

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, FEBRUARY 5, 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 February 5, 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: Clark Neuringer, Chairman
George Mgrditchian
Gregory Sullivan
Robin Kramer
Barry Weprin
Steven Silverberg, Counsel to the Board
John Winter, Director of Building
Robert Mellilo, Asst. Building Inspector

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VILLAGE OF MAMARONECK
NEW YORK

Lisa Casey, court reporter, was present at the meeting to take the minutes, which will not be transcribed unless specially requested.

The meeting was called to order by Mr. Neuringer at 7:10 p.m., and he explained the procedures that would be followed. He further advised that any one who would like to submit material intended for the Board consideration, must do so no later than Monday prior to the Thursday meeting. This material must be submitted to Janet Insardi, Counsel at the Village Attorney's Office. Additionally, Mr. Neuringer indicated that any one who would prefer an adjournment until a full board is present may do so. No such request was made.

Application #4SP-2006 was called to question the mailing affidavit and sign posting. Ms. Lisa Sispanides/ Dino Dig USA stated that the mailing was done by Jill Lanza and she was not aware of a sign posting requirement. The Board stated that sign posting is required for a variance request not a special permit.

Application #5A-2009 was called to question the mailing affidavit and sign. Mr. Vittorio Ciraco gave the affidavit to the Board and answered yes to the placement of the sign posting.

Application #1SP Delish Enterprise Corp. was called to question the mailing affidavit. Steve Scolli stated that he gave the affidavit to the Building Department.

DISCUSSION

1. The adjourned application of Carlos Tapia, 611 First Street was called for a hearing

Mr. Vittorio Ciraco, applicant's architect appeared and addressed the Board. Mr. Ciraco stated that they have been before the board and plans have been reduced to a one car garage, reduced from 27 feet to 20 feet. The garage is for one car and storage space. The nonconforming garage is to remain in the same place 2.4 feet from the rear and 1.65 from the side where 5 feet is required. The applicant intends to leave two walls of the garage standing as both a cost saving measure and for zoning purposes. Mr. Neuringer asked if there were any questions from the Public.

Mr. Paul Ryan of 139 Waverly Avenue addressed the Board. Mr. Ryan stated that the April 2007 flood caused the area great damage; the Village of Mamaroneck is in the process of applying to FEMA for a reduction of flood insurance. The adding to existing impervious surfaces is not looked upon favorably.

Mr. Mgrditchian stated that the Board does not want to set precedence.

Ms. Kramer asked if the garage could be moved further away from the property line in order to be compliant.

Mr. Ciraco stated that a 2 car garage could be moved and be Zoning compliant but it would require more impervious surface as the driveway would need to be enlarged.

Mr. Mgrditchian asked if it was the intention of the Board to bring the building into compliance by shifting it over to one side and or creating additional impervious surface or to keep it in its existing location and add slightly more to the left.

Mr. Neuringer stated that the Board will consider options during deliberation re: the placement of the garage.

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

Ayes: Weprin, Mgrditchian, Neuringer, Kramer, Sullivan

Nays:

Absent:

Abstain:

2. The adjourned application of Lisa Sispanides/Dino Dig USA, 300 Phillips Park Road was called for a hearing

Lisa Sispanides, applicant appeared and addressed the Board to renew the Special Use Permit.

Ms. Kramer asked if the hours would remain 9:00am to 7:00 pm, the applicant answered yes.

Mr. Neuringer asked if there were any questions or comments from the public, hearing no response, Mr. Neuringer asked for a motion to close the hearing.

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

Ayes: Weprin, Mgrditchian, Neuringer, Kramer, Sullivan

Nays:

Absent:

Abstain:

3. The application of Stephen and Keiko Kearney, 467 North Barry Avenue was called for a hearing

Mr. Mgrditchian recused himself.

Martha McCarthy, applicant's attorney appeared and addressed the Board. Ms. McCarthy stated that this application is different from the one presented last year; the applicants have shrunk their request. Ms. McCarthy stated she feels that Unit 1 variance request is de minimus as it is to legalize a small existing rear porch, the porch is shown on the assessor's card but no building department permits are on file. A

violation was issued by the building department because work on the roof exceeded the Building Departments permit and a stop work order was issued. Ms. McCarthy stated that prior Boards have approved existing nonconformities.

Mr. Neuringer stated that Judge J. Littman stated "Boards have to follow its own precedents."
Ms. Kramer stated that this Boards most recent decisions on expanding existing nonconforming uses is to deny.

Mr. Neuringer stated the Boards concerns are why the applicant can't just rehabilitate rather than expand.

Mr. Peter Van Gelder applicant's designer spoke about preserving the aesthetics of the building.

Mr. Burtrom Segal the project engineer stated that the expansion is not substantial only about a 3%. The neighbors were showed the plans and had no objection to it.

Mr. Alan Wood of 727 stated that with the new Zoning Law he believes it is a waste of time hearing variance requests with no compelling reason for approval.

A motion was made by Ms. Kramer, seconded by Mr. Weprin to close the hearing.

Ayes: Weprin, Neuringer, Kramer, Sullivan

Nays:

Absent:

Abstain: Mgrditchian

4. The application of Sheldrake Lofts LLC and Sheldrake Estates Condominiums, 270 Waverly Avenue was called for a hearing

Paul Noto, Applicant's attorney appeared and addressed the Board. Mr. Noto stated that this project has been in the works for 5 years and has received all other required approval and up until the enacting of Local Law #5 in May, 2008 they were zoning compliant. The change in the Floor Area Ratio Law renders it impossible to build without a variance. Since the project was approved by the Planning Board, the Board of Architectural Review, Westchester County, and The Harbor Coastal Zone Management before the change in zoning and the fact the applicant has invested 12 million dollars the applicant has an economic hardship.

Mr. Neuringer asked what would happen to the project if a variance was not granted.

Mr. Ray Sullivan, applicants architect, stated that one story would have to be removed completely the loss of 30 units.

Mr. Noto stated that final Site Plan was approved 12/17/08; the Local Law was passed retroactively 5/8/08 but the Building Department had not issued the permits by 5/8/08, therefore they are required to seek a variance.

Mr. Neuringer asked if there were any questions or comments from the public.

Jeremy Ingpen, of Washingtonville Housing Alliance, stated that he shares a fence line with the proposed project, and the alliance was asked to administer the affordable housing units approved by the Village.

Paul Ryan of 139 Waverly Avenue asked the Board to consider the flood conditions of the area and the impact of more construction.

Mr. Noto stated that a DEC permit is not required for the project but they have requested ongoing ground water testing for the next 10 years to monitor the property. Mr. Noto responded to the Boards questions stating that it is the applicant's intent to break ground as soon as the permits are issued.

Mr. Neuringer asked if the applicant wished to adjourn.

Mr. Noto answered that he would prefer a vote on the matter.

A motion was made by Mr. Mgrditchian, seconded by Mr. Sullivan to close the hearing.

Ayes: Weprin, Sullivan, Mgrditchian

Nays: Neuringer, Kramer

Absent:

Abstain:

5. The application of Taylor Lane Members LLC, 651 East Boston Post Road was called for a hearing.

Mr. Henry Hocherman, applicant's attorney, appeared and addressed the Board.

Mr. Hocherman stated that this the first time before the Board. The applicant is requesting to build an 11,000 square foot 2 story office building on a vacant lot that was a Mobil Station. Variances required are 15 feet where 45 is required; 15 proposed parking spaces where 25 are required and .99 FAR where .8 is permitted.

Mr. Doyle, of LADA Land Plans and Mr. Jacob Goldberg, architect appeared and addressed the Board.

Mr. Doyle stated that the site was 100% impervious with 3 curb cuts, the plan reduced the impervious surface and eliminates 2 curb cuts on Boston Post Road.

Mr. Goldberg showed 3 dimensional photos of the proposed plan including landscaping.

Ms. Kramer asked if 3 stories were considered. Mr. Doyle said they did a number of studies and looked at all the options and they believe this plan is the best option.

Mr. Neuringer asked what would be in compliance with the Zoning Code.

Mr. Doyle stated that a 2,000 square foot building with 10 parking spaces, retail store e.g. Dunkin Donuts, deli would be compliant.

Mr. Galante gave a traffic report; he stated that the gas station could have 150 trips per hour but an office space only 10 per hour.

Mr. Neuringer asked if there were any questions or comments from the Public.

Mr. Alan Wood of 727 Soundview Drive stated that the Citi Bank across the street always blocks traffic on Barry Ave. and implored the Board not to break the Zoning Code for parking.

Mr. Egon Hamlet of 125 Barry Avenue stated that there is no building as high on Boston Post Road, and that parking is already terrible in the area.

Mr. Len Aubrey, 727 Shore Acres Drive, also President of the Shore Acres Association stated that the Board should consider an as of right solution, as the Association is concerned with the traffic, parking and future uses of the area ; asked the Board to hold over to have their concerns addressed .

Mr. Norm Rosenblum, of 125 Carroll Avenue, stated that although he has some concerns he feels that there is a benefit to having the property developed. He asked the applicant to go before the Tree Committee to discuss the planting of trees.

Mr. Mgrditchian asked for an adjournment to review the application.

A motion was made by Mr. Mgrditchian, seconded by Ms. Kramer to adjourn the hearing.

Ayes: Weprin, Sullivan, Mgrditchian, Neuringer, Kramer

Nays:

Absent:

Abstain:

6. The application of Gaetano Maffei, 111 Frank Avenue was called for a hearing

Gaetano Maffei appeared and addressed the Board. Mr. Maffei stated that he bought the house 7 years ago and the fence was there rotting and falling down, not knowing a permit was needed he replaced the fence and resided an existing shed. The shed is 11X9 7 feet high and used for storage of bikes and children's toys as there is no storage in the house. A survey from 1990 shows the shed and the fence. Mr. Neuringer asked if there were any questions or comments from the Public.

Mr. Norm Rosenblum of 125 Carroll Avenue stated he is in favor of the fence.

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

Ayes: Weprin, Sullivan, Mgrditchian, Neuringer, Kramer

Nays:

Absent:

Abstain:

7. The application of Bank of America, 1160 West Boston Post Road was called for a hearing

Donald Mazin, Applicant's attorney appeared and addressed the Board, stating that he was before the Board for a Special Use Permit and an area variance. Mr. Mazin stated that the Bank of America would like to convert the property currently the closed Tung Hoy restaurant. The project started in December 2007, has been before the Planning Board, and the engineer. The size of the building would be reduced; there would be no food odors, and more screening.

Mr. Joseph C. Sparone of Dynamic Engineers stated that the proposed building would be 4,500 square feet, with a drive thru in the rear, 24 parking spaces and 1 ADA space. Mr. Sparone stated that a Special Use Permit is required for the drive thru and an area variance for the drive thru canopy which encroaches the required 45 foot setback. Mr. Sparone stated that the Planning Board wanted the building closer to the corner with a 5 foot setback on the nonresidential side and 10 feet on the residential side with adequate screening.

A traffic study is to be updated.

Mr. Neuringer stated that the signs on the side have lessened 50% to be in compliance. The flag pole was discussed and will only fly the American flag not a bank flag.

Mr. David Harmuth of Bank of America stated that the hours of operation in general are 8:30am to 4:00 or 5:00 pm Monday thru Friday with one late night either Thursday or Friday and 9:00 am to 1:00 pm Saturday.

Mr. Mazin asked for an additional hours for the employees, 8:30 -7:00 Monday thru Friday and 9:00 - 2:00 Saturday.

Mr. Neuringer asked if there were any questions or comments from the Public.

Hearing none.

A motion was made by Ms. Kramer, seconded by Mr. Weprin to close the hearing

Ayes: Weprin, Sullivan, Mgrditchian, Neuringer, Kramer

Nays:

Absent:

Abstain:

8. The application of Bank of America, 1160 West Boston Post Road was called for a hearing

Application was heard and recorded above.

9. The application of Sans Signs& Awnings, 624 East Boston Post Road was called for a hearing

Steve Thomas appeared and addressed the Board. Mr. Thomas stated that they have reduced the size of the second JW Tumbles sign by 50% and now the only issue is the colors. Mr. Thomas stated that the store across the street Edible Arrangements has 3 colors, and the colors in JW Tumbles sign are the corporate logo colors.

Mr. Neuringer asked if there were any questions or comments from the Public.

Hearing none.

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

Ayes: Weprin, Sullivan, Mgrditchian, Neuringer, Kramer

Nays:

Absent:

Abstain:

The Board discussed the application.

10. The application of Delish Enterprises Corp., 905 Mamaroneck Avenue was called for a hearing

Mr. Sullivan recused himself.

Mr. Steve Scolli, applicant appeared and addressed the Board. Mr. Scolli stated that he is in contract to purchase a deli that has been existence for about 50 years. Mr. Scolli stated that he plans a new ventilation system, electrical work and new flooring.

A letter from Diane Shoemaker was read into the record indicating that she is in favor of the improvements but is concerned with garbage collection and requests that the garbage receptacle by the door be emptied and brought inside at closing.

The hours of operation are to be 6:30 Am to 6:00 pm Monday thru Friday and 6:30 am to 5:00 Saturday closed Sunday.

Mr. Neuringer asked if there were any questions or comments from the Public.

Hearing none.

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

Ayes: Weprin, Mgrditchian, Neuringer, Kramer

Nays:

Absent:

Abstain: Sullivan

PENDING CLOSED APPLICATIONS

The closed application of Michael Dugan, C1

The chairman asked for a discussion

Mr. Mgrditchian stated that this is a minimal variance request. Mr. Sullivan stated that the amended plan is more amenable. Mr. Neuringer stated that he is not convinced that the addition could not be done in the footprint of the building.

The Board was polled; 2 in favor Mr. Mgrditchian, Mr. Sullivan; 3 against Mr. Neuringer, Ms. Kramer and Mr. Weprin.

Mr. Silverberg was asked to draft a response.

The matter was postponed to the next Zoning Board meeting.

The closed application of Stephen and Keiko Kearney, 1A-2009

A motion was made by Mr. Weprin to approve the porch on the main house and deny the other variances, seconded by Ms. Kramer.

Ayes: Weprin, Neuringer, Kramer

Nays: Sullivan

Absent:

Recused: Mgrditchian

The closed application of Delish Enterprises Corp., 1SP-2009

A motion was made by Mr. Mgrditchian to approve the Special Permit to operate a deli, seconded by Ms. Kramer subject to all required approvals of the Building Department, installation of a fire suppression system, hours of operation, and the applicants providing an additional receptacle at curbside, as well as clean and store the receptacle inside at the close of business.

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

The closed application of Lisa Sispanides/Dino Dig USA, 4SP-2006

A motion was made by Mr. Weprin to renew a Special Permit to continue to operate a children's party center, without term, seconded by Ms. Kramer.

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

The closed application of Sans Signs & Awnings, 1S-2009

A question was raised as to the designated application number; the Board verified.

A motion was made by Mr. Mgrditchian, seconded by Mr. Weprin to approve the sign.

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

The closed application of Carlos Tapia, 5A-2009

A motion was made by Mr. Mgrditchian, seconded by Ms. Kramer to approve the garage foundation and slab keeping the same side yard setback as original garage, with no alteration to existing driveway. The applicant may tear down the existing side and rear wall and is not burdened to underpin them.

The closed application of Gaetano Maffei, 6A-2009

A motion was made by Mr. Mgrditchian to legalize the existing fence and shed, seconded by Mr. Weprin.

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

New Business

BO Café was discussed.

Mr. Silverberg stated that the Building Department advised the Zoning Board that the Café may be in violation of the Special Permit. Mr. Silverberg stated that a provision in State Law states that the Zoning Board can revoke a Special Permit at a public hearing by unanimous vote and suggested a public hearing be held to discuss revoking the Special Permit.

A motion was made by Mr. Weprin, to schedule a public hearing for the April Meeting, seconded by Ms. Kramer.

Ayes: Weprin, Mgrditchian, Neuringer, Kramer, Sullivan

Nays:

Absent:

Abstain:

On motion of Mr. Mgrditchian, seconded by Mr. Sullivan the meeting was adjourned at 12:05 p.m.

GEORGE MGRDITCHIAN
Secretary

Minutes taken and prepared by:
Francine M. Brill