

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, APRIL 2, 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 April 2, 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 Weprin  
Kathy Zalantis, Substitute Counsel to Board  
John Winter, Director of Buildings  
Robert Melillo

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CLERK OF THE  
VILLAGE OF MAMARONECK  
NEW YORK  
2009 JUN -5 AM 11:10

**ABSENT:** Steve Silverberg, Counsel to Board

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 7:07 P.M. and he detailed the procedures for the meeting. The next meeting is scheduled for Thursday, May 7, 2009. Chairman Neuringer asked that all present take note of the exit doors in case of emergency. Chairman Neuringer indicated that any materials for the ZBA meeting had to be presented to the ZBA Office five days before the meeting. Having completed preliminary business, Chairman Neuringer called the first applicant.

**1. Hearing to determine if Bo Café is in compliance with conditions of a previously approved special permit**

Paul Noto, Esq. appeared on behalf of the applicant. John Winter and Rob Melillo made brief statements regarding findings that Bo Café was operating as a cabaret, in violation of their special permit. Mr. Melillo indicated local papers were advertising that Bo Café was selling alcohol and offering entertainment. There was also discussion about lunches and small dinners being served.

Robin Kramer asked if there was live music being provided. Mr. Noto responded that there was live music on Friday and Saturday nights, with only one or two piece bands. A discussion arose as to whether a special permit was needed for a cabaret license and the license fell under the general code, not Zoning. Barry Weprin stated that the 2007 Resolution mentioned both "café" and "restaurant." Alcohol was mentioned as the most pertinent issue before the Board.

Chairman Neuringer inquired about specific parking requirements. Mr. Noto responded that it would come under a restaurant cabaret license, which the applicant had applied for because the café has two nights of live music and sell wine and beer after a certain hour. Mr. Noto also indicated that the State Liquor Authority governs alcohol and not the Village. He indicated that there was no kitchen in the café and only small meals such as sandwiches and paninis were served. Mr. Noto stated that the applicant is not selling hard alcohol and is unclear as to how the sale of wine and beer impacts the special permit. Some discussion arose between Chairman Neuringer and Mr. Noto regarding the lack of provision in the special permit relating to the sale of alcohol and a potential use change and whether the Board should have been notified at that time. Mr. Noto stated that the applicant didn't know, at the time, that he would be selling alcohol and providing live music. It took some time for the applicant to build his business and at that point he began expanding to evening hours to build his clientele.

Chairman Neuringer again asked if there was any difference in intensity use. Mr. Noto answered that there was no difference, including parking because there is more parking available after 5:00 p.m. He stated that the applicant had to originally apply for a parking variance and that was approved. Mr. Mgrditchian mentioned that other establishments are around that area and causing more activity and more issues with parking. Mr. Noto didn't believe that to be the case. Chairman Neuringer asked what action the Board could take. Kathy Zalantis, Counsel for the Board, stated that the code allows the Board to revoke or alter the special permit. Mr. Noto concluded by stating that Bo Café is not a cabaret and it is not a bar.

Chairman Neuringer asked if anyone wished to address the Board regarding this matter. None did.

Mr. Sullivan made a motion to close the public hearing, seconded by Mr. Weprin.

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer, Weprin

Nays: None

## **2. Application #11A-2009, First Church of Christian Science**

Dennis Cucinella appeared on behalf of the applicant. Mr. Cucinella stated that the applicant was asked to prepare a parking plan. He provided background on the parking history. The applicant is looking for a variance for twenty (20) parking spaces. Mr. Cucinella noted that the lot is never full. The church holds services on Wednesdays and Sundays for twenty (20) parishioners and that Sundays are the busiest. Mr. Cucinella indicated that if one tree on Highland is removed, there would be one more additional parking spot, but the applicant wants to and will keep the trees.

George Mgrditchian asked if the sale would be for residential use. Mr. Cucinella stated yes. Barry Weprin asked for what purpose and Mr. Cucinella stated it would be to raise money for the church. Mr. Cucinella also stated that the applicant was looking for an easier egress from the lot. The applicant is before the Planning Board at the present time. Robin Kramer asked if the parking layout was conforming. John Winter said he doesn't know yet. Mr. Cucinella stated that the applicant is proposing a buffer for the residences. George Mgrditchian asked if there was a driveway. Mr. Cucinella stated on Highland Drive and it belongs to the church.

Chairman Neuringer stated that Parcel A indicates 5,000 sq. ft., could the church increase spaces in Parcel B. Mr. Cucinella said no. Marilyn Houston of the First Church of Christian Science stated that there were two square footage numbers on the plan (5,839 and 5389). She believes the lower number is accurate. George Mgrditchian noted that the numbers on the survey needed to be corrected. George Mgrditchian asked, if now that they are separating, does Parcel B stay in conformance. John Winter stated yes. Robin Kramer stated that the special permit would need to be modified. George Mgrditchian clarified for Parcel B. Chairman Neuringer asked where the applicant was with the Planning Board, since the Planning Board is lead agency. Mr. Cucinella answered that the Planning Board had not seen the parking plan yet.

Chairman Neuringer asked if anyone wished to address the Board regarding this matter.

George Sheferdecker asked for a description of the proposal. Mr. Cucinella showed him the proposal. A brief discussion ensued and at one point George Mgrditchian stated that many of Mr. Sheferdecker's questions pertained more to the Planning Board than the Zoning Board and that this case will be held over (open) until the Zoning Board hears from the Planning Board. Marilyn Houston interjected that the church is in need of raising money. The Planning Board is aware of this and a site plan is very expensive. The Planning Board suggested the applicant come to the Zoning Board for a parking variance and then return to the Planning Board. Ms. Houston indicated that the Planning Board did not want to consider the application until a variance was approved. Chairman Neuringer stated that the Planning Board has consultants, which the Zoning Board does not. The Planning Board has not seen the documents presented tonight. The Zoning Board cannot make certain determinations until the applicant goes before the Planning Board. Barry Weprin stated that he would have no problem reducing the parking spaces. Chairman Neuringer indicated that the Planning Board generally advises the Zoning Board and that the issue is not "yes" or "no," but "how." George Mgrditchian stated that the Board is not apposed to the application; it just wants to hear comments from the Planning Board.

Dennis Cucinella asked if the Zoning Board had received any documentation from the Planning Board. George Mgrditchian said the Board has received transmittals only. Marilyn Houston asked about a slight variation on the 5,000 sq. ft. and Barry Weprin strongly advised her to avoid that because it would become another variance.

Jim Desmond approached the Board and asked how he can be certain the church won't grow or another church with a larger congregation won't come in. He spoke about future use of the space and shrinking parking spaces while the congregation grows. What if the congregation grew to 200? George Mgrditchian said that forty spaces wouldn't be enough for 200 congregants. He noted the congregation had decreased. Mr. Desmond indicated that he was speaking about the future and that the required number is forty (40) parking spaces. Robin Kramer indicated that Mr. Desmond had reasonable questions. The Board has to consider what we do if membership declines or other institutions want to take over the space with a larger congregation. When the Board considers granting variances, the Board should consider this as well. George Mgrditchian stated that the church could be sold as a residential unit. Robin Kramer added that this is something the Board should certainly consider. Marilyn Houston clarified that a church with 200 congregants would not be interested in the applicant's small church because the property did not have a lot to offer a larger church.

Katherine Desmond addressed the Board. She asked how much of the profits would impact the longer term operations of the church. She indicated that the church comes up on Google as a business. She is concerned about the future and does not know much about the church. Barry Weprin asked Ms. Desmond what her opinion was on parking versus residence. Ms. Desmond answered that she was not adverse, but wanted more information. She isn't in opposition, but feels the church is cutting itself at the knees with the parking. She indicated that she is concerned that the parking lot will be boxed in and will not be visible. This could cause a problem with people loitering. A discussion arose regarding the future of the trees and George Mgrditchian said that the Planning Board and Tree Committee will analyze the tree situation. He also stated that he didn't want to reduce parking anymore than it was already being reduced and that there is always a potential for parking to be a concern. Barry Weprin concluded by saying that different perspectives have been discussed tonight. Mr. Cucinella stated that all trees will be kept and maintained and that the gate would be locked and the area illuminated.

Mr. Mgrditchian made a motion to adjourn the public hearing, seconded by Ms. Kramer.

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

Nays: None

### **3. Application #11SP-2009 and 12A-2009 French American School of New York**

Michael Zarin, Esq. appeared on behalf of the applicant. He stated the applicant is looking to amend and renew the special permit and apply for a parking variance. Mr. Zarin stated the applicant was before the Board last year to increase enrollment and has come back to the Board with a complete request. The applicant is looking to expand the enrollment from 330 students to 380 students. Mr. Zarin stated that the enrollment may go down next year due to the economy, but that the applicant wanted to come to the Board with a full application instead of going piece meal. George Mgrditchian indicated that last year the applicant felt that the enrollment would not grow and now the applicant was back. Mr. Zarin stated that because of the increase in enrollment, the parking was affected. The reality is the school uses less than the required spaces. The Board had asked for a parking survey to show usage. Mr. Zarin indicated the survey illustrated that forty four (44) parking spaces were unused. Of the twenty six (26) parking spaces, ten (10) might be used at any given time. Also, Mr. Zarin stated that pictures were taken on April 2<sup>nd</sup> of the parking usage.

George Mgrditchian asked what the peak hours were. Mr. Zarin answered 10:30 a.m. to 11:00 a.m. Mr. Zarin stated that the pictures illustrated that many spaces are not being utilized. At an earlier meeting, the Board asked if students and teachers were parking on the street instead of the parking lot. Mr. Zarin indicated that students and teachers didn't appear to be using the street. Mr. Zarin said that Adler Consulting did a full traffic study of seven strategic intersections. The study showed that there were no changes in level of service. A minor change at the A&P on Mamaroneck Avenue was not significant.

Mr. Zarin asked that based on the data, could the Board continue to make the same findings as before. The school has not received any complaints and the school has been sensitive to being a good neighbor. Chairman Neuringer asked why this presentation was not done at the prior

meeting. Mr. Zarin responded that the school has not been able to centralize all of its schools at one location, so they are trying to increase enrollment at the various schools instead and that, after this, they are not looking to expand anymore. Chairman Neuringer asked what happened between September and this meeting. Mr. Zarin answered that the school has been unsuccessful in getting new facilities. Chairman Neuringer asked if this would be the maximum build out. Mr. Zarin indicated that it would be. Chairman Neuringer asked if the applicant would turn down other classrooms if offered by the church and Mr. Zarin said it would. Mr. Zarin also suggested that the Board could make a cap for use and the school would not have a problem with that. Chairman Neuringer stated his concern for capacity on streets and that the streets are not changing, but the school is growing. Mr. Zarin stated that the representations of the applicant were true and no complaints had been made regarding the applicant.

Robin Kramer asked if the school was leasing the parking lot and for how long. Mr. Zarin indicated it was for four years. Ms. Kramer inquired about evening events. Patrick Cruz, the Finance Officer for the school, answered that occasionally the school has a parent teacher meeting at night and two concerts a year. Greg Sullivan asked about graduation. Mr. Cruz stated no; the school rented a facility for graduation. Robin Kramer questioned the ratio of students to parking spaces. Mr. Zarin answered that most students don't drive. Ms. Kramer inquired about the increasing enrollment and Meredith Black answered that the increase would be primarily with the lower grades, with twelve (12) students in high school. He also stated that not all fifty (50) new students were seniors.

Michael O'Roark, traffic consultant, prepared a brief presentation regarding traffic. A discussion arose regarding the length of time for the traffic study. Two years versus a longer period of time. Greg Sullivan stated that there was always potential for the population to increase in the future and questioned the long-term impact. Robin Kramer expressed concern that this was a planning study and that two years did not answer questions that the Board had. Ms. Kramer also questioned the overlap with teachers and parking. Mr. Zarin answered that typically there are no more than eighteen (18) teachers, but that there could be some overlap. Robin Kramer indicated that the study didn't show congestion on the streets themselves. Mr. O'Roark stated that the survey focused on drop-off because parents don't generally park to let their children off. Mr. Zarin stated that the survey doesn't analyze the amount of activity, but what is the community saying. There have been no complaints. Chairman Neuringer stated that there would be an increase in traffic even if the traffic survey doesn't show it. Chairman Neuringer asked what would be the natural expansion. Mr. Zarin answered it would be the number the applicant is requesting. The use has been compatible with this area and it has been a positive use by a respectable school. Greg Sullivan asked if the applicant would buy the church. Mr. Zarin answered that he did not know. Mr. Sullivan also inquired about the lease and Mr. Cruz answered seven years.

Chairman Neuringer asked if the applicant had been before the Planning Board and Mr. Zarin indicated that they had not. Chairman Neuringer asked if the Planning Board traffic consultant should see the traffic plan. Mr. Zarin indicated that the applicant would like to move forward and is asking for a vote. Chairman Neuringer indicated that he would like a professional traffic consultant from the Planning Board to look at the traffic analysis. Robin Kramer stated that she was unsure about sending the analysis to the Planning Board and asked if this Board had to do a SEQRA. Kathy Zalantis answered that the Board would declare itself as lead agency. Robin

Kramer inquired about striping parking spaces. Mr. Zarin indicated that it was not necessary, but the applicant would do it. Mr. Zarin also stated that he felt the applicant had done what was requested and that the applicant had met the Board's standards. He, again, asked for a vote. Chairman Neuringer asked what the cap would be and Mr. Zarin answered 380 students. Additional discussion arose regarding the transcripts from the last Board meeting.

Chairman Neuringer asked if anyone wanted to address the Board. None did.

Mr. Weprin made a motion to adjourn the public hearing, seconded by Mr. Sullivan.

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer, Weprin

Nays: None

#### **4. Application #2S-2009 DCH Mamaroneck LLC/Pace BMW/DCH Investments, Inc.**

Paul Noto, Esq. appeared on behalf of the applicant. Mr. Noto stated that the applicant was requesting a sign variance on Post Road. The applicant is approaching completion of the project and is now requesting the variance of two (2) signs where one (1) is allowed. George Mgrditchian asked why the applicant was back in front of the Board and why the variance was not asked for at the last meeting. Mr. Noto answered that the applicant did not know the requirements at that time.

Louis Buena Ventura, architect, displayed a picture of the building and surrounding area to the Board. Chairman Neuringer pointed out that the visual aid and site plan were not in the Board's packet of information. He also indicated that a fifteen (15) foot sign was omitted from the picture. Chairman Neuringer stated that the application was borderline incomplete because this was a large area, with no site plan and all the signage was not shown. He felt the application was deficient. Mr. Noto answered that an applicant wouldn't normally provide a site plan for signage. Chairman Neuringer stated that the applicant could have requested one larger sign instead of two signs. Barry Weprin indicated that the applicant already had a pylon sign and that he was prepared to vote against the signage. Chairman Neuringer indicated that a sign variance was already granted, and asked why another sign variance was requested. Mr. Noto responded that one long sign would not be aesthetically pleasing. Chairman Neuringer indicated that he felt the photo was disingenuous without the existing signage appearing. Robin Kramer stated that now the applicant was requesting an additional sign variance. Mr. Noto stated that that was correct.

Barry Weprin said that certain signs were a determinant to the environment. Robin Kramer stated that there were already signs for the building and now there was a request for another sign variance. Chairman Neuringer indicated that the building looked like one structure and that no one would be confused about this being all one entity. Greg Sullivan indicated that the applicant would now have four (4) signs for his business.

Chairman Neuringer asked if anyone would like to address the Board. None did.

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

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer, Weprin

Nays: None

**5. Application #5SP-2009, Hector Vasquez**

Hector Vasquez appeared before the Board. He stated he was expanding his business into the neighboring store. Chairman Neuringer asked if the hours of operation would remain the same. Mr. Vasquez answered that the hours of operation would be 6:00 a.m. to 10:00 p.m., seven days a week. Chairman Neuringer asked if alcohol would be served and Mr. Vasquez indicated that no alcohol would be served. Mr. Neuringer asked about outside seating and Mr. Vasquez answered that he would have a little outdoor seating and he would obtain the appropriate license from the Village. Robin Kramer asked if the same type of food would be served and Mr. Vasquez indicated it would. George Mgrditchian asked if he would be serving dinner and Mr. Vasquez indicated he would, but he was not looking to increase the kitchen at this moment.

Chairman Neuringer asked if anyone would like to address the Board.

Norm Rosenblum approached the Board. He indicated that he was in full support of the application. He felt Mr. Vasquez served good food. He stated that the patrons were a replication of what this village represents.

Chairman Neuringer asked if there was anyone else who would like to address the Board. None did. Mr. Vasquez asked if the Board could vote tonight.

Mr. Mgrditchian made a motion to close the public hearing, seconded by Mr. Weprin.

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer, Weprin

Nays: None

**6. Application #2SP-2006, Angie Pasa DBA (Vallis Aurea, LTD)**

Angie Pasa appeared before the Board. Ms. Pasa stated that she was before the Board to renew a special permit to operate a wine storage warehouse. George Mgrditchian asked if anything had changed and Ms. Pasa indicated that everything has remained the same. Mr. Mgrditchian stated that the establishment had been working out well and that the applicant would not have to come before this Board again unless circumstances change.

Chairman Neuringer asked if anyone would like to approach the Board. None did.

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

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer, Weprin

Nays: None

**7. Application #10SP-2006, Gregory Katsaros (Mamaroneck Diner)**

Gregory Katsaros appeared before the Board. He stated he was here to renew a special permit to operate a diner. George Mgrditchian asked if there were any changes and Mr. Katsaros answered that there were no changes, no complaints with traffic and no additional issues. Mr. Mgrditchian indicated that the applicant would not need to come back before the Board unless circumstances changed.

Chairman Neuringer asked if anyone would like to approach the Board. None did.

Mr. Mgrditchian made a motion to close the public hearing, seconded by Mr. Weprin.

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer, Weprin

Nays: None

**8. Application #14SP-1996, Gary Gerstein TCD Cellular Communications, Inc.**

Gary Gerstein appeared before the Board. He stated that he was here to renew a special permit to operate a wireless communications business. Chairman Neuringer asked if there had been any changes. Mr. Gerstein stated there were no changes. Mr. Gerstein indicated that the County could, in an emergency situation, require him to open. Mr. Mgrditchian indicated that the applicant would not need to come back before the Board unless circumstances changed.

Chairman Neuringer asked if anyone would like to approach the Board. None did.

Mr. Mgrditchian made a motion to close the public hearing, seconded by Ms. Kramer.

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer, Weprin

Nays: None

**9. Adjourned Application #28A-2008, Raul Silva**

Chairman Neuringer indicated that the applicant requested an adjournment because he had not complied with all of the meeting requirements.

**10. Adjourned Application #25A-2008, William and Barbara Paonessa**

William Paonessa appeared before the Board. Mr. Paonessa indicated that he purchased the house in 1985. The deck was deteriorating and he replaced the deck for safety reasons. A permit was never obtained for the work. Mr. Paonessa is asking for a variance. Barry Weprin asked if the deck was put back exactly as it was and Mr. Paonessa indicated it had been. Chairman Neuringer asked how high the deck was above grade and Mr. Paonessa stated at the pool it is thirty (30) inches and at the back it is three (3) feet. Robin Kramer asked if records indicate a pre-existing non-conforming structure and Mr. Paonessa indicated he has no documentation. Mr. Neuringer asked if plans were on file for the pool and Mr. Paonessa indicated they were. The physical deck was never on any documentation. Ms. Kramer asked if the applicant had a copy of the survey and Mr. Paonessa indicated he did.



Chairman Neuringer asked if the Building Department had taken a look to see if records were available and whether the Board should look at the files. Ms. Kramer indicated that a determination was needed to see if the fence and deck are existing non-conforming structure. John Winter stated that once a structure is torn down, non-conforming use might not apply.

Chairman Neuringer asked if anyone would like to approach the Board.

Jane Yankocy, at 218 Lawrence Avenue, spoke against the variance. Ms. Yankocy provided some history dating back to the 1920's. She stated that three previous owners had left the area unchanged. When the deck was rebuilt in 2002, it almost immediately began coming down. At the time, Ms. Yankocy wrote to the Village Manager, but her letter was never answered. She also indicated that Mr. Paonessa had been a Trustee of the Village at the time. Ms. Yankocy continued by stating that the deck was an eye sore, a power line runs through the property and the pool is not properly secured. Ms. Yankocy stated that since the deck was constructed, it had been very dangerous. Additionally, Ms. Yankocy explained that the deck had been expanded to the property line. Ms. Yankocy presented the Board with a series of pictures illustrating the situation. Robin Kramer inquired as to how the deck could be raised when the pool is in ground. Mr. Paonessa explained that the pool toward the back sloped steeply. Barry Weprin indicated that there appeared to be a discrepancy with what Mr. Paonessa was saying and what Ms. Yankocy was saying. Chairman Neuringer asked if any repairs had been done in the 24 years and if there were any permits. Mr. Paonessa answered that there were some repairs before 2000 and he did not know a permit was required. Barry Weprin suggested that the Board look at the Building Department files and come back next month. Chairman Neuringer asked if Ms. Yankocy opposed the variance and she indicated she did oppose the variance. Chairman Neuringer asked if the visual or proximity of the deck was an issue for Ms. Yankocy. She replied that both points were an issue. She stated that there was always a setback until 2002. The deck did not go back to the property line at one time. Mr. Weprin asked how far the setback was and Ms. Yankocy replied more than a couple of feet.

Chairman Neuringer asked if anyone else wished to approach the Board.

Norma Riffle indicated that the property was dangerous and unsightly. She was under the impression the Village Code mandated individuals to keep their property neat. Chairman Neuringer suggested that the Board make a site visit to 218 Lawrence Avenue and arrangements were asked to be made.

Mr. Weprin made a motion to adjourn the public hearing, seconded by Ms. Kramer.

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

Chairman Neuringer stated that the regular public hearing was finished.

#### **PENDING APPLICATIONS CLOSED**

1. **Application of MICHAEL DUGAN #2A-2009.  
1508 Raleigh Road, for a variance of §§342-27 and**

**Closed 1-7-09**

**342-65 to building an addition and non-conforming roof deck with an insufficient rear yard (24 feet proposed, 25 required). (R-5 District)**

The Board discussed the merits of the application.

Robin Kramer indicated that the Board has been consistent about denying non-conforming use in the past. Barry Weprin asked if there was any alternative to denying or approving this application. Chairman Neuringer indicated that a similar application was denied in the past. He asked if the Board should depart from precedence. George Mgrditchian stated that this application did differ from prior applications. A discussion arose regarding adding on to an existing non-conforming use.

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

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

- 2. Application of SHELDRAKE LOFTS LLC AND 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)**

Closed 2-5-09

The Board discussed the merits of the application.

Chairman Neuringer stated his concern that the proposal was 33% over what is required. He asked if it was a benefit to go over the FAR. Greg Sullivan indicated that the Board needed to be mindful that the FAR law was recently amended by the Board of Trustees and that he was concerned about more suites stemming from variances to the Code. Robin Kramer asked about SEQRA requirements and Kathy Zalantis indicated that there is no need for SEQRA when denying an applicant.

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

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

- 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**

Closed 2-5-09

**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)**

The Board discussed the merits of the application.

Much discussion arose regarding the free-standing sign. In addition, there was some discussion as to signs that had been approved for other applicants. Barry Weprin indicated his issue was with the free-standing sign.

A motion to approve the variances except for the free-standing sign which was denied was made by Mr. Weprin for the reasons stated on the record and recorded in the verbatim transcript, seconded by Mr. Mgrditchian.

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

The Board discussed the merits of the application.

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

**APPLICATIONS CLOSED AND APPROVED 4-2-09**

**1. Hearing to determine if Bo Café is in compliance with conditions of a previously approved special permit**

Chairman Neuringer asked if the intensity use changed the requirements of the special permit. Greg Sullivan stated that the intensity of use did not change in his opinion and the Village did not want another empty store in the area. Robin Kramer stated that when reading the resolution, there is nothing in the resolution that would lead her to believe Bo Café was being inconsistent with the resolution. They are open until midnight and most coffee type shops would not be open that late. Chairman Neuringer expressed concerns that the parking variance may have changed. Robin Kramer stated nothing in the resolution would lead someone to think it was acting in violation of the resolution. Variances should be issued with specific qualifications in resolutions. Barry Weprin commented that if the applicant receives a cabaret license, then he has no issues. George Mgrditchian stated that when parking becomes an issue and people start complaining, then the applicant can come back before the Board. Chairman Neuringer asked if the Board could change the special permit now. Kathy Zalantis stated that a motion be made by a Board Member to rehear and a unanimous vote to have a public hearing would need to be done.

Barry Weprin indicated that with one year left on the special permit, the Board should not make any changes. In one year the applicant can come back to the Board and renew their special permit. George Mgrditchian stated that the Board can continue to monitor Bo Café to make sure the

applicant is in compliance with the special permit. Chairman Neuringer asked if the Board needed to have a vote in order to do nothing. Kathy Zalantis said no.

- 2. Application #5SP-2009, Hector Vasquez, 158 Mamaroneck Avenue, (Section 9, Block 50, Lot 19A), for a hearing for a special permit to expand an existing restaurant into the adjacent building. (C-2 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 Mr. Mgrditchian.

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

- 3. Application #2SP-2006, ANGIE PASA DBA (VALLIS AUREA, LTD.), 626 Third Street (Section 4, Block 10, Lot 11), for a hearing to renew a special permit to operate a wine storage warehouse. (R-2F District)**

The Board discussed the merits of the application.

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

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

- 4. Application #10SP-2006, GREGORY KATSAROS (MAMARONECK DINER), 405 E. Boston Post Road, (Section 4, Block 60, Lot 7B6 & 7B7), for a hearing to renew a special permit to operate a diner. (MC-2 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. Weprin.

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

- 5. Application #14SP-1996, GARY GERSTEIN (TCD CELLULAR COMMUNICATIONS, INC.), 420 Mount Pleasant Avenue (Section 9, Block 10, Lot 1B), for a hearing to renew a special permit to operate a wireless communications retail and automotive and personal service store. (C-2 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.

Ayes: Neuringer, Kramer, Mgrditchian, Sullivan, Weprin

Nays: None

- 6. Application #2S-2009, DCH MAMARONECK LLC/PACE BMW/DCH INVESTMENTS INC., 222-226 West Boston Post Road (Section 9, Block 40, Lot 18), for a hearing to propose two façade signs on the front elevation where Village Code §286-12B(1) limits business establishments to one facade sign. (C-1 District)**

The Board discussed the merits of the application.

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

Ayes: Neuringer, Kramer, Mgrditchian, Weprin

Nays: Sullivan

### MINUTES

A motion to approve the minutes of January 7, 2009, February 5, 2009 and March 5, 2009 was made by Mr. Mgrditchian, seconded by Mr. Sullivan.

Ayes: Neuringer, Mgrditchian, Kramer, Sullivan, Weprin

Nays: None

### ADJOURN

A motion to adjourn the meeting was made by Ms. Kramer, seconded by Mr. Weprin.

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

Nays: None

On motion duly made and carried, the meeting was adjourned at 11:15 P.M.

GEORGE MGRDITCHIAN  
Secretary

Prepared by:  
Ann P. Powers