



**TOWN OF TUXEDO
ZONING BOARD OF APPEALS MINUTES
REGULAR MEETING & PUBLIC HEARING
October 24, 2023**

BOARD MEMBERS PRESENT: Frank Peverly, Chairman
Russ Shaver
Marc Citrin
Chris Dollbaum
Sharon Radulov

OTHERS PRESENT: Kelly Naughton, Zoning Board Attorney
Deborah Villanueva, Zoning Board Secretary
Mark Furmanek, Resident - 155 Fawn Hill Road
Andrew P. Glant
Kenneth Kantor, Resident – 146 Fawn Hill Road
David Niemojko, Architect
Michael & Lynn Forte, Applicant 151 Fawn Hill Road
William Stalnaker, 151 Fawn Hill Road
Darren Doce, Engineer for 151 Fawn Hill Road
Andy Apostolidies, Resident – 140 Fawn Hill Road

1.0 Call to Order

Chairman Peverly called the meeting to order at 7:00 PM on Tuesday, October 24, 2023.

2.0 Approval of the Minutes

Chairman Peverly asked if there were any comments to the July 25, 2023 meeting minutes and there were none.

Chairman Peverly made a motion to approve the minutes of July 25, 2023 as written and Board Member Citrin seconded the motion. All were in favor and the motion carried.
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**3.0 Michael & Lynn Forte – 151 Fawn Hill Road – Area Variances,
Proposed Addition
Section 204 Block 3 Lot 14**

Chairman Peverly opened the Public Hearing and proceeded to read the public notice for the record. He confirmed that the file was in order and the certified mail receipts were presented for the file.

Engineer Doce explained that the Applicant is proposing to build a new single family house. He described the proposed house and noted that they are hoping to move the home slightly forward of the required 50' in order to minimize rock excavation.

Chairman Peverly explained that they will also require a variance from the minimum side yard and minimum both side yards requirement and noted that most of the homes in this subdivision are nonconforming. He reviewed the process for conducting the hearing and pointed out that the Zoning Board is only able to handle certain aspects where other things, like drainage, would be more in the purview of the Planning Board.

Board Member Citrin requested to see the elevation drawings, which were presented.

Board Member Dollbaum asked if there would be a dormer off of the front door and it was noted that there would be.

Board Member Radulov questioned the garage and Engineer Doce stated that it would be side loaded. She further questioned whether or not they considered going up in order to be able to minimize the variance and Mrs. Forte explained that they were downsizing and did not want two levels.

Chairman Peverly asked if there were any questions or comments from the public and Mr. Kantor indicated that their primary concern was the height of the home which does not appear to be an issue since it is a single story home.

Mr. Glant questioned if it would affect the gas line and Chairman Peverly explained that the gas line is in the road and the new service tap would go directly to their house with no affect on the neighboring line.

Mr. Furmanek asked if they would be doing any grading and Mr. Stalnaker indicated that they would be and that he would be doing the work which would include a boulder wall. He further questioned the approximate number of trees to be removed and Mrs. Forte indicated that there were 27 large trees slated for removal.

Mr. Apostolides stated that he is concerned about the drainage as water comes from Fawn Hill and High Hill. He stated that often people move in and then cut down trees and he is concerned. Chairman Peverly questioned how much of the lot would be cleared and Engineer Doce indicated approximately 1/3 of the trees would be removed but that they are not planning on clearcutting, just removing trees in the area of the proposed construction.

Chairman Peverly noted for the record that the Board was in receipt of a letter from Mr. Dyne who expressed a similar regarding the drainage and runoff.

There being no further comments from the public Chairman Peverly moved to close the public hearing at 7:25pm. Board Member Dollbaum seconded the motion and it was approved by a unanimous vote.

Chairman Peverly proceeded to review the requested variances. He noted that a short form was received and that no further environmental review is necessary and that there was no trigger for a referral to the county.

Chairman Peverly proceeded to review the the five factors that the Board must consider when granting an area variance as follows:

1 - Whether an undesirable change will be produced in the character of the neighborhood or whether a detriment will be created to nearby properties by granting the area variance; The Board agreed it will not.

2 - Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; The Board agreed it could not.

3 - Whether the requested area variance is substantial; The Board agreed that it was.

4 - Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; The Board agreed it would not.

5 - Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance. The Board agreed that it was.

Chairman Peverly made a motion to grant the area variances as outlined in Attorney Naughton's memo dated October 17, 2023. Board Member Dollbaum seconded the motion and it was approved by a unanimous vote.

4.0 Christopher Mitchell – 9 Mountain Rd. – Area Variances – Proposed Addition Section 13 Block 3 Lot 10

Chairman Peverly asked if all receipts were received and it was noted that they have not been. He pointed out that the Board could review the application but would be unable to take any action until such time as they were received.

Chairman Peverly proceeded to read the public notice for the record.

Chairman Peverly motioned to open the public hearing 7:27pm. Board Member Citrin seconded the motion and it was approved by a unanimous vote.

Architect Niemotko was present representing the applicant. He explained that they are proposing an 800 sq. ft. family room addition to the upper left corner of the existing bi-level home. He stated that the location of the proposed addition is due to a very large boulder on the property as well as to provide the desired access to other areas of the home. It was noted that six variances are needed including those from preexisting nonconformities.

Board Member Dollbaum stated that he is familiar with the property and agreed that there is a lot of rock and ledge and would be substantial to excavate.

Board Member Shaver indicated that he visited the site and spoke with the homeowner as well as a neighbor who has no objections to the addition.

Chairman Peverly reviewed the requested variances and indicated that this was a Type II action under SEQRA. He proceeded to address the five factors that the Board must consider when granting an area variance as follows:

1 - Whether an undesirable change will be produced in the character of the neighborhood or whether a detriment will be created to nearby properties by granting the area variance; The Board agreed it will not.

2 - Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; The Board agreed it could not.

3 - Whether the requested area variance is substantial; The Board agreed that it was.

4 - Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; The Board agreed it would not.

5 - Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance. The Board agreed that it was.

At this time it was noted that the Public Hearing would remain open until adequate proof of mailing was presented.

5.0 Other Business

Chairman Peverly reminded the Board of the four hour minimum training requirement they were required to fulfill each year and it was noted that additional training opportunities would be forwarded to them for their consideration.

Chairman Peverly acknowledged receipt of, and accepted, Board Member Citrin's resignation letter. He proceeded to thank him for his service on the Board and wish him well as the new Mayor of the Village of Tuxedo Park.

6.0 Adjournment

Chairman Peverly motioned to adjourn the meeting at 7:50 pm. and Board Member Citrin seconded the motion. All were in favor and the motion carried.