

Minutes of: March 12, 2008  
Date Approved: Apr. 9, 2008  
Date Filed/Village Clerk: \_\_\_\_\_

**March 12, 2008**  
**TUCKAHOE ZONING BOARD AND BOARD OF APPEALS**  
**TUCKAHOE VILLAGE HALL – 8:00pm**

**Present:** Susan Crane                      Acting Chairperson  
              Kevin McBride                Member  
              Philip Allison                Member  
              John Kang                      Member

**Absent:** Gloria Rosell                      Chairperson

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

Acting Chairwoman Crane announced the agenda as follows:

**Item #1 Approval of Minutes of the February 13, 2008 meeting.**  
**Item #2 100 Main St.                      Return**  
**Item #3 8 Henry St.                      Return**  
**Item #4 25 Oakland Ave.                Special Permit/Variance**  
**Item #5 20 Yonkers Ave.                Return**  
**Item #6 146, 150, 160 Main St., 233 Midland    Return**

Acting Chairperson Susan Crane announced that four members were present and asked each applicant if presenting before four members was acceptable to them. Each applicant agreed.

**Item #1 Motion by Member McBride to approve the minutes of the February 13, 2008 meeting was seconded by Member Kang and approved by the Board with a vote of 3-0. Member Allison abstained due to his absence.**

**Item #2 100 Main St.                      Return**  
Mr. Null, attorney representing the applicant, requested an adjournment due to a change in the prepared plans. He will return next month.

**Item #3 8 Henry St.****Return**

Acting Chairperson Susan Crane asked Mrs. Mariani if the required proof of mailings were submitted to the Building Dept. Mrs. Mariani stated that they were submitted.

**No Public Comments**

**Motion by Member Allison to close the public hearing, seconded by Member McBride and was carried unanimously by a vote of 4 – 0.**

**Member Allison offered a Resolution** for the application of an area variance requested by John and Galina Mariani, for relief of the following sections of the building code: Section 4-2.4.2 - Side Yard requirements for lots formed prior to July 1, 1999 shall not be less than 9ft. Section 4-2.4.3 - Rear yard requirements for lots formed prior to July 1, 1999 shall not be less than 25 feet, and Section 5.1-6.3 - a non-conforming building shall not be altered, changed or enlarged as to increase the degree of non-conformity.

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. The requested variance pertains to the applicant's request to replace and rebuild a detached garage in the rear left side of the lot that was destroyed by a fire.

1. There will not be an undesirable change in the character of the neighborhood and there will not be a detriment to nearby properties: Other than a slight increase (approximately 3ft.) to the original width of the garage, the structure will be built on the existing foundation. A detached garage in the rear of the building lot is a common design for this older neighborhood.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance, due to the fact that the zoning codes have been revised since the garage was originally constructed.
3. 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 the design and location of the proposed garage is typical to the neighborhood.
5. The alleged difficulty was not self-created because by today's zoning standards, the house is considered non-conforming.

Member Allison made a recommendation to approve the requested area variances with the stipulation that construction begin within one year of granting this variance and for the construction to adhere to and be in compliance with the existing building material requirements set forth by the building department.

The Board adopts a negative declaration pursuant to SEQR.

**Acting Chairperson Susan Crane seconded the motion and upon roll call was carried with a vote of 4 – 0.**

**Item #4 25 Oakland Ave.****Special Permit/Variance**

Mr. Allacco, attorney for the applicant, Woodlot Christian Pre-School LLC., requested an adjournment as he is still presenting the application before the Planning Board. He will return in April.

**Item #5 20 Yonkers Ave. Return**

Mr. Rocco Salerno, representing the applicant asked for the Board's decision regarding the granting of the requested variance.

Acting Chairperson Susan Crane stated that the public hearing was closed last month.

**Member Kang offered a Resolution** for the application of an area variance requested by Mrs. Carmella DeIeso, for relief of the following section of the building code:

Section 4-3.6 – Floor Area Ratio, to legalize a finished basement to be used as a recreation room or den. The floor-to-area ratio allowed in this district is 2500 sq. ft. The request is for 2887 sq. ft.

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 additional square footage requested refers to the finished area in the basement of the home. There will not be any change to the footprint or expansion of the house.
2. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance, since the work in the basement had already been completed, the applicant must pursue an area variance in order to keep the space as is.
3. The requested variance is not substantial. The requested variance is 16%.
4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood in that the finished space in the basement has existed for many years. It does not alter the front or exterior of the dwelling and has no impact on the environment.
5. The alleged difficulty was self-created by the applicant but this is not fatal to the application.

Member Kang made a recommendation to approve the requested area variance subject to the following conditions:

1. The kitchen stove is removed from the space.
2. The wall separating the living room and bedroom is removed.
3. That all doors be removed from between sectioned rooms.
4. The door to the boiler room is changed to a fireproof door.
5. The window is enlarged to code to become an egress window.
6. That all State variances required and pursued by the building inspector be obtained and approved and for the construction to adhere to and comply with the existing code.

The Board adopts a negative declaration pursuant to SEQRA. If this variance is granted, it is stipulated that completion be one year after receipt of granting all variances.

**Acting Chairperson Susan Crane seconded the motion and upon roll call was carried with a vote of 4 – 0.**

**Item #6 146, 150, 160 Main St., 233 Midland Return**

Mr. Null, attorney representing the applicant, stated that the Planning Board has adopted a negative declaration pursuant to SEQR. He requested the decision regarding the granting of the requested variances.

Acting Chairperson Susan Crane stated that the public hearing was closed in November.

**Member McBride offered a resolution to approve the requested application. (See Attached Pages 5 - 16).**

**Member Allison 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 at 8:50p.m.

ZONING BOARD OF APPEALS  
VILLAGE OF TUCKAHOE, NEW YORK

In the Matter of the Application of

Mirado Properties, Inc., Dorami Realty  
of New York, Inc. and Midora Corp.,

Premises: 146, 150 and 160 Main Street  
and 233 Midland Avenue,  
Tuckahoe, New York,

Applicants.

**FINDINGS OF FACT,  
CONCLUSIONS OF  
LAW AND DECISION**

**Background and Findings of Fact**

The Applicants are the record owners of the premises commonly known as 146, 150 and 160 Main Street and 233 Midland Avenue, Tuckahoe, New York, and known on the tax map of the Village of Tuckahoe (the “Village”) as Section 29, Block 4, Lots 1, 3-8, 13, 17, 33, 36, 39 and 40 and Section 29, Block 9, Lots 1 and 25 (the “Premises”). The Premises is located within the Business/Residential zoning district and consists of approximately 2.4 acres of land (103,863 square feet), which is located on the south side of Main Street nearby to one of the gateways to the Village.

The Applicants propose to develop the Premises according to a plan that contemplates mixed use development goals that will convert existing buildings and construct modern buildings facilitating both residential and commercial uses (the “Project”). Additionally, the aesthetic and layout of the proposed buildings will compliment those adjacent as well as nearby lots. In connection with the Applicants’ proposal, it seeks area variances, a special use permit and approval to park off-site from the Zoning Board of Appeals for the Village of Tuckahoe (the “Zoning Board”).

The Premises is located in a Business/Residential zoning district. The Applicants request area variances from the requirements of the Zoning Ordinance as follows (1) that parcels with land uses in the Business/Residential Zoning District with greater than 50% residential use shall have a floor area ratio of no more than 1.2;<sup>1</sup> (2) that no building shall exceed 42 feet in height from the average grade of the street line at the front of the property;<sup>2</sup> (3) that no building shall exceed three stories;<sup>3</sup> (4) that off-street parking spaces shall be provided and maintained on the same lot as the building or premises for which those spaces are provided, except with permission of the Zoning Board

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<sup>1</sup> See Village of Tuckahoe Zoning Ordinance § 4-5.3.4.

<sup>2</sup> See Village of Tuckahoe Zoning Ordinance § 4-5.3.3.

<sup>3</sup> *Id.*

of Appeals to locate such parking on an adjacent lot having a similar owner;<sup>4</sup> and (5) that a special use permit may be granted to allow the proposed buildings having residential uses to be located within a Business/Residential Zoning District.<sup>5</sup>

Many adjacent and neighboring buildings share similar characteristics and, as proposed by the Applicant, the nature and scope for uses of the proposed buildings on the Premises would be consistent with the goals for the Business/Residential zoning district. The Applicants propose that residential, commercial and retail space be made available on the Premises, while conforming as closely as possible to the limitations and dimensional requirements prescribed for this zoning district.

### **The Nature of the Application**

The Premises consists of three lots where several buildings will be constructed and/or converted from a prior use to achieve the goals of this application. On 146 Main Street, an existing two story industrial building will be converted to a residential building with two dwelling units. Additionally, two underground garages having a total of four parking spaces are proposed. On 150 Main Street, approximately 18 residential units and 18,500 square feet of commercial space are proposed within a three story mixed used building to be constructed. The commercial space will be split among floors with 5,600 square feet on the ground floor and 12,900 square feet above. This proposed building will provide approximately 53 on-site parking spaces, with 24 being at-grade level and 29 subsurface parking spaces located below the building.

At 160 Main Street, the Applicants propose a four story residential apartment building that will house 55 dwelling units. The proposed residential building to be constructed at 233 Midland Avenue will house 15 dwelling units, each having a balcony and patio. Parking demands for both buildings will be served by an automated parking facility to be constructed at a level lower than that of the proposed building at 233 Midland Avenue and behind the proposed building at 160 Main Street. The 45 foot natural grade near the proposed building for Midland Avenue and the cover provided by the two buildings will adequately screen the parking facility from view. A summary of the proposed deviations from the Zoning Ordinance are as follows:

|                                    | <b>Required</b> | <b>Proposed</b> |
|------------------------------------|-----------------|-----------------|
| <b>Floor Area Ratio:</b>           |                 |                 |
| 160 Main Street/233 Midland Avenue | 1.2             | 1.48            |
| <b>Height<sup>6</sup> (ft.):</b>   |                 |                 |

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<sup>4</sup> See Village of Tuckahoe Zoning Ordinance § 5-1.2(d).

<sup>5</sup> See Village of Tuckahoe Zoning Ordinance § 6-2.4.

<sup>6</sup> This variance request depends on the Planning Board's determination as to the front of the building.  
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|  |     |        |
|--|-----|--------|
| 160 Main Street                                    | 42  | 43' 9" |
| <b>Stories:</b>                                    |     |        |
| 160 Main Street                                    | 3   | 4      |
| <b>Parking (total residential and commercial):</b> |     |        |
| 150 Main Street                                    | 129 | 53     |
| 160 Main Street                                    | 140 | 216    |

In connection with this Project, the Applicants seek area variances for increases in floor area ratio that will result from added commercial and residential spaces created, an area variance for the number of stories for the proposed building at 160 Main Street and an area variance for the height of the same building. A special use permit from the Zoning Board will also be required for the residential uses for certain of the above buildings. In addition, the Applicants also seek approval from the Zoning Board of Appeals in connection with parking spaces being provided on an adjacent lot owned and controlled by the Applicants.

In total, the Applicants seek three area variances from the Zoning Board of Appeals, a special use permit for the Premises and permission for shared parking. The Applicants have demonstrated to the Zoning Board that it will utilize all possible design, engineering and construction techniques to minimize the impact that the proposed buildings could have on other buildings in the zoning district, those nearby buildings and to mitigate any negative effects on the environment.

### **Conclusions of Law**

In granting an area variance, the Zoning Board must consider the following five factors in drawing a conclusion from its analysis:

1. Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties?
2. Whether the benefit sought by application can be achieved by a feasible alternative to the variance?
3. Whether the requested variances are substantial?
4. Would the variances have an adverse impact on the physical or environmental conditions in the neighborhood?
5. Whether the alleged difficulty was self-created?

When considering the above factors, the Zoning Board must determine whether the benefit to the Applicants outweighs the detriments to the health, safety and welfare of the adjacent and greater neighborhood and/or community. After applying the above five factor test to this Application, the Zoning Board has resolved to grant this application because the Applicants' proposal fully satisfies the above analysis. In considering the nature and scope of the Applicants' proposal, the Zoning Board has concluded that the area variances sought are minimal in nature, and that their scope will not have any appreciable negative impacts on adjacent lots or those in the greater community.

#### ***1. Whether An Undesirable Change Would Be Produced In The Character***

***Of The Neighborhood Or A Detriment To Nearby Properties?***

The proposed buildings on 160 Main Street/233 Midland Avenue require area variances for floor area ratio. The floor area ratio for the above referenced buildings would be 1.48 each, which is fractionally larger than the maximum allowable floor area ratio of 1.2 for lots in the Business/Residential zoning district. *See* Zoning Ordinance Section 4-6.5. Although the floor area ratios would slightly exceed the limits imposed by the Zoning Ordinance, they would be adequately offset by nearby buildings and lots within the Business/Residential zoning district having similar characteristics and dimensions.

The proposed building at 160 Main Street requires an area variance for height because its four stories exceed the three story maximum prescribed in the Zoning Ordinance. The proposed four story building at 233 Midland Avenue, however, will not require a similar area variance. Both proposed buildings at 160 Main Street and 233 Midland Avenue will have the same overall height of 43 feet, 9 inches. Only the proposed building at 160 Main Street will require an area variance for exceeding the height requirements in the Zoning Ordinance by a factor of 1 foot, 9 inches (21 inches), which is a negligible amount. Both proposed buildings remain very similar in their dimensions in light of the required area variances.

The proposed buildings will blend in with the mixed building characteristics and the overall streetscape currently fronting Main Street and Midland Avenue. Moreover, fostering mixed use developments throughout the Village containing residential and commercial uses is consistent with the goals and objectives set forth in the Master Plan for the Village. *See* Master Plan, Section 2.

***2. Whether The Benefits Sought By the Applicants Can Be Achieved By A Feasible Alternative to the Variances?***

The Applicants' proposal seeks to increase both the residential and commercial viability of the Premises. The Premises is located in an area of the Village with parcels zoned for residential, commercial and mixed uses. The Applicants' goals for the proposed mixed use buildings for residential and commercial purposes include, among other things, providing housing and commercial space in close proximity (i.e., walking distance) to the Tuckahoe railroad station, downtown shopping and restaurants.

Granting area variances for floor area ratio will allow for more expansive, higher-value units in the proposed buildings. Because the proposed buildings will have residential and commercial characteristics, increased floor and interior space can only be achieved by granting area variances for floor area ratio. Due to the increased size of the proposed interior units, the number of stories in each proposed building must be correspondingly increased.



Maximizing interior space and tenant occupancy can only be achieved by increasing the number of stories in the proposed buildings.

The height of the proposed buildings will only exceed the height requirements in the Zoning Ordinance by 21 inches, which is de minimis when considering the scope of this Project and the nearby buildings constituting the downtown area of the Village. Thus, based on the configuration of the lots at issue and the interior space requirements for this Project, no other feasible alternative exists absent granting the above variances.

**3. *Whether The Requested Variances Are Substantial?***

The Applicants' requests for area variances for floor area ratio are not substantial because only two of the four proposed buildings will exceed the prescribed limits of 1.2 in the Zoning Ordinance. The proposed buildings on 160 Main Street/233 Midland Avenue will be sited and built into the steep topography on the lots, which will situate the proposed buildings significantly lower than a building sited at the sidewalk-grade level. Moreover, the overall size and dimensions of these two buildings are consistent with that of neighboring buildings. These proposed buildings will also require area variances from the three story maximum prescribed for the Business/Residential zoning district. Only the proposed building at 160 Main Street will require an area variance for a fourth story because it fronts along Main Street, rather than fronting along Midland Avenue.<sup>7</sup>

The proposed building fronting along 160 Main Street is projected to be a height of 43 feet, 9 inches tall, which exceeds the requirements of the Zoning Ordinance by only 21 inches. Despite the proposed building on 160 Main Street having four stories, its height slightly exceeding 42 feet is only several inches taller than that of other buildings on the Premises and nearby in the zoning district. The effects of such small variations will be insignificant. The above area variances will allow for more expansive hallways and interior space in units within the proposed buildings while minimizing the scale of the proposed buildings to the greatest extent possible.

Considering the de minimis nature of the above area variances, granting them will not produce any appreciable negative impacts on the adjacent or nearby community. Thus, no net effects from granting the proposed area variances can be deemed "substantial" in nature.

**4. *Would The Variances Have An Adverse Impact On The Physical Or Environmental Conditions in the Neighborhood?***

This Project has been extensively studied and reviewed by engineers and/or planners. These consultants have proposed adequate structural and environmental safeguards to safely achieve the Applicants' goals for the

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<sup>7</sup> This variance request depends on the Planning Board's determination as to the front of the building.

Premises, without contradicting or negatively affecting any of the environmental considerations set forth in the Master Plan. *See* Master Plan, Section 8.

Granting area variances for floor area ratio will allow larger, more expansive units to be built in the two buildings on 160 Main Street and 233 Midland Avenue. This, in turn, will allow increased occupancy on those two lots. Despite increasing occupancy on the lots, a traffic impact study estimated that an additional 90 vehicle trips during AM peak hours and 114 vehicle trips would be added during PM peak hours. This increase will be adequately offset by the increase in off-street parking made available on the Premises. The traffic impact study conducted also found that no appreciable increase in pedestrian traffic would require modifying the area sidewalks.

The required area variances for building height would not create any adverse impacts on the physical or environmental conditions in the neighborhood because the proposed building at 160 Main Street would exceed the maximum height by a factor of 1 foot, 9 inches (21 inches). This building will be exactly the same height as the proposed building on 233 Midland Avenue, both of which are consistent with the character of other buildings nearby. Because the two proposed buildings will be the same height, the effect of adding a fourth story to one will be completely offset. Thus, no net physical or environmental effects will result from granting an area variance for the number of stories.

The proposed buildings will provide marked improvements in comparison to the existing buildings on the Premises, which include a recreational vehicle dealership, a vacant lot and an automobile repair facility. In addition, the largely residential uses for the proposed buildings will be less intense than that of the existing buildings on the Premises, which will likely improve physical and environmental conditions in the neighborhood.

The Zoning Board has determined that the requested area variances will produce no adverse impacts on the physical or environmental conditions in the surrounding neighborhood such as poor aesthetics, increased traffic congestion, hazardous traffic rerouting, noise pollution, exhaust fumes or noxious odors, increased surface runoff, an increase in impervious surface coverage, poor drainage, sewerage problems, steep slope erosion, subsidence, or any other negative environmental consequences. Thus, the physical and environmental conditions of the Premises will not negatively affect surrounding properties or the greater community whatsoever.

##### **5. *Whether The Alleged Difficulty Was Self-Created?***

On the facts and the record, the Applicants' alleged difficulty was not self-created. While it is possible to construct a smaller building at 160 Main Street, this would not run afoul of the development goals for the Premises,

which will contribute to a more uniform pattern of development along a mixed-use corridor into the downtown area. Moreover, any self-created difficulties arising from or accompanying this Project are not fatal to the application.

The Applicants have proposed a nonconforming floor area ratio in one proposed building (160 Main Street). However, the overall dimensions of the proposed building are similar to that proposed building for 233 Midland Avenue. Because the frontward orientation of the proposed buildings for 160 Main Street and 233 Midland Avenue are treated differently under the Zoning Ordinance, in this respect, the Applicants' hardship is not self-created.

Moreover, the proposed building for 160 Main Street requires an additional 21 inches in height, which is a minimal nonconformity considering its overall similarity to the proposed building at 233 Midland Avenue. An area variance for the number of stories at the proposed building for 160 Main Street is a self-created hardship but the overall building height remains largely conforming despite adding another story.

According to the plans submitted to the Zoning Board of Appeals, every effort has been taken to ensure that the proposed residential apartment building at 160 Main Street will be minimally imposing and will blend in with the aesthetic, structure and scale of other buildings fronting along Main Street and in the Business/Residential zoning district. The Applicants' difficulty is not self-created in that it fosters residential uses in an area near the central business district of the Village, and in upgrading commercial area aesthetics to create a "more inviting and exciting image of the Village for its merchants". *See* Master Plan, Section 2.

Granting the above area variances would have no appreciable impacts on the community and would establish consistent precedent for future developers in the area. Thus, the Zoning Board has resolved to grant the above referenced area variances for this Project.

### **Special Use Permit**

Pursuant to Section 6-1 of the Zoning Ordinance, the Zoning Board is granted the authority to issue special use permits as set forth in the Zoning Ordinance. "Any use designated in a given district as requiring a special use permit shall be deemed to be a permitted use in such district subject to satisfaction of the conditions and standards set forth in this article in addition to all other requirements of this Zoning Ordinance." Zoning Ordinance, Section 6-1.1.

More specifically, the standards prescribed in Section 6-1.6 for all special use permit uses must be satisfied along with more specific requirements set forth in Section 6 of the Zoning Ordinance, which pertain to Business/Residential zoning districts. Pursuant to Section 6-2.4 of the Zoning Ordinance, any new buildings or premises contemplating residential uses within a business/residential zoning district must comply with the requirements set forth more fully below.

**A. Residential Uses in Business/Residential Zone**

**1. *Planning Board***

Before this application was brought before the Zoning Board, it was first presented to the Planning Board for the Village of Tuckahoe for preliminary review. The Planning Board offered comments to the Project, but did not make any specific recommendations or referrals in connection with the variances requested herein. The Planning Board specifically reserved its rights to conduct a complete site plan review after the granting of the Zoning Board relief sought herein. Thus, this application has been given adequate consideration by the Planning Board.

**2. *Separate Entrances***

The proposed buildings on the Premises will be dedicated to either commercial or residential uses. Consistent with Section 6-2.4 of the Zoning Ordinance, the residential units for 146 Main Street will be accessible via separate entrances. The proposed residential units for 150 Main Street will share a common entrance with the proposed commercial space in the building, but both will have separate lobby areas with separate entrances. Commercial uses on the first floor of 150 Main Street will also have separate access from Main Street. The residential units in the proposed building for 160 Main Street and 233 Midland Avenue will also have separate, dedicated access. Thus, the Project will provide adequate and separate entrances and/or access points to the proposed buildings on the Premises.

**3. *Compatibility of Use***

The residential uses contemplated by this Project are compatible with the Zoning Ordinance's strictures. In determining whether proposed commercial uses are compatible with the residential use of the Premises, the Zoning Board of Appeals considered environmental factors, surrounding uses and expected traffic volume.

The contemplated use on the Premises will be less intense than the existing uses for the Premises, which include an automotive repair shop and a recreational vehicles dealership, both of which contribute noise and fumes, as well as handle solid and/or hazardous wastes on-site. The proposed use for the Premises will be primarily residential, which is consistent with uses along the residential corridor extending from the downtown to outer areas of the Village. Factors such as noise, pollution and traffic volumes will not be appreciably affected by the minor anticipated increase in vehicle traffic to the Premises and the surrounding area as a result of granting approval for this Project.

**4. *Building Context***

In granting this application, the Zoning Board has considered the effects of the proposed buildings on adjacent and nearby buildings in the community. Three of the four proposed buildings will remain compliant with the height limitations of 42 feet for buildings in the Business/Residential zoning district. Additionally, the design will incorporate an aesthetic that is similar in character and blends in with the surrounding streetscape in the zoning district, with the goal of creating an inviting streetscape and aesthetic.

The overall dimensions of the proposed buildings will be no larger than that of other buildings that front along Main Street and the surrounding neighborhood. The Applicants have made extensive efforts to blend and incorporate the proposed buildings into the existing topography. Although the proposed building at 233 Midland Avenue will have four stories and will exceed the height limits in the Zoning Ordinance by approximately 21 inches, it will be adequately set back and built into the topography of the Premises at 233 Midland Avenue to be as unimposing as possible. Thus, the proposed buildings will remain consistent with the surrounding context of adjacent and nearby buildings that make up the Business/Residential zoning district.

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**B. Standards For All Special Permit Uses**

***1. Compatibility with district***

The Zoning Board has resolved that the proposed use of the Premises is both harmonious and consistent with the uses prescribed for Business/Residential zoning districts. This Project will help foster orderly, consistent development within the Business/Residential zoning district fronting Main Street. The dimensions and aesthetic of the proposed buildings will compliment adjacent and nearby buildings in the zoning district will further the goals of the Business/Residential Zoning District. Despite the fact that some of the proposed buildings will house dwelling units, the occupants will be in close proximity to the downtown business district and commercial zones in the Village. The proposed buildings will furnish residential, commercial and other business services to residents and nonresidents of the Village of Tuckahoe, which is an expressly permitted use within a Business/Residential zoning district. *See* Zoning Ordinance Section 4-6.1(a)(1).

***2. Compatibility With Master Plan***

The Project shall be compatible with the Master Plan because one of its goals is to foster commercial and residential development on property fronting along Main Street. The Master Plan seeks to foster economic

development by improving overall building aesthetics and by creating an inviting commercial environment to merchants. *See* Master Plan, Section 2.

The Village Master Plan was recently amended in 2005 and specifically identified the Premises as being within a mixed-use zoning district. The Premises was also rezoned from Industrial to Business/Residential in April 2007, consistent with the amendments to the Master Plan. Thus, the nature and scope of this Project are consistent with the Village's Master Plan. The Village has, in turn, brought its Master Plan and Zoning Ordinance up to date with changing goals for mixed use zoning districts and the development of the downtown area.

Increasing revenue for local business owners, commercial thoroughfare, property values in the Village and developing interest in economic revitalization of commercially viable zoning districts in the Village are goals that may be logically drawn from the Master Plan. Thus, this Project is clearly harmonious with the above express and implicit goals.

### **3. *Services***

The proposed buildings will be readily accessible for fire and police protection. The building is located on a public street that is navigable by fire and police protection services. Nothing in this record or in any presentations before the Zoning Board suggests that police or fire protection services will be diminished or in any way hindered by this Project.

### **4. *Adjacent Properties***

The location, nature and height of the proposed buildings will not hinder or discourage development and use of adjacent buildings. The Premises is situated in a part of the Village that is zoned for mixed or combined residential and business uses. From any perspective in the Village, the height and dimensions of the proposed buildings will not exceed that of any surrounding buildings. Thus, the building height is compatible with Business/Residential uses in this zoning district.

This Project will likely increase property values of adjacent properties and could generate similar interest in developing other areas or corridors of the Village. This Project will add consistency and continuity to the existing corridor connection to the downtown area. Thus, the properties adjacent to that of the proposed building will suffer no injury or deleterious effects from this Project.

### **5. *Nuisance***

The nature and scope of the residential and commercial uses of the Premises will be such that no noise, fumes, vibration, flashing of lights or other similar nuisance conditions to the surrounding neighborhood will occur.

Additionally, no offensive, dangerous, destructive or hazardous conditions affecting the health of the surrounding community will be produced as a result of this Project and its proposed uses.

**6. *Neighborhood Character and Property Values***

On this record, there is no evidence that the property values of adjacent and nearby lots in the community will be diminished by granting approval for this Project. This Project will bring with it more residential tenants to an area in close proximity to Main Street and an increase in commercial activity to the area. This will add to the Village's overall economy, tax base, school district support, diversity, housing availability, off-street parking and will extend the residential corridor into the downtown area.

As a result of the influx of capital, economic support to the area and overall appeal of this Project, property values for lots adjacent to and nearby the Premises could likely increase. This Project will also enhance pedestrian access to the downtown area and to the Tuckahoe railroad station. These potential changes in neighborhood character and property values would generate indisputably positive socioeconomic results for the Village.

**7. *Traffic***

The Zoning Board recognizes that the proposed building could produce a traffic increase on public roadways leading to the Premises. All efforts have been undertaken to design and plan this Project so as to generate as little traffic and congestion as possible on local thoroughfare(s). The results of a traffic impact study indicate that an increase of approximately 90 new vehicle trips during AM peak hours and 114 additional trips during PM peak hours could result from this Project.

The traffic impact study concluded that, despite the above increases, the impact on traffic flow on Main Street would be mitigated by the availability of on-site (off-street) parking and the multitude of new entrances and exits to the Premises on nearby roads other than Main Street. Additionally, the traffic impact study concluded that no net effects would impact pedestrian traffic and the existing capacity of nearby sidewalks along Main Street and Midland Avenue.

Any increase in traffic to the area, however, will be mitigated by the off-street parking facilities proposed to service the Premises. Thus, the Zoning Board of Appeals has determined that the effects on traffic from this Project would be reasonable in nature.

**8. *Parking***

Pursuant to Section 5-1 of the Zoning Ordinance, a minimum number of off-street parking spaces are required to accommodate the number of residential occupants and commercial patrons in the proposed buildings on

the Premises. The proposed buildings on 146 Main Street and 233 Midland Avenue will conform to the Zoning Ordinance. *Id.* Approval is required for the off-street parking on 150 and 160 Main Street because the 76 planned parking spaces cannot feasibly be located on 150 Main Street. Thus, parking has been reallocated and added to that of 160 Main Street. The net effect of the above reallocation of off-street parking spaces will make available the required number of off-street parking spaces for the proposed buildings on 150 and 160 Main Street.

Although the proposed parking for 150 and 160 Main Street would be nonconforming, the additional 76 off-street parking spaces added to 160 Main Street, which is another lot owned and controlled by the Applicants, is permissible under the Zoning Ordinance. *See* Zoning Ordinance, Section 5-1-2. Because these additional 76 off-street parking spaces on 160 Main Street will be located within reasonable distance of the proposed building on 150 Main Street, granting the above approval for off-street parking is justified. *Id.* Thus, the Zoning Board has resolved that the above approval is harmonious with the Zoning Ordinance and with its goals for a Business/Residential zoning district, thus the same is hereby granted.

#### **9. *Conformance with Regulations***

Except for requirements concerning floor area ratio, the number of stories and height, the Applicants have complied with the requirements for lot area, lot width, frontage, side yard setback, front yard setback, rear yard setback and building coverage. Based on the foregoing, this Board finds that the Applicants have reasonably satisfied the general conditions applicable to the issuance of special use permits as set forth in the Zoning Ordinance for the Village.

#### **Conclusion**

Based on the foregoing, it is resolved that the area variances, special use permits and approval for off-site parking, as referenced herein, be and are hereby granted to the Applicants. The Applicants and/or interested third parties are notified of their respective rights to appeal this decision or any part thereof in accordance the New York Civil Practice Law and Rules.

Dated: Tuckahoe, New York  
March 12, 2008

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Gloria Rosell,  
Zoning Board Chairperson