

Minutes of: Jan. 10, 2018
Date Approved: _Feb. 14, 2018_
Date Filed/Village Clerk:

January 10, 2018 (revised Feb. 14, 2018)

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

Present:	Tom Ringwald	Chairperson
	Nathan Jackman	Member
	Daniel Lang	Member
	Anthony Fiore Jr.	Member (Ad Hoc)

Absent:	David Scalzo	Member
	John Palladino	Member

Also in Attendance:
Gary Gjertsen Village Attorney

Pledge of Allegiance

Chairman Ringwald announced the agenda as follows:

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|----------------|--|-----------------------------|
| Item #1 | Approval of minutes from the December 13, 2017 Regular Meeting | |
| Item #2 | 100 Marbledale Rd. | Renew Special Permit |
| Item #3 | 20 Underhill | Return |
| Item #4 | 180 Lake Ave. | Adjourned |
| Item #5 | Discussion Item: Exemption of basements from FAR in single family homes | |

Item #1 Approval of minutes from the December 13, 2017 Regular Meeting
Chairman Ringwald motioned to approve the December 13, 2017 minutes, seconded by Member Fiori and carried with a vote of 4 – 0.

Item #2 100 Marbledale Rd. Renew Special Permit

Edward Quintieri, applicant, noted that there have been no changes to the application. The proposed vent change has not been completed due to the severe cold weather. He assured the Board that the vent would be completed as soon as possible.

Member Lang offered the following resolution in the form of a motion:

SPECIAL PERMIT RESOLUTION

This application is for an extension of a Special Permit requested by Fleet Collison Corp. whose address is 100 Marbledale Road, Tuckahoe, NY.

On December 14, 2011 this Board approved the applicant for a Special Permit to operate a repair/body shop at 100 Marbledale Road. Per the Village of Tuckahoe's Zoning Code a Special Permit for a repair/body shop shall automatically expire 5 years from the date of the approval. The applicant is therefore seeking to extend its special permit for an additional 5 years.

At the public hearing this Board heard from a neighbor who owns a residential property behind the applicant's location who stated that smells emanated from the applicant's spray booth exhaust and during the summer months the smells impacted his use and enjoyment of his outdoor yard. Subsequent to hearing the neighbor, the applicant, without direction from this Board, redirected the exhaust of the spray booth to the front of the property so as to eliminate or lessen the impact of the smells on the neighbor.

We appreciate the applicant taking the voluntary steps to address the neighbor's concerns. Further, as a condition of this approval we shall limit the Saturday hours of the applicant's business from 7 a.m. through 3 p.m. This restriction shall also help to alleviate the impact on the residential neighborhood behind the applicant.

Therefore, the request to extend the Special Permit is granted with the condition stated above.

Lastly , 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.

Member Jackman seconded the motion and upon roll call was carried with a vote of 4 - 0.

Item #3 20 Underhill Return

Fook Chun Fon, applicant, noted that there have been no changes made to the application.

No Public Comments

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

Member Fiore offered the following resolution in the form of a motion:

AREA VARIANCE RESOLUTION

The application for AREA VARIANCES requested by Mr. and Mrs. Fon

whose address is 20 Underhill Street, Tuckahoe, NY

Section 33, Block 8 and Lot 22

for relief from the following section of the zoning code: : 4-3.4.2 Side Yard, 4-3.4.6 Buffer and 5-1.6.3 enlarging a nonconformity.

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.

Member Jackman seconded the SEQR resolution, and upon roll call was carried with a vote of 4 – 0.

Member Fiore offered the following resolution in the form of a motion:

Applicants, Mr. and Mrs. Fon are seeking to enlarge and improve an existing nonconforming deck in the rear of their property. The applicants' property is adjacent to the Tuckahoe Village Hall. We have heard the applicant at the work session and public hearing and note that there has been no public opposition to the proposed improvements.

Recommendation is for the area variances to be granted as the benefit to the applicants of the area variances outweighs the detriment to health, safety and the welfare of the neighborhood: in this application and applying the balancing test, this Zoning Board finds that the benefit to the applicant 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: By granting this application, detriments to the surrounding properties will not be produced. The improvements are to be made to rear deck and there will be no impact as to the character of the neighborhood or be 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 lot size and zoning classification, the applicant cannot achieve the improvements to their rear yard, absent the granting of the sought area variances.
3. The requested variances are not substantial: Although on its face it appears that the variances are substantial, there is an existing deck, which is already non-conforming and the improvements will enhance the property in question.
4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood in that: Environmental conditions such as noise, parking, and traffic and negative aesthetics will not be increased as a result of this application.

5. The alleged difficulty was self-created: Although the alleged difficulty was self-created, it is not fatal to this application.

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

Item #4 180 Lake Ave. Adjourned

Item #5 Discussion: Exemption of basements for the FAR in single-family homes

Bill Williams, Building Inspector, noted that there are three zones with single-family homes. He presented in length at the last Planning Board meeting. He advised residents to review his presentation on the Village website.

Gary Gjertsen, Village Attorney, stated that the Village Board of Trustees was exploring the removal of the finished basement of single-family homes in the FAR calculations. He noted that the Board was interested in the comments from the Planning Board and Zoning Board regarding this topic.

Member Jackman noted that he was in favor of this proposal. It is a costly application, and a two to three month process for families that are considering finishing their basement for a little extra space. This action would save the single-family residents thousands of dollars and a nightmare just for a small playroom. If there is a concern that a single family home now would seek to knock down the house and build up on the footprint, those concerns are not valid. The applicant would now have to meet the Zoning Code requirements of side yard setbacks, rear yard setbacks etc. The house now is probably a non-conformity; if knocked down to be rebuilt so as not to include the basement FAR, it would not pay. The house now would have to meet the strict Zoning Codes.

Member Lang agreed with Member Jackman. He added that most single-family homes just want a TV room or playroom for their families.

Chairman Ringwald noted that he too was in favor of this change. He noted that these families would just like to legally increase their living space, not increase the footprint.

Gary Gjertsen stated that the single-family homeowners would still be required to apply for the proper Building Permits and must get the inspection from Bill Williams before receiving the Certificate of Occupancy.

Bill Williams added that the Town of Eastchester does not include the basement in the FAR calculations.

Gary Gjertsen noted that illegal finished basements are not automatically made legal; the resident must schedule an inspection with the Building Dept., pay the necessary fines and then get approval.

Member Jackman offered the suggestion that there be a time frame where residents can apply for inspection and legalization approval for only a small portion of the fees/fines.

Gary Gjertsen noted that if the Village Board decides to move forward with this discussion, a public hearing would be scheduled. He added that once a single family home gets their finished basement legalized, there would be an impact on their taxes as any Building permit increases the value of the home, which then affects the taxes.

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.