

Minutes of: Nov. 4, 2015  
Date Approved: Feb. 10, 2016  
Date Filed/Village Clerk:

**November 4, 2015**

**TUCKAHOE ZONING BOARD AND BOARD OF APPEALS  
TUCKAHOE VILLAGE HALL – 7:30pm**

<b>Present:</b>	Ronald Gallo	Chairperson
	John Palladino	Member
	Tom Ringwald	Member
	Nathan Jackman	Member

<b>Absent:</b>	David Scalzo	Member
----------------	--------------	--------

**Also in Attendance:**

Gary Gjertsen	Village Attorney
Bill Williams	Building Inspector

**Pledge of Allegiance**

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

<b><u>Item #1</u></b>	<b>Approval of minutes from the October 14, 2015 Regular Meeting</b>
<b><u>Item #2</u></b>	<b>10 Fisher Ave. Interpretation of the code - Return</b>
<b><u>Item #3</u></b>	<b>20 Oakland Ave. Area variance</b>
<b><u>Item #4</u></b>	<b>300B Columbus Ave. Determination compatible with the Zone</b>

<b><u>Item #2</u></b>	<b>10 Fisher Ave.</b>	<b>Interpretation of the code - Return</b>
-----------------------	-----------------------	--

Les Maron, attorney representing the applicant Martine's Bakery, submitted the following statistics: 80% of the bakery's business is local residents; 18% is specialty cakes delivered to the Scarsdale bakery; and 2% are mini pastries that are delivered to the local country clubs. All deliveries are made by two small panel trucks. The deliveries to Martine's Bakery in Scarsdale occur at 4:00pm every other

day and to the local country clubs is twice a week between the hours of 12:00 pm to 3:00pm. The deliveries that are brought to Martine's is the following: Milk is twice a week on Tuesday and Thursday at 7:30am other produce is Monday and Friday between 2:00 and 5:00pm; Flour and other baking products are delivered on Thursdays from 10:00am to 3:00pm; cleaning supplies twice a month on Thursdays and shopping bags are delivered twice a year.

Chairman Gallo thanked Mr. Maron for the specifics.

**Chairman Gallo motioned to continue the public hearing, seconded by Member Jackman and carried with a vote of 4 – 0.**

### **Public Comments**

Rocco Salerno, attorney representing Crestwood Station Plaza 269 – 273 Columbus Ave., noted that his client owns the driveway where the easement is located. Mr. Salerno requested that Mr. Maron provide proof of the submitted statistics for Martine's Bakery.

Gary Gjertsen, Village Attorney, noted that the Board's position is to determine if Bill Williams's interpretation of the code is accurate or the Board could override the interpretation. The Section 4-6.1 Code in the Business District states that a retail store could operate as of right. Mr. Williams states that the retail store has expanded its use and thereby is now considered a manufacturing use. The manufacturing use requires a Special Use Permit. The Board needs to determine if the bakery is operating as a retail use or a manufacturing use.

Member Jackman asked Mr. Salerno to define what his client's ultimate goal is.

Mr. Salerno stated that Martine's Bakery is a thriving business and his client would like the manufacturing aspect terminated due to the havoc it has caused on the driveway.

He submitted photos of tractor-trailers delivering pallets of goods. It is a fine establishment, but it outgrew its location. Mr. Salerno noted that the numbers Mr. Maron submitted are inaccurate.

Sandra Arnan, Property Manager of Crestwood Station Plaza, Columbus Ave., stated that she has been located at this site for 16 years. She noted that Crestwood Station Plaza owns the driveway, but gives access to Martine's Bakery. Martine's Bakery is not permitted to have delivery trucks use the driveway and they are not

permitted access to park in the driveway. They can drive down the driveway and go to their driveway, but they cannot park in the back lot.

Ms. Arnan submitted a package of photos. She stated that there is a considerable amount of truck traffic. The trucks do not use the driveway now, but they block the driveway and use hand trucks to deliver to Martine's Bakery. She noted that she has called the Police Dept. to file complaints of the trucks blocking her driveway.

Member Jackman asked the Building Dept. if there is anything governing delivery trucks.

Mr. Williams indicated that only the noise ordinance governs the truck deliveries.

Member Jackman voiced his concern regarding the reverse beep sound during the deliveries. The photos displayed 4:20am and 5:30am. The residents on the second and third floor may be disturbed if the deliveries are made during the early morning.

Chairman Gallo noted that there needs to be a balance between the benefit to the applicant and the detriment to the neighborhood.

Ms. Arnan noted that a tractor-trailer backed into the side of the building recently, approximately 2:00pm. She noted that she spoke to Chief Costanzo at the Police Dept. and he stated that delivery trucks can double park and can park wherever they want. Martine's Bakery is growing and the rest of the neighbors are being hurt.

Member Jackman added that the submitted package includes approximately 6 letters from local residents claiming that the deliveries are too early and too loud.

Ms. Arnan stated that the issue of Martine's Bakery parking on the blacktop is no longer an issue. The delivery trucks no longer use the driveway, but they block the driveway.

Mr. Maron noted that the Board must interpret the Building Inspector's letter of denial. The delivery of shopping bags occurs twice per year, and they are the only delivery that uses a tractor-trailer. He noted when his client received complaints about parking in the driveway, they responded. Any complaints Martine's has received, she has fixed. This Board does not want to slip into civil matters.

Dr. Damien Kim, 271 Columbus Ave., and owner of 267 Columbus Ave., noted that his office faces the driveway. He has witnessed tractor-trailers double parked at the end of the driveway about twice per week. He was in his office when the

tractor-trailer hit the side of his building. It is a safety issue for vehicles driving on Columbus Ave. as the truck double parks and the vehicles have to go around the truck into the oncoming traffic. He added that he has noticed an increase in truck traffic for Martine's Bakery in the last 2.5 years.

Member Jackman noted that there are several businesses, approximately 10 to 12, in that area. The trucks could possibly be delivering to other businesses. There is no loading zone for the trucks.

Chairman Gallo noted that he would not be present at the next month's meeting. He asked the applicant if they would agree to adjourn until January 2016. Both the applicant and Mr. Salerno agreed.

**Chairman Gallo motioned to keep the public hearing open until January 2016, seconded by Member Ringwald and carried unanimously by the Board.**

**Item #3 20 Oakland Ave. Area variance**

David Barbuti, architect representing the applicant noted that this application was for a front yard setback. The applicant proposes to construct a roof over the front door and is will be 30inches beyond the approved set back.

Bill Williams indicated that this area variance is approximately 1%; one tenth of a variance.

**Chairman Gallo motioned to open the public hearing, seconded by Member Ringwald and carried unanimously by the Board.**

**No Public Comments**

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

**Member Ringwald offered the following resolution as a motion:**

**The application for an AREA VARIANCE requested by \_\_Rita Boyer\_\_\_\_\_  
whose address is 20 Oakland Avenue, NY Sec.42 \_\_Blk.3\_\_ Lot\_\_7\_\_\_\_  
for relief from the following section of the zoning code: 4.2.4.1 Front Yard.  
Applicant seeks relief of the front yard setback which requires 25 feet and the Applicant is  
requesting a 23.08 foot setback.**

**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.**

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

**The granting of the variance 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 shall become null and void.**

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

**Item #4 300B Columbus Ave. Determination compatible with the Zone**

Gary Gjertsen, Village Attorney, noted that this applicant is requesting if its use is compatible with this district. Food will be prepared and sold on the premises and must be considered incompatible without proof that this use is compatible. The applicant will proceed to explain the use. The applicant was required to appear before the Planning Board first. The Planning Board reviewed the application and strongly recommended that this use is compatible. The issues that the Planning Board questioned were the noise and if the smells of chocolate and coffee would be too strong for the residents. The developer of the property assured the Planning Board that the vapor barriers that were used during construction would not allow seepage of smells that may bother the tenants of the rental units.

Sabrina Seetarram, applicant and owner of The Chocolate Box, requested to open a chocolate boutique shop on the ground floor of the new Crestwood Lofts building. The shop will serve coffee, tea, pastries, cakes by the slice, muffins, croissants, cookies, brownies, tarts, salads and sandwiches. All the food will be brought in already prepackaged. The only preparation on the site is to prepare the chocolate. The device used to melt the chocolate is hot air. There will be no cooking on the premises. There is a 3D chocolate printer, which prepares the chocolate. The business would be 80% chocolate and 20% other.

**Chairman Gallo motioned to open the public hearing, seconded by Member Jackman and carried unanimously by the Board.**

**No Public Comments**

Member Palladino noted that this Board will vote on compatibility of use. The building owner voiced no concerns. The Planning Board will work out the details of the chocolate warmer. The Building Inspector will check that the applicant meets all the safety requirements.

**Chairman Gallo motioned to close the public hearing, seconded by Member Jackman and carried unanimously by the Board.**

**Chairman Gallo offered the following resolution as a motion:**

**RESOLUTION**

The applicant Sabrina Seetarram is seeking a determination from this Board as to the compatibility of her proposed use of a coffee/chocolate café in the Business Residential Zone

The property is located at 300 Columbus Ave, NY Sec.42\_ \_Blk.8\_ Lot\_\_6\_\_\_\_  
And she is seeking relief from the following section of the zoning code: 6-2.4.3

Pursuant to 6-2.4.3 this Board shall review applications from applicants seeking commercial uses with residences above in the Business Residential Zone. This Board can approve the application if it deems the commercial use is compatible with such housing. Certain business uses, such as the serving, preparing and selling of food, shall normally be deemed incompatible without proof to the contrary by the applicant that the use is compatible.

The Applicant in this instant application is seeking to build a coffee/chocolate café in the Business/Residential Zone. The applicant has stated there will be no cooking on the premises and she will sell coffee, chocolates, baked good and prepackaged sandwiches. The applicant will create chocolate figures on the premises by using a chocolate warmer to melt the chocolate.

The Applicant made an initial application to the Planning Board and received from said Board a strong recommendation that the applicant's use would be compatible with the District.

After hearing the applicant and the proof provided by the Applicant, this Board agrees with the Planning Board that the use is compatible within the Business/Residential District.

**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 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.

The Application for the applicant to construct a Coffee/Chocolate Café at 300 Columbus Avenue is approved as the use proposed by the Applicant is compatible with the Business Residential Zone.

**Member Ringwald seconded the motion 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.