

**TOWN OF TUXEDO
ZONING BOARD OF APPEALS MINUTES
PUBLIC HEARING & REGULAR MEETING
January 26, 2010**

The Public Hearing was opened at 7:03 p.m. on Tuesday, January 26, 2010 in the Community Room in the Tuxedo Town Hall.

BOARD MEMBERS PRESENT:	Frank Peverly, Chairman Andrew Rogers George Langberg Brian Sullivan
OTHERS PRESENT:	Lisa Felicissimo, ZBA Attorney Deborah Villanueva, Recording Secretary Scott Lesko John O'Rourke, Lanc and Tully

1.0 APPROVAL OF THE MINUTES

Mr. Peverly asked if there were any comments or corrections to the minutes of July 21, 2009 and there were none.

Mr. Peverly made a motion to approve the minutes of July 21, 2009 and Mr. Rogers seconded the motion. All were in favor and the motion carried.

Augusta Properties – 194-210 Route 17 / Section 12 Block 4 Lots 2 and 3; File #Z7506-001
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Mr. Peverly moved to open the Public Hearing and proceeded to read the Public Notice for the record.

Mr. Peverly acknowledged receipt of the certified mailed receipts noting that 12 of the 14 were returned. He also pointed out that all other paperwork appeared to be in order.

Mr. Peverly proceeded to explain to the Applicant that the Board was down to four members and should have the fifth member hired by next month. He stated that the

Applicant had the option to wait until the next meeting to have a full board, if he so chooses. Mr. Lesko noted that they would like to proceed.

Mr. Lesko explained that the property in question had been owned by his family since 1968. He added that he is an active member of the Chamber of Commerce and was the President for 3 years pointing out that he does have a vested interest in the community.

Mr. Lesko continued by explaining that the diner was in need of improvements and briefly described the new plan which would include a slightly larger building that would be relocated to the southern end of the property. He stated that although the restaurant seating would remain the same, the bathroom would be larger to allow for handicap access and there would be access to the basement from inside the building.

Mr. Lesko further explained that the large building on the property would have renovations to create retail and office space and added that the real estate building would remain as is. He noted that the area between the real estate building and the new diner would be reserved for parking.

At this time Mr. Peverly asked if there were any questions or comments from the public and there were none.

Mr. Peverly stated that the board was in receipt of a letter from John Modder, a resident located at 10 Spartan Place, that was not able to attend the meeting. He proceeded to read the questions asked by Mr. Modder and Mr. Lesko addressed the questions and noted that he had no plans for a flea market. Mr. Rogers asked if he would specifically stipulate that there would not be a flea market and Mr. Lesko stated that he would.

Mr. Lesko further explained his plans for the larger building stating that it would look like a shop front from the outside but would not have any additional entrances. He stated that access to the inside business would be through a shared corridor.

Mr. Lesko stated that he spoke with the neighbors and the Ambulance Corps and are attempting to accommodate them as much as possible including allowing the Ambulance Corps to tie into their sewer line.

Mr. Rogers asked what his intentions were for the upper portion of the building and Mr. Lesko responded that it is a loft space and would probably remain as office space.

Mr. Peverly noted that they are requesting a 0' front yard variance and questioned why he couldn't push the building back slightly. Mr. Lesko explained that they are reserving the back area for deliveries and a dumpster.

Mr. Peverly referred to the number of required parking spaces stating that he did not agree with the number of 86 spaces. He added that he believed the number to be much higher and pointed out that they are requesting a variance to allow for only 67 spaces.

At this time there was a discussion on the parking in the rear of the large building and it was noted that those spaces were owned by the railroad and could not be counted in the total number of parking spaces. Mr. Lesko pointed out that the Planning Board was aware of the situation and told them to go to the ZBA with this plan.

Mrs. Felicissimo stated that the Planning Board Engineer and the Town Planner should have worked up the calculations and noted that the ZBA should request a technical memorandum from them with the breakdown for how they came up with the numbers. Mr. Peverly asked that Mrs. Felicissimo contact the Town Planner for the details and Mrs. Felicissimo agreed.

Mrs. Felicissimo stated that perhaps he should go back to the Planning Board and TAC to further work on the parking issue and Mr. Lesko pointed out that he is concerned about the time and money it is taking to go back and forth to the Planning Board, TAC and ZBA.

Mr. Peverly stated that he would not be comfortable with making a ruling unless the site plan was redrawn with accurate parking depicted and development within the property lines.

Mr. O'Rourke stated that he would revise the plan as requested.

Mr. Peverly made a motion to continue the Public Hearing until February 23, 2010 until they receive clarification from the Planning Board. Mr. Langberg seconded the motion and it was approved by a unanimous vote.

Mrs. Felicissimo pointed out that although the Planning Board sent the application for 239 review the Zoning Board should send it as well noting that they have already received it from the Planning Board.

2.0 Other Business

Mr. Peverly made a motion to set the dates for the 2010 meeting for the fourth Tuesday of each month. Mr. Langberg seconded the motion and it was approved by a unanimous vote.

3. ADJOURNMENT

There being no further business, Mr. Peverly moved to adjourn.