

VILLAGE OF TUXEDO PARK
BOARD OF ZONING APPEALS

March 3, 2021

7:00 P.M.

Via Zoom

Present: Chairman John (Jake) Lindsay

Member Mary Darby

Member Gerard (Gary) Pompan

Member David Christensen

Member Nancy Hays

Also: Alyse Terhune, Esq., BZA Attorney

John Ledwith, Technical Host/Building Inspector

Others: Dan Rifkin, Jeff DeGraw, (Architect for the Applicant), Tyler Foleno, (Architect for the Applicant)

Chairman Lindsay called the Board of Zoning Appeals meeting to order at 7:00 p.m. The motion was seconded by Member Pompan. The vote was 4 – 0 in favor.

Member Darby signed on after the start of the meeting.

There was no physical meeting location in order to ensure the health, safety, and welfare of all involved, in compliance with Executive Order 202.1, the meeting was conducted via video/teleconferencing – Zoom.

Chairman Lindsay stated that this meeting is for the application of Daniel and Sheila Rifkin, Tax Map No. 103-1-42, 97 West Lake Road, seeking relief from the following section of the Village Code in order to construct a boathouse :

- a. Village Code Section 100-8 where the required setback from Tuxedo Lake is 100' . The setback from Tuxedo Lake indicated on the plans is from 0" to 37'10.5".

Proof of compliance with Village Code 65-2B. Rules and regulations applicable to Tuxedo Lake, was acknowledged on December 17, 2008.

Returning to the Board of Zoning Appeals is Dan Rifkin for the construction of a boathouse for the Dan and Sheila Rifkin application.

The notice of tonight's meeting was published in The Times Herald Record on February 23, 2021.

For the record, Building Inspector Ledwith presented photos and a letter from the previous owner acknowledging there was a boathouse previously on the property. Although grandfathered, Village Code (§ 65.2B) requires a variance based on a 100' setback from Tuxedo Lake and the Board of Trustees will need to approve.

Architect DeGraw provided a screen shot of the proposed boathouse site plans (S102) with boathouse elevations. The boathouse will mimic the architect of the house. The boathouse will not include plumbing, heat or fixtures as indicated on the plans. Excavation will take place.

Board Member Hays stated it is important to maintain due diligence to make sure everything is done right and noted there are a series of procedures that need to be adhered to in order to protect Tuxedo Lake.

After review of the variance, Chairman Lindsay asked the Board if they had any issue in moving forward in granting the applicant approval. Members Christensen, Darby and Pompan had no issue. Member Hays does not agree of granting the variance in order to protect Tuxedo Lake and its environment.

Chairman Lindsay made a motion to close the Public Hearing. Member Pompan seconded the motion.

The vote of the Board was 4 – 0 in favor of the motion.

The Board of Zoning Appeals' Findings were reviewed. Chairman Lindsay reviewed the five points in granting an area variance:

1. The variance will not produce an undesirable change to the neighborhood. Village Code § 65-2B, which grandfathers boathouses built before February 20, 1987, and allows them to be reconstructed.
2. The variance sought by the applicant cannot be achieved by another method.
3. The requested variance is substantial. However, the Board finds that the substantial nature of the variance was anticipated and condoned by the governing body when its enacted legislation grandfathering existing boathouses.
4. The proposed variance will not have an adverse effect or impact on the on environment.
5. The alleged difficulty was not self-created because there was a previous existing boathouse and the applicant is allowed by law to build a boathouse based on the 1987 prior rule.

Chairman Lindsay noted that the applicant will need to appear before the BAR and BOT during construction. Approvals issued from the DEC require a separate application. The BZA will wait for approvals to be in place before a permit will be granted. The Building Inspector will oversee the project.

All neighbors were properly noticed.

Chairman Lindsay made a motion to close the Public Hearing. The motion was seconded by Member Pompan.

The vote of the Board was 5 – 0 in favor of the motion.

A motion was made by Chairman Lindsay to approve the Rifkin boathouse variance from 0” to 37’10.5”, as submitted and discussed. The motion was seconded by Member Pompan.

Vote of the Board: Chairman Lindsay – aye

Member Hays – nay

Member Christensen – aye

Member Pompan – aye

Member Darby - aye

The vote of the Board was 4 – 1 in favor of the motion.

Chairman Lindsay made a motion to go into Executive Session. The motion was seconded by Member Pompan.

The vote of the Board was 5 – 0 in favor of the motion.

Respectfully submitted,

Desiree Hickey

Recording Secretary