

Minutes of: Apr. 13, 2011  
Date Approved: May 11, 2011  
Date Filed/Village Clerk: \_\_\_\_\_

**April 13, 2011**  
**TUCKAHOE ZONING BOARD AND BOARD OF APPEALS**  
**TUCKAHOE VILLAGE HALL – 7:30pm**

**Present:** Kevin McBride                      Chairperson  
              Nicholas DiSalvo                Member  
              David Kubaska                    Member  
              John Palladino                    Member

**Absent:** Gloria Rosell                      Member  
              John Santos                        Member  
              Ronald Gallo                         Member

**Also in Attendance:**  
              Bill Williams                      Building Inspector  
              John Cavallaro                    Village Attorney

Chairman McBride announced the agenda as follows:

**Item #1   Approval of Minutes of the March 9, 2011 meeting.**  
**Item #2   1 Garrett Ave.                      Area Variance**  
**Item #3   1 Midland Pl.                        Return**  
**Item #4   18 Bronx Street                      Return**  
**Item #5   62 Lawrence Ave.                    Area Variance**  
**Item #6   13 Harrison St.                      Return**  
**Item #7   81 Lincoln Ave.                      Area Variance**  
**Item #8   42 Yonkers Ave.                    Adjourned**  
**Item #9   100 Main Street                    Adjourned**

**Item #1   Approval of Minutes from the March 9, 2011 meeting**  
**Motion by Chairman McBride to approve the minutes of the March 9, 2011 meeting was seconded by Member DiSalvo and carried by the Board with a vote of 3-0, with Member Kubaska abstaining due to his absence.**

**Item #2   1 Garrett Ave.                      Area Variance**  
Mr. Barbuti, representing the applicant stated that the building department had noted that the dwelling has a family room and bathroom in the basement. The home was purchased in 1958 and the first floor apartment is attached to the basement. The FAR permitted is .5, this extra living space makes the FAR .633.

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

**No Public Comments**

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

**Member Kubaska offered a Resolution for the application for an area variance requested by Mr. Annecapalbo for relief of the following sections of the Zoning Code: Section 4-3.6 Floor Area Ratio for residence B District is 0.5 your proposed is .633.**

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: An FAR variance of 0.13 will not result in a detriment to nearby properties.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance: Based on the size of the property and configuration of the premises the applicant cannot achieve its goal absent the area variance.
3. The requested variance is not substantial. Although the application is substantial in that the FAR variance is 21%, such substantiality is not fatal to the application.
4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood in that: The FAR variance of 0.13 will not result in pollution, noise pollution, light pollution, negative aesthetics, drainage issues or other negative environmental conditions.
5. The alleged difficulty was self-created: Although the alleged difficulty was self-created in that the applicant was on notice of the Village's Zoning Code, the self-created hardship is not fatal to the application.

**Member Kubaska made a recommendation to approve the requested area variances with the condition that the applicant removes the basement kitchen.**

**The Board adopts a negative declaration pursuant to SEQR.**

**Chairman McBride added that the Building Inspector would follow up and check the dwelling.**

**Member Palladino motioned to approve the resolution was seconded by Member DiSalvo and upon roll call was carried with a vote of 4 – 0.**

**Item #3 1 Midland Pl. Return**

Mr. Hero, representing the applicant, noted that the home is an existing one-bedroom, two-story dwelling. The requested variances are for side yard and front yard. The applicant originally presented a two-bedroom with front porch plan. The Board at that time voiced their concern regarding the front yard encroachment. The applicant returned with a three-story house with no front porch. This plan required only a side yard variance, not the front yard variance.

The Planning Board reviewed both plans and stated that the three-bedroom rendering was too tall and thin for this lot. This Board liked the porch, but not the height of the three-story home. The two-story with the front porch measures 27.5 ft. tall with only the front porch encroaching the front yard.

Chairman McBride read the minutes from the previous meeting:

Mr. Martin Hero representing the McGrath family noted that the Zoning Board requested that the plans be presented before the Planning Board for recommendation. The single-family house sits on a very narrow lot. Mr. Hero submitted pictures of other homes in the area. The proposed home will sit 32 ft. in height from the curb cut.

Commissioner Leo noted that the lot was quite narrow for the proposed home.

Commissioner Fang voiced his concern regarding the porch.

Mr. Hero noted that the specific issue from the Zoning Board was that the house could not encroach the front yard. The current house is 16ft. wide and the applicant cannot widen the house.

Mr. McGrath, owner of the property, noted that he currently has a two-story home with a front porch. He would like to add a second bedroom. The Zoning Board has confined the plans to not encroach the front yard. He stated that he would be happy with a two-bedroom house with a front porch, rather than build up and create a three-bedroom house with no porch.

Commissioner Fang noted it comes down to front yard vs. height.

Mr. Hero stated that the original plans proposed a 12ft. porch, which would leave an 8ft. front yard.

Commissioner Caliano noted that the Planning Board could recommend that the Zoning Board reconsider the front yard setback variance in lieu of the height variance.

Mr. McGrath noted that there is no variance required for the height.

Commissioner Leo asked the applicant to consider a smaller porch than 12 ft.

John Cavallaro, Village Attorney, noted that the applicant should re-present the original plans and the adjusted plans to the Planning Board at the next workshop.

Mr. Hero noted that the applicant is not requesting a height variance on either of the two plans.

Member DiSalvo asked the architect to identify the differences in the current design to the original design.

Mr. Hero stated that the original plans had dormer articulation at the roofline; the new plans have them removed. The windows are bigger on the current plans and the porch wraps around and hugs the side elevation. Mr. Hero added that only the porch would be encroaching in the front yard set-back in the new plans.

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

**No Public Comments**

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

**The Board will review the plans.**

**Item #4 18 Bronx Street                      Area Variance**

Mr. Stanziale, architect for the applicant, stated that he presented the revised plans to the Planning Board for review. He noted that the submitted plans were modified. The applicant has pulled the addition back 2ft. to allow for a small shed roofline, which will soften the addition, and reduce the front yard setback variance. This 2ft. reduction has also reduced the FAR. The footprint will stay the same and there will be no extension on the first floor.

The Planning Board reviewed this application and recommended that the addition be pulled back 2ft. and a skirt roof be added over the front entry and wrap around a small portion of the side with a rake on the side elevation.

Mr. Stanziale noted that there is a small platform off the side of the house, which will be increased by 6ft.

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

**No Public Comments**

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

**Member DiSalvo offered a Resolution for the application for an area variance requested by Mr. Andrew Weisfeld, 18 Bronx St., Section 36, Block 2, Lots 7 & 8, for relief of the following sections of the Zoning Code: Section 4-3.4.1 Front Yard: requires 25 ft., proposal is 17.6ft. Section 4-3.4.2 Side Yard: requires 9ft., proposal is 6ft.**

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: No undesirable change in the character of the neighborhood and no detriment to the nearby properties will result. The proposed changes are comparable in size, scope and style to the neighborhood and enhance the style of the home. There has been no opposition from the public.
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 benefit sought in expanding the second floor bathroom cannot be achieved by any other feasible methods. In fact, while the application was pending, the applicant scaled down the construction by scaling back the addition by 2ft. from the front yard.
3. The requested variance is substantial: The front yard proposal is 17.5ft (whereas 25ft. is required). The side yard proposal is 6ft. (whereas 9ft. is required). Although substantial, in applying the balancing test, we find it not to be fatal. It must be noted that the second floor addition will still be further set back closer in compliance that the already existing first floor.

4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood in that: The only changes being made are to the second floor and rear of the premises. These changes will not generate additional environmental impacts such as poor aesthetics, increased traffic, greater parking demand, noise pollution or other negative environmental conditions.
5. The alleged difficulty was self-created: The applicant followed the proper procedures in obtaining a variance. He did not construct the addition without approval. Further, he scaled back his architectural plans in order to reduce the degree of non-conformity. Although self-created, in applying the balancing test, we find it not to be fatal.

**Member DiSalvo made a recommendation to approve the requested area variances. The Board adopts a negative declaration pursuant to SEQR.**

**Member DiSalvo motioned to approve the resolution was seconded by Chairman McBride and upon roll call was carried with a vote of 4 – 0.**

**Item #5    62 Lawrence Ave                      Area Variance**

Jill DeCairano, owner of the property, requested a variance to widen the width of the 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.

Member Palladino asked if the work has already been done to the driveway.

Ms. DeCairano answered yes. She noted that she received an off-street parking violation. She added that the driveway was wide enough to fit a second car in the driveway; it was widened just a little bit to allow ample room to maneuver the vehicle.

Chairman McBride noted that the Board would need to review this further.

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

**No Public Comments**

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

**Item #6    13 Harrison St.                      Return**

Mr. John Cotugno, architect for the applicant, noted that this application was for a variance to legalize the third floor bathroom and bedroom. There is proper egress with the window in the bedroom, which meets all state regulations. The applicant has offered to install a sprinkler system.

Chairman McBride noted that the Board visited the property today and spoke with the owner who stated that he would be willing to use the attic for storage only. There would be no need for a variance with this change.

A discussion evolved as to the misunderstanding of the conversation between the owner and the members of the Board.

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

Matt Thoresen, the potential buyer for the house, noted that the owner presented the requested variance before the Board last month to legalize the bathroom and bedroom on the third floor. He asked why the question as to if the owner wants to take out the bathroom was not brought up 60 days ago.

Chairman McBride noted that the issues were brought up, but never resolved. If the bathroom is taken out, the building inspector will inspect it and a Certificate of Occupancy would be granted.

Mr. Isaac Heras, owner of the property stated that he would take out the bathroom.

Chairman McBride noted that this will bring the house back to compliance and there will be no resolution needed.

**Item #7 81 Lincoln Ave. Area Variance**

Mitch Koch, architect for the Gjonbalaj residence noted that this was the third appearance before this Board. The original application was for a garage in the back with a driveway, but this was never completed. The applicant would like to sell the house and would like to get a short, gravel driveway in the front of the house. The driveway can be pitched 9ft., drained properly and would require a curb cut. A wooden fence can be placed at the end of the driveway. The applicant is seeking a variance for only providing one parking space, as two parking spaces are required.

Chairman McBride noted that the Village Board would need to grant an approval for a curb cut. He asked about the placement of gas lines and water lines.

Mr. Koch identified the gas meter on the submitted plans.

Member Kubaska asked if a vehicle could possibly hit the gas meter.

Mr. Koch noted that the applicant would provide a bollard if the Board requested it to protect the gas meters. The owners are willing to do anything to get the house ready to sell.

The Board members voiced their concern regarding the steep pitch on the side near the sidewalk. They suggested the idea of a retaining wall to prevent erosion.

Mr. Koch noted that the applicant was requesting a parking variance from this Board. If the applicant must present the plans to the Planning Board for recommendation for the pitch in grade, the applicant would comply.

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

Mr. Donald Crosby 9 Warren Ave., owns the property behind the applicant's house. He stated that originally there was a retaining wall on the property. He was also concerned about the drop in grade and about the retaining wall.

Mr. James Riedel 85 Lincoln Ave., noted that there is a serious parking shortage in the area. He stated that he was in favor of this driveway application.

Mr. Gjonbalaj, owner of the property, noted that the retaining wall behind the house was removed 4 years ago. He stated that there was never a retaining wall on the side of the house.

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

Mr. Koch added that the applicant could restore the original slope in the driveway and create a path behind the house.

Bill Williams, Building Inspector stated that he might have some original photos of the property.

Mr. Koch noted that the applicant could landscape the area with multiple bushes and ground cover to prevent erosion.

Chairman McBride again noted the safety issues with regards to the pitch in the grade adjacent to the sidewalk on Warren St.

Bill Williams, Building Inspector stated that the grade was present since the house was built.

Mr. Gjonbalaj stated that there was never a retaining wall along Warren St. It is very steep. He is willing to install a retaining wall in the middle of the property along Warren St. and place bushes towards the front of the street where it is not a steep.

Chairman McBride noted that the Board members would visit the property.

John Cavallaro, Village Attorney, noted that the matter could be referred to the Planning Board for consultation. The matter of the curb cut must be decided by the Village Board.

**Motion by Member DiSalvo to refer the application to the Planning Board was seconded by Member Palladino and was carried unanimously.**

**Item #8     42 Yonkers Ave.**

**Adjourned**

**Item #9     100 Main Street**

**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.