

Minutes of: February 20, 2014
Date Approved: April 9, 2014
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February 20, 2014
TUCKAHOE ZONING BOARD AND BOARD OF APPEALS
TUCKAHOE VILLAGE HALL – 7:30pm

Present: Ronald Gallo Chairperson
 John Palladino Member
 Steve Alfasi Member
 David Scalzo Member
 Janice Barandes Member

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

Absent: Nicholas DiSalvo Member

Pledge of Allegiance

Chairman Gallo welcomed Janice Barandes as the newest member to the Board. Ms. Barandes has a unique skill set as a long time real estate agent.

Member Barandes thanked the Board for the privilege to serve this community. Forty years ago, she received her marriage license in Village Hall. She and her husband moved back to Tuckahoe 7 years ago. She has 28 years of Real Estate experience and offers a unique perspective with regards to developments in the Village. She noted that she has a deep appreciation for the potential of this Village.

Chairman Gallo stated that he looks forward to Member Barandes's input. He noted that each member on this Board brings experience from their various fields of expertise. He asked members of the community to consider becoming an ad hoc member of this Board.

Chairman Gallo announced the agenda of this meeting as follows:

Item #1 Approval of Minutes from the Regular meeting dated January 8, 2014

Item #2 192 Marbledale Rd Use Variance

Item #1 Approval of Minutes from the Regular meeting dated January 8, 2014

Chairman Gallo motioned to approve the January 8, 2014 minutes, was seconded by Member Scalzo and carried with a vote of 3 – 0, with Members Barandes and Palladino abstaining due to their absence.

Item #2 192 Marbledale Rd**Use Variance**

Mr. Tom Abillama, architect for the applicant, noted that there are two structures on this property. The application is for an existing two family house. The variance requested is to expand part of the basement, which would increase the non-conformity status. This two family house has one family on the first floor and one family on the second floor. The basement is not used and is actually on grade level. The plan is to install a new boiler, new hot water heater, new furnace and a new interior staircase to the basement. In addition, the plan is to open the rear interior wall in the basement for a more open floor plan. The second floor access stair will be replaced. Cathedral ceilings will be added to the second floor. On the first floor, there is a small vestibule. The application is to place a deck on this vestibule for a little outdoor space for the family on the second floor.

The zoning code allows for a FAR of 1.6. This renovation will increase the FAR .01% to a total of 1.24 FAR, which is still below the allowable FAR. The change of the deck is a change of use, but the side yard setback is not being increased at all.

Bill Williams, Building Inspector added that the basement is on grade level and the applicant is not adding additional apartments, just expanding the first floor apartment.

The applicant is not increasing the number of bedrooms, as a matter of fact, presently there are three bedrooms on the first floor apartment. This will decrease by one for a total of two bedrooms.

Member Alfasi stated that this is a non-conforming home created by the fact that it was built prior to the Zoning Codes being created (1923).

These are minor changes to the interior structure and yet, this applicant must come before the Board for a variance because of this government entity. This Board may pass this variance application for these minor changes, yet another Board may not pass this same application. He asks that the Board of Trustees reexamine these barriers that have been created to small home improvements.

Chairman Gallo noted that this is the problem with all the houses built before the Zoning Laws. This Zoning Board has to deal with the changes.

He noted that he was very impressed with the beautification of this property. The Board needs to look at what is in the best interest of the community.

Member Alfasi noted that he agreed with the Chairman, but speaking with Bill Williams, Building Inspector and John Cavallaro, Village Attorney, there are areas of the Zoning Code that could be explored to make it less burdensome on the individual homeowners. There is room for improvement.

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

No Public Comments

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

Member Alfasi offered the following motion that 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 procession of all information reasonably necessary to make the determination as to the environmental significance of the proposed variance (or special use permit or both) 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.**

Motion was seconded by Member Palladino and carried with a vote of 5 – 0.

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

The application for an Use Variance requested by Fred Madonna Whose address is 192 Marbledale Road Tuckahoe NY Sec. 39; Blk. 3; Lot 4 for the relief from the following section of the zoning code: Sections 5-1.6.1 for the increase of a non-conforming use and for a use not permitted in the GC Zoning District under Section 4-8.1.

Recommendation is for the use variance to be granted as there has been shown by the applicant that the applicable zoning regulations and/or restrictions have caused an unnecessary hardship to the applicant. The applicant has shown unnecessary hardship as follows:

This application only concerns a relocation of staircase and there will be no increase to the footprint of the building. The applicant demonstrates a hardship.

1. They cannot realize a reasonable return – substantial as shown by competent financial evidence: The applicant seeks to alter a non-conforming use, which triggers a use variance. Although the use is not permitted, an existing non-conforming use is only being altered.
2. The alleged hardship is unique and does not apply to substantial portion of district of neighborhood: The hardship is unique in that the relocation of the staircase is unique to these premises and will not affect a substantial portion of the neighborhood.
3. The requested variance will not alter essential character of the neighborhood: The requested variance is limited to interior renovations and will not alter the essential character with the neighborhood.
4. The alleged hardship has not been self-created: This hardship is self-created but not fatal to this application.

A recommendation to approve the requested use variance with the conditions that: in no event will the basement of the apartment be converted into a third apartment at this two-family dwelling.

The grant of this variance herein is granted on the condition that work under such variances be commenced and diligently prosecuted within one year of the granting thereof, failing which such variances shall become null and void.

Motion was seconded by Member Palladino.

Discussion: Chairman Gallo noted that this was an important variance as the zoning of this road changed from Industrial to Commercial with Residential. This Board recognizes that this house is well over 100 years old and the applicant is committed to the Village.

Upon roll call was carried unanimously by the Board.

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

The application for an Area Variance requested by Fred Madonna whose address is 192 Marbledale Rd. Tuckahoe NY Sec. 39; Blk. 3; Lot 4 for the relief from the following section of the zoning code: that a 20 ft. rear yard setback is required for this premise.

Recommendation is for the area variances to be granted as the benefit to the applicant of the area variances outweighs the detriment to health, safety and the welfare of the neighborhood: A rear yard variance to .75ft. is requested where 20 ft. is required but important to note is that this is an existing non-conforming rear yard.

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 existing rear yard staircase is an existing non-conformity and the addition of a deck at the staircase will not create 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: The area variance provides the only means to achieve the deck with the rear yard to 0.75 ft.
3. The requested variance is not substantial: Although the applicant seeks a substantial variance on its face, the application must be viewed in the entire context where a non-conformity already exists.
4. The proposed variance will not have an adverse impact on the physical or environmental condition in the neighborhood in that: Environmental conditions in the neighborhood will not be increased as a result of this variance.
5. The alleged difficulty was self-created: Although the application is a self-created difficulty, it is not fatal to this application.

A recommendation to approve the requested area variances with the conditions that: in no event will the subject dwelling be converted to an illegal three-family dwelling.

The grant of this variance herein is granted on the condition that work under such variances be commenced and diligently prosecuted within one year of the granting thereof, failing which such variances shall become null and void.

Motion was seconded by Member Palladino.

Discussion: Chairman Gallo noted the this Board did their due diligence and reached out to many neighbors regarding this application.

Upon roll call was carried unanimously by the Board.

Chairman Gallo again thanked Member Barandes for joining the Board. He added that Member Barandes requested a meeting with the Village Attorney and Bill Williams to review all pending applications. She extended the invitation to both Chairman Gallo and the Chairman of the Planning Board, Commissioner Leo and all attended.

Member Barandes summarized the highlights of the meeting.

The goals of the Village were discussed as well as projects that may be coming before the Board. Better communication between the Boards was examined. She invited the public to participate in the public hearings to share their vision of the future of this Village. All came away encouraged to work together and share a common vision for this Village. She added that Marbledale Rd. is a very important area of this Village.

Chairman Gallo noted that it is important for the Boards to work together. This will help streamline the process and make it easier for the applicants. This was a major step in increasing the communication between the Boards and he thanked Member Barandes for making it happen.

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.