

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, NOVEMBER 4, 2010 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 4, 2010. 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: David Neufeld, Chairman
Gregory Sullivan, Secretary
Clark Neuringer, Board Member
Barry Weprin, Board Member
Robin Kramer, Board Member
Kathy Zalantis, Counsel to Board
Robert Melillo, Assistant Building Inspector

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VILLAGE OF MAMARONECK
NEW YORK

Lisa Mango, 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 Neufeld at 7:07 p.m. and he introduced everyone and detailed the procedures for the meeting. The next meeting is scheduled for Thursday, December 2, 2010.

1. Adjourned Application #37A-2010, VITO LARUSSO

Chairman Neufeld noted for the record that the Board had received a letter from the applicant's attorney withdrawing the application without prejudice. Due to the fact there was some public interest in this application, he asked the attorney to appear tonight.

Donald Mazin, Esq. appeared on behalf of the applicant. He stated that originally Mr. LaRusso had applied for a variance and appeared without counsel. At this time he is withdrawing the application in full. Chairman Neufeld thanked Mr. Mazin for submitting the letter regarding the withdrawal and said there is no longer an application before the Board.

Chairman Neufeld asked if anyone wished to address the Board.

Mrs. Viola addressed the Board. She asked if there was a time limit to re-apply. She and her husband go away for the winter. Mr. Sullivan stated that a new mailing will go out announcing when the application will be on again. Mr. Mazin said that he plans to meet with the Building Inspector and he plans to bring a new application probably in December.

Mr. Elamraoui addressed the Board. He asked what the process is to withdraw an application. Chairman Neufeld explained the process, stating that there currently is not an application before

the Board and the Board will act when and if it receives another application. He also stated that applicants have the right to withdraw if they so wish. Mr. Weprin explained that the applicant has 60 days from the action of the Building Department to come before the ZBA. Discussion arose regarding taking documents from the current application and including them in the new application. Ms. Kramer stated that this will be a new application and material should be resubmitted.

Chairman Neufeld stated that based on the representation, the application is withdrawn. Mr. Weprin indicated that the Board had received the letter two days before the meeting.

2. Adjourned Application #5SP-2007, MEN AT WORK RETAIL, LLC VII

Paul Noto, Esq. appeared on behalf of the applicant. He stated that the applicant is before the Board to renew a special permit to operate an existing Dunkin' Donuts shop. Chairman Neufeld asked what the number of residences is in the location and Mr. Noto stated that he did not know. He stated that there is no cooking at the facility. The establishment is in compliance with all matters relating to the resolution. The hours of operation are also the same. There are no violations against the establishment.

Chairman Neufeld asked if anyone else in the audience wished to address the Board. None did.

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

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

3. Application #1SP-2005, ELRAC, LLC. D/B/A ENTERPRISE RENT-A-CAR

John Petrie, Operations Manager, addressed the Board. He stated that he is renewing a special permit to operate an existing rental car agency. The original permit was issued in 2005 and was renewed in 2008. The number of vehicles stored on the property varies, but there are no more than ten at any time. No vehicles are stored in the adjacent property. There was an issue a couple of years ago which blurred the property line and were issued a ticket. The matter has been corrected. The hours of operation are the same and there are no changes to the special permit.

Chairman Neufeld asked if anyone in the audience wished to address the Board. None did.

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

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

4. Application #41A-2010, JOSEPH CARILLO & Adjourned Application #18SP-2010, JOSEPH CARILLO

Paul Noto, Esq. appeared on behalf of the applicant. He handed out revised plans to the Board members. The applicant asked for an interpretation on the distance between the two shops. A variance is requested for the parking spaces and a special permit to operate the body shop. Mr. Noto stated that the establishment next to the proposed body shop is not a body shop or repair shop. It does a lot of retail. Because of this, Mr. Noto does not feel a variance is warranted. The variance is needed for the parking spaces. The new plan shows eight parking spots are provided. Since ten parking spots are required, the applicant is seeking a variance to allow eight spaces.

Mr. Noto stated that there will be no change or adverse impact to the neighborhood. Ms. Kramer asked Mr. Noto to explain what was within the 200 feet. Mr. Noto stated this is a retail operation that buys and sells vehicles. The Building Department feels the establishment is a repair shop and not a retail operation. According to the Building Inspector, this qualifies as a repair shop because they do oil changes.

Mr. Noto that in the past, there were a lot of body shops in the district and a law was passed to eliminate the negative issues. Both Mr. Carillo's body shop and Wish are registered under the DMV.

Mr. Pennella, Engineer, stated that he spoke with the Building Inspector and the inspector asked if the applicant could accommodate parking inside the building. Mr. Sullivan asked if the Building Department has seen this new plan and Mr. Pennella stated that it had not. Ms. Kramer asked what the parking spaces will be used for. Mr. Noto stated that two spaces will be for the employees. There is no need for customers to park. They will drop off their cars and come back to get them.

Discussion arose regarding striping the spaces to better indicate them. It was noted that there is a parking space near the paint station. Mr. Noto said it would not be an issue. Three cars can be painted in stages. It was noted that the applicant wants customers to pick up their cars and leave; they don't want a huge stockpile of cars.

Mr. Neuringer asked if the applicant would have an issue with provisions tied to sanding, etc. Mr. Noto stated that the applicant would not have a problem with provisions. Discussion arose regarding the shop next to the proposed shop having a DMV license which includes repairs, and dealerships also have this type of license. Wish's license is "retail-other". They are prohibited repair new passenger cars or light trucks.

Chairman Neufeld mentioned the Fire Marshall's comments on the transmittal regarding occupancy and fire alarm system. Mr. Noto stated he is aware of the comments and will need to address it. Mr. Pennella stated that the alarm system may be missing in the building. There are sprinklers.

Discussion arose with the owner, Stan Quittman, regarding the building not having a certificate of occupancy. There is no C of O because it can't be found. The building is over 100 years old. The building complies with all codes.

Mr. Noto stated that the applicant has been before the Planning Board and there are no site plan issues. Discussion arose regarding the need for a variance with respect to the parking being right up to the curb. Mr. Pennella explained that the curb is ten feet away; what the Board is looking at is the property line. Ms. Kramer indicated her feeling that the applicant needs another variance. The Board discussed where the parking spots are in relation to the property line. Mr. Pennella approached the dais in order for the Chairman and Ms. Kramer to show him what they were looking at on the plan. Mr. Noto interjected that there was nothing on the notice of disapproval from the Building Department with respect to this issue.

Mr. Neuringer stated that if the scheme is predicated on four of the eight parking spaces being outside, the applicant should let the Board know how long the proposed spaces are. Mr. Pennella stated that the spaces are 19 feet in length and Mr. Neuringer said this is not possible and that the spaces are significantly smaller.

Chairman Neufeld stated that the applicant needs to address the issue of scale and whether another variance is needed. Ms. Kramer stated that the engineer could go out tonight to the site and see what is there. Chairman Neufeld reiterated that this needs to be corrected. Mr. Pennella stated that Wish also seems to be doing it this way. Chairman Neufeld noted that if this is the case, violations should be issued to them.

Chairman Neufeld asked if anyone else in the audience wished to address the Board.

Salvatore LoBreglio addressed the Board. He noted that he is representing the owner of 517 Waverly Avenue. The existing body shop has been in existence since 1965. At all times it has been under the ownership of Mr. Castaldo. The location has been used for the repair and sale of used cars. When the tenant leaves, this will still be a body shop. Mr. Castaldo's shop is not relocating. This will still be a body shop. Mr. Neuringer stated that the reference of relocation applies to the operation at point A relocating to point B.

Discussion arose regarding Mr. Castaldo's body shop being within 200 feet of the proposed body shop. Based on the tax map, it was determined that the distance is 275 feet. From this measurement, it appears to be a non-issue.

The Board reviewed the EAF and there was a discrepancy with the address. Mr. Noto didn't know why as he did not fill out the EAF, the architect did. Chairman Neufeld stated that he had received a request from the Planning Board to perform SEQRA. Ms. Zalantis stated that both applications are unlisted actions. Ms. Kramer also noted another error on the EAF. The EAF shows it will and won't comply with zoning. It was determined the EAF should be redone. Chairman Neufeld stated that the Board needs more information before a negative declaration can be issued.

Chairman Neufeld asked if anyone else wished to address the Board.

Joseph Bruno addressed the Board. He stated that he wanted to make a statement about Mr. Carillo's character. Mr. Bruno was involved in an accident and Mr. Carillo took his car to his repair shop and gave him a ride home. Mr. Carillo told Mr. Bruno at the time that if he found

another repair shop, he would assist him in getting the car over to that shop. Mr. Bruno went on to say that Mr. Carillo is fair, honest and reliable and he would hate loose a business of this character.

Chairman Neufeld stated that there is an issue of ten feet which must be resolved and that a survey would be helpful to the Board. He also requested the EAF be corrected. The number of parking spaces will be reduced from eight to six if the spaces are too close to the curb. There was also discussion on whether the notice would need to be amended if the applicant requires a new variance.

Chairman Neufeld told Mr. Noto that he would place him at the beginning of next month's agenda. Mr. Neuringer stated that the site plan should show the curb line.

The application is adjourned until December 2nd.

8:00 p.m. Calendar

5. Adjourned Application #38A-2010, MR. & MRS. THIERRY POURCHET

Michael Csenge, architect, appeared on behalf of the applicant. Chairman Neufeld stated the site plan is based on a 1992 survey and asked if there was a more recent survey. He went on to state that the Board requires a survey no older than one year. Mr. Csenge noted that this is a pre-existing undersized lot. The Building Inspector determined the addition to be a third floor. The applicant feels it is a ½ story. The new roof stands above the existing roof and this is why the Building Inspector deems this a third story.

Mr. Csenge explained that he worked on another project in Mamaroneck which was similar to this addition. He showed the Board the schematic for that addition. There is a walk-in level, bedroom level and extension above the bedroom. He noted that this project received a Certificate of Occupancy. The project is very similar to what is being proposed with this application.

Mr. Neuringer inquired about the grade of the property. Mr. Csenge stated that the grade is even and flat. The entrance way is 18 inches above grade. Discussion arose regarding the number of steps for each level. There are 14 to 15 steps except when going from the second floor up. In that case, there are about 7 steps.

Mr. Csenge stated that he is building up and not out. Discussion arose that there are three levels. The garage is at grade for the two sides of the house. The entire garage would be considered a basement by the Village code. Mr. Csenge stated that based on the code, FAR was not necessary for this application.

Mr. Csenge stated that the applicant is looking to add no more than 400 square feet. In other words, less than 50% of the ceiling, an addition is being erected. Chairman Neufeld asked if the applicant is seeking a variance or an interpretation. Mr. Csenge stated that if he went with an interpretation, he would not need a variance. If it weren't for the angle of the roof, he would not be before the Board requesting a variance according to the Building Inspector.

Ms. Kramer asked how many other houses in the neighborhood were three stories and Mr. Csenge did not know. The example he brought up earlier is two blocks away. Chairman Neufeld instructed Mr. Csenge to make his application for a variance. Mr. Csenge stated that this is a small variance. The owners are looking to add a small space for family members who come from overseas.

Mr. Neuringer stated that although Mr. Csenge is correct about the FAR. He would recommend doing an FAR schedule because it might help the application. Mr. Csenge said that he could add roughly 700 square feet to the structure and they would not have an FAR problem or lot coverage problem. Mr. Neuringer asked if it is more advantageous to build up rather than out. Mr. Csenge said it was because he wouldn't have to pour concrete for the foundation and it wouldn't disturb the lawn and greenery.

Chairman Neufeld asked if anyone in the audience wished to address the Board. None did.

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

Ayes: Neufeld, Neuringer, Kramer, Sullivan, Weprin

Nays: None

6. Application #1S-2010, MEN AT WORK IV LLC.

Paul Noto, Esq. appeared on behalf of the applicant. He stated that there are two issues before the Board. 1) Setback 2) square footage. This is a relatively new site. The setback is 39 feet from Post Road which is reducing the visibility from the street. Mr. Noto stated that he understands the Board is reluctant to grant sign variances.

Mr. Neuringer asked why, when the applicant first chose the building and went through the site plan submission did they not request signage then. Mark Maday, architect, stated that at the time, the applicant felt they had enough on their plate. There were other, more pressing, issues to deal with. They wanted to get the business up and running and planned to come back at a later time.

Ms. Kramer asked why the applicant is requesting 21 feet and isn't 16 feet big enough. Mr. Maday stated that a different size would hang over the property line. This type and size of sign won't. The post is 12.6 feet high and the bottom of the sign is 6 feet above grade. It will be situated perpendicular to the road. Chairman Neufeld asked why the sign was not closer to the front. Mr. Maday stated that he is utilizing the existing post. This is the best location for the sign. The sign is 6 feet by 3 ½ feet. It is internally lit. The code regulates brightness.

Chairman Neufeld asked if there are other signs of this size or larger in the area. Mr. Noto said he did not know. Mr. Neuringer stated that Brewer's could make an argument that they are setback further and need a sign. Mr. Neuringer's contention is that utilizing the roof or building would attract business equally as well.

Chairman Neufeld asked if anyone in the audience wished to address the Board. None did.

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

Ayes: Neufeld, Neuringer, Kramer, Sullivan, Weprin

Nays: None

7. Application #39A-2010, FRANCISCO NOVELLO

Paul Noto, Esq. appeared on behalf of the applicant. Chairman Neufeld noted for the record that the Board received Mr. Noto's letter on this application with respect to Mr. Noto's opinion that this is an area variance, not a use variance. Mr. Noto stated that a use variance was granted in 1986. The lot is in an area where there are commercial buildings. The original variance granted was for parking and condition (d) was included in the resolution.

Mr. Noto indicated that Mr. Novello purchased the property in 2008. He inquired with the Building Department to make sure it was legal and the Building Department said it was. This year the Building Department violated Mr. Novello saying that there is no commercial parking allowed. Mr. Noto stated that he feels this is an unreasonable condition. The variance was granted for parking and it doesn't matter what type of parking it is being used for. Mr. Noto said he researched the matter and believes this to be an area variance, but needs to know from the Board their conclusion.

Chairman Neufeld stated that the original variance granted was for customers only. The variance that was approved was a limited variance. Mr. Noto stated that the Board approved the use. The applicant would like the condition omitted. It has been used for commercial parking for many years. The Building Department violated Mr. Novello for overnight parking.

Chairman Neufeld noted that the applicant was violated because there were commercial trucks not related to the tenants parked at the location. Ms. Kramer stated that there is a difference between a parking lot that is open to the public, which would have a different number of cars and traffic, than parking for customers only. There would be no need for overnight parking if it were for customers only. This is a modification to a use variance and the five findings should be used.

Discussion arose regarding an interpretation. Chairman Neufeld indicated he still feels the applicant needs a use variance for commercial parking in a residential area. Mr. Neuringer stated the use runs with the land. He said the applicant should ask the Board to clarify the condition, not remove it. It was granted in a limited manner. Mr. Noto said that asking the Board to clarify what the original Board had in mind is more difficult than asking this Board to delete the clause.

Ms. Kramer stated that when the Board was considering impact, they considered parking for this purpose. Mr. Noto stated that in the Old Seven Pines matter, the Court said parking is parking in that case. Mr. Noto said that the Board needs to provide direction on what he needs to provide. If it is a use variance, Mr. Noto needs to know how the application will be evaluated.

Ms. Zalantis gave the example that a use variance was granted for a gas station. The station wanted to expand their hours of operation and include food for sale. It was determined that the expansion of hours was appropriate, but the selling of food was changing the use and a use

variance was required. Chairman Neufeld stated that the Board will review the materials to determine if this is a use or area variance. He asked Mr. Noto to provide the Board with any additional materials within ten days and at the next meeting the issue can be resolved and then in January the application can go forward.

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

The matter was adjourned to December 2nd.

APPLICATIONS CLOSED

1. Application #14SP-1997, CCG HOLDINGS, INC. (CLEARVIEW CINEMAS)

The Board discussed the merits of the application. The Board finds the within application is a Type II action not subject to review under the State Environmental Quality Review Act (SEQRA). All violations have been remedied. The special permit is granted without a term limit.

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

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

2. Application #5SP-2007, MEN AT WORK RETAIL, LLC VII

The Board discussed the merits of the application. The Board finds the within application is a Type II action not subject to review under the State Environmental Quality Review Act (SEQRA). The special permit is granted without a term limit.

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

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

3. Application #1SP-2005, ELRAC, LLC. D/B/A ENTERPRISE RENT-A-CAR

The Board discussed the merits of the application. The Board finds the within application is a Type II action not subject to review under the State Environmental Quality Review Act (SEQRA). The special permit is granted without a term limit.

A motion to approve the renewal of the special permit was made by Mr. Sullivan for the reasons stated on the record and recorded in the verbatim transcript, seconded by Mr. Weprin.

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

4. Adjourned Application #38A-2010, MR. & MRS. THIERRY POURCHET

The Board briefly discussed the matter, but tabled it until December. Chairman Neufeld indicated he wished to review the October DVD.

ADJOURN

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

Ayes: Neufeld, Neuringer, Kramer, Sullivan, Weprin

Nays: None

On motion duly made and carried, the meeting was adjourned at 9:36 p.m.

GREGORY SULLIVAN
Secretary

Prepared by:
Ann P. Powers