

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, OCTOBER 7, 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 October 7, 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: Gregory Sullivan, Acting Chairperson
Clark Neuringer, Acting Secretary
Barry Weprin, Board Member
Robin Kramer, Board Member
Kathy Zalantis, Counsel to Board
Robert Melillo, Assistant Building Inspector

ABSENT: Dave Neufeld, Chairman

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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 Acting Chairman Sullivan at 7:06 p.m. He noted the exits. Acting Chairman Sullivan noted for the record that Chairman Neufeld would not be in attendance and should any applicant wish to adjourn until the full board is convened, they may do so. No applicant wished to adjourn.

7:00 P.M. CALENDAR

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

Keira Gomez addressed the Board. She noted that the cinema is requesting a renewal of their special permit and that all violations have been rectified. Ms. Gomez stated that Bill Ciraco, Fire Inspector, had approved all the work.

The Board had some questions for the Deputy Building Inspector who was not currently present. The Board asked the applicants to sit down while they called the next applicant.

2. Adjourned Application #16SP-2010, JUMANA HAMDAN

Jumana Hamdan addressed the Board. He noted that he was before the Board in September regarding this application and that he was asked to prepare a plan for a ventilation system. He stated that venting was an issue for one of the neighbors at last month's meeting. Mr. Hamdan said that he spoke with the neighbor before this meeting and the neighbor viewed the venting plan

favorably. The neighbor does not see an issue as long the Mr. Hamdan follows the plan. Mr. Hamdan reviewed the plan with the Board members.

Discussion arose between the architect, Mr. Roscano and the Board regarding the actual number of mushroom caps and their function. It was determined that there will be two exhaust vents and one supply (fresh air) vent, which will make up three units on the roof. Discussion also arose regarding the sound level, but there was no indication on the specs what the noise level was. Mr. Roscano stated that it is a very quiet machine.

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

Brian Ruillan addressed the Board. He indicated that he approved of the venting plan as it was stated to him by Mr. Hamdan.

At this point, the Board asked CCG Holdings to address the Board as Mr. Melillo had joined the meeting.

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

Acting Chairman Sullivan asked Mr. Melillo if the violations for the cinema had been rectified. Mr. Melillo stated that he had not spoken with Bill Ciraco regarding the violations, but if all the safety issues are settled, it should be fine. The Board decided to close the hearing, but keep the record open for a confirmation from the Fire Code officer that the violations have been remedied.

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

A motion to close the public hearing, subject to comments from the Fire Inspector was made by Mr. Weprin, seconded by Ms. Kramer.

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

4. Adjourned Application #16SP-2010, JUMANA HAMDAN

The hearing continued with the Jumana Hamdan application. In reviewing the paperwork submitted by the applicant, it was noted that the paperwork did not indicate the decibel level. Discussion arose whether to close the public hearing without the decibel level information. Ms. Kramer felt that it wasn't necessary to hold the matter over. This is a new special permit and the Board has the authority to monitor.

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

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

Carolina Savone asked if she could address the Board. A motion to re-open the meeting was made by Ms. Kramer, seconded by Mr. Weprin.

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

Ms. Savone stated that she owns the building next door from the applicant. Her concern with the application is that the applicant has modified his hours of operation to open at 6:00 a.m. Her tenant serves breakfast and she is concerned that Mr. Hamdan will be serving the same type of food with carryout service. She wants to be sure that this is a Mediterranean restaurant and not a fast food establishment. She also wants to know if the applicant will be required to have a sprinkler system, as her tenant is required to have one.

Mr. Neuringer stated that as a zoning matter, the Board does not have authority to deal with the food establishment's menu. He went on to say that having tables and a wait staff shows that it is not a fast food restaurant. Acting Chairperson Sullivan stated that the Building Department will not allow the applicant to operate without following the code. Ms. Kramer addressed the sprinkler issue by saying that if the law requires sprinklers, the establishment must have sprinklers.

Ms. Savone noted that her concern is that her tenant will be in direct conflict with this new establishment. Mr. Neuringer stated that if anyone sees anything that is in violation of the code, it is appropriate to notify the Board.

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

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

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

5. Application #8SP-2004, SAL DEROSE D/B/A SAL'S PIZZA

Acting Chairman Sullivan noted for the record that he shares office space with the attorney who filed the application for the applicant and is recusing himself. Mr. Neuringer will be acting Chairman for this application.

Michael DeRose addressed the Board. He noted that he is renewing a special permit to operate an Italian restaurant. There are no changes to the establishment (hours of operation, seating, etc.).

Acting Chairman Neuringer 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 Ms. Kramer.

Ayes: Neuringer, Kramer, Weprin

Nays: None
Recused: Sullivan

6. Application #10SP-2007, JUST MEZE, INC.

Bekir Helvacioğlu addressed the Board. He stated that he is renewing a special permit to operate a restaurant. Discussion arose regarding the fact that Mr. Helvacioğlu was before the Board last June 2009 to renew an existing special permit which was renewed without a term. There are two special permit numbers for this establishment: #1SP-2000 and #10SP-2007. The current special permit is the renewal of a permit to expand the existing restaurant into an adjacent space. Mr. Helvacioğlu stated that everything with regard to the establishment is the same.

Ms. Zalantis stated that the Board should vote on the application as an abundance of caution.

Acting Chairman Sullivan 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 Ms. Kramer.

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

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

This matter is adjourned until November because the applicant did not perform the proper mailings to neighbors.

8. Application #12SP-2007, HIGH LINE LUBE LLC.

Paul Noto, Esq. appeared on behalf of the applicant. He stated that the applicant is requesting a renewal of a special permit to operate an existing oil change facility. They have been operating since 1995 and nothing has changed.

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

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

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

9. Application #17SP-2010, ANGELO MERENDA

Angelo Merenda, the applicant, addressed the Board. He is applying for a special permit to operate an existing restaurant under new management. Mr. Merenda stated that he will not have a set menu, but provide a listing on a blackboard of the specials for the day. Acting Chairman Sullivan asked if there will be any changes to the inside of the establishment. Mr. Merenda indicated that there will be no changes, only painting. Mr. Merenda stated that he shops for food

every two days, so the food and menu will be fresh. The hours of operation will be Monday through Thursday 12:00 p.m. to 11:00 p.m. and Friday through Sunday 12:00 p.m. to 12:00 a.m.

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

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

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

The Board concludes with the 7:00 p.m. calendar. As there is time before the 8:00 p.m. calendar, the Board reviewed the closed applications.

APPLICATIONS CLOSED

1. Application #16SP-2010, JUMANA HAMDAN

The Board discussed the merits of the application. The Board, based upon a review of the EAF accompanying the application and all other relevant materials, deemed this as an unlisted action and issued a negative declaration requiring no further action under the State Environmental Quality Review Act (SEQRA).

A motion to approve the special permit for a three-year term was made by Mr. Neuringer for the reasons stated on the record and recorded in the verbatim transcript, seconded by Mr. Weprin.

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

2. Application #8SP-2004, SAL DEROSE D/B/A SAL'S PIZZA

The Board discussed the merits of the case. The Board found the within application is a Type II action not subject to review under the State Environmental Quality Review Act (SEQRA).

A motion to approve renewal of the special permit with no term limit 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: None
Recused: Sullivan

3. Application #10SP-2007, JUST MEZE, INC.

The Board discussed the merits of the case. The Board found the within application is a Type II action not subject to review under the State Environmental Quality Review Act (SEQRA).

A motion to approve renewal of the special permit (combined with special permit #1SP-2000) with

no term was made by Mr. Weprin for the reasons stated on the record and recorded in the verbatim transcript, seconded by Ms. Kramer.

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

4. Application #12SP-2007, HIGH LINE LUBE LLC.

The Board discussed the merits of the case. Mr. Neuringer stated that the applicant has added inspection services and asked if this constitutes a change in use. It was determined that this is a legitimate ancillary use. The Board found the within application is a Type II action not subject to review under the State Environmental Quality Review Act (SEQRA).

A motion to approve renewal of the special permit with no term was made by Mr. Weprin for the reasons stated on the record and recorded in the verbatim transcript, seconded by Ms. Kramer.

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

5. Application #17SP-2010, ANGELO MERENDA

The Board discussed the merits of the application. The Board, based upon a review of the EAF accompanying the application and all other relevant materials, deemed this as an unlisted action and issued a negative declaration requiring no further action under the State Environmental Quality Review Act (SEQRA).

A motion to approve the special permit with a three-year term was made by Ms. Kramer for the reasons stated on the record and recorded in the verbatim transcript, seconded by Mr. Weprin.

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

MINUTES

A motion to approve the minutes, as amended, of July 29, 2010 and September 2, 2010 was made by Ms. Kramer, seconded by Mr. Neuringer.

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

8:00 P.M. CALENDAR

Acting Chairman Sullivan noted for the record that Chairman Neufeld is not in attendance and should any applicant wish to adjourn until the full board is convened, they may do so. No applicant wished to adjourn.

1. Application #18SP-2010, JOSEPH CARILLO

Donato Pennella, the engineer, appeared on behalf of the applicant as well as Joseph Carillo. Mr. Pennella stated that the applicant is relocating an existing auto body repair shop to 432 Waverly Avenue. The building is currently vacant. Mr. Carillo's landlord has asked that he vacate his current premises by the end of the month; this is why he is relocating his business.

Mr. Pennella noted that there is another auto body shop at 427 Waverly Avenue that is approximately 225 feet from Mr. Carillo's proposed shop. Another auto body shop is approximately 175 feet from Mr. Carillo's proposed shop. Due to this fact, Mr. Pennella stated that the applicant must apply for a variance, but asked that the Board review the special permit application tonight.

Mr. Neuringer stated that there is nothing on the notice or application that the applicant is asking for a variance. He asked if the Building Department had determined if the applicant complies with the number of feet between establishments. Mr. Melillo stated that he was not familiar with the application. Ms. Kramer stated that either way, the applicant requires a special permit to allow use.

Ms. Zalantis noted that the Board can hear this matter tonight, but it then should be adjourned. The Board may not take action tonight with respect to the variance.

Mr. Pennella stated that he hopes the Board will review this as a special permit because the use of other facilities is not the same as Mr. Carillo's use. Acting Chairman Sullivan indicated that the applicant can make an application for a variance and also request an interpretation. The Board proceeded with the special permit hearing.

Mr. Pennella said that Mr. Carillo has owned his body shop since 1989 and that his lease is expiring. He noted that the applicant is providing a landscape buffer, the shop is fully sprinkled and parking has been addressed and taken care of. At the end of this month, Mr. Carillo has no place to go in order to continue his business. Mr. Pennella stated that Mr. Carillo is requesting permission to move in and have clerical staff until the variance matter is resolved. Acting Chairman Sullivan noted that the Board does not have the authority and the Building Department must make that determination.

The hours of operation are Monday through Friday from 8:00 a.m. to 6:00 p.m. and occasional Saturdays. Discussion arose as to whether this is one building or two and the issue of smells with respect to the fish establishment. It was noted for the record that it is two separate buildings and smells would not be an issue because Mr. Carillo will have fans in the back of the building, the walls are thick and the auto shop is set back from the smoke shop.

Acting Chairman Sullivan asked if there was a signed lease and Mr. Pennella indicated in the affirmative.

Acting Chairman Sullivan asked if anyone wished to address the Board.

Stan Quittman, owner of the property, stated that he spoke with the owners of the smoke shop to ask if there would be any problems with the repair shop moving in next door. He noted that they had no issues and received them with open arms. He clarified that it is one lot but two separate buildings. The smell wouldn't impact the fish operation and the smoke house has no objections.

Discussion arose regarding the type of work performed at the shop. Mr. Pennella stated that the shop does not perform auto repair work; that is sent out. Mr. Carillo performs body repair, bumpers, lights and painting. Mr. Carillo will be doing small areas of painting, not the entire automobile. Water based paint is used and Bondo body filler is not used. Mr. Carillo performs repairs on high end cars.

Lee Gary stated that he has known Mr. Carillo for seventeen years. Discussion arose as to how the cars are repaired. Fenders are repaired by removing them from the cars and metal is used to fix them. The fender is repaired by straightening it out, not filling it with Bondo. The shop will have equipment to filter the air as it is EPA required. This will eliminate orders and particles.

The special permit application was adjourned to November 4th and Acting Chairman Sullivan indicated that the applicant needs to get their application submitted in a timely fashion for the next meeting. Mr. Neuringer added that the applicant might want to consider an interpretation as well.

2. Application #19SP-2010, YAYUN ZHAO D/B/A CHINA GOURMET

Frank Marsella, the architect, appeared on behalf of the applicant. He stated that the applicant is before the Board to modify an existing special permit to expand into a neighboring store. The applicant wishes to remove the existing wall and increase the dining area and provide two handicapped bathrooms at the rear of the addition. The applicant is also creating a second means of egress. Mr. Marsella stated that the applicant is proposing to enlarge the existing entrance. Both the new and existing spaces will be sprinkled. Mr. Marsella noted that there are no changes to the kitchen; the applicant is only increasing the dining area.

Discussion arose regarding the bar. It was noted by Yayun Zhao, the applicant, that it is a sushi bar and a liquor bar. The bar runs parallel to the seating area. The hours of operation are the same, 11:00 a.m. to 10:00 p.m. seven days a week. The only change is that alcohol will be served. Mr. Neuringer asked if there will be any changes to the roof top equipment and Mr. Marsella indicated that there would not be; what is there is adequate.

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

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

3. Application #34A-2010, ROBIN KRAMER & NOAH ZABLE

Ms. Kramer stated for the record that she was recusing herself since she is the applicant. Ms. Kramer then addressed the Board. She indicated that she is seeking an area variance to construct steps leading from the door to grade level. She has a Certificate of Occupancy for the above-

ground deck which violated the combined side yard setback. The deck removed was above-ground level. Now that the deck is removed, Ms. Kramer is not able to enter and exit from that door. Ms. Kramer noted that at some point the Village did not measure the combined side yard setback then as they do currently.

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

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

Ayes: Neuringer, Sullivan, Weprin

Nays: None

Recused: Kramer

4. Application #36A-2010, RICHARD & BARBARA LUPERO

Ryan Lupero, the applicant's son and Barbara Lupero addressed the Board. Mr. Lupero stated that in midsummer, an above ground pool was removed and an in ground pool installed. The applicants did not know they needed a permit to install the pool because there was an above ground pool already in existence. Mr. Lupero stated that everything is exactly the same as the above ground pool. The same electricity is used for the current pool.

Discussion arose around the filter being considered a structure because it sits on a concrete slab. Mr. Melillo suggested cutting the slab that the filter sits on so that it is no longer considered a structure.

More discussion arose regarding what type of variance was being requested. Perhaps the Building Inspector should be involved and the application adjourned until November. Also discussed was whether the applicant should re-notice the application with more clarification. Ms. Zalantis stated that this is not a notice issue. The Board also discussed single side yard setbacks and combined yard setbacks.

The Board determined that clarification is not warranted after all based on the discussion.

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

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

Ayes: Sullivan, Kramer, Weprin, Neuringer

Nays: None

5. Application #37A-2010, VITO LARUSSO

Mr. LaRusso addressed the Board. He noted that he was requesting a variance to build an eight by sixteen foot shed to house racing pigeons. He raced pigeons a number of years ago in the Village. He stopped doing it and would now like to resume the hobby. Mr. LaRusso stated that these birds

are not like pigeons in the park. He handed out a brochure on pigeons to the Board and discussed the art of racing pigeons.

Mr. Weprin confirmed that the shed would be zoning compliant if not for the use and Mr. Melillo stated that was correct; it is the use that brings Mr. LaRusso before the Board.

Mr. Neuringer asked how many pigeons will be housed in the shed. Mr. LaRusso indicated sixteen pigeons will be for breeding and 25-30 pigeons for flying. He explained that birds must be born in the coop in order to fly back to the coop. Their life expectancy is sixteen to eighteen years. They fly for three to four years. The good pigeons are bred after they are done flying. The bad pigeons are disposed of.

Ms. Kramer asked if the Board can make an interpretation. Ms. Zalantis said yes; the Board can make an interpretation or make a determination on use. Mr. Neuringer said the Building Department does not view this as a customary household pet. The applicant would have to make hardship findings for the Board to grant a use variance.

Acting Chairman Sullivan asked if anyone wished to approach the Board.

Ben El Amraoui, 1540 Raleigh Road, addressed the Board. He noted that he wrote a letter to the Board objecting to the application. He feels it is a health hazard. Although he does not wish to prevent a neighbor from having a hobby, Mr. LaRusso does not live at the residence, his children do. There are no trees or fences that separate the applicant's home from Mr. El Amraoui's home. Mr. El Amraoui also has a concern with the number of pigeons that are being proposed and inquired as to who will keep track of the birds (Village, Zoning Board, police).

Mr. El Amraoui also said he has a concern with the airborne diseases these pigeons transmit. He is also concerned with how the sick pigeons will be treated. He noted that the number of pigeons Mr. LaRusso plans to have proves this is not a hobby, but a business. Mr. El Amraoui also voiced his concern that because Mr. LaRusso does not live at the residence, he will not be around to monitor the pigeons. He wants assurances from both the Village and New York State and federal agencies, that there are no health hazards to the neighbors.

Jim Angley, 131 Sunset Road, addressed the Board. Mr. Angley stated that he shares his backyard with the applicant's backyard. He has similar concerns to the previous neighbor. Mr. LaRusso won't be at the residence all the time because he doesn't live there. There will be maintenance issues that need to be addressed and Mr. LaRusso will be an absentee owner. Mr. Angley is surprised to hear that there will be in excess of forty-seven birds. He does not see how racing pigeons can be considered household pets. And doesn't know how the Board can make that assumption. Mr. Angley is also concerned with the birds flying about the neighborhood. That would be detrimental to the neighbors. Noise is another concern.

Maliko El Amraoui, 1540 Raleigh Road, addressed the Board. She reiterated the concerns of the previous two neighbors. The health ramifications are a huge concern for her. The droppings from the pigeons are very toxic. Ms. El Amraoui stated that she has health issues, and her son has health problems. Research she has done suggests people cleaning the pigeon coops wear masks and shower after they have finished cleaning the coops. She said that the Board has no way of

enforcing how this will be operated. This is a significant issue for her and her family. They will lose the enjoyment of one side of their home.

Mr. Weprin suggested the applicant provide copies of what was given to the Board members to the neighbors. That way the neighbors can issue rebuttals.

Mr. LaRusso stated that he has two grandchildren and he would not jeopardize their health and well being. The coop will be cleaned two times a week. Mr. LaRusso assured the Board that he will be present; he will not be an absentee owner as some have stated.

Ms. Kramer asked how long it takes to train the pigeons. Mr. LaRusso stated that in January and February he breeds the pigeons. He breeds a certain amount of pigeons and then separates them. In the spring the pigeons are out flying in order to be trained. Each pigeon lays one egg. Ms. Kramer stated that the applicant will end up with a lot more pigeons than what he is currently stating. Mr. LaRusso stated that he will only keep the best birds; otherwise it is very expensive to feed and inoculate them.

Mr. Neuringer asked that the applicant provide a survey of the property showing the location of the house, proposed location of the shed and the location of shrubbery separating the properties. Mr. Neuringer stated that the Board may impose conditions if the use variance is granted.

Frank Viola addressed the Board. As a neighbor, he does not want to sit next door and stare at the shed. Also, the droppings will be an issue. The pigeons can't be stopped from having their droppings land on his property.

Sandy Lubliner, 115 Sunset Road, addressed the Board. She stated that she lives a few houses away from the applicant. Her main concern is the noise the pigeons will make. Thirty pigeons can make a lot of noise. She also indicated that she wants the freedom to keep her windows open and sit outside during the nice weather. These pigeons should be on a farm, not in Mamaroneck.

Mr. Neuringer asked if there were any coops in the area that the Board members could look at. Mr. LaRusso stated that there are none in Mamaroneck, but there is one in Greenwich. Mr. Neuringer asked that the applicant provide the Board with a list of existing pigeon clubs.

Ms. Zalantis read from the NYS Village Code on the subject of unnecessary hardship.

George Mgrditchian, 225 Orienta Avenue, addressed the Board. He noted that he found it hard to believe this is not a use variance and that the Board should make a determination tonight as to whether this is a use variance or not. The burden falls on the applicant. This is a health, welfare and safety issue to the neighbors and the community. This may have been done in the past, but it is not the same standard today. Mr. Mgrditchian also stated that this is not a hobby, but a sport with monetary benefits. The Board of Health should be contacted as well.

Ms. Kramer stated that the applicant must make findings since this is a use variance.

The matter was adjourned until the November 2, 2010 meeting.

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

Michael Csenge, Engineer, appeared on behalf of the applicant. He stated that the applicant is seeking a variance to add/construct an addition where the Building Inspector sees the addition as creating a three-story house where 2 ½ stories are allowed. Mr. Csenge believes this is a ½ story addition. The proposed addition is above the bedroom and garage.

Discussion arose regarding the number of steps for each floor of the home. Mr. Neuringer stated that 21 steps make it a 2 ½ story dwelling and 30 steps make it a three-story dwelling. Mr. Csenge stated that the bedroom level is on the second floor and the addition is a ½ story. Instead of having a continuation in the levels, they are split at the second floor. There are two levels on each side of the house, but they are not even.

Mr. Neuringer asked why the addition is not considered an attic. Mr. Csenge stated that there can't be habitable space as an attic. Mr. Neuringer asked if there was a sprinkler requirement and Mr. Csenge answered in the negative.

The Board wishes to speak with the Building Inspector to understand why he determined this to be a three-story structure. The Board felt they need more information. Discussion arose regarding three story and 2 ½ story requirements. Mr. Neuringer asked how many feet above grade is this level and Mr. Csenge answered sixteen feet.

Mr. Csenge went through the variance thresholds with the Board. He noted that the application before the BAR was approved. Ms. Kramer asked how high the new roofline is compared to the highest point of the existing roofline. Mr. Csenge answered three feet. The footprint of the house is 2500 sq. ft. The attic roof is being raised in order to create habitable space. There is a small attic above part of the new addition. Mr. Csenge considers it a ½ story and not a dormer.

The Board also discussed the possibility of an interpretation.

The application is adjourned until November 4th and Mr. Winter's presence is requested by the Board.

APPLICATIONS CLOSED

1. Application #19SP-2010, YAYUN ZHAO D/B/A CHINA GOURMET

The Board discussed the merits of the application. The Board, based upon a review of the EAF accompanying the application and all other relevant materials, deemed this as an unlisted action and issues a negative declaration requiring no further action under the State Environmental Quality Review Act (SEQRA).

A motion to approve the special permit with a three-year term 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

2. Application #36A-2010, RICHARD & BARBARA LUPERO

The Board discussed the merits of the case. The Board found the within application is a Type II action not subject to review under the State Environmental Quality Review Act (SEQRA).

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

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

3. Application #34A-2010, ROBIN KRAMER & NOAH ZABLE

The Board discussed the merits of the case. The Board found the within application is a Type II action not subject to review under the State Environmental Quality Review Act (SEQRA).

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

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

ADJOURN

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

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

On motion duly made and carried, the meeting was adjourned at 10:35 p.m.

CLARK NEURINGER
Acting Secretary

Prepared by:
Ann P. Powers