

VILLAGE OF TUXEDO PARK
BOARD OF ZONING APPEALS

November 6, 2024

7:00 P.M.

Present: Chairman John (Jake) Lindsay

Member Nancy Hays

Member Campbell Langdon

Member Charolette Worthy

Absent: David Christensen

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

Others: Dhruv Singh, TPFYI, Jim Hays, Jake Matthews

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

The public notice was posted on 10-22-2024, in the Times Herald Record/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.

Five neighbor notices were sent and one neighbor signed for proof of notification (Kathy Norris).

All neighbors and/or parties will be heard.

Applicant:

Dhruv Singh and Elizabeth Wilkes, 37 Fox Hill Rd., Tuxedo Park, NY 10987, Tax Map

Parcel No. 108-1-10.2:

Seeking relief from the Village of Tuxedo Park Zoning Code § 100-9(B2) where the maximum permitted deck, porches, verandas, terrace, and other above-grade exterior space shall be limited in size to 25% of the enclosed ground floor area, and 46.4% is proposed to construct a deck addition that exceeds the total deck area limit of 25% of the enclosed ground floor area of the associated building.

Village Code §100-9 (B2) where decks, porches, patios, verandas, terraces and other above-grade exterior space shall:

[Added 12-21-1990 by L.L. No. 1-1990]

1. Require architectural review and a Building Permit.
2. Be limited in size to 25% of the enclosed ground floor area of the associated building.
3. Be painted, stained, or constructed of materials to harmonize with the main structure.
4. Be provided with appropriate stairs, rails and to prevent unnecessary hazards.
5. Be maintained in an attractive, safe, and structurally sound condition.

Mr. Singh presented his proposed application to the BAR and was directed to the BZA for the necessary variances. All plans were prepared by Richard Vail, Architect, PLLC. Mr. Singh reviewed the historical nature of the property with the Board. The applicant applied for a building permit to construct a 594 sq. ft. addition to the existing deck, the proposed deck addition does not comply with the Village of Tuxedo Park Zoning Code. The pre-existing non-conforming deck is 1,652.8 sq. ft. The deck exceeds the §100-9B(2) restriction by 441.8 sq. ft. The variance would be for a 46.4% increase in the non-conforming deck with a total deck area of 2,246.8 sq. ft.

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

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

There were no in-person comments by the public. Neighbor Kathy Norris sent a note of approval prior to the meeting.

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 4 – 0, in favor of the motion.

The Board reviewed whether to grant an area variance. The Board made the following findings:

1. The Board considered whether granting the requested variance would produce an undesirable change in the neighborhood character and determined that it would not. The Board noted that the deck is in a low area and would not be seen from the road.
2. The Board considered whether the benefit sought by the applicants could be achieved by some other method and determined that the old deck could be removed and a new deck constructed that would comply with § 100-9B(2) and accomplish the goal of connecting the deck to the kitchen area of the house (which the existing deck does not). However, the Board also concluded that the Applicants' desire to retain the old deck is not unreasonable as it currently is a part of the house and credited the Applicants' view that if the old deck were removed it would render the house unsightly.
3. The Board finds that the variance is substantial when the entire deck is considered, as it must be. But the Board also acknowledged that the existing deck is preexisting nonconforming and, thus may be considered "grandfathered" to some extent. Moreover, the Board has granted similar variances for outside "living" areas.
4. The Board finds that the variance, if granted, will not have a significant adverse effect on the physical and environmental conditions of the property.
5. The Board noted that although the need for a variance is generally self-created, and is so here, the benefit to the Applicants 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 Chair Lindsay and seconded by Member Langdon to approve a variance from §100-9B(2) of the Zoning Code to the property located at 47 Fox Hill Road, identified on the tax map as SBL 108-1-10.2, for the purpose of constructing a 594 square-foot addition to an existing deck for a total area of 2,246.8 square feet.

The Board's approval is conditioned on the following:

1. The Applicants' architect must either confirm the scale and measurement shown on the plan drawings or revise said plans. This Decision shall not be signed by the Chairman until plan measurements are confirmed or revised and resubmitted to the satisfaction of the Chairman.
2. The Chairman shall determine whether any additional dimensions should be added to the plans prior to his signature.
3. Deck railing must be code compliant.
4. The concrete under the existing deck shall be removed.

The vote of the Board was 3 – 1, in favor of the motion.

The roll call was as follows:

Jake Lindsay, Chairman - Yea

Nancy Hays, Member - Yea

Campbell Langdon, Member - Yea

Charlotte Worthy, Member - Nay

Approval of Minutes

A motion was made by Chairman Lindsay to approve the September 4, 2024 minutes as read.

The motion was seconded by Member Langdon.

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

Adjournment

At 7:36 p.m., a motion was made by Chairman Lindsay and seconded by Member Langdon to adjourn the meeting.

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

Respectfully Submitted,

Desiree Hickey

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Recording Secretary