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**TOWN OF TUXEDO  
ZONING BOARD OF APPEALS MINUTES  
REGULAR MEETING & PUBLIC HEARING  
May 23, 2023**

**BOARD MEMBERS PRESENT:** Frank Peverly, Chairman  
Russ Shaver  
Chris Dollbaum

**BOARD MEMBERS ABSENT:** Marc Citrin  
Sharon Radulov

**OTHERS PRESENT:** Kelly Naughton, Zoning Board Attorney  
Deborah Villanueva, Zoning Board Secretary  
Moise Belizaire, Applicant  
Jodie Bach, Clinton Woods Residents

**1.0 Call to Order**

Chairman Peverly called the meeting to order at 7:15 PM on Tuesday, May 23, 2023 and noted that Board Members Citrin and Radulov were absent.

**2.0 Approval of the Minutes**

Chairman Peverly made a motion to approve the minutes of April 25, 2023 as written and Board Member Shaver seconded the motion. All were in favor and the motion carried.
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**3.0 Moise Belizaire – 61 Clinton Rd. – Area Variances - Addition**  
Section 203 Block 1 Lot 2.2

Chairman Peverly explained that this was an application for an area variance for the construction of an addition. He noted that he reviewed the plan and noticed an underground drainage pipe in the area of the proposed addition and requested that the details be forwarded to the Town Engineer for further review. He indicated that the recommendation was that the pipe be relocated and Chairman Peverly suggested that the Applicant get a stronger engineering analysis from his Engineer. He stated that they could proceed with opening the public hearing and can begin to review the application and then adjourn the hearing or they could wait for further information from the Applicant's Engineer and proceed at that time.

It was noted that they would proceed with opening the hearing at the time.

Chairman Peverly opened the Public Hearing at 7:29 and read the public notice for the Record. He proceeded to read the engineering report, a copy of which has been placed in the file for the record, and indicated that the Applicant would need to provide additional detail or to relocate the pipe.

Mr. Belizaire proceeded to provide a brief history of the property since he purchased it. There followed a discussion regarding the construction of the drainage pipe. Board Member Dollbaum indicated that it does appear to be a robust plan but suggested that he provide the specifications of the pipe to his Architect and ask her to provide the load calculations on the plan. He added that if his Architect is willing to stamp the plan attesting to the fact that the drainage is adequately built perhaps it will be acceptable to the Town Engineer.

Attorney Naughton questioned how the load calculations would change anything and Board Member Dollbaum explained that the pipe is 4' deep and below the frost line and the water will be captured by the catch basin. He stated that since it is not a perforated pipe the water would not be getting under the pipe which could ultimately cause movement and settling, which is the concern. He added that if his Architect could address some of the issues that the Engineer has he could potentially avoid rerouting the pipe.

Chairman Peverly stated that he should ask his Engineer for the additional details. He noted that if there is enough water to warrant a huge precast catch basin along with the large pipe he is concerned that the ground is saturated which could increase the potential of seepage along the pipe channel. Mr. Belizaire explained that when he first bought the property the area was very wet but since installing the drainage pipe the ground is dry and he is not having any issues.

Chairman Peverly proceeded to discuss the requested variances and Mr. Belizaire explained that the addition is to accommodate wheelchair accessible space, including a bathroom, for his mom who can't maneuver the stairs. He stated that the project also includes tearing down his existing deck and pushing it back a bit.

Chairman Peverly asked for public comments and Jodie Bach explained that her family lives in the home directly nextdoor to Mr. Belizaire. She noted that since he has worked on his drainage, the water behind their house has begun to accumulate causing the potential for mosquitos, whereas beforehand the water would drain to the catch basin in the road. She also asked for confirmation that the addition falls within their property lines and Chairman Peverly confirmed that it would be. He explained that the Board will evaluate whether the reduction in the setback is reasonable and they will consider the minimum setback in order for him to complete the project and impose any conditions that may be necessary.

Mr. Belizaire stated that he has sprayed both his yard and neighboring areas for mosquitos and has found it very effective.

It was noted that the Bach home was higher than Mr. Belizaire's however they have land that is level with his property.

Attorney Naughton explained that they will need a variance from the minimum lot area, minimum lot width, minimum side yard setback on the north (side of the proposed addition), minimum side yard setback on the south, minimum setback for both side yards total, maximum development coverage and minimum street frontage.

Chairman Peverly noted that he did not necessarily have any issues with the actual addition and that his main concern is the drainage pipe.

Mr. Belizaire questioned if it would be more acceptable for him to resize the addition as not to interfere with the drainage pipe and it was noted that this was an option though he would still require the variance.

There being no further questions or comments from the Board or the public, Chairman Peverly motioned to adjourn the Public Hearing to June 27, 2023. Board Member Shaver seconded the motion and it was approved by a unanimous vote.

#### **4.0 Adjournment**

Chairman Peverly motioned to adjourn the meeting at 8:07 pm. and Board Member Dollbaum seconded the motion. All were in favor and the motion carried.