

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, NOVEMBER 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 November 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  
Robin Kramer, Board Member  
Gregory Sullivan, Board Member  
Barry Weprin, Board Member  
Kathy Zalantis, Counsel to Board  
Pamela Bennett Louis, Assistant Counsel to Board  
John Winter, Inspector of Buildings  
Robert Melillo, Building Department

**ABSENT:**

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 7:04 p.m. and he detailed the procedures for the meeting. The next meeting is scheduled for Thursday, December 3, 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. Chairman Neuringer stated that Mr. Weprin would be a few minutes late for the meeting.

Chairperson Neuringer began with the agenda.

Chairman Neuringer stated that a request had been made to adjourn the applications of Mamaroneck Beach and Yacht Club and Michael Fasano to December 3, 2009. Mr. Neuringer went on to state that the Board had received a request to withdraw the application of Nora Lucas.

**1. Application #25SP-2006, THE POST SBAG INC.**

Board member George Mgrditchian recused himself from this application.

Donald Mazin, Esq. appeared on behalf of the applicant. He asked to be moved to a later time because Mr. Weprin was not in attendance yet. The Board granted his request.

**2. Application #21SP-2006, DBJC, INC.**

The applicant was called, however no one appeared. The Board stated that it would call the applicant again.

**3. Application #22SP-2006, RANI MAHAL FINE INDIAN CUISINE, INC.**

Abdul Jalil, the owner, appeared before the Board. He indicated that he wished to renew his special permit to operate an Indian restaurant. Chairman Neuringer asked Mr. Jalil if there were any changes to the establishment and Mr. Jalil answered that there were no changes. Everything was the same as in 2006.

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

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

**4. Application #21SP-2006, DBJC, INC.**

The application was called again and this time the owner was in attendance. Dean Bellantoni stated that he was before the Board to renew his special permit to operate a boxing facility. Chairman Neuringer asked if there were any changes to the establishment. Mr. Bellantoni answered that there were no changes, only some renovations. Mr. Mgrditchian asked if there were any changes to the retail store and Mr. Bellantoni answered that merchandise was added. Mr. Mgrditchian asked if there were any changes to the hours of operation and Mr. Bellantoni indicated that there were no changes. Mr. Neuringer clarified that the renewal for the special permit was for a boxing training center and Mr. Bellantoni answered in the affirmative.

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

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

**5. Application #26SP-2006, ORIENTA BEACH CLUB**

William Boulay appeared before the Board and stated that Orienta Beach Club was asking for a renewal of a special permit to continue to allow non-member events. Chairman Neuringer stated that the condition of the prior resolution indicated that not more than 20% be for non-member events. Mr. Boulay stated the the club was well within that number. Chairman Neuringer asked if the applicable IRS forms had been filed with the Clerk-Treasurer per the resolution and Mr. Boulay stated that he was not sure and that he would follow up. Ms. Kramer stated that the code states that the applicant “show” that forms are taken care of and “show” the 20% non-member. Chairman Neuringer stated that the application will be adjourned until December 3<sup>rd</sup>. Chairman Neuringer asked that Ann Powers, ZBA secretary, follow up with the Clerk-Treasurer’s office to see if the necessary paperwork was provided.

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

**6. Application #17SP-2009, ENUER BALIDEMAJ**

Enuer Balidemaj, the owner, appeared before the Board. Chairman Neuringer went over the history of the establishment. The restaurant had been run by a previous owner and Mr. Balidemaj was taking over the management and ownership of the restaurant. Mr. Mgrditchian asked if Mr. Balidemaj was planning to make any changes to the establishment and he indicated that he was not and that nothing was changing. Mr. Mgrditchian asked about the hours of operation and Mr. Balidemaj stated that the hours of operation would remain, closed on Mondays, Tuesday through Friday 12:00 p.m. to 10:00 p.m., Saturday 5:00 p.m. to 11:00 p.m. and Sunday 3:00 p.m. to 9:00 p.m. Mr. Mgrditchian asked if the restaurant was up to code on fire, etc. and Mr. Balidemaj answered in the affirmative.

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

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

**7. Application #30A-2009, KEVIN CROWLEY**

Kevin Crowley appeared before the Board. He indicated that he would like to replace the existing fence with a six foot wooden fence. He stated that his neighbor will be taking down his chain link fence in connection with the new fence. Mr. Crowley is requesting a higher fence because he is adjacent to a commercial property and wishes to shield his property from car lights as well as debris. Ms. Kramer asked what type of fence Mr. Crowley wished to erect and he indicated a wooden fence. Chairman Neuringer asked if the proposed fence was a solid fence and Mr. Crowley answered in the affirmative all the way to the top.

Chairman Neuringer asked if anyone wished to approach the Board.

Norman Rosenblum approached the Board. He indicated that he was wholly in favor of this application.

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

**8. Application #36A-2009, MIKE YANNUZZI**

Chairman Neuringer called the application, however no one appeared. The Board indicated they would call the application later in the evening.

**9. Application #37A-2009, JOAN GUSSMAN DE LA CRUZ**

Donald Mazin, Esq. appeared on behalf of the applicant. He indicated that his client is asking for an interpretation first and that a variance request may not be required. Mr. Mazin went on to state that municipalities cannot interfere with federal law. Chairman Neuringer stated that the applicant is asking for an interpretation, but that a variance may also be requested. He asked Mr. Mazin what the applicant was asking the Board to interpret if the federal law states that municipalities can't supersede federal law. Ms. Kramer read from the law and stated that the law does not say

that a municipality can't regulate a ham radio. Mr. Mazin indicated that the Village code states a maximum fifteen foot height, but that the Village can't set an arbitrary number. He went on to state that if a house or tree is higher, a fifteen foot antenna won't do a thing. Ms. Kramer stated that federal law does not pre-empt municipalities from regulating ham radios. She continued by stating that if the Board denied the variance for valid reasons, it would not be going against the federal law. Ms. Kramer stated that the applicant must demonstrate it is the minimum necessary to operate the antenna. Mr. Mazin indicated that he was asking for an interpretation on the code provision as it should be deemed void. He continued by saying it does not make sense to have a maximum fifteen foot height requirement if it does not satisfy the need for the ham radio operator. Chairman Neuringer interjected by saying he is not sure this is an interpretation and asked if the fifteen foot maximum requirement is punitive to the applicant. Mr. Mgrditchian stated that the current ham radio give the applicant a wide range and that he were reaching out to this community, a lower height might be satisfied. Mr. Mgrditchian added that the disapproval states a disapproval for the variance and that there is no interpretation request. Discussion arose as to whether the applicant requested an interpretation. Ms. Kramer stated that the disapproval notice is not incorrect, but that the applicant should have made two applications. She went on to say that the Board needed to be clear on what it was hearing; the interpretation or variance.

Mr. De LaCruz addressed the Board. He indicated that CB radios are used to communicate with friends and anyone can have one. To be a licensed ham radio operator, there are many requirements by the FCC. He clarified that the width of the antenna is not forty feet, but twenty-five feet. Mr. De LaCruz stated that many of the trees in his area are 100 feet in height and that his neighbor has a three-story house. Mr. Mgrditchian asked if there are different frequencies that the applicant can use and he answered in the affirmative. He went on to say that using the particular band he is requesting the variance for will allow him to communicate around the globe. He illustrated a recent case where his operation helped save stranded people off the coast of Cuba. Mr. De LaCruz also mentioned an encounter with one of his neighbors who stated that Mr. De LaCruz's ham radio was interfering with his television reception. Mr. De LaCruz went on to say that simply because he has the big structure does not mean he is the problem. He stated that he has had no complaints for the Building Department and that he is helping people, not causing the problem. Mr. Mgrditchian asked if this was done as a hobby and Mr. De LaCruz answered in the affirmative. Chairman Neuringer stated that the Board was not questioning the meaningfulness of a ham radio operator. Discussion arose regarding the different types of antennas and the capabilities of those antennas. Mr. De LaCruz stated that he has a capacity of 1500 watts, but does not use that capacity. He continued by stating the CB's will affect equipment where ham radios will not have interference. Chairman Neuringer asked if someone could have interference problems with their televisions due to the ham radio. Mr. De LaCruz answered it is possible, but the equipment is better at managing the interference. Chairman Neuringer asked that if his television was interrupted by Mr. De LaCruz's antenna it was Chairman Neuringer's problem and Mr. De LaCruz answered basically yes. Chairman Neuringer asked what percentage of the day was the ham radio at its highest use and Mr. De LaCruz stated that it depends on the season. During hurricane season he will be transmitting more than at other times. Chairman Neuringer asked if the antenna must have visual site with the next antenna and Mr. De LaCruz answered not necessarily visual, but if there is a structure that might impede it there might be a problem.

Mr. Sullivan asked a question to counsel as to whether the Board can make decisions based on federal law. Kathy Zalantis stated that the applicant must demonstrate need for the height and width and the Board may have to grant variance based on federal law.

Ms. Kramer stated that the applicant will need to provide the Board with information showing the need of the antenna height and width to operate the ham radio. Chairman Neuringer suggested that the application be held over until the December 3<sup>rd</sup> meeting. Ms. Kramer indicated that there were two complaints from neighbors regarding the antenna. Mr. Mazin asked that copies of the letters be provided to him.

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

**10. Application #25SP-2006, THE POST SBAG INC.**

Board member George Mgrditchian recused himself from this application.

Donald Mazin, Esq. appeared on behalf of the applicant. He stated that the applicant is requesting a renewal of the special permit to operate a restaurant. The use is the same as well as the hours of operation. He indicated that the applicant has a cabaret and sidewalk license. Chairman Neuringer asked Rob Melillo, Building Department, if there were any problems with the dumpsters. Mr. Melillo stated that he had not check, but there is a relevant code relating to dumpsters. Ms. Kramer stated that there appeared to be some complaints with the establishment. Mr. Mazin indicated that matters had been resolved. Ms. Kramer asked if the conditional liquor license had become permanent and Mr. Mazin answered in the affirmative.

Chairman Neuringer asked if anyone wished to approach the Board.

Norman Rosenblum approached the Board. He stated that the entertainment (blues and jazz music) was the best he has seen and the people should come and visit it. Mr. Mazin stated that he frequents the establishment, the music is great and the clientele is very nice.

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

**11. Application #36A-2009, MIKE YANNUZZI**

John Woodruff, AIA Architect, and Mike Yannuzzi appeared before the Board. Mr. Woodruff indicated that the applicant wants to add a bedroom on the second floor and a front porch. He stated that the footprint was not being extended. He also indicated that the house pre-dates the 1968 zoning code. Mr. Woodruff stated that all neighbors approve the work and he submitted testimonials to the Board. Discussion arose regarding the asymmetrical shape of the front porch and why it was designed that way. Chairman Neuringer asked what the 19 inches produced by the asymmetrical shape of the porch would give the applicant and questioned whether that area was rendered useless. Mr. Woodruff stated that with a small house, every inch counts. Chairman Neuringer stated that his concern was that the applicant was increasing the size of the house and decreasing an already small setback. Mr. Neuringer stated that the setback was his greatest concern. Mr. Woodruff recognizes the fact that there is a small setback and that the argument is

more to the utility of the house. He indicated that the applicant wants to make the house larger. Mr. Mgrditchian stated that he would like to hear from neighbors. None appeared. Chairman Neuringer stated that neighbors may not realize from the plan what the finished product will look like. Mr. Sullivan indicated that his site visit shows that everything in that area is tight, but it would be nice to improve the block. Mr. Weprin added he felt it would be an improvement to the area. Chairman Neuringer stated that his concern was that at the end of the day there will be two houses very close together. Mr. Mgrditchian indicated that this was not the first time the Board did something like this.

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

**12. Application #42A-2009, ISABELLE CARELLI**

Anthony Carelli appeared before the Board. He indicated that there was a wooden fence that fell down and he wishes to replace it with a six foot vinyl fence. Mr. Carelli stated that he is close to the interstate and that having the new fence would help with noise, pollution and lights from the cars.

Chairman Neuringer asked if anyone wished to approach the Board.

Norman Rosenblum approached the Board. He indicated that he was in favor of this variance for the same reasons as stated before. A letter was also submitted by a neighbor in favor of the variance.

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

**13. Application #43A-2009, JASON DALLI**

Jason Dalli appeared before the Board. He indicated that he is requesting a variance to replace an existing fence with a six foot fence. He indicated the slope of the grade on a portion of the property requires an increase in height of the fence. Chairman Neuringer asked what the property backs up to. Mr. Dalli indicated that it backs up to the interstate. He indicated that the prior fence was wooden and he will be replacing it with a vinyl fence. Mr. Mgrditchian asked how many panels will exceed the six feet and he answered that four panels would.

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

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

**14. Application #38A-2009, ROBIN SIMONSEN**

Edward Jacobson, Architect, appeared before the Board. Chairman Neuringer stated that the Board had a 1993 survey as well as a letter from the applicant stating there have been no changes to the property. However, there was a deck previous to this one. Mr. Jacobson indicated that the deck was there when the owner purchased the house. He went on to say that the property is a non-conforming use. The applicant would like to demolish the deck and build a new one. Mr.

Mgrditchian asked why the applicant wanted to do this. Mr. Jacobson stated that the current deck does not suit the applicant's purpose and needs to be repaired. He stated that the applicant would like a larger deck because she has an ill daughter and they spend a lot of time on the deck. Ms. Kramer asked how this application was any different from other non-conforming uses for variances that the Board has rejected in the past. Discussion arose as to whether this is a use or area variance. Ms. Kramer stated that extending non-conformity is an area variance. Chairman Neuringer asked if the applicant could work with the existing deck so that it wouldn't create a great non-conformity. Mr. Jacobson answered that he was not sure. He stated that the applicant was looking to do it "as of right" in terms of other properties. Ms. Kramer said that the mere fact that the applicant has a non-conformity affects other properties and this does affect other properties. Mr. Weprin stated that if this were a one-family, it would be an "as of right." Chairman Neuringer indicated that the Board is not looking to create an even bigger non-conformity. Mr. Mgrditchian pointed out that if the applicant repaired the porch in like kind, she would not need a variance.

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

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

At this time, Chairman Neuringer stated that the Board was going into Executive Session regarding the Lucas litigation.

A motion to go into Executive Session was made by Mr. Mgrditchian, seconded by Mr. Sullivan.

8:41 p.m. (into Executive Session)

9:16 p.m. (back from Executive Session)

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

#### **15. Application #44A-2009, SHAHIN MEHRKAR**

Cheryl Mehrkar appeared before the Board. She stated that she was applying for a variance to put a portico on top of an existing front porch. She indicated that she is not changing the footprint. Chairman Neuringer clarified that this is for protection, but that the stairs will not be protected. Ms. Mehrkar stated that was correct, she wants to cover the porch. Mr. Mgrditchian asked if Ms. Mehrkar was changing a walkway. Ms. Mehrkar indicated that new pavers will be laid down. Mr. Mgrditchian asked if she had current permits and Mr. Mehrkar answered in the affirmative for the garage and roof.

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

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

## **16. Adjourned Application #34A-2009 & 2I-2009, GEORGE KROL**

Paul Noto, Esq. appeared on behalf of the applicant. He indicated that the Building Department was tasked to look into the history of the property. Mr. Noto stated that Rob Melillo, Building Department, did provide his client with the requested information. In 1941 it was converted, with a permit, to a 4-family dwelling. In 1952 it was then converted to a non-conforming 5-family. Mr. Noto stated that from his client's and his perspective, it is a legal 5-family non-conforming. Chairman Neuringer stated that last month it was stated that the property was a 6-family dwelling and the tenant was removed and it was brought back to a 5-family. Mr. Noto stated that every renovation performed had a permit and the Building Department was involved.

Mr. Melillo explained his research. He met with the tax assessor to see how the dwelling became a 5-family. In 1941, a building permit for a two car garage and interior work (3-family) was issued. In 1958, a fire escape for the building was erected. Mr. Melillo went on to say that originally, the dwelling was supposed to be a one or two family house. The Town of Rye did the evaluations in 1966. The Town visited the dwelling, but was denied entry. The Town went out again in 1967 and was again denied entry. From neighbors, the Town determined that it was a 4-family dwelling. In 2005, it was determined that it was a 5-family dwelling when a finished basement was created. Mr. Noto stated that he had a letter from 1986 indicating it is a 5-family dwelling. Mr. Noto went on to say that there should be no dispute that this is a legal 4-family non-conforming dwelling. The Board seems to have an issue with the fifth family. Mr. Noto stated that if the Building Inspector says it is legal, then the Board is the only entity who can overturn that decision. His assumption is that it is a legal 5-family non-conforming dwelling since 1986.

Mr. Mgrditchian stated that the Board can make a determination that this is a legal 4-family non-conforming. Mr. Noto indicated that the Board would be taking property away from his client by making a determination that it is a 4-family and not a 5-family dwelling. Discussion arose as to whether the applicant has been under assessed. The Town of Rye lists the dwelling as a 4-family and Mr. Noto contends that Mamaroneck lists it as a 5-family. Mr. Mgrditchian asked if the Board can look at utility records to determine when these meters were installed. More discussion arose regarding the work done (alterations) on the dwelling and if all permits were in order, which they were.

Ms. Kramer stated that because this is a non-conforming use, it may not be altered, extended or enlarged. Mr. Noto illustrated that in the applicant's alterations, he reduced the non-conformity. Chairman Neuringer asked if the garage would be included and Ms. Kramer answered that a garage is an accessory use, not a primary use. Mr. Noto added that accessory buildings are conforming. Mr. Winter indicated that permitted accessory uses can only be in conjunction with a permitted principle use.

Mr. Noto stated that in 1998, the applicant built a three-car garage. Ms. Kramer asked how many cars could park on the site before and Mr. Noto answered five. Ms. Kramer then asked how many could park now with the garage and Mr. Noto answered five. He went on to say that there is enough parking and that parking is not the issue. Chairman Neuringer asked what the alterations were to the interior. Mark Mustaceto answered that the basement was turned into living space. A bathroom and kitchen were installed to make that space an apartment. He went on to say that



when the applicant bought the house there was a finished basement. The applicant removed the kitchen and bathroom. When the architect came on board, he remodeled the basement to be an apartment. He also reconfigured the first floor. Ms. Kramer stated that if in 2000, there were five units, then in 2004 the applicant was not reducing but reconfiguring the apartments. Discussion arose regarding permitted accessory use and principle use.

Mr. Mgrditchian indicated that the Board may want to adjourn the applications so that the applicant could provide the Board with more information. Mr. Noto stated that his applicant had nothing further to provide to the Board.

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

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

#### **17. Application #40A-2009, EAST COAST NORTH PROPERTIES, LLC.**

John Dorf, Esq. appeared on behalf of the applicants, as well as Sean Murphy and Chris Murphy, the applicants themselves. Michael Stein, Hudson Engineering also appeared. Mr. Dorf indicated that the Murphys have had their business in Mamaroneck for many years and that they are a high-end contracting organization. Mr. Dorf indicated that there are several issues before the Board: 1) a variance for building coverage – enhancing the facility with extensive landscaping. The applicant will be pushing the building back from the road and eliminating a blind corner; 2) The maximum number of floors allowed is three and the applicant is requesting four and will be increasing the FAR. The actual height will fall within the requirement of the code. The interior will be fully sprinklered. The use will be low intensity; 3) Parking variance – reducing of parking spaces. The report shows that 27 allocated parking spaces will be ample. There will be a new access point. There are other self storage facilities where parking requirements have been reduced; 4) Reduction of 9 loading bays to 2. Primary vehicles will be cars and box trucks as opposed to heavy trucks. There are several similar structures with similar loading bays.

Chairman Neuringer asked if the applicant has been before the Planning Board. Mr. Stein answered that before looking for action from the Planning Board, the applicant wanted the Zoning Board to look at the application before moving forward. Chairman Neuringer stated that he spoke with the Planning Board Chairperson and that this Board will be working in conjunction with the Planning Board on this application. Chairman Neuringer went on to say that as far as the variances being requested, they are substantial variances. Ms. Kramer pointed out that if the applicant decreased the size of the building, the requested variances would be decreased as well. Sean Murphy indicated that the design is based on what makes sense economically. The store front has not been rented in 2 ½ years because of flooding issues. By raising the structure above the flood level, it would be beneficial. He also indicated that this is self storage, not warehousing and there is no code for self-storage for parking. Ms. Kramer stated that the amount of parking may not be required because of use. Mr. Stein indicated that parking was set up for 20 minute time blocks. Ms. Kramer indicated that doubling the FAR is significant. Mr. Stein stated that even though the building is bigger, it will be further back from the street and landscaping in front will be provided to improve the aesthetics of the property.

Chairman Neuringer stated that BMW and Toyota want to build very large facilities. What if they came to the Board saying that they wanted to build something big, but will have nice landscaping? That does not take away from the fact that it is a large structure. Mr. Stein answered by saying the Board would have to analyze the use and that those businesses would have more intensity use. Ms. Kramer stated that what the applicant is saying is that doubling the FAR will not have a greater impact on the neighborhood. Another applicant could double the FAR and have a greater impact on the neighborhood because of the use. The approval of the variance would stipulate storage facility.

Mr. Mgrditchian asked if this was a pre-fab structure and Mr. Murphy answered in the affirmative. Discussion arose regarding the site plan and the size and length of the building. Chairman Neuringer indicated that there are some site planning issues that need to be resolved and mentioned the transmittal from Fire Code. Mr. Stein stated that he had followed up regarding the fire code concerns. Chairman Neuringer asked if the applicant will deal with the fire code officials and Mr. Stein indicated that he would. Chairman Neuringer asked if the applicant was taking away parking on Waverly Avenue and Mr. Stein answered that the applicant will be creating curbing, so there will be parallel parking. Probably four or five spaces will be lost.

Chairman Neuringer indicated that the applicant may want to provide more information to the Board so that the Board can feel more comfortable with the size of this request. Mr. Murphy stated that he has lost substantial monies due to the flood and he is trying to make it economically sound. He would also like to stay in Mamaroneck. Chairman Neuringer reiterated that this Board is looking to the Planning Board on site plan to help make its determination.

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

The application is adjourned until December 3, 2009.

Ms. Kramer indicated that the Board had received a letter from Mr. Paonessa regarding a request for a rehearing on an application. Chairman Neuringer tabled the discussion until December.

### **APPLICATIONS CLOSED**

#### **1. Application #19A-2009 & #1I-2009 , FITIM BALAJ**

Discussion on where the Board is with the voting was mentioned. Ms. Kramer stated that the applicant knew when it started work that this was a non-conforming 4-family dwelling. They knew it and did the work. Chairman Neuringer stated that the record shows it was filed as a legal 4-family house and the applicant obtained permits. Now the Board is looking at the extension. Chairman Neuringer asked if the Board can review supplemental material that was submitted after the application was closed. Kathy Zalantis stated that it is her understanding that Steve Silverberg spoke with Mr. Mazin and he provided material to the Board to “refresh” their memory. Ms. Kramer interjected by stating that if this is new material, than it should not be considered.

She went on to say that the structure was there and had defects. As the Board did with the granting of the interior of the house, the Board could do the same with the extension in terms of the

interpretation. Ms. Kramer stated her concern was how much the Building Department would have allowed the applicant to repair and fix up. Now it is being replaced with a 2009 structure. The tearing down is the question.

Chairman Neuringer asked what advantage there was to be gained by tearing down the house and rebuilding it exactly the same way. Ms. Kramer stated that if she tore down her 1920's garage and rebuilt it, she would have a new garage even if she didn't change anything. If the applicant tore bricks down, he should have to replace the structure with bricks. Mr. Mgrditchian stated that most architects would have and photographed issues for the record. Chairman Neuringer asked Mr. Mgrditchian if he has any reason to believe the applicant is lying. Mr. Mgrditchian indicated that is not what he is saying. Mr. Sullivan asked Chairman Neuringer when he was working with Mr. Balaj, did Chairman Neuringer mention the condition of the house to Mr. Balaj. Chairman Neuringer answered that he told Mr. Balaj he could not make changes. Mr. Sullivan went on to ask if tearing down an old structure and building a new one isn't changing the structure. Chairman Neuringer answered by stating that as an example, the code allows doing that for houses that burn down. Chairman Neuringer went on to say that if the applicant had come before the Board before the work began, this Board would be hard pressed to deny him. Procedurally he was wrong. Mr. Weprin noted that the Board had this discussion at the last meeting. There is no advantage to the applicant tearing down a structure and then rebuilding. Mr. Sullivan stated that in the past, Chairman Neuringer would be advocating to return the house to its former structure per the code. Mr. Sullivan asked counsel if the vote had to be re-formed. Kathy Zalantis indicated that the Board can do that.

Restore extension of the home with exactly the same footprint, without the basement, the same way as before due to health and safety concerns.

A motion to approve the application (interpretation) 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, Weprin

Nays: Mgrditchian, Sullivan

## **2. DCH Mamaroneck, LLC. (Application #27A-2008 & #11SP-2008)**

Chairman Neuringer indicated that a request was made by Paul Noto, Esq. regarding his client DCH Mamaroneck, LLC requesting a modification of the resolution to extend the time to obtain a building permit up to and including April 1, 2010.

A motion to grant the applicant an extension of time until June 1, 2010 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, Weprin, Mgrdichian, Sullivan

Nays: None

**3. Application #25SP-2006, THE POST SBAG INC.**

The Board discussed the merits of the application.

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

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 Mr. Sullivan.

Ayes: Neuringer, Kramer, Weprin, Sullivan

Nays: None

Abstain: Mgrditchian

**4. Application #21SP-2006, DBJC, INC.**

The Board discussed the merits of the application.

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

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

**5. Application #22SP-2006, RANI MAHAL FINE INDIAN CUISINE, INC.**

The Board discussed the merits of the application.

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

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.

Ayes: Neuringer, Kramer, Mgrditchian, Sullivan, Weprin

Nays: None

**6. Application #17SP-2009, ENUER BALIDEMAJ**

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.

Ayes: Neuringer, Kramer, Mgrditchian, Sullivan, Weprin

Nays: None

**7. Application #30A-2009, KEVIN CROWLEY**

The Board discussed the merits of the application.

The fence can be solid without lattice at the top.

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, Sullivan, Mgrditchian, Weprin

Nays: None

**8. Application #42A-2009, ISABELLE CARELLI**

The Board discussed the merits of the application.

The fence can be solid without lattice at the top.

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.

Ayes: Neuringer, Kramer, Weprin, Mgrditchian, Sullivan

Nays: None

**9. Application #43A-2009, JASON DALLI**

The Board discussed the merits of the application.

A motion to approve the application based on the unique condition of the property 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, Weprin, Mgrditchian, Sullivan

Nays: None

**10. Application #44A-2009, SHAHIN MEHRKAR**

The Board discussed the merits of the application.

There is no current protection and the variance is necessary for health and welfare reasons.

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.

Ayes: Neuringer, Kramer, Sullivan, Mgrditchian, Weprin

Nays: None

**11. Application #36A-2009, MIKE YANNUZZI**

The Board discussed the merits of the application. Chairman Neuringer had issues with regard to setback.

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: Kramer, Sullivan, Mgrditchian, Weprin  
Nays: Neuringer

**12. Application #38A-2009, ROBIN SIMONSEN**

The Board discussed the merits of the application.

Ms. Kramer stated that the applicant wants to alter a non-conforming dwelling. Mr. Weprin stated his concerns with making the porch larger. The applicant is altering and extending a non-conforming use.

A motion to deny 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, Weprin  
Nays: Sullivan

**MINUTES**

A motion to approve the minutes of September 3, 2009 and October 1, 2009 was made by Mr. Weprin, seconded by Mr. Mgrditchian.

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

**ADJOURN**

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

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

On motion duly made and carried, the meeting was adjourned at 11:40 p.m.

GEORGE MGRDITCHIAN  
Secretary

Prepared by:  
Ann P. Powers