



TOWN
OF

TUXEDO

ORANGE COUNTY, NEW YORK

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Building/Planning/Zoning
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TOWN OF TUXEDO
ZONING BOARD OF APPEALS MINUTES
REGULAR MEETING & PUBLIC HEARING
November 28, 2023

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

OTHERS PRESENT: Kelly Naughton, Zoning Board Attorney (via Zoom)
Deborah Villanueva, Zoning Board Secretary
Bobby & Tori Haas, 167 East Village Road
David Niemotko, Architect

1.0 Call to Order

Chairman Peverly called the meeting to order at 7:00 PM on Tuesday, November 28, 2023.

2.0 Approval of the Minutes

Chairman Peverly asked if there were any comments to the October 24, 2023 meeting minutes and there were none.

Chairman Peverly made a motion to approve the minutes of October 24, 2023 as written and Board Member Shaver seconded the motion. All were in favor and the motion carried.

3.0 Christopher Mitchell – 9 Mountain Rd. – Area Variances – Proposed Addition
Section 13 Block 3 Lot 10

Chairman Peverly reopened the Public Hearing and explained that this application was reviewed during last month's meeting but that they were waiting on the receipts of mailing which have now been received. He asked if there were any questions or comments from the public and there were none.

Chairman Peverly motioned to close the public hearing at 7:04pm. Board Member Dollbaum seconded the motion and it was approved by a unanimous vote.

Chairman Peverly made a motion to approve the variances as outlined in Attorney Naughton's memo dated October 17, 2023 and Board Member Radulov seconded the motion. All were in favor and the motion carried.

4.0 Kristen Ward – 6 Woods Road – Area Variances – Proposed Garage
Section 203 Block 3 Lot 8

Chairman Peverly ready the public notice for the record and noted that all paperwork was in order.

Chairman Peverly motioned to open the public hearing at 7:05pm. Board Member Dollbaum seconded the motion and it was approved by a unanimous vote.

Architect Niemotko was present representing the applicant and explained that the owners are proposing to construct an attached two-car garage on the north side of the property. He noted that they chose the location due to the grade of the property and added that the proposed location provides easy access to the home. He further added that the design would fit in with the existing home and the style of the neighborhood.

Chairman Peverly asked for confirmation that this was an existing curb cut and Architect Niemotko indicated that it was.

Architect Niemotko stated that they are asking for three variances and proceeded to review them. Chairman Peverly noted that there are also several preexisting nonconformities and explained that it is the practice of the Board to memorialize them for the record to bring the entire parcel into compliance.

Chairman Peverly asked if there were any questions or comments from the Board and Board Member Dollbaum pointed out that the location appears to be the most appropriate spot for the garage. Board Member Shaver indicated that he was out to the site and agrees that there are not many options. Board Member Radulov stated that she feels it is a reasonable request.

Chairman Peverly asked if there were any questions or comments from the public and there were none.

Chairman Peverly made a motion to close the public hearing and Board Member Radulov seconded the motion. All were in favor and the motion carried.

Chairman Peverly proceeded to review all of the variances and noted that this is a Type II action under SEQRA, requiring no further environmental review.. He pointed out that they were still

waiting on a response from the county on the required 239 review. He address the five factors that the Board must consider when granting an area variance as follows:

1 - Whether an undesirable change will be produced in the character of the neighborhood or whether a detriment will be created to nearby properties by granting the area variance; The Board agreed it will not.

2 - Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; The Board agreed it could not.

3 - Whether the requested area variance is substantial; The Board agreed that it was.

4 - Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; The Board agreed it would not.

5 - Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance. The Board agreed that it was.

Chairman Peverly requested that Attorney Naughton draft the formal decision for December's meeting.

5.0 Bobby & Tori Haas – 167 East Village Road – Area Variances - Shed
Section 212 Block 8 Lot 6

Chairman Peverly read the public notice for the record and proceeded to open the public hearing. He explained that the shed has been on the property for many years and the new owners agreed to apply for the variance when it was sited by the Building Inspector during a municipal inspection. It was noted that the plan should be updated to include the missing measurements as they relate to the preexisting nonconformities.

Chairman Peverly asked if there were any questions or comments from the Board or the public and there were none.

Chairman Peverly motioned to close the public hearing. Board Member Radulov seconded the motion and it was approved by a unanimous vote.
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Chairman Peverly noted that they are still waiting on a response from the county regarding the 239 review and proceeded to discuss the five factors to be considered before granting an area variance as noted below.

1 - Whether an undesirable change will be produced in the character of the neighborhood or whether a detriment will be created to nearby properties by granting the area variance; The Board agreed it will not.

2 - Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; The Board agreed it could not.

3 - Whether the requested area variance is substantial; The Board agreed that it was.

4 - Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; The Board agreed it would not.

5 - Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance. The Board agreed that it was not .

Chairman Peverly requested that Attorney Naughton draft the decision as soon as the required measurements are received.

6.0 Adjournment

Chairman Peverly motioned to adjourn the meeting at 7:45 pm. and Board Member Dollbaum seconded the motion. All were in favor and the motion carried.
