

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, MAY 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 May 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 Weprin  
Steven Silverberg, Counsel to Board  
John Winter, Director of Buildings  
Robert Melillo

RECEIVED  
CITY CLERK  
2009 JUN -5 AM 11:10  
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 7:02 P.M. and he detailed the procedures for the meeting. The next meeting is scheduled for Thursday, June 4, 2009. There will not be an August meeting. 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.

Chairman Neuringer began the meeting with administrative items:

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

Chairman Neuringer asked Mr. Paonessa to come forward and inquired about signage. Mr. Winter verified that the sign was not displayed per Zoning Code requirements. The application was adjourned to June 4, 2009.

**2. Application #1A-2008, Joseph Germano**

Chairman Neuringer asked Mr. Germano to come forward and inquired about signage. Mr. Germano stated that the sign had been up until someone took the sign down. The application was adjourned to June 4, 2009.

**3. Application #4S-2009, Angelo Salzillo**

Chairman Neuringer asked Mr. Salzillo to come forward and inquired about signage. Mr. Salzillo stated that the sign had disappeared. The application was adjourned to June 4, 2009.

Chairman Neuringer confirmed with John Winter that the sign was in place at the French American School of New York. Chairman Neuringer also mentioned a letter from the Village Attorney, Janet Insardi, regarding Benmar. Mr. Silverberg suggested that the Board go into executive session.

A motion was made by Mr. Mgrditchian, seconded by Ms. Kramer to go into executive session.

At 7:15 p.m., the Board went into executive session.

At 7:21 p.m., the Board returned from executive session.

Mr. Silverberg stated that the Supreme Court had requested SEQRA findings regarding Benmar and that the Board will undertake a SEQRA review. The matter will be placed on the June 4, 2009 agenda and the neighbors will be notified accordingly. Mr. Silverberg stated that this was solely for the purpose of a significance determination under SEQRA. Mr. Sullivan asked that a condensed information package, from Mr. Silverberg, regarding the Lucas matter be provided to the Board. Mr. Silverberg will provide that information to the Board.

#### **4. Adjourned Application #2I-2008, Nora Lucas**

Chairman Neuringer stated that a request had been made to adjourn the matter until September and that the adjournment request was accepted.

**Chairman Neuringer began with the regular agenda items.**

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

Dennis Cucinella appeared on behalf of the applicant. Discussion surrounded angled parking versus perpendicular parking. Angled parking allows for 14 parking spaces, whereas perpendicular parking allows for 18 spaces. Ms. Kramer indicated that the church seemed to be further reducing parking. Mr. Cucinella stated that the reason was due to increasing the buffer and increasing the lot size. Mr. Cucinella also indicated that both proposals maintain the trees. Frank Fish's report was discussed, as was lot size and the buffer area. There was some question as to which scheme was being proposed and it was indicated that scheme A was the correct one.

Mr. Cucinella indicated that the areas had changed because they were increasing the space to sell the parcel. Mr. Mgrditchian suggested adding a few extra hundred square feet into Parcel A for parking. Ms. Houston stated that a developer was interested in having a larger lot parcel and the Planning Board seemed sympathetic to his request. Chairman Neuringer indicated that the rationale of the Planning Board consultant was to enlarge Parcel A by reducing Parcel B, thereby reducing parking spaces. Mr. Silverberg stated that it seems there are fewer parking spaces now than in the original plan. Mr. Cucinella said that Mr. Fish wanted more green space and to add handicapped parking. Mr. Mgrditchian indicated that Scheme A was more appropriate.

Chairman Neuringer asked if anyone wanted to address the Board. Mr. Scheferdecker approached the Board and indicated that the Planning Board had no recommendation out of the last meeting and he feels that there should be a recommendation. He asked if the plans were available for

viewing and Mr. Silverberg indicated that the documentation from Mr. Fish regarding this application is available at the Zoning Office. Mr. Scheferdecker indicated that the neighbors are more interested in what type of house will be built and not so much on the parking. He stated that the Zoning Board should not take action until the Planning Board makes a determination.

Chairman Neuringer asked if anyone else wanted to address the Board. Mr. Desmond approached the Board. Chairman Neuringer stated that the Board has received several letters and hoped that tonight would only include new information. Mr. Desmond indicated that there wouldn't be anything new. Mr. Weprin stated that the rules indicated that you can't repeat. Mr. Desmond spoke about fiduciary responsibility and that reducing parking spaces short changes everyone.

Chairman Neuringer asked if anyone else wanted to address the Board. Mrs. Desmond approached the Board. Chairman Neuringer reiterated ground rules regarding repeating comments and that only new information should be provided. Mrs. Desmond indicated that she still questions the reasoning for this subdivision as it related to hardship. She hasn't seen any kind of activities throughout all these years. She stated that there are only 3 to 5 cars parked in the lot at a time. She doesn't see any community outreach from the church. Mrs. Desmond also stated that she doesn't see a positive affect from tearing down a house and asphaltting property.

Ms. Kramer indicated that decreasing parking spaces is the matter before the Board. Ms. Kramer asked if the Board had a condition that if membership increased above some number of members, could the Board require additional. Ms. Houston indicated that this would be acceptable to the church. Chairman Neuringer asked if the Board can make a determination as to the specific number. Mr. Cucinella stated that the church wants Scheme A. Mr. Silverberg asked if SEQRA had been determined by the Planning Board. Mr. Winter left the meeting to go to his office and check.

Mr. Mgrditchian asked how many patrons attend services on Sunday. Ms. Houston indicated that 10 people attend. She also indicated that the church does have outreach programs which would require parking. Mr. Mgrditchian said that the bare minimum would be 17 spaces in his opinion since the application already meets the requirement of 5,000 square feet. Mr. Weprin indicated that he would approve with 18 spaces including handicapped parking.

Mr. Silverberg indicated that in light of the fact that the Planning Board has declared itself lead agency and is in the process of making a determination regarding the Church, the Zoning Board could vote to close the public hearing and await the Planning Board's determination of significance under SEQRA before taking action. The Zoning Board discussed the variance application and, without taking a formal vote, reached a consensus that a plan providing for no less than 18 parking spaces on the lot retained by the Church would be an acceptable variance. The Church will be placed back on the agenda after the Planning Board makes a determination.

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

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer, Weprin

Nays: None

## **2. Adjourned Application #11S-2009 & #12-A2009, French American School of New York**

Michael Zarin, Esq. appeared on behalf of the applicant. He addressed the traffic analysis done by the Village's consultant and that the consultant's analysis was in line with school's analysis. A discussion arose regarding expansion of the school. Mr. Zarin stated that the applicant would be willing to place a cap of 380 students and not come before the Board again. Ms. Kramer discussed the possibility of striping the parking spots that were currently not striped. Also mentioned by Ms. Kramer was the possibility of granting a variance with terms. It was agreed that variances run with the land and that the Board can't condition the land for a particular user. More discussion occurred regarding future need for parking and Mr. Zarin stated that when the applicant comes before the Board again for the Special Permit renewal, the parking can be addressed at that time. Mr. Zarin respectfully asked that the Board vote tonight.

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

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

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer, Weprin

Nays: None

## **3. Application #13A-2009, Michael Cotter**

Gale Retacco appeared on behalf of the applicant. She is both mother-in-law and realtor who sold Mr. Cotter the property. The applicant is requesting two additional parking spaces off site. The property is a two-family house with a dental office on the first floor and an apartment on the second floor. Ms. Kramer asked why the existing apartment was not legal and Mr. Winter indicated that there was a certificate of occupancy for the dental office, but that the non-conforming apartment use was abandoned. There is parking on the property, but the spaces are for his staff. More spaces would be available if a tree was removed, however the applicant was not allowed to remove the tree nor does he wish to remove the tree. A question arose regarding the offsite parking spaces being policed. Chairman Neuringer stated that enforcement is not the responsibility of the Zoning Board.

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

Dr. Breskin approached the Board and indicated he was familiar with the area and that there was plenty of parking on the street. Asked if there were parking problems, Dr. Breskin indicated that he was not aware of any. Mr. Mgrditchian stated that in the early morning there is congestion. Mr. Weprin asked if Dr. Breskin approves the application and he indicated that he did.

Ms. Kramer inquired about the parking lease and Ms. Retacco stated that the parking lease was a month to month open-ended lease. Discussion arose about the applicant's parking lease. Chairman Neuringer stated that a lease that makes the Board more comfortable might be appropriate. Ms. Retacco indicated that it would not be a problem to get a more binding parking lease. Ms. Kramer felt a five year lease would be appropriate and that if the lease is terminated, the Board should be notified. Mr. Silverberg suggested that the application remain open.

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

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer, Weprin

Nays: None

**4. Application #15A-2009, Doug Jung**

Martha McCarty, Esq. appeared on behalf of the applicant. Mr. Mgrditchian recused himself. The applicant is requesting a five foot fence on a corner parcel placed beyond the front and side building lines; however the code states that the maximum is four feet. The property fronts on three streets. Mr. Sullivan asked if the fence was open and Ms. McCarty indicated that, yes, the fence was open. Ms. McCarty approached the members of the Board and illustrated how the fence would be erected using the copy of the schematic from the Board's packets. Mr. & Mrs. Jung described the shrubbery's height, denseness and width. Part of the fence would be erected behind the shrubbery and not visible.

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

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

Ayes: Kramer, Sullivan, Neuringer, Weprin

Nays: None

Abstain: Mgrditchian

**5. Application #6SP-2009, Ben Meza**

Martha McCarty, Esq. appeared on behalf of the applicant. Mr. Mgrditchian recused himself. The applicant is requesting a special permit to operate a Mexican/Spanish themed restaurant. The interior will remain the same. The front bar will mainly remain the same except to shorten it. An additional table will also be added. The restaurant will be painted, redecorated and the façade will be changed. The applicant will go before the BAR for the façade change. The hours of operation will be 7:00 a.m. until 11:00 p.m. Monday through Sunday (7 days) serving breakfast, lunch and dinner. There will be no music or entertainment.

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

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

Ayes: Kramer, Sullivan, Neuringer, Weprin

Nays: None

Abstain: Mgrditchian

**6. Application #7SP-2009, Ruben Ochoa (Roasted Pepper Corp.)**

Joe Messina, Esq. appeared on behalf of the applicant. The applicant is requesting a special permit to open and operate a continental restaurant. Ms. Kramer asked if the applicant would be utilizing the same space Starbucks did and Mr. Messina indicated that there would be no additional space. Mr. Mgrditchian asked if the fire code standards would continue and Mr. Messina stated that they would and he also stated that the lease had been signed. Chairman Neuringer inquired if it was an executed lease and Mr. Messina indicated that it was. The applicant will be serving brunch, lunch and dinner. The hours of operation will be 11:00 a.m. to 1:00 a.m. Sunday through Thursday, 10:00 a.m. to 3:00 a.m. Friday and Saturday. The fire code standards will be maintained. There will be no music or entertainment.

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

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

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer, Weprin

Nays: None

**7. Application #9SP-2006, PM Pediatrics**

Dr. Jeff Schorr appeared before the Board. The applicant is renewing a special permit to operate a pediatric health care facility after hours which has been in existence for approximately 21/2 years. The facility functions as an alternative to emergency room visits. Chairman Neuringer asked whether there were any changes to the facility and Dr. Schorr indicated that there were no changes to the operation.

Chairman Neuringer asked if anyone else wished to approach the Board. None did.

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

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer, Weprin

Nays: None

**8. Application #12SP-1995, St. Vito's Church**

Father James Healy appeared before the Board. The applicant is renewing a special permit to operate a religious school. Mr. Mgrditchian asked if there were any changes and Father Healy indicated that there were no changes. Ms. Kramer asked if there was any increase in size and Father Healy indicated there was no increase in size.

Chairman Neuringer asked if anyone else wished to approach the Board. None did.

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

Ayes: Kramer, Sullivan, Mgrditchian, Neuringer, Weprin

Nays: None

Chairman Neuringer stated that the regular public hearing was finished.

**APPLICATIONS CLOSED AND APPROVED 5-7-09**

**1. Adjourned Application #11S-2009 & #12-A2009, French American School of New York**

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. Weprin.

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

**2. Application #6SP-2009, Ben Meza**

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, Sullivan, Weprin  
Nays: None  
Abstain: Mgrditchian

**3. Application #7SP-2009, Ruben Ochoa (Roasted Pepper Corp.)**

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

**4. Application #9SP-2006, PM Pediatrics**

The Board discussed the merits of the application.

A condition of the resolution is that a lock box needs to be installed. The renewal of the special permit is without a term limit.

A motion to approve the application was made by Ms. Kramer 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 #12SP-1995, St. Vito's Church**

The Board discussed the merits of the application.

The renewal of the special permit is without a term limit.

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, Weprin  
Nays: None

**6. Application #15A-2009, Doug Jung**

The Board discussed the merits of the application.

Chairman Neuringer indicated that he was in favor of the fence because of the fence type and also the shrubbery. A condition of the resolution is that the fence be of a transparent type.

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. Sullivan.

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

**MINUTES**

The April 2, 2009 minutes were held over to the June 4, 2009 meeting.

**ADJOURN**

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

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

On motion duly made and carried, the meeting was adjourned at 9:40 P.M.

GEORGE MGRDITCHIAN  
Secretary

Prepared by:  
Ann P. Powers