

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

**January 13, 2025**

**7:00 P.M.**

Present: Chairman John (Jake) Lindsay

Member Nancy Hays

Member David Christensen (via Zoom)

Member Campbell Langdon

Member Charolette Worthy

Also: Alyse Terhune, Esq., BZA Attorney, John Ledwith, Building Inspector,  
Desiree Hickey, Recording Secretary

Others: TPFYI, Jacob Matthews, Christopher Gow, Jim Hays, E.J. Matthews,  
Edward Matthews, Rev. Edwin Cromey, Serene Swirbul, Chiuyin Hempel

Chairman Lindsay called the Board of Zoning Appeals meeting to order at 7:00 p.m.

The public notice was posted on 1-2-2025, in the Times Herald Record/[recordonline.com](http://recordonline.com).

All applications and plans are available for review Monday through Friday from 9:00 p.m. to 4:00 p.m. at the Village Hall, Village of Tuxedo Park, 80 Lorillard Road, Tuxedo Park, NY 10987.

**Applicant:**

**Appeal of Jo Ann Matthews Trust c/o Jacob Matthews, Trustee, 72 Clubhouse Rd., Tuxedo Park, NY 10987, Tax Map Parcel No. 107-1-34:**

Seeking relief from a decision of the Village of Tuxedo Park, Board of Architectural Review made at the November 4, 2024 meeting where the Board of Architectural Review denied the approval of GAF architectural asphalt shingles to replace existing cedar shingles.

All neighbors within 300 feet of 72 Clubhouse Road were notified. A list of all notified neighbors was provided to the Board.

Applicant Jacob Matthews provided a complete narrative for his appeal. A full gallery of photos, contractor documentation, and links for images and quotes for the roofing that reverts to asphalt that was pre-existing and changed to cedar in 1999, a written statement of grandfathering and hardship was included as part of his appeal. In addition, the application to the Building Department, the survey dated December 13, 1985 and the Short Environmental Assessment Form dated November 11, 2024 were submitted for review.

The BZA is authorized to hear appeals from decisions of the BAR based on the Village of Tuxedo Park Zoning Law. Village Codes §100-56 and §100-57 provide the basis for the BZA to hear the appeal of the applicant for the BAR's decision to deny approval of the GAF architectural asphalt shingles at 72 Clubhouse Road. This is the same authority granted to hear appeals of building inspector decisions delegated by New York State to local zoning boards under Village Law §7-712, §7-712a, and §7-712b.

Attorney Terhune noted there are no specific instructions for the Board to proceed with the appeal as presented and if a member of the Board of Architectural Review is in attendance, they should be given the opportunity to speak. The Board was advised about the potential possibility of setting precedent for future applications before the BAR. The Board addressed their concerns with overturning the decision of the BAR, or with over-ruling any other Board's decisions within the Village of Tuxedo Park.

The BAR denied Mr. Matthews application based on non-compliance with the Design Guidelines. BAR Member, Christopher Gow was in attendance and confirmed the application was denied because of not meeting the criteria for the Design Guidelines and the Village of Tuxedo Park's listing on the National Register of Historic Places. He noted the asphalt is considered a downgrade and restorations should not regress with proposed materials. It was acknowledged that most homes on Clubhouse Road were asphalt roofs. Mr. Matthews referenced neighbors Joan Riccardi and Carol Ann Nicholson who provided written support of the asphalt roof application.

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

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

The following neighbors gave testimony in support of Mr. Matthews application:

- Mrs. Swirbul pointed out that most homes on Clubhouse Road are asphalt and emphasized cedar has a shorter life at twice the price.

- Reverend Cromey read his letter for the record. He impressed upon the Board that Mr. Matthews application does not break the five factor requirements required by the BZA and noted the home has always been well kept.
- EJ Matthews voiced his approval and reiterated the points made by other neighbors giving their consent for the GAF architectural shingles.

Chair Lindsay made a motion to close the public portion of the meeting. The motion was seconded by Member Langdon

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

The Board thoroughly reviewed the application to reverse the BAR's denial of the use of GAF Architectural Shingles. The Board made the following findings:

1. The BZA considered whether granting the requested variance would produce an undesirable change in the neighborhood character and determined that it would not. The BZA noted that nearly all houses on Clubhouse Road, and indeed many houses in the Village, have asphalt tiled roofs. They also concluded that even though asphalt may be considered a "downgrade" as compared to cedar shingles, the proposed replacement shingles appear like cedar shingles and, therefore, will not create a material change to the look and character of the house. Moreover, because the house is perpendicular to the road, the roof is not as visible from the road as other homes in the neighborhood.

2. The BZA considered whether the benefit sought by the Applicant could be achieved by some other method and determined that the Applicant presented credible dollars and cents evidence that a cedar shingle roof would be a financial hardship when compared with the cost of asphalt shingles. Also, the Applicant presented evidence that because of the orientation of the house to the sun, cedar shingles will not weather as well as asphalt.
3. The BZA finds that the variance is substantial but when considered in totality, the impact of the variance will be inconsequential.
4. The BZA finds that the variance, if granted, will not have significant adverse effect on the physical and environmental conditions of the Property. The BZA also noted that, in general, asphalt shingles are more fire resistant than cedar shingles, thus providing a benefit to the neighborhood.
5. The BZA determined that the need for a variance is generally self-created and is so here. However, the BZA also recognized several factors in favor of the Applicant: 1) most of the neighboring houses have asphalt roofs, 2) the subject house had asphalt roofing before being replaced with cedar shingles in 1999, and 3) the decision to install asphalt shingles was made before the BAR guidelines were in place. Finally, the benefit to the Applicant if the variance is granted outweighs any detriment to the neighborhood, which detriment, if any, is *de minimus*.

The Board of Zoning Appeals found and determined that the Applicants sustained their burden of proof as required by New York State Village of Tuxedo Park Zoning Law.

A motion was made by Member Langdon and seconded by Member Christensen for the BZA to reverse the BAR's denial of the use of GAF Architectural Shingles and remands the Applicant to the BAR for a decision consistent with BZA's decision.

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

The roll call was as follows:

Jake Lindsay, Chairman - Yea

Nancy Hays, Member - Yea

Campbell Langdon, Member – Yea

David Christensen, Member - Yea

Charlotte Worthy, Member – Nay

Attorney Terhune stated, the BZA is acting as a court. The BAR will weigh in on the materials and grade of the asphalt shingles.

### **Approval of Minutes**

A motion was made by Chairman Lindsay to approve the November 6, 2024 minutes as read.

The motion was seconded by Member Hays.

For the record, the railings were not approved by the BAR as suggested by Mr. Singh.

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

**Adjournment**

At 8:41 p.m., a motion was made by Chairman Lindsay and seconded by Member Langdon to adjourn the meeting.

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

Respectfully Submitted,

*Desiree Hickey*

Desiree Hickey

Recording Secretary