

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, JUNE 3, 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 June 3, 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

Kathleen McSherry, 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 7:10 p.m. and he introduced everyone and detailed the procedures for the meeting. The next meeting is scheduled for Thursday, July 29, 2010 due to the fact that there will not be a meeting in August. 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 #12SP-2010, Application #23A-2010 (Angelo’s Service Station) and Application 2SP-1998 (Mamaroneck Auto Collision, Inc.) were adjourned because the applicant, Angelo’s Service Station, is going before the Planning Board and the Board is requesting modifications to the plan. As the Zoning Board wished to hear both Angelo’s Service Station and Mamaroneck Auto Collision together, both were adjourned. Chairman Neufeld noted that Application #1SP-2010, Endurance Fitness, has withdrawn their application as the Village Code has been amended and will allow the establishment to operate without a special permit.

Chairman Neufeld stated that the Bank of America request for extension of time within which to obtain a Building permit to construct a bank building needed an application in order for the Board to hear the matter. He noted that the Board had requested his client submit an application at the last meeting.

Donald Mazin, attorney for Bank of America, addressed the Board. He stated that he went to the Building Department to ask for an application. He indicated that the Building Department had no such application and no fee schedule for the Board’s request. He noted that DCH Mamaroneck was granted an extension by this Board less than six months before without having to fill out an application. Chairman Neufeld said he addressed this fact last time and the Board, as well as Steve Silverberg, counsel to the Board, requested an application as well as the mailing to neighbors be

performed. Mr. Mazin went on to say that the Building Department is the entity that puts matters on the Zoning Board agenda. He also indicated that he received an affidavit from Mr. Poccia that applicants in the past never had to complete and submit an application. Chairman Neufeld stated that the Board would address this at the time the Board hears this matter this evening. Chairman Neufeld also read from the minutes indicating that the Board requested the application be submitted. Mr. Weprin stated that even though the Building Department stated that there was no type of application for this process, he should have drafted something appropriate to submit to the Building Department.

Chairman Neufeld stated that Application #1SP-2001, New York Sports Club, was being adjourned to July 29th because the proper notification to neighbors was not performed.

1. Adjourned Application #39A-2009, GUISEPPE NOVELLO, 609 Hillside Avenue

Mr. Remo Ferraro appeared on behalf of the applicant. He stated that the porch was constructed in 1995 along with a cover hanging over it. He stated that there was a setback requirement of 25 feet and the current setback is 10.32 feet and this is why Mr. Novello was asking for a variance. He noted that neighbors have not complaints about the structure and that the neighboring properties are far away. Mr. Ferraro stated that evergreens cover the porch. The roof is not enclosed; it only covers the porch to provide protection from the sun. He noted that the concrete patio was built first and then several years later the roof was added. Mr. Ferraro said the roof serves the same purpose as an awning. He went on to say that the roof is a permanent structure. Could be enclosed, but hasn't been enclosed in fifteen years.

Mr. Neuringer asked if there was anything else that would be built with respect to the porch and Mr. Ferraro indicated there would not be. Chairman Neufeld stated that the survey indicates a 13.7 foot yard setback and 20 feet is required. Mr. Melillo stated he did not have a current copy of the survey to comment. The house was built in 1977 and everything is legitimate with respect to the property. All special permits were closed out and any issues remedied. Chairman Neufeld asked if a prior variance for the setback was requested and granted. Mr. Melillo went to obtain the file. The Board moved on to the next application until Mr. Melillo returned.

2. Adjourned Application #18A-2010, ETHER ROBERTSON, 741 Meadow Street

Mr. Joseph Fernandez, Architect, appeared on behalf of the client as well as Ms. Dinah Joshua, the applicant's niece. He stated that at the April meeting he was asked by the Board to have the engineer who worked on the project appear. The May meeting was adjourned due to the sign not being properly updated. He asked the design professional to appear, but he is not in attendance tonight. Mr. Fernandez stated that the design professional was supposed to appear, but is not here. He indicated that Millennium Builders are no longer in business.

Chairman Neufeld noted that the applicant was originally given a variance, but what was built was not in accordance with the variance approved. Mr. Fernandez stated that changes occurred during the construction and the final outcome did not conform to the drawings. He noted that the design professional was not involved during the process and this is why Mr. Fernandez was hired. He

noted that the deck was made larger to allow access to a doorway that leads into the kitchen. Mr. Neuringer noted that the deck appears to have been built wider as well. Mr. Fernandez used the map to illustrate why the porch was built the way it was built. Mr. Neuringer also noted that documents provided show that a variance was requested for a rear yard variance which was approved.

Discussion arose as to lot coverage. Ms. Kramer noted that the survey from 1999 shows the first story addition is new. The Board is not able to tell what the lot coverage was originally. Mr. Neuringer asked if Mr. Fernandez was involved in any of the original planning and Mr. Fernandez indicated that he was not. He did, however, work with some numbers on the current plan with the design professional. Mr. Fernandez noted that the design professional was not retained to oversee the project and therefore did not. Mr. Fernandez stated that the original variance was for 38.3 feet. When the project was complete, it was determined that it was overbuilt.

Ms. Joshua stated that she lived at the house when the construction was going on. She noted that her aunt didn't truly know what was going on during the construction. It was noted that the applicant had come before the Board before and the variance request was granted; that was not what was built. Mr. Neuringer asked if it was accidentally built larger or was there a sketch marking it bigger. Mr. Fernandez stated that he has the original plans and the as-built. Mr. Fernandez showed original plans to the Board. Mr. Melillo will provide the Board with a copy of the other plans. Mr. Neuringer asked if everything was reviewed by the Building Department and Mr. Fernandez stated that it had been. He also noted that there was not foundation survey requested.

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

3. Adjourned Application #39A-2009, GUISEPPE NOVELLO, 609 Hillside Avenue

Mr. Melillo indicated that there was a past variance for the lot size. The CO was issued, but it may have been issued in error because the front portico did not meet setback.

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

4. Adjourned Application #11A-2010, ROBERT & SHERRY WIENER, 1 Skibo Lane

Brandon Sall, Esq., appeared on behalf of the applicant. He reviewed how the project came to be. He stated that the homeowner was not aware that he needed the approvals. A question arose regarding the deed. Mr. Sall stated that he realizes that this is a self-created hardship, but the applicant was unaware of the necessary approvals.

Chairman Neufeld noted that the survey shows that this affects and encroaches on the property line, and that the flagstone goes outside the bounds of the property line. Mr. Melillo stated that the Building Department looked into the matter originally and everything appeared to be in compliance. Chairman Neufeld stated that although this would be a hardship to remove, wouldn't this make it possible for anyone to construct a structure and then say it is a hardship to remove. Chairman Neufeld went on to say that Westchester County is a critical environmental area. This is a situation where someone is encroaching into an area designated by the country with respect to SEQRA. Mr. Weprin stated that because this area borders the sound, the lines tend to change over time. Chairman Neufeld stated that the applicant is requesting a variance for no rear yard setback and this appears to go beyond the property. Mr. Sall noted that there was a walkway. Chairman Neufeld stated that he is not questioning that. Based on the survey, the improvement goes beyond the property line. Ms. Kramer asked if the applicant was paying taxes on this piece of land. If not, the applicant does not own it.

Mr. Myles Partellow stated that the applicant has prior approval and documentation showing ownership of this area from Dan Natchez for the DEC. Chairman Neufeld stated that the survey delineates metes and bounds of property and this survey shows that the improvement extends outside the property line. Mr. Weprin asked who built the sea wall and Mr. Partellow indicated that he did not know. Mr. Neuringer noted that both surveys show that the sea wall is outside the property line. Mr. Partellow reiterated that Mr. Natchez obtained approval. Mr. Neuringer asked if the applicant had been before the HCZM. Mr. Partellow stated that they had been before the HCZM prior to submitting for their special permit. Chairman Neufeld stated that these were not for the same request. Mr. Partellow stated that it was his understanding he received approval from the DEC to move forward to this point.

Mr. Mark Mustaccato, the Architect, stated that he went to the HCZM and DEC for approval of the patio abutting the sea wall. The change Mr. Weiner made was extending it closer to the sides. Mr. Neuringer asked if there was a drawing showing the current configuration approval by any agency (HCZM or DEC). Mr. Neuringer also asked if he had any knowledge regarding the apparent discrepancy as to the location of the property line. Mr. Mustaccato indicated that he did not. Chairman Neufeld inquired that assuming the deed and the survey are correct, does the applicant claim the property goes beyond this line. This is an issue that must be addressed. These surveys put the applicant beyond the boundary.

Mr. Sullivan stated that he would like to see a timeline on approvals. Approval of this property may have come before the Ottinger issue. Ms. Zalantis stated that the issue on the Ottinger case is that they went to deep water line. Ms. Kramer asked when the patio was built and Mr. Partellow stated it was built in 2008, but he will check to make sure.

The Board resumed reviewing the survey with respect to the setback issue. Discussion arose as to the original plans and the as-built plans. Mr. Sall stated that Mr. Natchez prepared the original plans. Mr. Neuringer stated that the Board would like to see the initial design drawings. Chairman Neufeld indicated that the Board will deal with the issue of ownership and title insurance. What was required originally with respect to the patio? Chairman Neufeld also indicated that he would like to hear from the other agencies involved.

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

Mr. Robert Peck addressed the Board. He is the owner of the adjoining property. He indicated that he was at the HCZM meeting and that there was a lot of discussion regarding the grading of the property and there was an extensive landscaping plan. Mr. Peck believes part of the purpose of landscaping was to deal with the setback issues to separate between the school and the property. Mr. Peck noted that his house backs up to the front of Mr. Weiner's property. He pointed out that the variance request affects only the landscaping component with respect to his property.

Chairman Neufeld stated that the with respect to the driveway, it looks like there is not setback. Mr. Sullivan stated that this already exists and may pre-date the zoning code. If went on to say that if the Board starts looking at everything other than what the Building Department presents to the Board, it will be extremely time consuming and that it may as well be done for every property in the Village.

The matter is adjourned until the July 29, 2010 meeting. Chairman Neufeld asked for the papers in advance so that the Board has an opportunity to review them.

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

Paul Noto, Esq. appeared on behalf of the applicant. Mr. Noto stated that the applicant was before the Board to renew their special permit and to amend the permit to include outdoor dining. He indicated that he submitted the same plans as were submitted to the Planning Board. The applicant went before the Planning Board and they were approved with plan revisions. Mr. Noto submitted the revised plans to the Board.

Mr. Noto indicated that there are no changes to the existing special permit. Chairman Neufeld asked about the lighting and drainage issues. Mr. Noto stated that these issues were addressed at the Planning Board meeting and are being taken care of.

Discussion arose as to whether there will be four or five tables for outdoor dining. Mr. Noto indicated that the resolution references the plan and the plan has five tables. He also stated that there is no additional lighting and no parking spaces are lost. Mr. Neuringer asked if a survey was submitted and Mr. Noto indicated that there was not a survey included because it is a special renewal. Ms. Kramer indicated that the Board could approve the application subject to clarification on tables. Mr. Noto stated that the applicant wouldn't do anything not approved by the Planning Board.

Discussion arose regarding hours of operation, which will remain the same. The outside tables will have the same hours of operation as indoor dining currently has. Mr. Neuringer asked if liquor will be served outside and Mr. Noto said that it would. Mr. Neuringer asked if the applicant would be agreeable to having it noted in the resolution that no alcohol will be served after midnight. Mr. Noto stated he felt that would be fair.

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

Adam Shuman addressed the Board. He indicated that he is a neighbor and the main issue is one of noise with respect to the parking lot. This is a disturbance to neighbors and allowing the applicant to have outdoor dining will only exacerbate the issue. There will be constant noise. Mr. Shuman noted that a separate issue is that there are a lot of children who have to walk by Post Road to get to and from school; it's inappropriate for children passing by tables where people are smoking and drinking in the afternoon. Mr. Shuman also said that it appears that the tables cross over the property line, making the sidewalk narrower. Mr. Weprin stated that seating was moved from North Barry Avenue to the front due to concerns by neighbors. Chairman Neufeld asked if smoking will be permitted and Mr. Noto answered that Applebee's is a no smoking facility.

Mr. Noto stated that the exterior use will be seasonal (May 1st through September 30th). As long as the restaurant is open, outdoor seating will be available weather permitting. Discussion arose regarding the width of the sidewalk and Mr. Noto indicated that the applicant is not over the property line. Mr. Neuringer noted that the potted plants appear to go over the property line. He went on to ask if the applicant received approval (license agreement) from the Village. Mr. Noto answered that he believed it is on Applebee's property, but can check with the Village. Mr. Neuringer suggested that the applicant may want to consider entering into a license agreement with the Village. Sarene Sharis, owner of the shopping center, noted that the Planning Board tree consultant and Applebee's worked together with regard to where the plantings should go.

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

Ayes: Neufeld, Neuringer, Kramer, Sullivan, Weprin

Nays: None

Mr. Noto requested a vote tonight as the weather is ideal to begin serving food outdoors.

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

Don Mazin, Esq. appeared on behalf of the applicant. Mr. Mazin noted that his letter to the Board requesting an extension of time on the variance was done in a timely manner. He stated that the Building Department deemed it should be placed on the agenda. Mr. Mazin said the applicant attempted to comply with the Board's request last month to fill out an application and notice the neighbors. He stated that the Building Department informed him that there was not form, fee schedule or notice/signage requirements for this type of request.

Mr. Mazin stated that the Board previously heard and approved an extension of DCH Mamaroneck's variance with only a letter being submitted by the applicant. He distributed the DCH Mamaroneck resolution to the Board. Mr. Mazin stated that when he spoke with the Building Inspector, he was told that he Building Inspector said he knew of no such procedure. Mr. Mazin stated that he also examined the DCH Mamaroneck file and there was no notice or application done. He also handed out an affidavit from the form Building Inspector, Ernest Poccia, stating that applicants either telephoned or sent a letter requesting an extension of time on variances. Mr. Mazin said that he also reviewed the code and saw nothing relating to the Board's request. He stated that the applicant attempted to do what was asked by the Board and Steve

Silverberg. Due to the economy, the applicant could not close title until after the deadline and all the applicant is asking for is a six month extension. He requested that the Board grant the extension this evening.

Ms. Zalantis asked if the variance had already been granted by the Board and Mr. Mazin indicated that it had and that the applicant is asking for an extension. Ms. Zalantis clarified that the applicant is asking to modify a condition of the variance. Mr. Weprin stated that the applicant was asked to prepare an application and could have prepared a document himself in lieu of a formal application from the Building Department. Mr. Mazin reiterated that a similar request was approved without the Board's request for additional documentation earlier and asked what the difference was between this request and the earlier request. Chairman Neufeld stated that the applicant was requested by counsel and the Board to make an application and perform the mailings.

Chairman Neufeld asked for a motion to close. Ms. Kramer asked if this particular hearing was ever opened. Chairman Neufeld indicated that he understood Ms. Kramer's point and that the Board called this individual up, it was on the agenda and at the beginning of the hearing he pointed out that he had concerns as to whether this would or wouldn't be heard.

Discussion arose whether there is a requirement in the code. If there is not a requirement in the code and the Board and counsel make a request to the applicant, it should be complied with. Also, it was noted that although notices are put in the paper and posted on the web by the Village, applicants are still mandated to mail out notices. Mr. Mazin stated that the applicant was legally on the agenda by submitting a letter to the Building Department. Mr. Sullivan asked if anything changes after hearing Mr. Mazin. Ms. Zalantis stated that the applicant was asked to make an application to modify the existing variance. This is a modification of a prior variance. Ms. Zalantis concluded by say that an application should have been filed to modify the variance. Mr. Weprin stated that he understands Mr. Mazin's position, but he Building Inspector does not set procedures for the Board. Mr. Weprin stated that if the Board closes the hearing, the applicant is taking a risk that it will be denied because the applicant did not comply with the Board's request. Mr. Weprin stated that the applicant still has an opportunity to complete an application and perform the appropriate notices to neighbors if it so wishes and that the matter can be adjourned. Mr. Mazin stated that an application would be submitted and notices to neighbors mailed out and that he would ask for the adjournment. Ms. Kramer requested that the applicant submit a copy of the variance with the application. Chairman Neufeld added that the application is to modify or extend a condition of the variance. He also stated that the matter is being adjourned and that Mr. Mazin will provide notice and file the application.

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

The application is adjourned to July 29th.

7. Adjourned Application #19A-2010, HILMAR REALTY LLC, 1421 Mamaroneck Avenue

Vincent DeIorio, Esq. appeared on behalf of the applicant. He noted that the applicant is seeking to sub-divide one lot into two lots where the subdivision will increase the non-conformity. He referenced the disapproval notice from the Building Inspector. He submitted a copy of Section 342-11D of the Zoning Code for the Board's reference and read the section out loud. He stated that the non-conformity of the property dates back several years. Mr. DeIorio noted that Exhibit 6 (Zoning Analysis) of his packet does agree with the determination of the Building Department. There is an impact to the F.A.R. There is an increase in the F.A.R. from 1.55 to 1.87.

Mr. DeIorio went on to say that the development would be advantageous to the area and the Village. Chairman Neufeld noted that this is presently a non-conforming lot and the applicant is increasing the non-conformity extensively. The Board is being asked to enhance (increase) the non-conformity. Mr. DeIorio stated that the non-conforming use does not change, only the area. Chairman Neufeld noted that the concrete removal and unsightliness can be remedied or changed without an area variance. Mr. DeIorio agreed. Chairman Neufeld stated that the issue the Board has speaks to the enhancement of the non-conformity as it relates to the area as opposed to the use. He asked if the applicant felt the neighbors were in favor of this. Mr. DeIorio stated that he had not heard from any of the tenants.

Ms. Kramer stated that the parcel of land is underutilized and to utilize the area the non-conformity would be increased. She asked what the purpose of this is for. Mr. DeIorio indicated that this is to better utilize the space. Discussion arose as to whether this is an economic use or a productive use. Chairman Neufeld asked if there is a restriction on the tenants to use the space and Mr. DeIorio indicated that there is no restriction.

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

Ms. Brenda Coyne addressed the Board. She indicated that her property is a few houses over from the tennis courts. The area has always been abandoned and nothing has ever been developed. She noted that the location is an eyesore. She suggested that the lot could be used for parking. She would like to have the lot improved, but feels the motivation of the owner might be about greed. Mr. Weprin asked if Ms. Coyne would prefer a house than what is currently there. She answered that she would prefer something else, but a house would be satisfactory as well. A secondary concern for Ms. Coyne was whether fire trucks will be able to get through the area.

Mr. Neuringer asked if the applicant had been before the Planning Board. Mr. DeIorio stated that the Planning Board had referred the applicant to this Board because the application increases the non-conformity. He went on to say that he has filed with the Planning Board. Discussion arose as to whether this was an unlisted action. Ms. Kramer asked how the new Stormwater law impacted this application and Mr. DeIorio stated that he did not think it did impact the application. He also noted he had had meetings with Keith Furey, consultant to the Village. Mr. DeIorio stated that parties seem in favor of moving this application forward. He also noted that the Planning Board declared lead agency. Chairman Neufeld noted that the EAF has an error – applicant needs to list all the agencies.

Nancy Lanza addressed the Board. She noted that the lot has never been kept up. She would prefer a single-family home. Mr. Neuringer noted that the location is a single-family zone. She

stated that the dwelling must have a driveway and garage due to the parking issues. She noted that the fire trucks currently have difficulty making the turn onto the street because of the parked cars. She also thought there could be other uses for the land.

Tony Vaccaro addressed the Board. He stated that the tennis court has been a disaster since 1990. It is not maintained and the subdivision is a great idea. He noted that the best scenario is to put a new house at that location. It would enhance the area.

Chairman Neufeld noted for the record that the Planning Board declared intent to be lead agency. He noted that the Board can do a coordinated or uncoordinated review. Currently, this is an incomplete application due to the Planning Board declaring intent to be lead agency. Chairman Neufeld stated that the Board needs to address this matter and that the application is adjourned until July 29th. He also noted that the Board will address this application with the Planning Board.

Bob Galvin, Planning Board Chairperson, addressed the Board. He noted that the application came before the Planning Board in December and January and that the applicant had appeared in December and January. He stated that the Planning Board had declared lead agency (unlisted action) and circulated the minutes to the Zoning Board of Appeals. He noted that he did not send lead agency letter to the Zoning Board because they were not involved at the time. He pointed out three issues with the application before the Planning Board:

1. Stormwater Impervious Surfaces
2. Parking problem (requesting analysis)
3. Re-orient structure

Mr. Galvin stated that the Planning Board had not closed out SEQRA because the applicant has not come back to the Board. Chairman Neufeld noted that it is not the wish of this Board to put the applicant through any more than is necessary. Mr. Galvin noted that the next Planning Board meeting is scheduled for June 24th. The applicant can resume with the Zoning Board in July.

At 9:55 p.m. the Board recessed and at 10:07 p.m. the Board reconvened.

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

Mark Mustacato, Architect, appeared on behalf of the applicant. He submitted plans with the pool equipment and shed which was requested at the last meeting. He also submitted a letter from Mrs. Mustacato who lived in the house as a child stating that there was a shed in the 1960's. He stated that there was no indication of what pool equipment would be there or where it was to be placed when revising the older special permits.

Chairman Neufeld asked if anyone wished to approach the Board.

Andrew Weiss addressed the Board. He stated that he hoped the Board came to see the property. He is not sure this is a shed. He can hear the pump running which is near the property line. He stated that the shed referenced in Mrs. Mustacato's letter is smaller than it is now and the non-conformity has been increased. He stated there was no pool or playhouse in the 1960's. Mr.

Weiss noted that all three structures run along his property line. He said that aesthetically, it is fine for the Leinters, but not for him.

Mr. Neuringer asked what the distance was from Mr. Weiss's house to the property line. Mr. Weiss answered that it is seventy feet. He showed the Board his survey. Mr. Weiss noted that he plans to build a pool and he will be expected to comply with the zoning code.

Mr. Leitner, the applicant, addressed the Board. He noted that the shed has been there since he purchased the house in 1997. It is the same size except for the additional four feet he added on. Mr. Leitner understands Mr. Weiss's issue with the playhouse with respect to the view. In two or three years he will take it down because his children will be too old to play in it.

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

Ayes: Neufeld, Neuringer, Kramer, Sullivan, Weprin

Nays: None

9. Application #3SP-1998, SANDRO RESTAURANT CORPORATION, 597 E. Boston Post Road

Paul Noto, Esq. appeared on behalf of the applicant. Pizza Gourmet wishes to renew a special permit that it has had since 1998. The applicant is in compliance with conditions of the special permit. There are no changes to the special permit.

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. Neuringer.

Ayes: Neufeld, Neuringer, Kramer, Sullivan, Weprin

Nays: None

10. Application #9SP-1999, STARBUCKS COFFEE COMPANY, 1030 W. Boston Post Road

Ann Marie McGovern, Manager of Starbacks, appeared. She indicated that she is seeking a renewal of the special permit. There are no changes. Everything with respect to the special permit is the same.

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 Ms. Kramer.

Ayes: Neufeld, Neuringer, Kramer, Sullivan, Weprin

Nays: None

11. Application #1SP-2004, WESTCHESTER BEACH SPA, INC., 626 E. Boston Post Road

Paul Noto, Esq. appeared on behalf of the applicant. He stated that the applicant is requesting the renewal of a special permit. The applicant is in compliance with all requirements of the special permit. Nothing has changed.

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

12. Application #6SP-2004, DIAMOND CAR WASH & LUBE INC., 324 Halstead Avenue

Michael Donnadio, the owner appeared. He indicated that he is here tonight to renew his special permit and that there are no changes to the special permit. Everything is the same.

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 Ms. Kramer.

Ayes: Neufeld, Neuringer, Kramer, Sullivan, Weprin

Nays: None

13. Application #7SP-2004, TD BANK (Formerly Commerce Bank), 1521 E. Boston Post Road

Dan Peterson appeared. He noted that he was requesting a renewal of a special permit to continue to operate a drive-through facility. He indicated that there are no changes and the hours of operation are the same.

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

14. Application #9SP-2004, GARDEN CATERING MAMARONECK, LLC., 315 Mamaroneck Avenue

Don Mazin, Esq. appeared on behalf of the applicant. He indicated that there are no changes to the special permit.

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, Kramer, Sullivan, Weprin

Nays: None

Abstain: Neuringer

15. Application #24A-2010, PAUL & MAUREEN ABRAHAMSEN, 305 Grant Terrace

Vitorio Ciraco, the Architect, appeared on behalf of the applicant. He noted that Mr. Abrahamson had passed away recently, but his wife still wanted to move forward with adding the chair lift to their home. Mr. Ciraco stated that the porch was built to help screen the chair lift and steps. He believes the porch will add to the character of the neighborhood and the house itself. He indicated that the porch will be open with a roof attached. He stated that the porch will also be screened so the chair lift will be less visible. Chairman Neufeld asked if there was any intention of enclosing the porch in the future and Mr. Ciraco indicated that there was not. Mr. Ciraco stated that the applicant will build the porch first and then the chair lift in a year. All the electrical work for the chair lift will be performed now. Mr. Neuringer asked if there is a new code being proposed by the Village with respect to stairs and Mr. Melillo stated that there was a proposed law before the BOT.

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, Kramer, Sullivan, Weprin, Neuringer

Nays: None

16. Application #25A-2010, DEBORAH DOERN, 530 Alda Road

Daniel Doern, brother of applicant, appeared on behalf of the applicant. He indicated that the applicant wishes to raise the roof of the house to create a second floor and add a porch. He noted that there is currently an existing non-conformity and this will increase the non-conformity. Mr. Doern also noted that he is not bringing the building any closer to the lot line. The applicant is looking to increase the house by 97 square feet. He noted that the applicant is adding a bay window. Both Chairman Neufeld and Mr. Neuringer commented favorably on how the application was put together.

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, Kramer, Sullivan, Weprin, Neuringer

Nays: None

17. Application #26A-2010, SEAN & ANN GORMLEY, 1104 Park Avenue

Paul Noto, Esq. appeared on behalf of the applicant. He stated that the applicant wishes to construct a one story addition. They are seeking a variance on a combined yard setback. He noted that the existing house is small and the applicant would like to expand the living space. Mr. Noto stated that the applicants have received consent from their neighbors. He submitted a plan whereby all neighbors had signed their approval.

Mr. Neuringer indicated his concern about the relationship of the proposed façade to street frontage. Mr. Noto stated that the applicant is in compliance with other houses on the block. He also went on to say that with the addition, the house will line up with the other houses on the street. Mr. Neuringer asked if there was any other possible solution to stay within the front yard setback. Michael Rino, the Architect, stated that because the property is a corner lot, the alternatives are much less desirable. If the addition is placed in the rear, there will be no back yard. Mr. Gormley addressed the Board. He indicated that he has planted several trees so neighbors won't be able to see the roof top. Other alternatives just wouldn't work. Discussion arose as to why this was a combined yard setback issue as well as the change in policy.

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, Kramer, Sullivan, Weprin, Neuringer
Nays: None

APPLICATIONS CLOSED

1. Application #4A-2010, GLORIA BETANCOURT, 413 Waverly 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). Discussion arose regarding whether this is a use variance or area variance. Ms. Zalantis cited Section 342-64 and indicated this is an area variance. There is no change in use. Mr. Sullivan stated that he would not have a problem approving this application. Discussion regarding the bathroom arose.

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

2. Application #9SP-2003/#10SP-2010, GRANADOS RESTAURANT CORPORATION, 690 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 special permit is renewable in three years.

Discussion arose regarding placing restrictions on hours. The issue is that the restaurant is stopping food service after midnight and only serving drinks. Mr. Weprin asked if the Board could require the applicant be open only when they are serving food. Chairman Neufeld was not certain this could be done. Ms. Kramer noted that many restaurants have a bar as part of their establishment. Mr. Weprin suggested requiring the applicant to serve food the entire time they are open. Ms. Kramer stated that no complaints with respect to neighbors have been brought to the Board's attention.

A motion to approve the variance with the stipulation that the kitchen serve food until closing time 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, Weprin
Nays: Sullivan

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

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). The special permit is renewable in three years.

Discussion arose regarding hours of operation. Same hours as in the past except the Board will approve the four tables for outdoor dining to conclude at midnight.

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, Kramer, Sullivan, Weprin
Nays: None

4. Application #25A-2010, DEBORAH DOERN, 530 Alda 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).

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

ADJOURN

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

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

On motion duly made and carried, the meeting was adjourned at 11:15 p.m.

GREGORY SULLIVAN
Secretary

Prepared by:
Ann P. Powers