

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

**Via Zoom**

**January 5, 2022**

**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: Daniel Sherman, (Landscape Architect for Nicholson), Alexander Nicholson  
(Homeowner), Carol Ann Nicholson (Homeowner), Jeffrey Small (Architect for  
Nicholson), Meg Vaught (TPFYI)

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.

Chairman 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 Chairman Lindsay and seconded by Member Christensen to approve the minutes of **October 6, 2021**.

Vote of the Board:

Chairman Lindsay - aye

Member Hays – aye

Member Christensen – aye

Member Boyle – aye

Member Langdon - aye

The motion was passed with a 5 – 0 vote.

Chairman Lindsay made a motion to reopen the public hearing. Member Christensen seconded the motion.

The motion was passed with a 5 – 0 vote.

Application of Carol Ann and Alexander Nicholson at 25 Mountain Farm Road, Tuxedo Park, NY 10987 Road, Tuxedo Park, NY 10987, Tax Map Number 103-1-37.22, seeking relief from

Tuxedo Park Zoning Law § 100-9B in the form of an area variance of 22% from the maximum permitted coverage of 25% to a total of 47% area coverage for the proposed decks and terrace.

The public was duly noticed on 12-21-2021 and all neighbors were properly noticed. Mailings to neighbors were certified on 12-23-2021 (10 notified and 9 confirmations). Only one comment was received by neighbor Julia Simet (14 Patterson Brook Road) that noted approval and confidence in the project.

At 7:08 p.m., Chairman Lindsay made a motion to open the meeting for public comment.

Member Christensen seconded the motion. There was no public comment.

At 7:09 p.m., Chairman Lindsay made a motion to close public comment. Member Christensen seconded the motion.

The Applicants' Architect presented an overview of the proposed project to the Board with drawings presented virtually. The 18' x 40' pool and 12' x 36' pool house that is proposed will be located behind the house in a wooded area and will not be visible from the road or neighbor's properties. The variance is for the proposed decks and terrace. The Applicants are seeking a 22' variance. Any stormwater runoff will be negligible and will be absorbed by the soil on site.

Board Member Christensen noted the project's relation to the lot was small. Member Langdon asked for clarification about the elevation of the terrace. It was noted that there would be a partial elevation. Member Hays commented on the landscape plans and expressed saving as many trees as possible.

Chairman Lindsay noted the Board was ready to take a vote.

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 determined that it would not. In making this finding, the Board considered the fact that the property is 5.5 acres and heavily wooded. The proposed pool, pool house and associated decks and terraces are far from the road and neighboring properties and screened from neighbor's woods.
2. The Board considered whether the benefit sought by the Applicants could be achieved by some other method and determined it would not. The only way to meet the 25% of ground floor area would be to increase the size of the existing buildings with the corresponding increase in the permitted size of decks and terraces, which would defeat the overall purpose of the zoning code.
3. The Board finds that although the requested variance of 22% may seem substantial, it is not when considered in context with the large size of the lot and the existing screening provided by the woods surrounding the proposed pool and pool house.
4. The Board finds that if granted, the variance will not have a significant adverse effect on the physical or environmental conditions in the neighborhood or the district. Even with the pool and pool house, the total lot coverage will only increase one percent, from 5.8% to 6.8%. Thus, increase stormwater runoff, if any, will be negligible especially where tree coverage remains heavy. In addition, Chairman Lindsay and Member Boyle visited the property and concluded that the project is placed in a relatively open area with

few specimen trees. In addition, the Applicants will replace some of the trees that are to be removed in a different location pursuant to the Board of Architectural Review approval.

5. The Board noted that although all variances are self-created to some extent, here the Applicants' property has a large lot and are proposing a reasonably sized pool, pool patio, pool house and deck off the existing garage. Finally, the Board noted that they have received numerous requests for variances from the limitation contained in § 100-9B, especially as people are seeking to increase and utilize outdoor recreational spaces because of the COVID pandemic and finds such variances generally acceptable, within reason.

Chairman Lindsay made a motion to grant a 22% variance from the required 25% to 47% from the Village of Tuxedo Zoning Law § 100-9B to the property located at 25 Mountain Farm Road, identified on the Village Tax Map as SBL 103-1-37.22. Member Christensen seconded the motion.

Vote of the Board:

Chairman Lindsay – aye

Member Hays – aye

Member – Christensen – aye

Member Boyle – aye

Member Langdon – aye

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

**Adjournment**

At 7:20 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*

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Recording Secretary