

Minutes of: Sept. 9, 2015
Date Approved: Oct. 14, 2015
Date Filed/Village Clerk:

September 9, 2015

TUCKAHOE ZONING BOARD AND BOARD OF APPEALS

TUCKAHOE VILLAGE HALL – 7:30pm

Present:	Ronald Gallo	Chairperson
	John Palladino	Member
	Tom Ringwald	Member
	Nathan Jackman	Member

Absent:	David Scalzo	Member
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Also in Attendance:

Gary Gjertsen	Village Attorney
Mike Seminara	Code Enforcement Officer

Pledge of Allegiance

Chairman Gallo welcomed Nathan Jackman as the newest member of the Zoning Board. Member Jackman thanked the board for the opportunity to serve this village. Each member congratulated him and welcomed Member Jackman to the board.

Chairman Gallo announced the agenda as follows:

<u>Item #1</u>	Approval of minutes from the July 8, 2015 Regular Meeting
<u>Item #2</u>	50 Columbus Ave Return
<u>Item #3</u>	125 Columbus Ave. Special Use Permit
<u>Item #4</u>	85 Yonkers Ave. Amended Area Variance
<u>Item #5</u>	10 Fisher Ave. Adjourned
<u>Item #6</u>	26 Columbus Ave. Adjourned

Item #1 Approval of minutes from the July 8, 2015 Regular Meeting

Chairman Gallo motioned to approve the minutes from the July 8, 2015 meeting, was seconded by Member Ringwald and upon roll call was carried 3 – 0, with Member Jackman abstaining.

Item #2 50 Columbus Ave**Return**

Michael Sheridan, attorney representing the applicant Verizon Wireless, requested a variance to install an antenna and a shelter for equipment on the rooftop of 50 Columbus Ave. This Special Use Permit will enhance service within the village. He stated that the TRA – Middle class Tax Relief Act, allows rooftop equipment to be installed on the roofs of buildings that meet the requirements. This building meets the requirements and Verizon does not currently have an antenna on this building.

Mike Seminara, Code Enforcement Officer, noted that there are several antennas located on this rooftop. Metro PCS just sent notice that they will remove their antenna.

Member Palladino asked if the applicant plans to install a generator as well.

Mr. Sheridan stated that there are no plans for a generator, just the antenna.

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 in the form of a motion:**SPECIAL PERMIT RESOLUTION**

The application for a Special Permit requested by _New York SMSA Limited Partnership d/b/a Verizon Wireless_____ whose proposed wireless telecommunications facility address is 50 Columbus Ave, Tuckahoe, NY Sec._ 33_Blk. 3_ Lot_1_____ for relief from the following section of the zoning code: 6-2.2

Applicant, New York SMSA Limited Partnership d/b/a Verizon Wireless, seeks a special permit to operate a wireless telecommunications facility at 50 Columbus Avenue, Tuckahoe. Based on the presentation of the applicant and hearing the applicant at previous work sessions this Board finds the applicant has met the standards of section 6-2.2 of the Zoning Code and thus, this application is approved. Further this approval is consistent with Sec 6409 of the Middle Class Tax Relief and Job Creations Act of 2012.

This approval does not include an approval for a back-up generator. If the applicant does seek approval of a back-up generator in the future the applicant must appear before this Board for approval of same.

Based on the foregoing this Board adopts a negative declaration pursuant to SEQR

Member Palladino seconded the motion and upon roll call was carried 4 – 0.

Item #3 125 Columbus Ave.**Special Use Permit**

Brian Harrington, owner of Transform Fitness, currently located at 31 Mill Rd., plans to move his business to 125 Columbus Ave. This site is currently an auto repair shop.

Michael Gismondi, architect for the applicant, proposes to convert the site into a fitness training center. The two parking areas on site were reconfigured to meet the Zoning Requirements. There will be a total of 12 parking spaces, including handicap spaces, with ample maneuverability space. Clients will need an appointment with the trainer; it will not be a typical gym membership. It is a one story building approximately 4400 sq. ft. The fitness center will have an open space. There is an existing small mezzanine area currently used for storage, which will be converted into an office. There are currently two undersized bathrooms, which will be converted into one large, handicap accessible bathroom. It is a very quiet use and will be a nice addition to the area.

Chairman Gallo noted that the Special Use Permit is for the change of use from an automotive shop to a retail use. He also stated that if the Planning Board deems that 12 parking spaces are not adequate for this use, the applicant would have to return for a parking variance.

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

Public Comments

Charles Link, owner of Phoenix Fitness Center located on Marbledale Rd., stated that his concern was the parking issue. The 12 parking spaces were not enough for the clients and trainers. He also stated that there are quite a few fitness centers in the area. He questioned if the one-to-one training would morph into additional programs such as group classes etc. The overhead of a 4000 sq. ft. site is costly and one-to-one training may not cover the costs. He cited the Squash club in town; after not making it financially as a squash facility, he noted that they expanded it to sell memberships and such. Mr. Link noted that the present location of Transform Fitness offers group classes, boot camp and massages. If the plan is to expand this business as well, the parking issue will worsen.

Chairman Gallo asked Mike Seminara if the Squash club was in violation of its Special Use Permit.

Mike Seminara noted that that would be an enforcement issue. He will review the Resolution and conditions of their Special Use Permit and if they are indeed in violation, the Special Use Permit can be revoked. He stressed the importance of attaching specific conditions to any Special Use Permit.

8:25 Chairman Gallo motioned for an Executive Session, seconded by Member Palladino and carried unanimously.

8:35 Chairman Gallo motioned to resume the meeting, seconded by Member Ringwald and carried unanimously.

Paul Taralilla, owner of 125 Columbus Ave. indicated that the location of this business, Transform Fitness, has no parking at all in Eastchester. He will now have 12 parking spaces in the

lot and 8 – 10 additional metered spaces on the street in front of the site. The parking should not be an issue.

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

Member Jackman asked Mr. Harrington to clarify some key points.

Brain Harrington stated that this facility would offer one-to-one training by appointment only. There will be 15 trainees at any one time. There is personal and small group training. Approximately 10% of the business is group training. During a training session, a client could receive message and stretching routines. The hours of operation will be 5:00am to 9:00pm with the majority of business during the early hours and evening hours. Mr. Harrington asked if the number could be increase to 25 trainees and 5 trainers to allow for some growth to his business.

Member Jackman noted that the two fitness centers, Transform Fitness and Phoenix Fitness have co-existed for three years. He noted that this would be solely a fitness center and no physical therapy would be permitted on the premises.

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

SPECIAL PERMIT RESOLUTION

The application for a Special Permit requested by _Transform Fitness_____ whose address is 125 Columbus Ave, Tuckahoe, NY Sec._ 34_Blk.5_ Lot_1_____ for relief from the following section of the zoning code: 6-1

Applicant, Transform Fitness, seeks a Special Permit from this Board to open a fitness center at 125 Columbus Avenue, Tuckahoe. Applicant has represented that the business to be operated from said location is not a “typical” gym, but is a “one-on-one” training center where a trainer will train one client at a time. The location at 125 Main Street is a pre-existing building.

In applying Section 6.1 of the Zoning Code to this application, this Board finds that the Applicant has met the standards for a Special Permit and thus this application is approved.

It is determined that the use proposed by this applicant is compatibility with the district: that the location and size of the use, the nature and intensity of the operations involved in or conducted in connection with such use, the size of the site in relation to the use, the assembly of persons in connection with the use and the location of the site with respect to streets giving access to the site are such that the use will be in harmony with the appropriate and orderly development of the district in which the use is proposed to be located.

It is further determined that the use proposed is compatible with Comprehensive Plan.. Since this is a pre-existing building it is determined that all proposed structures, equipment or material will be readily accessible for fire and police protection and that the location, nature and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall not hinder or discourage the appropriate development and use of adjacent land and buildings.

Since this business will not be run as a traditional gym and will be used on a one-on-one training facility it is determined that the operations in connection with the use will not be offensive, dangerous, or destructive of basic environmental characteristics or detrimental to the public interest of the Village and not be more objectionable to nearby properties by reason of noise, fumes, vibration, flashing of or glare from lights and similar nuisance conditions than would be the operation of any permitted use not requiring a special permit. The use of this facility is not to exceed 25 participants and 5 personal trainers. There is to be no other uses for this facility outside personal training and small group training. There is no physical therapy included in this approval.

The Board has determined that the neighborhood character and surrounding property values are reasonably safeguarded and that the use will not cause undue traffic congestion or creates a traffic hazard.

The Applicant has proposed parking and the space proposed are the size required by the Zoning Code.

Lastly, this applicant must appear before the Planning Board for site plan approval. A condition of this approval is that the Planning Board further review the parking layout and functionality of same and this approval shall in no way limit the Planning Board's review of the parking.

Based on the foregoing this Board adopts a negative declaration pursuant to SEQR

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

Item #4 85 Yonkers Ave.

Amended Area Variance

Mr. Leonard Brandes, architect for the applicant, indicated that the site plan for this location was approved previously, but due to financial circumstances, the approval has lapsed. The applicant seeks to move forward with the previously approved plans. The first floor will consist of parking and the second floor will have two offices.

Chairman Gallo stated that this location of this building is extremely important. It is currently a huge eyesore.

Chairman Gallo motioned to open the public hearing, seconded by Member Palladino 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.

Chairman Gallo offered the following resolution in the form of a motion:

AREA VARIANCE RESOLUTION

The application for an AREA VARIANCE requested by __Mario Durante__
whose address is 85 Yonkers Avenue, Tuckahoe, NY Sec. 32 Blk. 3 Lot 3
for relief from the following section of the zoning code: 5-1.2 Off Street Parking

The Applicant, Mario Durante, seeks an off street parking variance from this Board. The Applicant is seeking a parking variance of 2 spaces. The proposed project requires 7 spaces and the Applicant is proposing 5. This Applicant has previously received a variance from this Board for an identical application and said approval was filed with the Clerk's Office on November 14, 2013. The approval was good for one year from the date of filing, thus the approval expired on November 14, 2014. The Applicant is now asking this Board to approve the same application it did back in 2013. Thus, based on the submissions by the Applicant and the presentation of the architect for the Applicant this Board approves the variance requested. The reasons for this approval are identical to the reasons in this Board's prior resolution filed with the Clerk on November 14, 2013.

Further, as we did in 2013 this Board adopts a negative declaration pursuant to SEQ. R.

It is a condition of this approval that work be commenced and diligently prosecuted within one year of the date of filing this approval with the Village Clerk.

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

Chairman Gallo addressed the public concerning a recent article, "ZBA Vote on Main St. Project Invalid" which was published in *The Eastchester Review*, Sept. 4, 2015.

Chairman Gallo voiced his disappointment that the article misrepresented the facts. The reporter never spoke to any board members to review the facts. He did not reach out for clarification. The vote on Main St. is not invalid. Chairman Gallo stated that this was not the first time that there was a lack of research before printing. A few weeks ago, an article was published that stated that the ZBA approved the Subway application. That is false. The Subway application was withdrawn, as it did not require approval from the ZBA. One cannot believe everything that one reads. Chairman Gallo continued explaining that many applications are withdrawn once the applicant realizes that the board is not in favor. This essentially is a soft refusal as the applicant withdraws once he/she understands the board's concerns.

Chairman Gallo opened the meeting for public comments

Mr. Anthony Lore 123 Wallace Street voiced his concern and dissatisfaction regarding the house under construction at 5 Circle Rd. The owner of the house is inconsiderate to the neighbors. He recently stole water from the fire hydrant, which is illegal. There was a 14 ft. high wall and a balcony on the second floor. The garage is so close to the street. He asked the board members to drive by the house to view the construction.

Chairman Gallo asked Mr. Lore to please call him during a future occurrence. He did the correct procedure calling the Police Dept. and the Fire Dept., but he asked that he too be called the next time.

Mike Seminara noted the correct steps are to call the Police Dept. first. The officer accesses the situation and issue a summons if necessary. The officer will call the Building Dept. to appear at the site.

Mr. Seminara noted that the owner of the home received a fine from the Labor Dept. regarding the removal of asbestos. The construction job was shut down for 60 to 90 days. The water is a violation, and United Water will be investigating the occurrence.

Chairman Gallo asked Gary Gjertsen to review all fitness center approvals to avoid any future conflicts.

Item #5 10 Fisher Ave.

Adjourned

Item #6 26 Columbus Ave.

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.