

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, MARCH 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 March 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: Chairman Neuringer, Chairman
George Mgrditchian, Secretary
Gregory Sullivan
Robin Kramer
Steven Silverberg, Counsel to Board
John Winter, Director of Buildings
Robert Melillo

ABSENT: Barry A. Weprin

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

Dorina Rubino, 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 7:09 P.M. and he detailed the procedures for the meeting. The next meeting is scheduled for Thursday, April 2, 2009.

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

Chairman Neuringer indicated that Mr. Weprin would not be at the meeting and he asked those in attendance if anyone wanted to adjourn their case because of the lack of a full Board. None present did.

Chairman Neuringer noted for the record that the Board had received a letter from applicant William Paonessa requesting an adjournment to the April 2, 2009 meeting because documentation was not fully completed.

Chairman Neuringer mentioned a closed case that needed to be acted on at the meeting, but the Board had received an adjournment request from the applicant until there was a full Board.

Having completed preliminary business, Chairman Neuringer called the first applicant.

1. **Adjourned Application #4A-2009 Taylor Lane Members, LLC**

Henry Hocherman, Esq. appeared on behalf of the applicant. He stated that he had no other presentations to make and that the architect and engineer were available to address any issues if the

Board wanted. He stated his applicant was prepared to supplement the application if the Board desired.

Robin Kramer had questions regarding the applicant's traffic analysis. Traffic Engineer Michael Galanti stated that ITE standards were used to make the traffic determinations regarding trip generation rates.

Robin Kramer asked about variances applying to new users in the future. Mr. Galanti stated that an analysis was performed with different land uses. A lengthy discussion ensued as to the various businesses that would significantly impact the traffic in that area. Based on the ITE standards, an office building would have less of a traffic impact than a bank, Dunkin Donuts or gas station.

The Board agreed that the types of land uses would impact traffic.

Chairman Neuringer asked for an example of another entity that would have less of a traffic impact than the proposed business and the answer was a furniture store.

Len Aubry, speaking as a homeowner and a member of the Shore Acres Property Owners Association, spoke about the FAR law that was recently adopted and how this applicant as well as others was requesting a variance to this law.

Mr. Aubry stated he had convened a meeting with the developers, Lawn Terrace Association and Stewart Avenue Association to discuss the matter. He stated that residents and civic associations were favorable to the office building (in terms of bulk and density) versus another type of business that might have a more negative impact on the community.

Mr. Aubry stated that the issues residents had with the project were more directed to site plan issues as it related to the impact on the community when the current tenants leave and the traffic exiting and entering the site.

Mr. Aubry indicated that there was not strong objection to this variance and considered the applicants highly desirable for security, traffic and littering reasons in relation to other possible businesses. He ended by stating the proposed use was far more desirable than other businesses.

Chairman Neuringer stated that there is a multitude of uses permitted at that site that are of higher use.

Robin Kramer asked about the parking variance situation and how the parking on the street was. She also stated that the applicant didn't feel they would be using all the parking. Mr. Aubry answered that parking was a concern for that area.

Henry Hockerman stated that there was no guarantee that his business would remain at that location forever, but the location does not lend itself to a more intensive use. He also stated that given the size and nature, this building does not lend itself to a multiple user use.

Steve Silverberg, Counsel to Zoning Board, asked if the applicant would accept a condition that it only remain an office building and not a retail business and Henry Hockerman indicated that it would.

A brief discussion arose about the applicant paying for parking (60% of parking) and it was determined that the applicant met the variance criteria for parking.

Steve Silverberg asked how the applicant would handle the SEQRA determination and it was determined that the applicant would meet with the Planning Board regarding the site plan application. Mr. Hockerman stated that the applicant had made an informal presentation to the Planning Board. It was determined that the Board will take no action until the SEQRA decision. The applicant would be placed on the Zoning Board agenda following the Planning Board meeting.

Mr. Silverberg again reiterated the condition that this would remain an office use. Mr. Hockerman said his client would accept a non-retail condition.

George Mgrditchian made a motion to close the public hearing subject to the applicant providing additional documentation as it relates SEQRA, seconded by Robin Kramer.

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer

Nays: None

Absent: Barry Weprin

2. Application #4SP-2009 Ricci Fine Italian Restaurant, Inc.

Aldo Vitagliano, Esq. appeared on behalf of the applicant. This is a new owner of an existing restaurant that is relocating to 410 Boston Post Road. Mr. Ricci, the owner, is relocating his business to a different location.

George Mgrditchian stated that the Board was in receipt of a survey dated 1905 and that normally the Board requests an updated survey. In lieu of a new survey, the owner will certify the survey for the Board.

Mr. Vitagliano stated that the style of the restaurant, as well as the cuisine would remain the same.

Mr. Vitagliano indicated that patrons will be using street parking.

George Mgrditchian stated that the existing drawings the Board received do not indicate Ricci's Restaurant on it and he asked if everything relating to the kitchen, tables, seating, hours of operation and central fire alarm station were going to be the same.

Mr. Mgrditchian asked if the seating, entrance and bars were changing.

Mr. Vitagliano stated that everything would remain the same; except one or two tables might be brought outside during the warmer weather and the applicant would follow proper procedures in acquiring approval.

Mr. Mgrditchian asked about central station wiring.

Mr. Vitagliano stated that whatever violations were sited, those violations were rectified.

Ed Chumalecki, the building landlord, stated that certain fire alarm code upgrades were also performed at the location and that there is a central fire alarm system.

The Board recommended that wireless smoke detectors be installed to a hard wired fire alarm system for the tenants on the second and third floors.

Mr. Chumalecki stated that he would contact a technician regarding the matter.

Robin Kramer inquired as to a liquor license. Mr. Vitagliano stated that the liquor license will be transferred from the existing establishment and the hours of operations will be the same as existing hours: Monday through Thursday, 12:00 p.m. to 10:00 p.m., Friday and Saturday, 12:00 p.m. to 11:00 p.m. and Sunday, 12:00 p.m. to 9:00 p.m.

Mr. Vitagliano also stated that his applicant would apply to the Board of Health to satisfy the necessary requirements.

George Mgrditchian made a motion to close the public hearing, seconded by Gregory Sullivan.

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer

Nays: None

Absent: Barry Weprin

3. Application #25A-2009 William J. and Barbara Paonessa

The Board had received a letter from applicant William Paonessa requesting an adjournment to the April 2, 2009 meeting because he had not complied with the applicable requirements for the hearing.

4. Application #3SP-2009 Tony & Sons Auto Body LLC

Applicant Rosa Esquiva appeared before the Board. This is a change of ownership at an existing business and there will be no changes to the business except for the signage. Everything else will remain the same.

Chairman Neuringer asked if there were any changes to the interior or site. Ms. Esquiva stated there were no changes, only signage would be changed and that would be done in a couple of months.

George Mgrditchian made a motion to close the public hearing, seconded by Gregory Sullivan.

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer

Nays: None

Absent: Barry Weprin

5. Application #9A-2009 John E. Barreto

Dennis Cucinella appeared on behalf of the applicant. Mr. Cucinella assisted in the preparation of the plans. Mr. Barreto purchased the property a year ago and the porch has been in existence for 35 years. Mr. Cucinella stated that the applicant was looking to legalize the existing screened porch and enclose it, as well as make it structurally safe. The porch has been in existence for over thirty years. Additionally, the applicant wants to enclose the screened porch to make it part of the house. He indicated that the neighboring residents have no objections to this.

Chairman Neuringer and George Mgrditchian discussed the fact that since the property is large, the proposed work would not be overwhelming to the area and as long as the neighbors were in agreement, it would be appropriate.

Chairman Neuringer clarified that the applicant wanted to legalize the existing porch and enclose it. Chairman Neuringer also wanted to know if the foot print would remain the same.

Mr. Cucinella stated that the applicant wanted to add footprint to the right. He also stated that the proposed addition would not affect zoning.

George Mgrditchian made a motion to close the public hearing, seconded by Robin Sullivan.

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

Chairman Neuringer stated that the regular public hearing was finished.

MINUTES

Chairman Neuringer held over January's and February's agenda for approval.

PENDING APPLICATIONS CLOSED

- 1. Application of MICHAEL DUGAN #2A-2009. Closed 1-7-09
1508 Raleigh Road, for a variance of §§342-27 and
342-65 to building an addition and non-conforming
roof deck with an insufficient rear yard (24 feet proposed,
25 required). (R-5 District)**

On March 2, 2009, the applicant submitted a letter requesting an adjournment to the April 2, 2009 meeting because not all Board members were present.

- 2. Application of SHELDRAKE LOFTS LLC AND Closed 2-5-09
SHELDRAKE ESTATES CONDOMINIUMS #3A-2009
270 Waverly Avenue, 206-208 Waverly Avenue and 147 Plaza**

Avenue, for a variance of §342-38 to construct 96 residential units with a proposed floor area ratio of 1.6 (1.2 permitted). (R-4F District)

The Board discussed the merits of the application.

Considerable discussion arose regarding the site plan, questioning how the site plan will work, and the fact that the site plan has not been approved by the Planning Board. The Board discussed concerns about moving forward with this application and that DEC requirements have not been met. There was also significant discussion regarding FAR, including a request by the applicant for a 33% increase in FAR.

Steve Silverberg discussed whether the Board would need to do a SEQRA review. He will draft a resolution with SEQRA findings and make a determination of the variance request at the April 2, 2009.

No action taken.

3. **Application #7A-2009, BANK OF AMERICA, 1160 W. Boston Post Road for variances of §§ 342-38, 286-12(B)(3), and 286-11(B)(1) and (3) to build a bank and a drive-thru with: (1) a canopy with a side yard set back of 41 feet (45 feet required), (2) parking with a side yard set back of 5 feet (25 feet required), (3) a sign on the right side elevation and left side elevation not less than 50% in size than the front façade sign; and (4) a freestanding sign which is not set back 50 feet from property line and which is 28 square feet (16 square feet allowed). (C-1 District)** Closed 2-5-09

4. **Application #2SP-2009, BANK OF AMERICA, 1160 W. Boston Post Road (Section 9, Block 21, Lot 2A1), for a special permit to operate a bank with a drive-thru (C-1 District)** Closed 2-5-09

The Board discussed the merits of the application.

The Board raised issues regarding the applicant's free standing signs.

Steve Silverberg interjected that there might be a need for all five members to vote. Because the two applications are related, both were adjourned to the April 2, 2009 meeting.

No action taken.

APPLICATIONS CLOSED AND APPROVED 3-5-09

1. **Application #4SP-2009 Ricci Fine Italian Restaurant, Inc.**, 410 West Boston Post Road (Section 9, Block 53, Lot 11), for a special permit to continue to operate an existing restaurant at a new location. (C-1 District)

The Board discussed the merits of the application.

A motion to approve the application was made by Mr. Sullivan for the reasons stated on the record and recorded in the verbatim transcript, seconded by Ms. Kramer.

Ayes: Neuringer, Kramer, Mgrditchian, Sullivan,

Nays: None

Absent: Barry Weprin

2. **Application #3SP-2009, TONY & SONS AUTO BODY LLC**, 827 Mamaroneck Avenue (Section 8, Block 69, Lot 2), for a special permit to continue to operate an existing auto body shop under new management. (C-1 District)

The Board discussed the merits of the application.

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

3. **Application #9A-2009, JOHN E. BARRETO**, 1416 Raleigh Road (Section 8, Block 6A, Lot 41), for a variance of §342-27 to legalize and enclose an existing screened porch with an insufficient set back (4.02 feet proposed, 6 feet required). (R-5 District)

The Board discussed the merits of the application.

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

Approval of the minutes for the January 7, 2009 meeting and February 5, 2009 meeting were adjourned to April 2, 2009.

ADJOURN

A motion to adjourn the meeting was made by George Mgrditchian, seconded by Robin Kramer.

Ayes: Ayes: Neuringer, Kramer, Sullivan, Mgrditchian

Nays: None

Absent: Barry Weprin

On motion duly made and carried, the meeting was adjourned at 8:30 P.M.

GEORGE MGRDITCHIAN
Secretary

Prepared by:
Ann P. Powers