage, additional space and separate entrance – and could be used as an additional living space beyond that which is permitted in a residence B District.

The benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance: This is not a necessary improvement to the dwelling, but a desirable one.

The requested variance is substantial: The requested increase of floor area ratio is 20% beyond the 0.5 permitted.

The proposed variance will have an adverse impact on the physical or environmental condition in the neighborhood in that: the amount of gross floor area of the dwelling in relation to the overall floor area of the lot allows for the potential abuse by a subsequent owner of the maximum families occupancy permitted for such a district as established under the Zoning Code.

The alleged difficulty was self-created.

Accordingly, it is recommended to deny the requested area variance.

**Member McBride seconded the motion and upon roll call was carried with a vote of 5 – 0. The application was denied.**

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.