

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, MAY 6, 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 May 6, 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
Steve Silverberg, Counsel to Board

ABSENT: John Winter, Inspector of Buildings
Robert Melillo, Assistant Building Inspector

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 7:08 p.m. and he introduced everyone and detailed the procedures for the meeting. The next meeting is scheduled for Thursday, June 3, 2010. Chairman Neufeld indicated that any materials for the ZBA meeting must be presented to the ZBA Office no later than five days before the meeting. Chairman Neufeld reviewed the following adjourned agenda matters for the record: Application #39A-2009 and Application #18A-2010 were adjourned their signs were not updated with the correct meeting date. Application #12SP-2010 and Application #23A-2010 were adjourned because the applicant did not notify his neighbors regarding the public hearing. Application #11A-2010 was adjourned because the applicant had the incorrect meeting date on the notification to neighbors. Application #19A-2010 was adjourned based on the request from the applicant to adjourn the public hearing until June. Chairman Neufeld noted that these matters will be placed first on the agenda for next month.

Chairman Neufeld asked Donald Mazin, Esq. to address the incomplete application of Mamaroneck Auto Collision, Inc. with reference to SEQRA. Mr. Mazin stated that the applicant was scheduled to go before the Planning Board on May 13, 2010.

A motion to adjourn to Executive Session with regard to matters involving pending litigation was made by Mr. Weprin, seconded by Mr. Sullivan.

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

The Board adjourned to Executive Session at 7:15 p.m. and reconvened at 7:26 p.m.

A motion was made by Mr. Weprin, seconded by Mr. Sullivan.

Whereas, this Board previously authorized Silverberg Zalantis LLP to file a notice of appeal in the case of Lucas, et. al. v. The Board of Appeals of the Village of Mamaroneck et. al. (Appellate Division Docket No. 2009-10722), and

Whereas, Benmar Properties LLC has represented that it shall incur the cost of preparing and filing the record on appeal.

It is hereby

Resolved: Silverberg Zalantis LLP is authorized to take such actions and file such papers and briefs as appropriate to prosecute the appeal. Silverberg Zalantis LLP shall keep the chair and such members as are interested advised and report back to the Board in June.

Ayes: Neufeld, Kramer, Sullivan, Weprin

Nays: None

Absent: Neuringer

1. Adjourned Application #1SP-2010, ENDURANCE FITNESS, 707 Fenimore Road

Paul Noto, Esq. appeared on behalf of the applicant. He indicated that the new local law which would make this application moot should be adopted by the Board of Trustees on May 10, 2010. Mr. Noto requested an adjournment to June. If the Board of Trustees adopts the local law, the applicant will withdraw the application.

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

2. Adjourned Application #2SP-1998, MAMARONECK AUTO COLLISION, INC., 744 Old White Plains Road

Donald Mazin, Esq. appeared on behalf of the applicant. Mr. Mazin indicated his client wishes to renew a special permit to operate a body shop. He stated that the hours of operation are 7:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. to 2:00 p.m. Saturday with one hour after the shop closes for employees. Mr. Mazin went on to say that there are no changes to the body shop and there have been no violations against the operation of the business.

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

Anthony Marsella addressed the Board. He indicated that he is concerned about the use/volume of what goes on in that location. He distributed pictures to the Board of the location and illustrated what the pictures were in reference to. Mr. Marsella stated that he did not have any problem with the body shop itself, but about the use of the corner of that area. Angelo Luongo, the owner, stated that he owns both properties and that he operates the auto collision business. He went on to say

that the owner of the gas station is behind in his rental arrears so the Mr. Luongo is using that strip of property to park his vehicle. It is a business vehicle with commercial plates.

Mr. Weprin suggested combining this application with Angelo's Service Station (Applications #12SP-2010 and #23A-2010). Ms. Kramer didn't agree that the two applications need to be together. The Board concluded that they would like to look at the two applications together and Mr. Mazin stated that he would have no problem with the Board doing that. The application is adjourned until June and will be heard with Angelo's Service Station application.

Mr. Marsella concluded by reviewing the history of the location in terms of congestion and reiterated his concern that the area is continually growing.

3. Application #2SP-2009 & Application #7A-2009, BANK OF AMERICA, 1160 W. Boston Post Road

Donald Mazin, Esq. appeared on behalf of the applicant. He stated that his client is seeking a continuation of the time period to procure a building permit. He stated that the reason he is requesting this extension of time is due to the fact that Bank of America could not start construction until titled passed and it passed just recently. Mr. Mazin requested a six month extension from May 6, 2010.

Mr. Weprin asked if the applicant still intended to build and Mr. Mazin answered in the affirmative. Ms. Kramer asked if the application was properly noticed. Mr. Mazin stated that it was not noticed. Mr. Silverberg stated that it should be noticed for the next meeting in June. Chairman Neufeld added that the applicant should complete an application to modify an existing special permit/variance.

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

The application was adjourned until June 3, 2010.

4. Adjourned Application #8A-2010, BEACH POINT CLUB, 900 Rushmore Avenue

Randy Ruder, the applicant, appeared. He went through the history of the variance request. Due to an error by the builder, the paddle tennis courts were built in violation of the setbacks. Chris Casiraghi, the builder, addressed the Board. Ms. Kramer asked if the architect used a survey when building the paddle tennis courts. Mr. Casiraghi indicated that he used a site plan, not a survey and thought the fence was inside the property line. He did have another location that was being considered to build the courts, but there were a lot of mature trees in that location. At this point Mr. Casiraghi stated that he went outside the scope of the original variance and did not feel that another variance was needed. His concern was cutting down the trees and that going inside a few feet was not a negative thing to do.

Mr. Ruder stated that the error was in thinking the fence was the property line. Chairman Neufeld asked the architect if he has a license to operate in Westchester County. Mr. Casiraghi stated that he was not aware one was needed. Chairman Neufeld asked if the agreement indicated where the

courts would be built. Mr. Casiraghi stated that he did not know if it did. He indicated that he used plans submitted to the Building Department.

The Board reviewed the survey. Chairman Neufeld stated that in addition to the application being an area variance, the courts were not constructed following the Planning Board site plan approval. Ms. Kramer added that the applicant would need to go back to the Planning Board for site plan approval if the Zoning Board were to grant the variance request.

Discussion arose as to why the site plan approval indicated that the structure be placed parallel with the fence, but the court appears to be built askew to the fence. Mr. Casiraghi stated that he was trying to build it parallel to the tennis courts. Mr. Neuringer asked if there is an expectation that one follows what plans were approved. Mr. Ruder stated that he felt the club was acting in good faith. Mr. Casiraghi took responsibility for the work and stated that he has been in business for 36 years. Mr. Ruder stated that the desire was to not create an unusable piece of land. He went on to state that he probably would have requested that variance in the first place. Mr. Ruder submitted a letter from Orienta Beach Club in support of the variance. Chairman Neufeld asked if Orienta Beach Club is aware that the structure violates the variance and Mr. Ruder answered in the affirmative.

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. Neuringer.

Ayes: Neufeld, Neuringer, Kramer, Sullivan, Weprin

Nays: None

5. Application #2SP-2007, BEACH POINT CLUB, 900 Rushmore Avenue

Randy Ruder, the applicant, appeared. Chairman Neufeld asked if there were any changes to the special permit. Mr. Ruder stated that there were no changes. Ms. Kramer asked if the applicable tax forms were filed with the Clerk-Treasurers Office and Mr. Ruder indicated that they were. Mr. Ruder stated that they are under the ten non-member events per year.

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 #12SP-2004, TOYO OF JAPAN, INC., 253 Mamaroneck Avenue

Peter Chen, the applicant, appeared. He indicated that there were no modifications or violations regarding the special permit. He stated that the hours of operation are the same. Ms. Kramer raised the issue of the dumpster enclosure and suggested Mr. Chen speak with the Planning Board to settle the matter. Mr. Chen indicated that he knew nothing about this issue, but would address it with the Planning Board.

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

A motion to close the public hearing pending information from the Planning Board was made by Mr. Sullivan, seconded by Ms. Kramer.

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

7. Application #8SP-2007, JCP GLOBAL CORPORATION, 591 E. Boston Post Road

Paul Noto, Esq. appeared on behalf of the applicant. He indicated that Solo Cleaners wishes to renew their special permit to operate a dry cleaning business. He stated that the business is in compliance and there are no changes in the operation of the facility.

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 Ms. Kramer.

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

8. Application #2SP-1995, APPLE METRO INC., 640 E. Boston Post Road

Paul Noto, Esq., appeared on behalf of the applicant. He indicated that the applicant is requesting a renewal of a special permit and a modification to the special permit. The modification request is to provide outdoor dining on Post Road. Mr. Noto stated that the applicant does not need a license from the Village Manager. He indicated that the Building Department had suggested the special permit application be renewed and the modification request be done together. Mr. Noto went on to say that the applicant requires site plan approval from the Planning Board. The Board decided to adjourn the matter until June so that Mr. Noto can go before the Planning Board.

Chairman Neufeld asked if anyone wished to approach the Board.

Philip Horner addressed the Board. He stated that when he went to the Building Department, there was no plan in the applicant's file and that it is apparent the Zoning Board also does not have a plan. Mr. Noto stated that he has not filed a formal application with the Planning Board because he does not have a plan as of yet. Chairman Neufeld requested a copy of the plans the Friday before the June 3, 2010 meeting. Mr. Noto stated that if the applicant can't get a modification to their special permit for this season, then they will hold off until next year.

Mr. Horner also mentioned the parking issues. Mr. Neuringer suggested that Mr. Horner also go to the Planning Board meeting to be heard.

Adam Schuman addressed the Board. He indicated that there was significant noise in the parking lot late at night. The Board should consider the hours of operation for both outdoor seating and for regular renewal of the special permit. Mr. Schuman asked if liquor would be served outdoors and indicated his concern for the children that walk by that area all the time. He went on to say that there are a lot of families concerned about this situation.

Julia Musa addressed the Board. She stated that she lives next door and this modification to have outdoor dining is very disturbing to her. She indicated that there is a tremendous amount of noise and that her daughter fell down the stairs one time due to being surprised when loud noise came from the applicant's location. She went on to say that patrons throw their empty bottles of beer over the fence onto her property. Ms. Musa also found several hypodermic needles and used condoms on her property. She also stated that the problems have escalated and that individuals loiter after the restaurant has closed.

Mr. Horner stated that perhaps the realty company may be more responsible for what goes on in the parking lot than the restaurant itself.

The application is adjourned until June 3, 2010.

9. Application #11SP-2010, FLORENCIO FERNANDEZ, 350 Mamaroneck Avenue

John Woodruff appeared on behalf of the applicant. Chairman Neufeld asked if the applicant needs approval from any other Board. Mr. Woodruff indicated that they did not. Mr. Woodruff stated that applicant is requesting a special permit to operate an ice cream store and is proposing renovation of space and adding a handicapped bathroom. He noted that the applicant has a five year lease. Mr. Woodruff stated that there will be 16 seats for patrons and that the store will be staffed with three employees. He also stated that this store will be similar to the store the applicants have in Port Chester. They plan to sell ice cream, fruit popsicles, juice, etc. and they will manufacture the products in the back of the store. Mr. Woodruff stated that the applicants will also sell some of their products to delis around lower Westchester. They will have delivery in the front of the store going to the delis. There is no parking issue. Mr. Woodruff indicated that the hours of operation will be 10:00 a.m. to 10:00 p.m. Monday through Sunday. He indicated that the applicants have been approved for signage. There will be no cooking facilities or hoods. Mr. Woodruff stated the there will be freezers.

Ms. Kramer asked about the issue of manufacturing and if that is a change in use. The Board agreed that this is considered accessory use. Mr. Neuringer felt it was more food preparation as opposed to manufacturing. Ms. Kramer noted that the manufactory component to other delis makes it an accessory use. Mr. Woodruff stated that about 1% of the business is manufacturing to the delis. Mr. Woodruff stated that New York State approves the equipment and process for manufacturing. The Department of Health also oversees their establishment as well as Department of Weights and Measures.

Chairman Neufeld asked if anyone wished to approach 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

10. Application #22A-2010, LUCIEN RAGUSO, 366 Mamaroneck Avenue

Luciano Raguso, the applicant, appeared. Chairman Neufeld mentioned the violation from the Building Department. Mr. Raguso showed the Board the Certificate of Occupancy indicating that everything was now in order. Mr. Raguso stated that he is taking down the existing retaining wall and replacing it. He indicated that a neighbor had hit the wall and he took the wall down. He said the Building Department told him to come to the Zoning Board to obtain permission to erect the new wall. Mr. Raguso went on to say that the neighbors complained that the wall was deteriorating and that was how he was notified by the Building Department. He stated that he was before the Zoning Board for the height restriction and that the neighbor's property is lower than his property. Brief discussion arose regarding pre-existing non-conforming use.

Chairman Neufeld 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. Sullivan.

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

11. Application #20A-2010, JOHN LEITNER, 750 Rushmore Avenue

Mark Mustacato, the Architect, appeared on behalf of the applicant. He stated that when Mr. Leitner was applying for a Certificate of Occupancy for the garage addition, the shed and the playhouse came into play. He stated that the applicant is requesting a variance because shed and playhouse are too close to the setback.

John Leitner addressed the Board. He indicated that he purchased the house in 1997 and the shed already existed. He stated that it is used as a shed to store pool furniture as well as the heater, filter and pump for the pool. He noted that he has permits for the heater and pool. Mr. Leitner received a Certificate of Occupancy for the pool and no mention was made of the shed. The shed was increased by three to four feet, but is the same height as before. Mr. Leitner stated that the playhouse is fourteen feet high with a ten foot by ten foot platform.

Ms. Kramer asked why the 100 square foot playhouse was adjacent to the property line and not in the middle of the property. Mr. Leitner stated that it was more aesthetically pleasing in that location and it's by the water. Mr. Leitner stated that the playhouse was built wood and shingles by him. Mr. Neuringer asked the architect that if he looked at the entire property, where would have put the playhouse and Mr. Mustacato stated that the current location is a good spot, but he couldn't say for certain. He stated that the shed is in the least conspicuous location. Mr. Neuringer asked if the applicant had determined that there are no alternate locations. Mr. Leitner answered that there are alternate locations, but does not know if those locations would be better.

With reference to the shed, Chairman Neufeld stated that the floor plan shows one large room and asked if there was any break up in the room. Mr. Leitner stated that one part of the shed is one unit and then a small part was added on. Ms. Kramer asked the applicant if he considered putting the extension to the side of the shed. Mr. Leitner answered that this was not conducive based on how the shed is constructed. Mr. Sullivan noted letters sent to the Board regarding this situation. Chairman Neufeld asked if the applicant did any dredging. Mr. Leitner indicated that six or seven years ago he did dredging in front of his property. He indicated that nothing has changed due to the dredging he performed.

Mr. Leitner stated that he received a variance for fencing and a variance for the addition to the garage to add a bay and conform the roof to match the house. Chairman Neufeld asked about the setback for that application. Mr. Leitner indicated that it was a pre-existing non-conforming.

Chairman Neufeld asked if anyone wished to approach the Board.

Andrew Weiss addressed the Board. He indicated that he shares rear property line and a portion of the side property line with the applicant. He said he does not have a strong objection to the shed; however the playhouse is a direct view from every window of his home. He stated that he felt there could be some other place that the applicants could have erected the playhouse. Mr. Weiss went on to say that he feels the structure is obstructing his property. Mr. Neuringer asked if the structure were moved northwest ten feet, it would be in the required setback. If that were the case, would it be an improvement to Mr. Weiss. Mr. Weiss answered that it would be an improvement. Mr. Weiss went on to say that the playhouse is not visually appealing to him. The shed was not an issue until Mr. Weiss learned tonight that it seems more like a cabana than a shed. Chairman Neufeld noted that there is a setback requirement for pool equipment. Mr. Leitner indicated that he received a Certificate of Occupancy and permit for the pool and pool equipment. Chairman Neufeld stated that he wished to see the pool plan and the Certificate of Occupancy and permit. Chairman Neufeld also requested an updated drawing of the shed and to show the equipment inside the shed. Chairman Neufeld asked if the installation of the equipment conforms with the permit. Mr. Leitner stated that he would have to check; he didn't know off hand. The Board also requested a survey.

The application was adjourned until June 3, 2010.

At 9:25 p.m. the Board broke for a recess and at 9:35 p.m. the Board reconvened.

APPLICATIONS CLOSED

1. Application #9A-2010, BLYTHE HAMER AND BRAD GEWEHR, 626 Stiles Avenue

The Board discussed the merits of the application. The Board finds the within application is a Type II action not subject to the State Environmental Quality Review Act (SEQRA). Chairman Neufeld indicated that he is inclined to grant the variance but condition a minimum three foot fence being paid by the neighbors. He stated that if the car door swings out onto another property, this is a valid concern. His recommendation is to put up a fence or shrubbery. Although, there does not appear to be much room for shrubs. Ms. Kramer indicated a concern regarding

individuals who build without regard for the rules or build something different than was asked for. Mr. Sullivan noted that this issue existed from at least 2006 and there was no issue until the house was in contract to be sold. Mr. Weprin asked if the Board can require that cars be a certain distance from the property and Ms. Kramer noted that this can't be monitored. Discussion arose regarding the height of the fence (three feet or four feet). Mr. Silverberg asked if the Board wished to consider stopping the fence at a certain distance from the curb. The Board suggested erecting a three foot fence extending out to five feet before the curb.

A motion to approve the variance with the property owner erecting a fence not less than three feet in height, extending to the end of the driveway toward the road no further than five feet from the street was made by Ms. Kramer for the reasons stated on the record and recorded in the verbatim transcript, seconded by Mr. Sullivan.

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

2. Application #48A-2009, EDWARD PARISEN, 258 Madison Street

The Board discussed the merits of the application. The Board finds the within application is a Type II action not subject to the State Environmental Quality Review Act (SEQRA). Ms. Kramer felt the applicant needed the stairs, there was not another option. Mr. Sullivan mentioned that the stairs were built for his ailing wife.

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

3. Application #19SP-2009, S&J RESTAURANTS LLC., 501 Halstead Avenue

The Board discussed the merits of the case and is a restaurant versus a bar. The Board finds the within application is a Type II action not subject to the State Environmental Quality Review Act (SEQRA).

Ms. Kramer noted that Applebee's Restaurant is open until 2:00 a.m. and they are considered a restaurant. Ms. Kramer went on to say that there are restaurants in Mamaroneck that are open late. Chairman Neufeld indicated that the location is an issue because of the closeness to a residential area. He stated that he would be comfortable approving the special permit for one year so that the Board can keep a tight rein on them. He continued by stating that he feels the application is problematic and he is not certain that this is a traditional restaurant. Ms. Kramer stated that the resolution needs to clarify that this is a restaurant.

Mr. Neuringer interjected that the Board needs to look at the capacity and then look at the number of people at the bar. The bar then needs to be reduced. Ms. Kramer did not concur with Mr.

Neuringer's assessment. Mr. Sullivan stated that he does not remember the Board getting involved in the seating of patrons with past applications. Ms. Kramer noted that whatever the capacity is, the applicant must comply with the law. Chairman Neufeld said that the stool limitation at the bar forces it to be more of a restaurant than bar. He indicated that he feels this is a bar dressing up as a restaurant. The Board can structure the resolution to make it more of a restaurant because neighbors are entitled to protection. Ms. Kramer stated that the Board has never limited who can eat or drink at a table. She also noted that the Board should not be acting as someone designing the interior of the restaurant; that is not our function. Neighbors are leery and that is understandable from their prospective.

Chairman Neufeld stated that the configuration, memo, hours, etc. are more conducive to a bar. The applicants now need to meet the requirements that stem from the neighbor's issues and concerns. Ms. Kramer stated that the special permit is subject to conditions relative to the code. Mr. Neuringer stated that it will become clear very soon if there is a problem. Mr. Sullivan noted that the Board can bring the applicants back at any time, so placing a term limit does not enhance the resolution. Mr. Weprin and Ms. Kramer feel that it is helpful to have a term limit is helpful and show that the Board takes the concerns of the neighbors seriously.

The Board discussed the hours of operation: 11:00 a.m. to 11:30 p.m. Sunday through Thursday and 11:00 a.m. to 1:00 a.m. Saturday and Sunday. The Board also determined that the applicants serve meals until the restaurant closes. The bartender may serve. Discussion arose regarding placing a requirement on the restaurant as it applies to trash. It was also discussed that the restaurant is unable to control people throwing trash in the street or the amount of noise people are making. The Board conditioned that the restaurant must have wait staff at all times and that all patrons must leave the restaurant by closing time.

The special permit granted herein shall be valid for an initial period expiring on July 15, 2011, with the renewal application having to be made by applicant no later than May 1, 2011; and, upon the applicant's failure to make the renewal application, the special permit granted shall expire without further notice to the applicant.

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

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

4. Application #3SP-2007, MARNIN CORPORATION, 1023 W. Boston Post Road

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

A motion to approve 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, Sullivan, Kramer, Weprin
Nays: None

5. Application #6A-2010, HIREN & RADHIKA MUZUMDAR, 545 Bleeker Avenue

The Board discussed the merits of the case. The Board finds the within application is a Type II action not subject to the State Environmental Quality Review Act (SEQRA). Mr. Neuringer indicated that aside from the fence itself, he considers the archway as a decorative element around a gate. Chairman Neufeld indicated that he has no problem with the application.

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

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

6. Application #13SP-2004, KATHY SANSOTTA, 1215 Henry Avenue

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

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

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

7. Application #18SP-2006, BI HE LIN, 421 Mamaroneck Avenue

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

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

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

8. Application #17A-2010, ROBIN SIMONSEN, 303 West Street

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

Ms. Kramer stated that the variance request is improving a non-conforming structure by building a better deck. She also stated that the Board had turned down an earlier variance request from this applicant. Mr. Sullivan indicated that the applicant needed the deck for her daughter. The Board felt it is a big deck. Mr. Neuringer pointed out that the deck is 85 square feet larger than what was originally there. He also stated that the applicant was turned down last year because it was increasing the non-conformity. Mr. Neuringer stated he had a concern with regard to the screening, pergola, etc. He indicated that this is a lot more than a deck and that it is being done for a specific purpose and a specific user. Mr. Weprin agreed with Mr. Neuringer's point, but stated that it does decrease the non-conformity. He also said that this is a better application than last year's application. Mr. Neuringer stated that he is not opposed to the deck; it's an improvement. Ms. Kramer said that the Board has been pretty consistent with respect to non-conforming use.

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. Sullivan.

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

9. Application #9SP-2003 & 10SP-2010, GRANADOS RESTAURANT CORP., 690 Mamaroneck Avenue,

The Board discussed the merits of the case. Ms. Kramer noted that the applicant closes the kitchen at midnight and stays open until 4:00 a.m. with music; this makes it more of a bar. Mr. Silverberg stated that zoning is for a restaurant. Ms. Kramer indicated an accessory use. Chairman Neufeld felt that the hours are too long. Mr. Silverberg cautioned the Board to be consistent with the hours of operation for the different applications.

The applicant is subject to a cabaret license. They will be open until 10:00 p.m. on weekdays and a three year term limit should be stipulated.

Mr. Weprin stated that the establishment is currently open until midnight and hasn't had any problems. Ms. Kramer noted that residents live in a mixed-use area. The Board went back and forth to the fact that there have been no complaints regarding the establishment and their request to considerably extend their hours of operation. Chairman Neufeld stated he would be more comfortable with a closing time of 2:00 a.m. Discussion arose as to having the applicant come back to the Board in eighteen months. Ms. Kramer questioned that requirement. She stated that the Halstead location had many issues in the past and the shorter timeframe was justified. In the case of Three Jalapeños, there have been no complaints or issues. Mr. Neuringer suggested tabling the discussion until next month. Ms. Kramer was in favor of approving until 4:00 a.m. The Board wants to see how long Molly Spillanes stays open.

The application was adjourned until June 3, 2010.

10. Application #11SP-2010, FLORENCIO FERNANDEZ, 350 Mamaroneck Avenue

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, deems this as an unlisted action and issues a negative declaration requiring no further action under the State Environmental Quality Review Act (SEQRA).

The special permit is granted with a three-year renewal period.

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

Ayes: Neufeld, Neuringer, Sullivan, Kramer, Weprin

Nays: None

11. Application #12SP-2004, TOYO OF JAPAN, INC., 253 Mamaroneck Avenue

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

The renewal of the special permit is granted with the provision that the applicant must demonstrate to the Building Department that the question raised by the Planning Board regarding the dumpster has been resolved.

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

Ayes: Neufeld, Neuringer, Sullivan, Kramer, Weprin

Nays: None

12. Application #8SP-2007, JCP GLOBAL CORPORATION, 591 E. Boston Post Road

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

A motion to approve 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, Sullivan, Kramer, Weprin

Nays: None

13. Application #22A-2010, LUCIEN RAGUSO, 366 Mamaroneck Avenue

The Board discussed the merits of the application. The Board finds the within application is a Type II action not subject to 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: Neufeld, Neuringer, Sullivan, Kramer, Weprin
Nays: None

14. Application #8A-2010, BEACH POINT CLUB, 900 Rushmore Avenue

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

Mr. Weprin indicated that the Board would probably have approved the variance had it the Beach Club come before the Board with this request. Ms. Kramer stated that this is a sub-variance, but is particular to this location. Chairman Neufeld felt that this violates the site plan. Ms. Kramer concurred that the applicant needs to modify the site plan. The Board agreed to grant the variance on the condition that the applicant must apply to the Planning Board to modify the existing site plan.

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: Neuringer, Sullivan, Kramer, Weprin
Nays: Neufeld

15. Application #2SP-2007, BEACH POINT CLUB, 900 Rushmore Avenue

The Board discussed the merits of the application. The Board finds the within application is a Type II action not subject to the State Environmental Quality Review Act (SEQRA). The special permit is granted with a three year renewal period.

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

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

MINUTES

A motion to approve the minutes of March 4, 2010 was made by Mr. Weprin, seconded by Mr. Neuringer.

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

A motion to approve the minutes of April 1, 2010 was made by Mr. Weprin, seconded by Mr. Sullivan.

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

ADJOURN

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

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

On motion duly made and carried, the meeting was adjourned at 10:40 p.m.

GREGORY SULLIVAN
Secretary

Prepared by:
Ann P. Powers