

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

**September 4, 2024**

**7:00 P.M.**

Present: Chairman John (Jake) Lindsay

Member David Christensen

Member Campbell Langdon

Member John Boyle via Zoom

Member Nancy Hays

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

Others: TPFYI, Tim Chisholm, Sophia Delanner, Robert Gaudio, Claudio Guazzoni De Zanett, John Sarcone, Chiu Yin Hempel, Gardiner Hempel, Christopher Gow, Stefanie Rinza, Matthew Tinari, Bryna Pomp, Martin Pomp, Marc Citrin, Michele Lindsay, Dolores Marchand, Jeff Marchand, Joelle Schreiber, Malina Nealis, Serene Swirbul, Katherine Norris, Barbara Regna, Anne Gwathamey, Chris Cummins, Sherry Bishko, Margaret Cheung, Cheung Kai Chun, Jim Hays, Kurt Mueller, Todd Yannuzzi

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

The public notice was posted on 8-23-2024, 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, NY10987.

**Applicant:**

**Sophia Delanner, 66 Summit Rd., Tuxedo Park, NY 10987, Tax Map Parcel No. 104-1-11.1**

Application of Sophia Delanner, 66 Summit Rd., Tuxedo Park, NY 10987, Tax Map Number 104-1-11.1 in connection with her appeal of the Building Inspectors determination issued on July 3, 2024 that a building permit and Board of Architectural Review is required for no trespassing signs, and security cameras installed at the property, and that no signs are permitted in the Village.

As per the Building Inspector, all 10 surrounding neighbors were notified and 5 neighbors were in receipt.

The Board heard all interested neighbors and/or parties concerned with this application.

The Applicant's **Attorney, Robert Guadoso** of Snyder & Snyder, LLP gave a summary for the necessity for the appeal. Ms. Delanner has been sued by Claudio Guazzoni De Zanett and he has obtained a prescriptive for a portion of her property at the end of East Summit Road and he claims she does not have access to a common driveway. Currently the case is in front of the County Clerk.

In addition, the signs and security cameras are necessary for his client to secure her property from repeated trespassing by her neighbor Claudio Guazzoni De Zanett as well as others who travel down East Summit Road and do not realize where the public roadway ends and his client's property begins. It is important to understand and document who is on her property and the location of her property to avoid trespassing and litigating issues along with ensuring her safety. He noted his client submitted a proper application in support of her appeal under NYS Law. In addition, there is no provision in the Zoning Code related to the "no trespassing" signs installed that would bans signs. There are signs located in the Village of Tuxedo Park, both public and private, and the Village's own property. The signs are her First Amendment right to free speech. Regarding the posts and cameras, the appeal is filed on the grounds that Section 100-54 of the Zoning Code's requirement is limited and is constitutionally vague. The way the Code is currently written, BAR approval is not required.

Attorney Terhune clarified that the Board is not going to pass on whether Section 100-54 is constitutionally vague and will pass on whether the BAR will review approval of the signs. She is agreement that there is no provision written in the Code prohibiting signs or security cameras.

Chairman Lindsay made a motion to open the public hearing. The motion was seconded by Member Christensen.

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

The following individuals addressed the Board with their comments:

John Sarcone – Attorney Sarcone commented on behalf of his client Claudio Guazzoni de Zanett. He noted he was pleased that the variance issue was clarified and indicated that every resident in Tuxedo Park can now post no trespassing signs all over Tuxedo Park. In reference to the lawsuit, the case will be before the courts on Tuesday, September 10, 2024.

Claudio Guazzoni de Zanett – Mr. Guazzoni de Zanett noted the lawsuit was mis-categorized and was for the purpose of keeping the footpath open to the public from East Summit Road to West Summit Road and a prescribed easement should be left for residents continued use. The courts are being used to clarify use of the footpath.

Robert Guadoso – Attorney Guadoso responded that his client put forth an appeal and submitted a proper application. He stated it was not true Mr. Guazzoni de Zanett was suing for an open footpath and that it was for the purpose of a 25' x 50' easement for his trucks. He commented that Mr. Guazzoni de Zanett had put up signs on his property before Ms. Delanner that still exists and confidential settlements are improper and unethical to discuss with this Board since no settlement has been reached..

Katherine Norris – Ms. Norris commented that the walking/bike path has always been open to the public in the past since the 1950's and was surprised to see the no trespassing signs.

Robert Guadoso – Attorney Guadoso commented for the record that Ms. Delanner put the signs up after she was sued by Mr. Guazzoni de Zanett for trying to take a portion of her property.

John Sarcone – Attorney Sarcone stated Mr. Guadioso's statements were misleading and a full transcript was submitted.

After all public statements were completed, a motion was made by Chairman Lindsay and seconded by Member Christensen to close the public hearing.

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

Member Boyle asked for clarification for what was being asked of the Board. Attorney Terhune advised the Board they are voting on whether to uphold the Building Inspector's determination that no signs are allowed. Since there is nothing in the Zoning Law that says signs are prohibited there is nothing to interpret. Secondly, the Board can decide to uphold the Building Inspector's decision for the Applicant to go before the BAR.

Chairman Lindsay made a motion not to uphold the Building Inspectors determination that no signs are allowed based on Section 100-54 because there is no declaration prohibiting signs.

Member Christensen seconded the motion.

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

Member Langdon made a motion to uphold the decision of the Building Inspector for the Applicant to appear before the BAR. The motion was seconded by Member Christensen.

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

**Applicant:**

**The Tuxedo Club, 1 West Lake Road, Tuxedo Park, NY 10987, Tax Map Parcel**

**No. 107-1-3.2**

Application of The Tuxedo Club, 1 West Lake Road, Tuxedo Park, NY 10987, Tax Map

Number 107-1-3.2 seeking relief from the following sections of the Village of Tuxedo Park

Zoning Code:

- a. Village Code §100-21.1(L) Exterior Lighting – No new installation or use of recreational lighting shall be permitted in the Village. For purpose of this section, “recreational lighting” means light fixtures used to illuminate courts, arenas, fields, tracks, and other outdoor recreational areas, and an outdoor “recreational area” means an area designed for active recreation, including but not limited to, baseball, soccer, football, golf, tennis, swimming pools, equestrian and similar recreational activities.
- b. Village Code §100-18(A) Fences – No fence over two feet six inches in height shall hereafter be erected without a Building Permit and the approval of the Board of Architectural Review in accordance with **Article VIII** of this chapter. Any fence erected in the front yard shall not exceed four feet in height. Any fence erected in the rear or side yards shall not exceed six feet in height. No fence shall be located closer than five feet to any roadway nor closer than two feet to any property line. Notwithstanding the foregoing, no fence shall be erected or maintained which will interfere or interferes with the light or air of an adjoining lot or building thereon. Where in this application, the maximum permitted fence height in the rear and side yards is 6’, the pre-existing fence was 10’, and four 13’ high fence sections are being proposed.

As per the Building Inspector, all 28 surrounding neighbors were notified, 22 were in receipt, and 1 returned because of an improper address.

BZA Board Member David Christensen recused himself from participation as a voting member as to avoid conflict of interest in this case as the Governor of the Tuxedo Club and Co-Chair of Raquet Club.

In pursuant of the necessary variances the Tuxedo Club representatives Tim Chisholm/Tuxedo Club Raquet Club Director and resident Club Member Jeffrey Greenbaum presented their case before the BZA. The Tuxedo Club submitted all specs for the fencing to the Board for review. The Padel courts are of standard regulation size. The Tuxedo Club is requesting lighting for the Padel courts to be in use until 8 p.m. during the off-season. Local examples of regulation Padel courts with similar lights are Hudson Yards, Silo Ridge Field Club, and the Philadelphia Cricket Club. Currently the lights are being stored.

The location of the Padel courts is in the center of the Tuxedo Club and surrounded by the tennis courts. The Padel courts are 3,000 sq. ft. less than what was there before it was constructed. The lighting is limited to the court itself and will be on timers to shut off at the designated time. Any alternative would be much more substantial.

The Board addressed the concerns for the lighting and noise factor disrupting the surrounding neighbors and asked how will the sound seal be mitigated. Member Hays pointed out there was no Building Permit in place.

Chairman Lindsay made a motion to open the discussion for public comment. The motion was seconded by Member Boyle.

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

Katherine Norris – Read aloud the Tuxedo Club’s application for a variance and emphasized lights are not allowed at night. She voiced her concern for the values of the homes effected by the noise and lights.

Jeffery Marchand – Mr. Marchand read his letter of opposition to the noise and lights due to the Padel court play at the Tuxedo Club. His home is adjacent to the courts and approximately 200 yards from the courts. In addition, Mr. Marchand presented letters from Neighbors Claudia Holz, William Lamb and Ted Wong stating their opposition to the variance. All letters are documented and are part of the record.

Chris Cummins and Sherry Bishko – Stated quality of life will be diminished and a precedent will be set. Applied for the same variance and was denied in 2017 stating the lighting impacted vision on Tuxedo Road.

Dolores Marchand – Read a letter from Ted Wong, Cindy Booth, and Patricia J. Godley in opposition to the variance. All letters were documented and entered into the record. Mrs. Marchand emphasized how her quality of life has been disrupted due to the activity the Padel court has created and was never notified about the installation of the Padel court.



Kurt Mueller – Mr. Mueller is a student at the Tuxedo Park School and voiced his enjoyment playing at the Padel court with friends after school.

Anne Gwathamey – Mrs. Gwathamey noted Greg Beard's application for court lighting for his personal tennis courts went through a five-year process as he observed the recommendations presented by Board. In addition, she emphasized how the lights will interfere with bird migration and the view shed.

Serene Swirbul – Mrs. Swirbul stated there is no need for lights. Members should have been informed before the project was in place. There was no notification by the Tuxedo Club. She is concerned this will create a precedent.

Jim Hays – Mr. Hays asked why the Tuxedo Club did not apply for the variance before the Padel courts were constructed and mentioned how the courts originally slotted by Mr. Wong's home were moved to the golf course. He suggested that the Padel courts can be moved too.

Bryna Pomp – Mrs. Pomp asked if the letters written in favor of the Padel courts will be read.

Chairman Lindsay responded 46-47 letters were written in total and the majority were in support of the project. Approximately 16 letters were written in opposition with 4 of the letters written by residents directly in sight of the Padel courts. All letters were read by the Board.

Todd Yannuzzi – Mr. Yannuzzi wrote a letter of support for the Padel courts and noted the height of the fence should not be an issue, trees taken out should be replaced and concerns of neighbors should be mitigated.

Mrs. Marchand asked who would monitor the lights. Tim Chisholm addressed the question noting there would be a log-in system that would turn off lights after a certain time. Mrs. Marchand asked why can't the Tuxedo Club relocate the Padel courts to the golf course especially since no one was notified. She did her own research and commented that in many countries many of these Padel courts have been moved because of the same issues of light and noise.

Chairman Lindsay made a motion to close the meeting for the public portion of the Tuxedo Club application. The motion was seconded by Member Langdon.

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

Chairman Lindsay advised the Tuxedo Club there is too much information to assess at this time and they will need to come back to the Board when they are prepared. The Tuxedo Club should contact a lighting consultant to address the issues at hand. Replanting the trees will benefit as a barrier. Village engineers will need to assess lighting for compliance. Mr. Chisholm is investigating decals for the glass through the Audubon Society.

Member Langdon suggested addressing the fencing first since there is additional information that needs to be assessed for the exterior lighting.

Attorney Terhune advised both variances should be addressed at the same time.

### **Approval of Minutes**

A motion was made by Chairman Lindsay to approve the February 7, 2024 minutes as read. The motion was seconded by Member Christensen.

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

A motion was made by Chairman Lindsay to approve the April 3, 2024 minutes as read. The motion was seconded by member Christensen.

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

Member Hays abstained due to her absence at the meeting.

### **Adjournment**

At 8:39 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*

Desiree Hickey

Recording Secretary

