

VILLAGE OF TUXEDO PARK
BOARD OF ZONING APPEALS

September 1, 2021

7:00 P.M.

Present: Chairman John (Jake) Lindsay

Member Nancy Hays

Member David Christensen

Member John Boyle

Member Campbell Langdon

Also: Alyse Terhune, Esq., BZA Attorney

John Ledwith, Building Inspector

Others: Karen Arent (Landscape Architect for the Applicant), Randy St. John (General Manager/Tuxedo Club), Casey Klossner (Director of Grounds/Tuxedo Club), David Getz (Engineering Properties), Anne Gwathmey (17 Clubhouse Road), Adam Gordon (457 West Lake Road), Bryan Natinsky (Architect for O'Neal & Gordon), Christopher Reebals (Architect for Gonzales & Tinari, Tinari)

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 5 – 0 vote.

Chair Lindsay made a motion to close the public portion of the meeting to approve open BZA minutes. Member Christensen seconded the motion.

The motion was passed by a 5 – 0 vote.

Approval of Minutes:

A motion was made by Chair Lindsay and seconded by Member Christensen to approve the minutes of **December 2, 2020**.

Vote of the Board:

Chair Lindsay - aye

Member Hays – aye

Member Christensen – aye

The motion was passed with a 3 – 0 vote.

A motion was made by Chair Lindsay and seconded by Member Hays to approve the minutes of **March 3, 2021**.

Vote of the Board:

Chair Lindsay – aye

Member Hays – aye

Member Christensen – aye

The motion was passed with a 3 – 0 vote.

A motion was made by Chair Lindsay and seconded by Member Hays to approve the minutes of **April 7, 2021**.

Vote of the Board:

Chair Lindsay – aye

Member Hays – aye

Member Christensen – aye

The motion was passed with a 3 – 0 vote.

A motion was made by Chair Lindsay and seconded by Member Christensen to approve the minutes of **May 5, 2021**.

Vote of the Board:

Chair Lindsay – aye

Member Hays – aye

Member Christensen – aye

The motion was passed with a 3 – 0 vote.

A motion was made by Chair Lindsay and seconded by Member Landon to approve the minutes of **August 5, 2021**.

Vote of the Board:

Chair Lindsay – aye

Member Hays – aye

Member Christensen – aye

Member Boyle – aye

Member Landon – aye

The motion passed with a 5 – 0 vote.

Chair Lindsay made a motion to reopen the public meeting. Member Christensen seconded the motion.

The motion was passed with a 5 – 0 vote.

The notice of tonight’s meeting was published in The Times Herald Record on August 24, 2021.

The application received from the Tuxedo Club, Tax Map Number 107-1-3.2, 1 West Lake Rd., Tuxedo Park, NY 10987, seeking relief from the following sections of the Village Code in order to modify the existing parking area was published in The Times Herald Record on July 27, 2021.

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- a. Village Code Section 100-18 Fence height, where the maximum height of a permitted fence is 4’ and the plans indicate a fence height of 8’. A variance for 4’ or 50% is needed.
- b. Village Code Section 100-18B sight distance, where sight distances must be more than 250’ and the plans submitted show sight distances of 190’. A variance of 60’ or 24% is required.
- c. Village Code section 100-24.2. Nonconforming uses, where nonconforming use shall be enlarged, altered, extended or restored or placed on a different portion of the lot or parcel of

land occupied by such use on the effective date of this chapter (or on the effective date of any amendment there to affecting such use), nor shall any external evidence of such use be increased by any means whatsoever.

Karen Arent reviewed changes in plans with the Board from the last meeting on August 4, 2021, to include additional fencing and increase the impervious areas it exists.

A Planting Plan with screening was presented. The plans include the existing trees that remain and include the new plantings that will be added. Board Members Boyle and Hays voiced concerns with so many trees proposed for removal along West Lake Road to provide for the new egress at the intersection of West Lake Road and Tuxedo Road. The applicant reminded the Board that a report was submitted 8 or 9 years ago by arborist Ira Wickes to remove specific trees that were beyond their normal life and were weak and wooded.

Board Member Christensen addressed the potential impact of reducing the sight distance requirement of 250-feet to 190 feet. This was cited as a concern because it limits sight distance with left hand turns at the new egress.

The current 15 car employee lot along Tuxedo Road is proposed for removal because of the safety issues aligned with its location. In order to eliminate this dangerous condition, the new lot will be removed completely from the road. In addition, this will provide an improvement for delivery and service vehicles accessing the dumpsters and loading dock and will separate the service area from member parking. The applicant has proposed 17 parking spaces for the new employee parking area with four handicap parking spaces added. It was noted that trucks will enter the service area 6 – 8 times a week during peak season.

The proposed height of the lighting poles exceed the maximum height allowance and will need a variance. Attorney Terhune noted the variance for the pole was never noticed. Lighting poles height restrictions are considered as part of the fencing code. The applicant will need approval once the light pole is properly noticed. Attorney Terhune stated that it is the Building Inspectors interpretation for determination.

The drainage plan includes 3 storm water basins that will go into vegetated areas. The storm water basins were reviewed and approved by the Board's Engineer. The stormwater run-off will be treated and cleaned before it travels to Tuxedo Lake. The applicant is requesting an increase in the impervious area as it exists from 36.8% to 38.5%, which will be a 1.7% increase in impervious surface. Board Member Hays suggested the applicant consider additional plans to decrease the run-off and erosion into Tuxedo Lake with a vegetative border. Casey Klossner pointed out some of the steps that have been taken to prevent erosion and runoff. The applicant agreed to look into this further at a later date.

At 7:35 the public comment portion was opened.

Resident Anne Gwathmey, of 17 Clubhouse Road, voiced concerns with increase in the impervious service area creating stormwater run-off. Additional concerns were the decrease in sight distance that will be created and the addition of the new employee parking lot with all night lighting that impacts the neighboring area. Karen Arent addressed the lighting and noted the lighting in the parking lot is dark sky compliant and is completely recessed.

On the Zoom call-in, Mayor McFadden addressed how he and Police Chief Conklin were concerned with the road safety that the proposed employee parking exit point and the service area. The concern is this will create a blind spot at a busy intersection with two pre-existing yield areas. The Mayor suggested a two-way directional instead of the proposed egress. The applicant responded that several options were considered. An ingress and egress through the same access point would create more of a dangerous situation. The proposed egress was considered as the safest solution for both the employees and the Tuxedo Club members.

Remedies were proposed to address safety issues such as a flashing light or a right turn only sign. Attorney Terhune suggested the Board can re-evaluate the safety issue in a year.

At 7:50 p.m., Chair Lindsay made a motion to adjourn the public meeting. The motion was seconded by Member Landon.

Chair Lindsay discussed the project with the Board members. The consensus was the project was an improvement aesthetically and improved safety. Member Hays noted saving/adding as many large trees as possible would be preferred.

Attorney Terhune reviewed the final findings with the Board. The Board made the following findings:

1. The Board considered whether granting the requested variances would produce an undesirable change in the neighborhood character and decided that it would not. The Board determined that removing the employee parking lot from immediately adjacent to West Lake Road would improve the neighborhood in that the parking would no longer be visible.

2. The Board considered whether the benefit sought by the Applicants could be achieved by some other method and determined that it could not. The Board considered the question and determined that relocating employee parking cannot be achieved in the absence of variances.
3. The Board finds that although the requested variances may be considered substantial, such consideration must be viewed in context. For example, current lot coverage is already 13.4% nonconforming at 36.8%; thus, the increase to 38.5% is only a 1.7% increase over the existing nonconformity. The requested 75% increase in fence height will screen the parking lot from the road and the neighbors, which the Board considers important to enhance community character. Finally, while a 24% reduction in sight line is substantial, the Board noted that a 190 -foot sight line distance remains and, importantly, an interior parking lot with ingress and egress will eliminate the current necessity of backing into the street when employees leave.
4. The Board finds that if granted, the variance will not have a significant adverse effect on the physical or environmental condition in the neighborhood or district as the increase in impervious surface is minimized. The applicant will be providing stormwater detention areas and additional plantings that will act to reduce run-off and improve existing conditions by “cleaning” the stormwater. The Board noted that the Village engineer reviewed the applicant’s drainage report and stormwater submission and determined that the stormwater run-off will be eliminated.
5. The Board noted that all variances are self-created to some extent. However, the Board finds and determined that removing the employee parking directly adjacent to West Lake Road removes the hazardous conditions of having cars back out into a Village road and

determined that the proposed project will create a safer ingress and egress for emergency vehicles.

Chair Lindsay made a motion to approve the application absent the light pole, seconded by Member Boyle granting relief from §100-18B in the form of a variance of 60 feet from the required 250 feet to 190 feet; and relief from §100-11, in the form of a variance of 13.4% from maximum lot coverage of 25% to 38.5%.

Vote of the Board:

Chair Lindsay – aye

Member Hays – nay

Member Christensen – aye

Member Boyle – aye

Member Langdon – aye

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

A motion by Chair Lindsay, seconded by Member Christensen, the Board granted relief from §100-18A in the form of a fence height variance of 3 feet from the required 4 feet to 7 feet.

Vote of the Board:

Chair Lindsay – aye

Member Hays – aye

Member Christensen – aye

Member Boyle – aye

Member Landon – aye

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

The applicant O’Neal & Gordon at 457 West Lake Road, Tuxedo Park, NY 10987, Tax Map Number 102-1-15 seeking relief from the Village Code for setbacks related to the garage addition, the building of the proposed greenhouse and adding clad to the existing white brick entrance gates with local stone. The applicant has appeared before the BAR for preliminary review. All neighbors were duly noticed 2 x’s and includes a published affidavit.

After further review of the application, the Board and the applicant decided the third bay garage proposed for boat storage would be taken off the table and will not be considered. The Board suggested Greenwood Lake as an alternative for the applicant to store their boat.

The cladding of the existing driveway gates will increase the height to 6’8” when only 4’ is permitted creating a need for a variance.

The greenhouse extends 3’10” over the stone wall and has a peaked glass roof. The enclosed area consists of 750’ and measures 15’ x 49’. One corner of the greenhouse structure will come within 100 feet of the lake. Overall, the Board supported the greenhouse because it is organic in nature and is low-impact.

At 8:30 pm, Chair Lindsay made a motion to open the Board meeting for public comment. The motion seconded by Member Christensen.

There was no public comment. Chair Lindsay made a motion to close the public comment portion of the meeting. The motion was seconded by Member Christensen.

The Board will not be granting a variance for the garage, only the greenhouse and gate.

The final findings of the Board were discussed and are as follows:

1. The construction of the greenhouse and gate is not a deterrent and will enhance the property.
2. The proposed changes cannot be achieved by another method considering the shape of the lot.
3. The variances for the setbacks are substantial. There is no run-off into the lake. The greenhouse is an organic structure, has a low profile, is hidden from the road and there is vegetation. The greenhouse variance has a 75' setback from the lake.
4. Granting of the variances does not adversely physically affect the environment and has no adverse impact on neighbors.
5. Conditions were self-created. The lots are nonconforming and other than a variance no other alternative is available because of the nature of the project.

Chair Lindsay made a motion to approve a variance to seek relief to build a greenhouse, install driveway gates, and increase the heights of the piers.

Vote of the Board:

Chair Lindsay – aye

Member Hays – aye

Member Christensen – aye

Member Boyle – aye

Member Landon – aye

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

Application Matthew & Mary Tinari at 55 Clubhouse Road and Tinari & Gonzales at 57 Clubhouse Road , Tuxedo Park, NY 10987, Tax Map Number 107-1-64.2, seeking relief from the Village Code.

Tinari at 55 Clubhouse Road, Tax Map Number 107-1-65.2 requires 14 variances to include a Porte Cochere, adding gate height, addition of a walkway, construction of a fireplace, adding dormers to the carriage house, stairs and connection to barn.

Tinari & Gonzales at 57 Clubhouse Road, Tax Map Number 107-1-64.2, is seeking 8 variances for construction of a pool, stairs and gates at a height that exceeds the permitted height.

For the record, the applicant was duly noticed and published.

The variances as presented were not clear for review by the Board as they were not properly marked on the proposed plans. The Board briefly discussed the project with the applicant's architect. Attorney Terhune noted, there were a number of listed pre-existing non-conformities

and it would be simpler if the applicant would go through and indicate on the plans where the changes were located. The Board briefly discussed concerns how to legally manage the two lots. Chair Lindsay expressed that the applicant had to return to the BZA and present a labeled and color-coded plan to review before moving forward.

Adjournment

At 9:20 p.m., a motion was made by Chairman Lindsay and seconded by Member Christensen to adjourn the meeting.

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

Respectfully submitted,

Desiree Hickey

Recording Secretary