

Minutes of: May 11, 2011
Date Approved: July 13, 2011
Date Filed/Village Clerk: _____

May 11, 2011
TUCKAHOE ZONING BOARD AND BOARD OF APPEALS
TUCKAHOE VILLAGE HALL – 7:30pm

Present: Nicholas DiSalvo Acting Chairperson
David Kubaska Member
John Palladino Member
Ronald Gallo Member

Absent: Kevin McBride Chairperson

Also in Attendance:

Michael Seminara Code Enforcement Officer
John Cavallaro Village Attorney

Chairman DiSalvo announced the agenda as follows:

Item #1 Approval of Minutes of the April 13, 2011 meeting.
Item #2 1 Midland Ave. Return
Item #3 100 Main Street Return
Item #4 62 Lawrence Ave. Return
Item #5 81 Lincoln Ave. Return
Item #6 42 Yonkers Ave. Return
Item #7 37 Lincoln Ave. Area Variance

Item #1 Approval of Minutes from the April 13, 2011 meeting

Motion by Member Palladino to approve the minutes of the April 13, 2011 meeting was seconded by Member Kubaska and carried by the Board with a vote of 3-0, with Member Gallo abstaining due to his absence.

Item #2 1 Midland Ave. Return

Mr. Martin Hero, representing the McGrath family summarized the history of the application. The original plans, for a two-bedroom house and a front porch, required variances for front yard and side yard setbacks. The applicant submitted a second set of plans, a three-story home with three bedrooms and no front porch, which did not require a variance for the front yard. After reviewing both sets of plans, the Zoning Board referred the applicant to the Planning Board for recommendation. Upon reviewing the plans, the Planning Board recommended that the applicant stick with the original smaller house with a reduced front porch. These plans have only the front porch encroach the front yard setback.

Member Gallo noted that the Planning Board's recommendations were very beneficial to this Board.

Chairman DiSalvo stated that the Board appreciated all the effort the architect has put forth to please the applicant and the Village.

Motion by Chairman DiSalvo to open the public hearing, seconded by Member Gallo and carried with a vote of 4 – 0.

No Public Comments

Motion by Chairman DiSalvo to close the public hearing, seconded by Member Gallo and carried with a vote of 4 – 0.

Chairman DiSalvo stated that a resolution would be prepared for next month's meeting.

Item #3 100 Main Street Return

Mr. Gruza, attorney representing the applicant, requested that the Board reapprove the Special Use Permit for the mixed-use building at 100 Main St. The plans are to have retail on the ground floor with residential apartments above. There will be four stories within the 42 in. height requirement, which complies with the Zoning Code. The application had obtained a variance for the FAR. Last year the applicant requested an extension. During the year the asbestos was removed, the building was demolished and the lot was sold to the new owner. He would like an extension of the previous approvals to begin construction. The proposed plan is consistent with the Master Plan and with the neighborhood. There will be no adverse impact. A traffic study was previously submitted, parking would be provided, no noise, pollution, or sewer impact. Mr. Gruza requested the Board grant an extension for the Special Use Permit. The construction cannot begin until Site Plan Approval is granted by the Planning Board.

Member Gallo asked if the demolition was done while the previous owner owned the building. Mr. Gruza answered yes, the building was still owned by the previous owner. The new owner has owned the lot for approximately 7 months. During this transition period, the new owner has been getting fully informed. He would like to move forward and appear before the Planning Board.

John Cavallaro, Village Attorney, recommended that the applicant submit an updated EAF pursuant to SEQR. The Board can impose conditions on the extension of the Special Use Permit.

Mr. Gruza noted that there were no conditions to the original Special Use Permit.

Motion by Chairman DiSalvo to open the public hearing, seconded by Member Gallo and carried with a vote of 4 – 0.

Public Comments

Mrs. Victoria Angelillo, owner of the adjacent building, reviewed the mold and mildew issues. On Dec. 2009, the previous owner was told to demolish the building. The owner was told that the demolition should not harm adjacent properties. There has been a flooding issue in the basement of her building since the building was demolished. Mrs. Angelillo stated that the previous owner graded the property towards her building. The new owners purchased the lot in April 2010. She voiced her concern that the property will sit vacant another year. She requested the applicant submit a new EAF and asked if the water flooding issue be examined. The flooding issue was brought to the attention of the Building Dept. and the previous owner to no avail. Mrs. Angelillo stated that she had some flooding prior to the demolition, but not to this extent.

Mr. Seminara, Code Enforcement Officer, stated that there was a water issue prior to the demolition, but not as severe. During the extension hearings, Mrs. Angelillo and the previous owner were told that the water issue was a neighbors' issue and they would need to sit together and come to an agreement. He noted that once the building was demolished, and the property excavated, a waterproof membrane should have been placed on the wall of Mrs. Angelillo's building. She and the previous owner did not resolve it. The flooding issue is worse now, because Mrs. Angelillo's building has total exposure without a building next to it.

Member Gallo asked if Mrs. Angelillo was in favor or against the extension. Mrs. Angelillo stated that she was just concerned about having the water damage stopped.

Member Gallo asked if the water damage occurs only after it rains. Mrs. Angelillo stated yes.

Member Gallo indicated that this was probably a run off issue and would like this project to move forward to fix the water and drainage issue.

Mrs. Angelillo asked the Board to review the plans carefully as she was against the proposed plans to have a bike storage area on the retail floor.

Member Gallo noted that an extension would expedite the development of the property. The extension could have stipulations attached.

Phyllis MacDonald 95 Main St., owner of the building across the street from the lot, noted that she too has had a flooding issue since the building was demolished. She voiced her concern with the rodent and past mold issues. She asked for supervision of the lot. Necessary precautions were not made when the demolition occurred; mold, mildew escaped into the air, and there was no extermination prior to demolition. She noted that there might be a spring somewhere under Main St. as there is a water flooding issue, but it is more severe when it rains.

Jon Lambert 43 Terrace Pl., stated that his property abuts the lot. There is an ongoing raccoon problem on the lot, which is a safety issue. He voiced his concern regarding the shortage of parking in that area of the Village. He noted that there was no warning to the neighbors regarding the demolition. He would like the new owner to consider the neighbors and offer advanced notification so that he could take the necessary precautions. He stated that he was in support of the project, but asked the Board to proceed with caution.

Member Gallo advised the residents that if there are issues, to reach out to the Village officials, Building Dept. or even submitting letters, which will go on file with the application. As for the parking concern, it is an issue everywhere in the Village. There must be cooperation with owners and the Village.

Mr. Seminara noted that when a permit is issued for demolition, the owner must exterminate prior to demolition. The Building Dept. received a letter from the extermination company that the building was indeed exterminated.

Mr. Gruza stated that there would be extensive drainage plans, which will address the water issues raised this evening. The quickest way to have the building constructed is to continue the Special Use Permit and variances. The residents raised issues concerning communication, he stated that he would do a better job moving forward.

Motion by Chairman DiSalvo to close the public hearing, seconded by Member Kubaska and carried with a vote of 4 – 0.

John Cavallaro, Village Attorney, advised the Board to declare Lead Agency regarding this application.

Chairman DiSalvo motioned to declare the Zoning Board Lead Agency pursuant to SEQR for this application, motion was seconded by Member Gallo and carried with a vote of 4 – 0.

Item #4 62 Lawrence Ave. Return

Ms. Jill Decairano, owner of the property, requested a variance to expand her driveway. She noted that when a vehicle tries to back out of her driveway, it is very tight maneuvering with cars parked across the street and it being a very narrow street.

Motion by Member Gallo to open the public hearing, was seconded by Member Kubaska and carried with a vote of 4 – 0.

No Public Comments

Motion by Member Gallo to close the public hearing, seconded by Member Palladino and carried with a vote of 4 – 0.

Member Palladino offered a Resolution for the application for an area variance requested by Jill Decairano, 62 Lawrence Ave., Tuckahoe NY. for relief of the following section of the Zoning Code: Section 5-1.2 Off Street Parking.

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. This is an application for a variance for extending the width of a driveway to 16.2 ft.

1. There will not be an undesirable change in the character of the neighborhood and there will not be a detriment to nearby properties: extending the driveway width will not result in a detriment to the nearby properties in that the driveway already existed but was simply widened to 16.2 ft.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance: Unfortunately, the applicant already completed the work, but in any event, the applicant cannot achieve a wider driveway absent the granting of the variance.
3. The requested variance is not substantial. The zoning code does not impose a limitation on driveway width, thus the requested variance is not substantial.
4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood in that: Widening the driveway will not produce unwanted environmental impacts such as negative aesthetics, pollution, noise, traffic or parking, thus the proposed variance will not have an adverse impact on the physical or environmental conditions in the neighborhood.
5. The alleged difficulty was self-created: Although the difficulty was self-created, it is not fatal to the application balance and the application of the balancing test.

Member Palladino made a recommendation to approve the requested area variances with the condition that under no circumstances will parking be permitted in the front yard. The variance granted on the condition that all necessary approvals be obtained from the Village Board of Trustees, including curb cut approval.

The Board adopts a negative declaration pursuant to SEQR.

Member Palladino motioned to approve the resolution was seconded by Member Gallo and was carried unanimously with a vote of 4 – 0.

Item #5 81 Lincoln Ave. Return

Mr. Mitch Koch architect for the Gjonbalaj residence, stated that they have returned from the Planning Board with new plans. After attending a very productive workshop, the applicant has put together a few ideas. The Planning Board did not like the existing driveway location and offered the suggestion to restore the original parking space in the front left corner of the property. This location has been converted to a planted area. Another idea was to place a parking space in the right rear of the property, which would require a 12 ft. tall retaining wall and would require a variance. The idea, that in his opinion is the best, is to place the parking space in the side yard adjacent to the house along Warren Ave. The grade of the parking space would be 11 degrees. If

the property were to be leveled to less than 10 degrees, it would create a problem with the basement windows.

Mr. Koch noted that the applicant would install a fence along Warren Ave. to address the safety issue of the steep pitch.

John Cavallaro, Village Attorney, stated that the Zoning Board had two options. Consider the application as presented tonight or have the applicant return to the Planning Board to request a recommendation.

Member Gallo noted that the Planning Board meets this May 17th and there would be a level of comfort if the applicant considered the recommendation from the Planning Board.

Mr. Seminara stated that he would let the Planning Board know that it was the third idea, the driveway placed adjacent to the house on the Warren Ave. side that was being considered by the Zoning Board.

Member Palladino noted that the submission was incorrect as *Alternate 1* should be *Alternate 2* and *Alternate 2* should be *Alternate 1*.

Motion by Chairman DiSalvo to open the public hearing, was seconded by Member Gallo and carried with a vote of 4 – 0.

No Public Comments

Motion by Chairman DiSalvo to close the public hearing, was seconded by Member Gallo and carried with a vote of 4 – 0.

Chairman DiSalvo motioned to refer the application to the Planning Board for recommendation, was seconded by Member Palladino and carried by the Board with a vote of 4 – 0.

Item #6 42 Yonkers Ave. Return

Mr. Leonard Brandes, architect for the applicant, indicated that this was a two-family house. Mr. and Mrs. Corrado own this house for approximately 18 years and live two doors from the house in another house. Mr. Corrado's mother resides in the first floor apartment and his grandmother resides in the second floor apartment. The requested variance is to install a small kitchenette in the basement so Mrs. Corrado's mother can live in the basement apartment. The basement has large windows, plumbing and ample parking. The owners will install smoke detectors and change the windows to meet code.

Chairman DiSalvo stated that the apartment may be misused in the future. Once a variance is granted, it stays with the house.

Mr. Brandes noted that only family members are tenants. He stated that this is a hardship as the elderly family members need to live near Mr. and Mrs. Corrado and receive help from them.

John Cavallaro, Village Attorney, stated that the Board could grant a variance for the duration of one year. Each year the Corrado's would need to return to the Board for an extension. If the apartment is no longer used by a relative, the variance could be revoked.

Member Gallo voiced his concern regarding density issues in the Village. He would discourage three-family houses.

Chairman DiSalvo noted that this rental property could potentially become an abused rental property. He favored the applicant needing to reapply every year for an extension of the variance.

Member Gallo asked how many vehicles would be parked at the house.

Mrs. Corrado stated that there is ample room for three vehicles, but only one tenant has a car.

Motion by Chairman DiSalvo to open the public hearing, was seconded by Member Kubaska and carried with a vote of 4 – 0.

No Public Comments

Motion by Member Gallo to close the public hearing, was seconded by Member Palladino and carried with a vote of 4 – 0.

Chairman DiSalvo stated that a resolution will be prepared for next month's meeting.

Item #7 37 Lincoln Ave. Area Variance

Michael Gallin, architect for James Marshall and Francesca Parmeggiani, new owners of the property, indicated that the residents were making improvements to the interior and exterior of the dwelling. Plans are to improve the bathrooms, change the stair and finish the attic. The exterior changes are to replace the windows at the attic level and change the flat roof on the small rear addition to a pitched roof. There are no bedrooms being proposed. The finished attic will be for a small office space and reading area. There are high ceilings and a finished floor in the attic already. There will be a full house sprinkler system installed as well as smoke alarms throughout the house. This variance would increase the non-conformity of this house. There is no negative impact, as there is no increase to the physical volume of the house.

Member Gallo asked if there were plans to install a bathroom or kitchen in the attic.

Mr. Gallin answered no, just an office and TV/reading area.

Motion by Chairman DiSalvo to open the public hearing, was seconded by Member Kubaska and carried with a vote of 4 – 0.

Mr. Thomas Soropoulos 18 Highview Ave. voiced his concern regarding the third floor. He interpreted the letter of notice that the overall height of the house was going to be raised.

Mr. Gallin and the Board members explained that the overall height of the house would not change at all.

Chairman DiSalvo stated that once a variance is granted it triggers all non-conformity.

John Cavallaro, Village Attorney, noted that the building cannot exceed 2.5 stories. The Board must confirm that the height is 3.5 stories.

Mr. Gallin stated that there will be no change to the height of the house.

Motion by Member Gallo to close the public hearing, was seconded by Member Kubaska and carried with a vote of 4 – 0.

Chairman DiSalvo stated that a resolution will be prepared for 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.