

**VILLAGE OF TUXEDO PARK**  
**BOARD OF ZONING APPEALS**

**August 2, 2023**

**7:00 P.M.**

Present: Chairman John (Jake) Lindsay

Member David Christensen

Member Campbell Langdon

Member John Boyle (Via Zoom from Hampton Inn, 115 Hampton Drive,  
Edenton, NC 27932))

Absent: Member Nancy Hays

Also: Alyse Terhune, Esq., BZA Attorney, John Ledwith, Building Inspector

Others: Marc Citrin, David McFadden, TPFYI, Sophia Delanner, Bernadette Condon,  
Thomas Lawrence, Bryna Pomp, Martin Pomp, Adrienne Lucas, Claudio Guazzoni  
De Zanett, Conrad Roncati, Stuart McGregor, Chiuyin Hempel, Gardner Hempel,  
Patrick Bourke, Matthew Tinari, Gavin Maxwell, Lindsay Maxwell, Richard Witte,  
Stephen Lemanski, Dennis Lynch

Chairman Lindsay called the Board of Zoning Appeals meeting to order at 7:00 p.m. The motion was seconded by Member Christensen.

The motion was passed by a 4 – 0 vote.

The public notice was published 7/24/2023 on recordonline.com.

Eleven neighbor notices were sent and six out of the eleven signed for proof of notification.

The application of Sophia Delanner, Tax Map Number 104-1-11.1, 66 Summit Rd., Tuxedo Park, NY 10987, seeking relief from Village Code §100-21. Driveways where no driveway shall be constructed closer than 10 feet to any adjacent lot line or intersection, and spot grades shall not exceed 10%.

The Applicant applied for a building permit to construct a new driveway from East Summit Road, which dead-ends at her property. By letter dated June 2, 2023, the Building Inspector determined that the proposed construction did not comply with the Village of Tuxedo Park Zoning Law and referred the Applicant to the Board of Zoning Appeals. Application was made to the Board on June 5, 2023, for relief. The Property's location does not meet any of the criteria identified in GML § 239-m; therefore, referral to the Orange County Planning Department was not required. The duly noticed public hearing was convened on August 2, 2023. The Board heard testimony from the Applicant and all those wishing to address the Board.

The Applicant's gravel driveway is shared with two other home owners. The entrance to the driveway is located on West Summit Road and is not owned by the Applicant. The variance would only affect a small portion, where the new driveway would intersect with East Summit Road and only a 7 ft. setback is possible and 10 ft. is needed. The Applicant's representatives Stephen Lemanski (Engineer) and Bernadette Condon (Attorney) both made the case there would be no detriment or impediment to the neighboring properties.

The Board raised issue with the Applicant's proposal. The 10% grading is considered as not attainable and the grading was not clearly noted on the proposed plans. The Board questioned why the Applicant was not maintaining her portion of the existing driveway. The Applicant

responded that she had tried for over a year but was met with resistance from the shared property owners Claudio Guazzoni and Conrad Roncati.

A motion was made by Chair Lindsay and seconded by Member Christensen to open the meeting for public comment.

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

All letters submitted by neighbors were entered into the record.

Neighbors Conrad Roncati, Claudio Guazzoni, Bryna Pomp, Martin Pomp, and Gavin Maxwell presented their objections and concerns for the proposed driveway. Bryna Pomp read a letter from neighbor Scott Van Bergh who could not be present. The issue of a deed restriction was addressed by Bryna Pomp but a formal copy was not presented. Attorney Terhune stated the issue at hand before the Board is the variance.

After all public comments were made, Chair Lindsay made a motion to close the Public Hearing.

The motion was seconded by Member Christensen.

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

The Board evaluated the five factors in determining granting the requested variance.

The Board made the following findings:

1. The Board considered granting the requested variance would produce an undesirable change in the neighborhood character and determined that it would. In making this finding, the Board considered the fact that although the variance itself appears relatively

small, granting it would divert traffic from West Summit Road to East Summit Road, which is very narrow, and would impact all property owners now using East Summit Road and creating an outsized negative impact to the neighbor.

2. The Board considered whether the benefit sought by the Applicant could be achieved by some other method and determined that it could. An existing shared driveway in place when the house was purchased has been used by the Applicant and all previous owners of the property. In response to the Applicant's statement that the existing driveway is in very bad condition, pitted, and strewn with boulders, several members of the Board visited the site. They observed that the driveway wholly located on the Applicant's property was most dilapidated and in need of repair.
3. The Board finds that although the requested variance is not numerically substantial, allowing additional traffic, especially truck and van traffic, to be routed from West Summit to East Summit would create a dangerous condition because East Summit is too narrow for two-way traffic and runs along a steep rock precipice. Therefore, cars, trucks and vans traveling in opposite directions would have to back up so the other could pass, which will exacerbate an already suboptimal traffic condition and likely to lead to accidents.
4. The Board finds that the variance, if granted, will have a significant adverse effect on the physical and environmental conditions of the property and the neighborhood given the length of the proposed driveway and the intent to asphalt it, which will create additional impervious surface and added stormwater runoff.
5. The Board noted that the need for the variance is self-created. An existing driveway is in use and has been in use for many years. Furthermore, all the deficiencies could be

addressed by the Applicant along the length of the driveway completely under her control, which, as the Board's site visit confirmed, was the length most in need of repair.

The Board of Zoning Appeals determined the Applicant has not sustained her burden of proof as required by New York State Village Law and Village of Tuxedo Park Zoning Law.

A motion was made by Member Christensen and seconded by Member Langdon to deny the application for a variance for the property located at 66 West Summit Road, identified on the tax map as SBL 104-1-11.1, for the purpose of constructing a new access driveway from East Summit Road.

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

The roll call vote was as follows:

Chairman Lindsay – Nay

Member Christensen – Nay

Member Boyle – Nay

Member Langdon – Nay

Member Hays - Absent

### **Approval of Minutes**

A motion was made by Chairman Lindsay and seconded by Member Langdon to approve the minutes of **August 3, 2022**.

Vote of the Board:

Chairman Lindsay – aye

Member Christensen – aye

Member Boyle – aye

Member Langdon – aye

The motion was passed with a 4 – 0 vote.

**Adjournment**

At 8:37 p.m., a motion was made by Chairman Lindsay and seconded by Member Christensen to adjourn the meeting.

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

Respectfully Submitted,

*Desiree Hickey*

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Recording Secretary