

VILLAGE OF TUXEDO PARK
BOARD OF ZONING APPEALS

September 3, 2025

7:00 P.M.

Present: Chairman John (Jake) Lindsay

Member David Christensen

Member Nancy Hays

Member Campbell Langdon

Member Charlotte Worthy

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

Desiree Hickey, Recording Secretary

Others: TPFYI, Mr. and Mrs. Tamer El-Rayess, David Higgins, Jonathan DeJoy, Jim Hays,

Michele Lindsay,

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

The public notice was posted on August 25, 2025, in the Times Herald Record/recordonline.com.

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

Applicant:

Tamer El-Rayess – 50 Crows Nest Rd., Tuxedo Pk., NY 10987, Tax Map Parcel-No. 105-1-8, Variance requests for patio coverage and driveway slope.

Notice of public viewing as read by Chair Lindsay:

Notice was hereby given that the Board of Zoning Appeals of the Village of Tuxedo Park will hold a Public Hearing on September 3, 2025 at 7:00 p.m. at Village Hall located at Lorillard Road, Tuxedo Park, NY 10987 to consider modifications to the original application.

1. Application submitted by Tamer El-Rayess, Crows Nest Road, Tuxedo Park, NY 10987, Tax Map Number 105-1-8, continuation of the Public Hearing held on May 7, 2025 seeking relief from the following sections of the Village Code:
 - a. Village Code § 100-9 (B) Permitted yard intrusions, where the deck area cannot exceed 25% of enclosed ground floor area of the house. The revised plan shows that the square footage of the deck exceeds the 25% limit by 1,345 square feet or 80.1%.
 - b. Village Code §100-21 Driveways, where the slope is limited to a maximum spot grade of 10%. The revised plans submitted show a slope of 18% where the prior plans show a slope of 36%.

The Zoom video can be obtained on the Village of Tuxedo Park website at tuxedopark-ny.gov or by emailing John Ledwith at jledwith@tuxedopark-ny.gov.

Proof of mailings notifying surrounding neighbors were previously provided prior to the 5/7/2025 BZA meeting. There was no opposition.

The September 3, 2025 BZA meeting was a continuation of the May 7, 2025 Public Hearing.

The Applicant withdrew their interpretation request of the driveway that the gravel access path from the home's main driveway to the storage building was not a driveway. The Applicant is now only seeking a variance. The Board has noted that the variance the Applicant is seeking already exceeds the allowed square footage permitted under § 100-9(B). By finishing the roof of the storage building as a deck, the Applicant exceeded the maximum 25% area by 8,849 square feet increasing the nonconformity. The Applicant proposed the addition of a green roof on top of the structure with a stone boarder for storm water management. The covered structure will not be attached to the house at ground level.

The driveway will be kept in the same place. The regrading of the driveway is going to be 12' wide with permeable gravel material. The driveway is only for maintenance equipment and not for fulltime access. It was advised, the driveway should be roped off to include signage indicating only for construction vehicles and walkway and not for passenger vehicles. The main entrance driveway will remain on Crows Nest Road to the home.

The Board noted that there is an existing driveway providing access to and from Crows Nest Road to the home, to which Tuxedo Park Code §100-21 applies. In contrast, the proposed access is internal to the property from the area of the existing driveway to the storage facility and not from Crows Nest Road to the home.

Since the existing driveway provides access to and from Crows Nest Road to the home and the proposed access is internal to the property from the area from the existing driveway to the storage facility, the Board concluded because of the significant differences between internal access and the proposed access in conjunction with the applicable regulations to a driveway, the Building and Land Use Officer's determination should be reversed. The applicant did agree to reduce the grade of the access from 36% to 18% and place removable bollards at the entrance of the access point to restrict the use and safeguard safety.

A motion was made by Member Christensen and seconded by Member Langdon to adopt the interpretation by the Board as noted.

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

Chair Lindsay – Yea

Member Christensen – Yea

Member Hays- Yea

Member Langdon - Yea

Member Worthy - Yea

The Applicant's request for a variance was revised. The deck area cannot exceed 25% of the enclosed ground floor area of the house. The initial proposal included the entire roof of the storage facility, which exceeding the required 25% limit by 8,849square feet. The revised proposal converts half of the roof area from a deck to a green space. After discussions with the Board, the Applicant agreed to convert all but 621 square feet of the deck to a green roof reducing the variance to 6.5%.

During further discussions, the Board voiced their disapproval of the Applicant's decision to add a deck area during 2024 that exceeded the permitted area without the necessary approvals and disregard of zoning compliance. Although the Applicant's actions are considered unlawful and irresponsible to their neighbors as a resident of an historic Village, the Board considered the Applicant's hardship when a retaining wall collapsed during a storm and the continual maintenance required for the property.

The storage building was constructed to house equipment, construction vehicles, and materials, protecting them from the elements and out of view from the road and neighbors. The Board took this into consideration when evaluating granting an area variance.

The Board of Zoning Appeals' Findings were reviewed. The Board evaluated the five points in granting an area variance.

The Board of Zoning Appeals made the following findings:

1. The BZA considered whether granting the requested variance will produce an undesirable change in the neighborhood character and determined that it will not.

As noted, the addition of the storage structure removed building materials and equipment from view, a definite improvement to the property, the neighbors, and the community.

The Board also notes that the building is consistent with the architecture of the house and, in any event, will not be visible from the road. Finally, by converting much of the roof to a "green roof," it will no longer be a "deck" for the purpose of compliance with §100-9B.

The "deck" will become landscaping.

2. The BZA considered whether the benefit sought by the Applicant can be achieved by some other method and determined that the question, in this instance is moot. The storage building has been constructed. However, the Board finds that, whether a different solution could have been found. The building certainly achieves a beneficial result for the Applicant and the neighborhood, since materials hitherto stored outside in full view will now be located inside a closed building.
3. The BZA finds that the original variance requested was substantial, but by reducing the deck area the variance became less substantial, at least as calculated over the existing nonconforming condition of the property. Nevertheless, the Board retains its admonition to the property owners in the Village of Tuxedo Park who undertook construction without seeking the proper approvals first.
4. Th BZA finds that the variance, if granted, will not have a significant adverse effect on the physical and environmental conditions of the property, especially where the storage building also acts as a necessary retaining wall.
5. The BZA determined that the need for a variance is generally self-created, and this is especially applicable to this application to the extent that the Applicant proceeded without seeking the necessary approvals or variances. Although the Board understands the need to rebuild a retaining wall, it finds no excuse for not following the proper procedure to construct the building.

After weighing the benefit to the Applicant of granting the variance against the detriment to the neighborhood and community, the Board balances the equities in favor of the Applicant.

A motion was made by Member Christensen and seconded by Member Langdon to grant a variance from §100-9B, permitted yard intrusion; decks and terraces, in the form of an area variance to permit an additional 621 square feet of deck/terrace to be added to the property.

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

Chair Lindsay – Yea

Member Christensen – Yea

Member Hays – Yea

Member Langdon - Yea

Member – Worthy - Yea

Approval of Minutes

The minutes for July 2, 2025 are still open for review.

Adjournment

At 8:22 p.m., a motion was made by Chairman Lindsay and seconded by Member Worthy 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