

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON WEDNESDAY, JANUARY 7, 2009 AT 7:00 P.M. IN THE COURTROOM AT 169 MT. PLEASANT AVENUE, MAMARONECK, NEW YORK.

These are intended to be "Action Minutes" which primarily record the actions voted on by the Zoning Board at the meeting held January 7, 2009. The full public record of this meeting is the audio/video recording made of this meeting and kept in the Zoning Board's Records.

**PRESENT:**

Chairman Neuringer, Chairman  
George Mgrditchian, Secretary  
Gregory Sullivan  
Robin Kramer  
Barry A. Weprin  
Steven Silverberg, Counsel to Board  
John Winter, Director of Buildings  
Robert Melillo

RECEIVED  
CLERK'S OFFICE  
2009 APR -6 AM 8:59  
VILLAGE OF MAMARONECK  
NEW YORK

Lisa Casey, Court Reporter, was present at the meeting to take the stenographic minutes, which will not be transcribed unless specifically requested.

**CALL TO ORDER**

The meeting was called to Order by Chairman Neuringer at 7:05 P.M. and he indicated that it was the first meeting of 2009 and he wished every one a "Happy New Year".

Chairman Neuringer indicated that the next ZBA meeting will be held on Thursday evening February 5, 2009.

Chairman Neuringer asked that all present take note of the exist doors in case of emergency.

Chairman Neuringer advised that any one who wishes to submit any materials for consideration at a ZBA meeting is encouraged to do so by submitting the materials to the Zoning Board office but not later than the Monday prior to the ZBA meeting.

Chairman Neuringer indicated that in regard to item B.3, the Lucas application, there were recent court decisions that may have a bearing upon the application and the Board adjourned into executive session to discuss this litigation with counsel.

Gregory Sullivan made a motion to go into a closed session, seconded by George Mgrditchian.

The Zoning Board went behind closed doors with counsel at 7:20 P.M.  
The Board returned from executive session at 8:00 P.M.

Chairman Neuringer indicated that they will continue the discussion noted on the agenda as item A.1, the LUCAS appeal. Robin Kramer had a question for counsel to the board as to the time frame when an appeal starts to run.. Steven Silverberg stated that if you go to the applicable

Village Law, the appeal shall be taken within sixty (60) days after the filing of any order of an administrative official. Robin Kramer questioned what constitutes a filing. Steven Silverberg stated it depends upon what the building inspector does to file a determination and asked John Winter to explain. John Winter said each determination of the building department is filed in the applicable file in the department. There is no other filing which takes place.

Robin Kramer stated that on May 23<sup>rd</sup>, the applicant became aware through papers filed in Court that this determination of the building department had been made and the appeal was filed on July 28<sup>th</sup>.

Gregory Sullivan made a motion indicating that the Board should not hear the appeal as it was not timely filed. George Mgrditchian seconded the motion.

Ayes: Kramer, Sullivan, Mgrditchian, Weprin  
Nays: Neuringer

**1. Adjourned Application #21SP-2008, TUCKER CHASE, 143 Mamaroneck Ave.(Section 9, Block 51, Lot 7A) for a special permit to operate a sit down and carry out restaurant. (C-2 District)**

Tucker Chase appeared on behalf of the owner and stated that he had made modifications to the drawing submitted last month, and indicated that John Winter was kind enough to show some plans that had been approved relating to 421 Mamaroneck. He reviewed them even though there were some differences regarding the exhaust fan. He then addressed the three main issues- the dumpster, air duct and exhaust fan. He said that the dumpster was new, that he would post the make-up air duct on a concrete bed, and that the exhaust fan was an existing unit. Tucker Chase referred to the revised plan and addressed the issue of proposing to add a fire escape extension to provide access to the unit for servicing. The exhaust fan would be approximately 75 feet away from the Regatta, and would not have any effect on the condo units.

Clark Neuringer asked whether he would propose a barrier on the roof. Mr. Chase said that he added a fire extension just for access to equipment on the roof and that it would not be for egress purposes. Clark Neuringer asked if there was going to be a gate at the top. Mr. Chase said that he would have to review it with the Fire Marshal.

George Mgrditchian indicated that there should not be access by any of the tenants or the public to get to the roof. The purpose of the fire escape is to go down and not up to access the equipment but the lower portion, just above the third floor should be padlocked.

Clark Neuringer then referred to the photographs in which there appeared to be a window next to the exhaust fan and whether it is a residential window as he was concerned about noise and exhaust fumes. Robin Kramer asked whether it is a legally required window. Tucker Chase said that if it is serviced properly it should not cause audible noise in the building or in adjacent buildings.

George Mgrditchian addressed Tucker Chase and recommended that he follow the same standards with modification of a gate and that the gate be padlocked. Gregory Sullivan indicated that this was a C-2 zone. Chairman Neuringer stated that being it is a special permit we can suggest a certain period of time for removal and if we have complaints it can be addressed at that time.

A motion was made by George Mgrditchian to close the public hearing, seconded by Robin Kramer.

Ayes: Neuringer, Kramer, Sullivan, Mgrditchian, Weprin

Nays: None

2. **Adjourned Application #2S-2008, DCH TOYOTA CITY SERVICE CENTER, 700 Waverly Avenue, (Section 8, Block 12, Lot 1A) for a variance of §286-12 to permit a directional sign in excess of 2 square feet (9.6 square feet is proposed) a variance of §286-10 to permit three façade signs which exceed the maximum height (30 inches is the maximum height allowed), and the applicant proposes three (3) separate signs: (1) 3 feet 5 13/16 inches, (2) 3 feet 6 inches and (3) 7 feet 5 13/16 inches); a variance of §286-12 (B)(1) to increase the number of facade signs from 1 (permitted) to 2; a variance of 286-12(B)(3) to permit an accessory façade sign that is more than 50% less than the area (50% less is permitted); and a variance of §286-11(B)(3) to permit a 90 square foot free standing sign (16 square feet is permitted). (M-1 District)**

Paul Noto, Esq., counsel for DCH Toyota, addressed each of the signs that are being placed on the premises. He introduced Garth Rosenberg (the dealer I.D. manager for Toyota) and Jim Weingarten (head of the Toyota team). He indicated that there are 240 square feet of signs, lead-free and energy efficient.

The first sign is the directional sign 9.6 feet (8.5 according to Garth Rosenberg); the building is set back 175 feet from the road and (a) it is a service center, and (b) you can see sign from Waverly Avenue.

Clark Neuringer addressed whether the operation is going to be that customers are going to come directly to the service center for service. Jim Weingarten stated that customers will bring cars into the building when they see the sign.

Clark Neuringer questioned whether people are going to order stuff as he sees that there may be a retail component, and stated that the entire design is more than just a service center.

The second sign is a mark and logo sign, smaller in size and it is at the end of a dead end. Garth Rosenberg indicated that the sign is so customers can identify it as a franchise of Toyota for warranty purposes.

The third sign was found to be complying by the building inspector.

The fourth sign is a landmark sign requested by the Planning Board on the back of the building.

The fifth sign was requested by the Planning Board as well.

The sixth sign, a pylon sign, is being placed so it is visible by people traveling on the roadway and it is more attractive than a pole sign. Robin Kramer questioned whether the signs are shown on the plan. Clark Neuringer identified them for her and suggested that the pictures of the signs be part of the record.

Jim Weingarten made reference to signs from the exhibits presented. Robin Kramer asked whether they are flashing signs, and he indicated that they are not illuminated 24 hours.

Clark Neuringer asked if anyone in the audience had any comments and there were none, and asked if there are any comments from the Board. Clark Neuringer indicated that he is in favor of signs and that they are tastefully done and the pylon pole is 15 feet tall for visibility. Barry Weprin commented that the sign variance was appropriate.

A motion was made by Gregory Sullivan to close, seconded by Barry Weprin.

Ayes: Neuringer, Kramer, Sullivan, Mgrditchian, Weprin

Nays: None

**3. Adjourned Application #2I-2008, NORA LUCAS, an appeal of the issuance of the Certificate of Occupancy, dated July 28, 2008 to Benmar Properties LLC, 609 Brook Street. (R-5 District)**

Clark Neuringer indicated that members of the Board received two appellate decisions and there are issues raised that may have implications on the Village of Mamaroneck. The Board does not yet know all of the implications. He stated that it is the intention of the Board to open a public hearing on this matter but not to render a decision to allow for additional review of the decisions and their implications.

Nora Lucas approached the podium on behalf of the applicants and requested that the matter be adjourned pending a determination on related issues.

Steve Silverberg explained that a request to adjourn means that the Board is just making a determination to adjourn and not addressing any merits of the application. Clark Neuringer requested comments from the public.

Steve Silverberg stated the Village Attorney was looking into the SEQRA issue addressed in the recent decision of the court in order to determine the appropriate Board in the Village to consider the SEQRA.

Benedict Salanitro, a representative of Benmar, indicated he had no objection to an adjournment but asked if he could address the Village Attorney regarding the SEQRA issue. Steve Silverberg

advised that he should write the Village attorney soon as she would be providing her advice to the Village shortly.

Nora Lucas requested an adjournment until after Justice Cohen makes his decision which would not be until the middle of April. George Mgrditchian made a suggestion that the matter be left open until further notice. Steve Silverberg further suggested that if the matter is adjourned without a date that Nora Lucas would have to advise the Board in writing of when she would like the matter restored to the calendar and then notices would have to be sent again because there is no fixed date for the adjournment.

Nora Lucas asked that to avoid having to re-notice the matter that it be adjourned until May, 2009.

A motion was made by Barry Weprin to adjourn to the May, 2009 meeting of the ZBA, seconded by Robin Kramer.

Ayes: Neuringer, Kramer, Sullivan, Mgrditchian, Weprin  
Nays: None.

**4. Application #2A-2009, MICHAEL DUGAN, 1508 Raleigh Road, (Section 8,, Block 1A, Lot 24) for a variance of §342-27 and §342-65 to build an addition and a non-conforming roof deck with an insufficient rear yard (24 feet proposed, 25 required) (R-5 District).**

Paul Noto, Esq. appeared on behalf of the applicant and indicated that a similar application was made in the fall of this year in which the ZBA objected to the expansion on the second floor. He presented to the Board a diagram in regard to the dimensions. Clark Neuringer questioned whether it is similar to the last one but not identical. Michael Boettcher, Architect on behalf of the applicant, made reference to the roof line in regard to the setback.

Robin Kramer then asked about the purpose of the variance. Paul Noto provided photographs of the house to each of the Board members and stated that he believes the application has merit. Clark Neuringer then commented that the drawing does not show how the attic is to be designed and for what purpose, and questioned whether it is going to be done in a series of trusses and whether the attic is going to be used for storage. The Architect indicated that the attic is not for storage.

Gregory Sullivan did not see a problem with the request for the variance.

Barry Weprin stated that he was not here for the prior application and that it is a non-conforming two-family in a one-family zone. You need a variance for 12 inches over on the yard.

George Mgrditchian stated that 12 inches on a corner, on the extension, would be a hardship to clip that corner. He stated that he also was not in favor of the first application but he is in favor of this application.

Clark Neuringer asked the audience if anyone wants to comment.

A motion was made by George Mgrditchian, seconded by Barry Weprin to close the public hearing.

Ayes: Neuringer, Kramer, Sullivan, Mgrditchian, Weprin

Nays: None

5. **Application #5A-2009, CARLOS TAPIA, 611 First Street (Section 4, Block 9, Lot 3) for a variance of §342-27, §342-14 and §342-65 to build a new garage and office with an insufficient rear yard setback (1.65 feet proposed, 6 feet required) and non-conforming building projections (13" proposed, 5 feet required). (R-2F District)**

Vittorio Ciraco, Architect, appeared on behalf of the applicant. He indicated to the ZBA members that the applicant wished to enlarge the garage to permit a 2 car garage and an office on the second floor. The office is to be used by the applicant when he is working at home for his business. He indicated the setback was mandated by the fact that they were using a part of the existing structure.

Barry Weprin asked about the nature of the business. The Architect responded that he was in the trucking business which has a location elsewhere.

The Architect referred to the third page of the photographs that was submitted with the application in regard to the house and stated that the rear yard setback he was now proposing 3.14 and 6 feet required or he can propose 2.41 feet in a 5 feet yard. Clark Neuringer indicated that the variance required a rear yard setback of 6 feet. George Mgrditchian questioned whether he was proposing 3.41 feet from rear and indicated that the existing structure on the side has 1.65 feet less when you consider the overhang.

Clark Neuringer indicated that the existing lot was non-conforming. John Winter indicated that he assumed that Clark was correct.

Clerk Neuringer indicated that he was showing the exact footprint of the rear wall and side wall of existing garage. George Mgrditchian stated that there was inconsistency in the drawings about the new foundation and questioned why the existing setback had to be used when a new foundation had to be poured and the two walls could easily be removed. The Architect stated that the plan was submitted quickly to get into the Zoning Board meeting for January 2009 and that he would redo the drawings.

George Mgrditchian suggested that he take into consideration the shifting of the building to the left and forward.

Judith Radcliff, a neighbor, who lives at 615 First Street, appeared in favor of the application and stated that she has to be able to have a second floor because of the flooding.

Clark Neuringer asked if there were any other comments or concerns by members of the Board. Robin Kramer asked what the driveway location was going to look like. The Architect responded that he was going to save as much grass as possible.

George Mgrditchian questioned what other facilities would be upstairs, and would there be a need for plumbing or a gas line. He stated that he was not in favor of increasing the degree of nonconformity and was concerned about future precedents that may be set.

The architect indicated there would only be electricity for the office, no gas or water.

Clark Neuringer stated to the Architect that there is an issue of scale. Robin Kramer indicated that it really would not be an existing garage. Clark Neuringer stated that we are going to either close or adjourn based upon the architect going back to his client suggesting that he modify the plans. The architect indicated that he did not have a problem to go back to his client.

A motion was made by Robin Kramer to adjourn, seconded by Barry Weprin.

Ayes: Neuringer, Kramer, Sullivan, Mgrditchian, Weprin

Nays: None

**6. Application #11SP-1995, SING KWOK, 351 Mamaroneck Avenue (Section 9, Block 19, Lots 18A1,18B1) to renew special permit to operate a restaurant (C-2 District)**

Sing Kwok appeared on his own behalf and stated that the restaurant was in business for 16 years, that there were no violations, and that he was there on the renewal.

Robin Kramer stated to the applicant that he would not need to come back again.

A motion was made by George Mgrditchian to close the hearing, seconded by Barry Weprin.

Ayes: Neuringer, Kramer, Sullivan, Mgrditchian, Weprin

Nays: None

**7. Application #4SP-2006, LISA SIAPANIDES/DINO DIG USA (Section 9, Block 19, Lot 11A to renew special permit to continue to operate a children's party center. (C-2 District)**

The applicant did not appear nor did any one appear on behalf of the applicant.

Clark Neuringer directed that the applicant be notified that the matter will be adjourned to the next meeting in February 2009 and that she had to appear.

**PENDING APPLICATIONS CLOSED**

1. **Application of ERICA COHN and JOHN ZUCKER #42A-2008** **Closed 10-2-08**  
**629 Fairway Avenue, for a variance from Article V §342-27**  
**to reduce a front yard from 25 feet (required) to 18 feet**  
**(proposed) to permit a front porch addition and a dormer (R-15).**

The Board discussed the merits of the application.

A motion to disapprove the application was made by George Mgrditchian for the reasons stated on the record and recorded in the verbatim transcript, seconded by Robin Kramer.

Ayes: Neuringer, Kramer, Sullivan, Mgrditchian, Weprin

Nays: None

2. **Application of RICHARD SANTORSOLA #34A-2008.** **Closed 11-6-08**  
**628 Wood Street, to vary Section 342-27 by reducing a rear**  
**yard setback from 25 feet (required) to 14 feet**  
**(proposed), to build an addition to an existing deck (R-5 District).**

The Board discussed the merits of the application.

A motion to approve the application was made by Robin Kramer for the reasons stated on the record and recorded in the verbatim transcript, seconded by George Mgrditchian.

Ayes: Neuringer, Kramer, Sullivan, Mgrditchian, Weprin

Nays: None

3. **Application of RITA M. BANAHAM #48A-2008.** **Closed 11-6-08**  
**414 Hunter Street, for a variance from Article V**  
**Section 342-27 to reduce the rear yard setback**  
**from 25 feet (required) to 8.3 feet (proposed) to**  
**construct a deck (R- 2F District).**

The Board discussed the merits of the application.

A motion to approve the application was made by Clark Neuringer for the reasons stated on the record and recorded in the verbatim transcript, seconded by George Mgrditchian.

Ayes: Neuringer, Kramer, Sullivan, Mgrditchian, Weprin

Nays: None

4. **Application of MR.& MRS. STOECKHERT #44A-2008** **Closed 11-6-08**



**1520 Henry Avenue, for a variance from Article V  
Section 342-21 (B) (9) to increase the height of fence  
from 5 feet (permitted) to 6 feet (proposed) (R-5 District).**

The Board discussed the merits of the application.

A motion to approve the application was made by George Mgrditchian for the reasons stated on the record and recorded in the verbatim transcript, seconded by Gregory Sullivan.

Ayes: Neuringer, Kramer, Mgrditchian, Weprin, Sullivan

Nays: None

- 5. Application #53A-2008 RICHARD BECKER, 317 Frank Ave,  
for a variance of §342-27 to rebuild a deck and add a shed that  
encroaches within the rear yard setback (11.5 feet proposed,  
25 feet required). (R-5 District)**

**Closed 12-4-08**

The Board discussed the merits of the application.

Gregory Sullivan indicated that he was not going to vote on this application because he was not there at the meeting when it was on.

A motion to approve the application was made by Barry Weprin for the reasons stated on the record and recorded in the verbatim transcript, seconded by George Mgrditchian.

Ayes: Neuringer, Kramer, Mgrditchian, Weprin

Nays: None

Abstain: Sullivan

- 6. Application of PEOPLE'S BANK #35A-2008  
1444 East Boston Post Road, to vary Section 342-38  
to convert an existing gas station and restaurant to a bank  
with a drive thru and parking in a required front yard.  
(C-1 District)**

**Closed 12-4-08**

The Board discussed the merits of the application.

A motion to approve the application was made by George Mgrditchian for the reasons stated on the record and recorded in the verbatim transcript, seconded by Gregory Sullivan.

Ayes: Mgrditchian, Sullivan, Weprin

Nays: Kramer, Neuringer

**Application of PEOPLE'S BANK #20SP-2008  
1444 East Boston Post Road for a special permit to  
change existing use from a gas station and restaurant  
to a bank (C-1 District)**

The Board discussed the merits of the application.

A motion to approve the application was made by Barry Weprin for the reasons stated on the record and recorded in the verbatim transcript, seconded by Robin Kramer.

Ayes: Neuringer, Kramer, Sullivan, Mgrditchian, Weprin  
Nays: None

**APPLICATIONS CLOSED AND APPROVED 1-7-09**

- 1. Adjourned Application #21SP-2008, TUCKER CHASE, 143 Mamaroneck Ave.(Section 9, Block 51, Lot 7A) for a special permit to operate a sit down and carry out restaurant. (C-2 District)**

The Board discussed the merits of the application.

A motion to approve the application was made by George Mgrditchian for the reasons stated on the record and recorded in the verbatim transcript, seconded by Robin Kramer.

Ayes: Neuringer, Kramer, Mgrditchian, Sullivan, Weprin  
Nays: None.

- 2. Adjourned Application #2S-2008, DCH TOYOTA CITY SERVICE CENTER,700 Waverly Avenue, (Section 8, Block 12, Lot 1A) for a variance of §286-12to permit a directional sign in excess of 2 square feet (9.6 square feet is proposed)a variance of §286-10 to permit three façade signs which exceed the maximum height (30 inches is the maximum height allowed), and the applicant proposes three (3) separate signs: (1) 3 feet 5 13/16 inches, (2) 3 feet 6 inches and (3) 7 feet 5 13/16 inches); a variance of §286-12 (B)(1) to increase the number of facade signs from 1 (permitted) to 2; a variance of 286-12(B)(3) to permit an accessory façade sign that is more than 50% less than the area (50% less is permitted);and a variance of §286-11(B)(3) to permit a 90 square foot free standing sign (16 square feet is permitted). (M-1 District)**

The Board discussed the merits of the application.

A motion to approve the application was made by Clark Neuringer for the reasons stated on the record and recorded in the verbatim transcript, seconded by Barry Weprin.

Ayes: Neuringer, Kramer, Sullivan, Weprin  
Nays: Mgrditchian

**3. Application #11SP-1995, SING KWOK, 351 Mamaroneck Avenue (Section 9, Block 19, Lots 18A1,18B1) to renew special permit to operate a restaurant (C-2 District)**

The Board discussed the merits of the application.

A motion to approve the application was made by Barry Weprin for the reasons stated on the record and recorded in the verbatim transcript, seconded by Robin Kramer.

Ayes: Neuringer, Kramer, Mgrditchian, Sullivan, Weprin  
Nays: None

**MINUTES**

A motion to approve the minutes of November 6, 2008 was made by George Sullivan seconded by Robin Kramer.

Ayes: Neuringer, Mgrditchian, Kramer  
Nays: None  
Abstain: Sullivan, Weprin

A motion to approve the minutes of December 4, 2008 was made by Barry Weprin seconded by George Mgrditchian.

Ayes: Ayes: Neuringer, Kramer, Sullivan, Mgrditchian, Weprin  
Nays: None

**ADJOURN**

A motion to adjourn the meeting was made by Barry Weprin, seconded by George Mgrditchian.

Ayes: Ayes: Neuringer, Kramer, Sullivan, Mgrditchian, Weprin  
Nays: None

On motion duly made and carried, the meeting was adjourned at 10:45 P.M.

GEORGE MGRDITCHIAN  
Secretary

Prepared by:  
Patricia A. Vilenno