

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, APRIL 1, 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 April 1, 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.

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2010 APR -7 AM 11:44  
VILLAGE OF MAMARONECK  
NEW YORK

**PRESENT:** David Neufeld, Chairman  
Gregory Sullivan, Secretary  
Clark Neuringer, Board Member  
Barry Weprin, Board Member  
Robin Kramer, Board Member  
Kathy Zalantis, Counsel to Board  
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**

Chairman Neufeld was not present at the beginning of the meeting. Therefore, the meeting was called to Order by Acting Chairperson Kramer at 7:15 p.m. with only four members of the Board present. She noted the emergency exits.

Ms. Kramer began with the agenda. Mr. Weprin suggested hearing the special permit renewals first.

**1. Application #2SP-1998, MAMARONECK AUTO COLLISION, INC.**

Don Mazin, Esq. appeared on behalf of the applicant. He indicated that the mailings had not been done and requested an adjournment until the next meeting. The Board consented to the adjournment.

**2. Application #13SP-2004, KATHY SANSOTTA**

Kathy Sansotta appeared. She indicated that she is requesting a renewal of her special permit to operate a daycare facility. There have been no changes in the operation. The number of children, the hours of operation and the layout of the facility are the same. Ms. Sansotta stated that her license from the State is up for renewal in November.

Acting Chairperson Kramer 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: Neuringer, Kramer, Sullivan, Weprin  
Nays: None

**3. Application #18SP-2006, BI HE LIN**

Antonio Maiuolo appeared on behalf of the applicant. He indicated that the applicant was renewing a special permit to operate a restaurant. Mr. Maiuolo stated that there are no changes with the establishment and that the restaurant has the same hours of operation.

Acting Chairperson Kramer 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. Neuringer.

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

**4. Application #3SP-2007, MARNIN CORPORATION**

Paul Noto, Esq. appeared on behalf of the applicant. He indicated that the applicant wishes to renew a special permit to operate a delicatessen. He went on to say that the applicant has been operating since 2007. Mr. Noto stated that there are no changes to the establishment. There have been no violations against the delicatessen.

Acting Chairperson Kramer 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. Neuringer.

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

**5. Adjourned Application #1SP-2010, ENDURANCE FITNESS**

Paul Noto, Esq. appeared on behalf of the applicant. He requested an adjournment until next month as his client awaits the law changes by the Board of Trustees. The Board granted the adjournment request.

Acting Chairperson Kramer asked if anyone in the audience wished to address the Board. None did.

**6. Application #9SP-2003 & #10SP-2010, GRANADOS RESTAURANT CORP.**

Allan Pfannschmidt appeared. He indicated that he is requesting a renewal of his special permit as well as a request to extend the hours of operation on Friday and Saturday to 4:00 a.m. The

restaurant is currently opened until 12:00 a.m. on Friday and Saturday. Mr. Pfannschmidt stated that he wishes to stay open until 4:00 a.m. because patrons stay to listen to the music. His current cabaret license allows him to play music until 12:00 midnight. He said that he would be applying to extend the hours of his cabaret license. Acting Chairperson Kramer asked what time the kitchen is open until and Mr. Pfannschmidt answered midnight.

Discussion arose as to whether, once the kitchen closes, the restaurant becomes a bar thereby changing the use. Acting Chairperson Kramer stated that she doesn't remember a time when the Board had a discussion regarding an application as to what happens when food is no longer served at the establishment. Mr. Pfannschmidt stated that he does not know what liquor license class he has. Acting Chairperson Kramer read from the code, indicating a category in the code that references a food service establishment or tavern. Therefore, the facility is either a food establishment or tavern; it's the same section of the code.

Acting Chairperson Kramer asked if anyone in the audience wished to address the Board. None did.

A motion to close the public hearing for agenda item numbers 9 and 10 was made by Mr. Sullivan, seconded by Mr. Weprin.

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

At this point Chairman Neufeld continued the meeting.

#### **7. Application #7SP-2010, GO GREEN DRY CLEANERS**

Gary Madrit and Michael Kopyy appeared. Mr. Madrit indicated that he and his partner want to bring a Go Green drop off dry cleaning store to the Village.

Discussion arose as to what section of the code this application applies to in reference to a drop-off facility. Mr. Neuringer indicated that this may be considered retail. Ms. Kramer stated that this is not retail because they do not sell anything. They provide personal service.

Mr. Madrit stated that there would be no equipment on the premises. Ms. Kramer asked what the procedure will be. Mr. Madrit stated that the customer will drop off their clothes and a truck will deliver the clothes to a location up north to be cleaned. The drop off place will tag clothes, input orders in the computer and load the trucks. He indicated that the establishment will also have a tailor on premises.

Mr. Madrit went on to say that he feels this will be a great addition to the area. He stated that Go Green does not use perc (classified by the EPA as a toxic air contaminant). They are not regulated by EPA or DEC. The work being performed will be cosmetic in nature, such as tiling and painting. The Planning Board has requested shrubbery and planting which Mr. Madrit has complied with. The hours of operation will be 7:00 a.m. to 7:00 p.m. Monday through Friday, 8:00 a.m. to 6:00 p.m. Saturday and 10:00 a.m. to 2:00 p.m. Sunday.

Mr. Madrit indicated that 20% of the business will be tailoring and 80% will be dry cleaning. He will have a staff of two plus the tailor. Mr. Neuringer asked about any parking issues and Mr. Madrit stated that parking did not come up when he was before 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 was made by Mr. Sullivan, seconded by Mr. Weprin.

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

**8. Application #9SP-2010, MOSIA BROTHERS NORTH, INC.**

Paul Noto, Esq. appeared on behalf of the applicant. He indicated that the applicant was applying for a special permit to operate an auto service facility. Mr. Noto stated that the applicants were before the Zoning Board recently and were granted a special permit and variance, but the landlord withdrew the lease. He said that there would be four employees running the facility. The Mosia brothers have been in the Village for 16 years.

With regard to parking, Mr. Noto stated that there are 12 parking spots outside and 8 parking spots inside. Discussion arose regarding the parking situation. Ms. Kramer noted that the demand may not be the same as the prior establishment. Mr. Noto said it is basically the same because an individual drops off their car; the car is worked on and then the car is picked back up. He said it was the same activity for both businesses. Mr. Winter indicated that since this is not a change in use, parking is not an issue. If this was a change in use, a site plan would be required. Ms. Kramer noted that since the Building Department determined there is no change in use, this is an existing structure. Ms. Zalantis indicated that this could be a Type II as existing. Mr. Noto stated that the building is set up to move in minus some cosmetic work. Discussion arose regarding the electrical equipment located on the ground and if flooding was taken into account.

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

**9. Adjourned Application #5SP-2010, FAISAL LIADAT**

Tony Dadano, Architect, appeared on behalf of the applicant. Mr. Sullivan noted for the record that he has an office across from this location and he was one of the neighbors noticed on the application. He went on to say that he feels he can be objective. Mr. Liadat, the applicant indicated he had no issue with Mr. Sullivan hearing the matter. Mr. Dadano stated that the Planning Board had issued a negative declaration. He indicated that the revised plans before the Board currently, the Planning Board does not have. Ms. Kramer asked if any work will be performed outside. Mr. Dadano stated that the work done outside would be installing windows

and signs, as well as cutting asphalt to plant bushes. He indicated that the applicant will also be striping parking spots. He went on to say that there are no FAR issues and that they are applying for a dumpster enclosure.

The hours of operation will be 10:00 a.m. to 11:00 p.m. weekdays and 10:00 a.m. to midnight on weekends. Mr. Dadano estimated that 80% to 85% will be delivery business and he said that there would be 2 to 3 staff at peak times.

Mr. Neuringer stated that he feels the Board should have a site plan and zoning table and that it should be part of the record. Mr. Liadat indicated that this is an existing building and he was told he was applying for a special permit only. There is a Certificate of Occupancy and everything is up to code. Nothing to the outside of the building is being done except to dig up concrete to plant the bushes. He also stated that he is required to have three parking spaces and he has ten spaces.

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. Adjourned Application #4A-2010, GLORIA BETANCOURT**

James Monaghan, Esq. appeared on behalf of the applicant. He distributed updated plans. He indicated that, as requested by the Board, the applicant made the necessary changes to the plan. Mr. Monaghan stated that everything is as it exists today and as it existed when the home was purchased. He went on to say that no work is currently being done on the property. The violations that the property has incurred stems from the previous owners. He said that the applicant is trying to bring the work done into compliance. Mr. Monaghan stated that at one point a bathroom was installed and a ceiling hung, but this was done before the current owner.

Mr. Neuringer noted that because this is an M-1 District, any work done on the property deals with a non-conformity. Ms. Kramer wanted to verify that all work was done prior to the applicant living there. Mr. Melillo indicated that this is a three-family dwelling (non-conforming).

Chairman Neufeld 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. Sullivan.

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

**11. Adjourned Application #8A-2010, BEACH POINT CLUB**

Randy Ruder, Beach Point Club Manager, appeared. He indicated that he had revised the site plan as requested by the Board. Mr. Ruder explained the history of what had occurred. The Board took a moment to review the submitted plans. Chairman Neufeld asked if the applicant had considered moving the structure so that it would be in compliance. Mr. Ruder indicated that he had not. He continued by stating that the architect thought that the fence was the property line and measured accordingly. Ms. Kramer asked if the variance the applicant originally requested was granted and Mr. Ruder answered that it was.

Discussion arose regarding the issue of the builder not doing the correct job in the first place. Mr. Ruder stated that the Building Inspector encouraged him to come before the Board before addressing any issues with his contractor. Mr. Ruder indicated that he could remove the stairs to keep the structure within the variance already in place. Chairman Neufeld stated that his concern is that the Board is setting a precedent here. He would like the contractor to address this with the applicant to see what can be done to comply with the existing variance. Chairman Neufeld also requested the contractor to speak on the record at the next Board meeting.

Ms. Kramer stated that the Board previously granted a variance for certain dimensions and the Board would like to hear the contractor's explanation as to why he didn't comply with the variance. The applicant was also requested to submit the contract for the work performed with the cost redacted.

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

The application was adjourned until May 6, 2010.

**12. Application #6A-2010, HIREN & RADHIKA MUZUMDAR**

Mr. Muzumdar, the applicant, appeared. He indicated that the fence was there originally. It recently fell down and the applicant replaced it. Mr. Muzumdar did not know that when he rebuilt the fence it was not in compliance. Chairman Neufeld asked if the gates are decorative or used for a specific purpose. Mr. Muzumdar stated that the gate is used for foot traffic. Discussion arose as to what the Building Department considers a fence and if the archway is a fence. The Building Department views this structure as a fence. Ms. Kramer stated that since the property is on a corner lot, the fence cannot be higher than four feet.

Chairman Neufeld 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. Weprin.

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

**13. Application #39A-2009, GUISEPPE NOVELLO**

Raymond Ferraro appeared on behalf of the applicant, as well as Guiseppe Novello. Mr. Ferraro stated that a patio was built in 1995 and the roof was built a couple of months after that and Mr. Novello did not realize he needed a permit. He said that the applicant was told by the Building Department that he would need to apply for a variance for the porch. Mr. Ferraro stated that the applicant is requesting a variance for the porch. He indicated that the porch has shrubbery around it so that it can't be seen. Mr. Ferraro indicated that the applicant is not looking to enclose the structure. Mr. Melillo clarified that the roof and the concrete (patio) are the issues. Chairman Neufeld indicated that there was a variance in the 1970's for the property. The Board requested additional information from the Building Department.

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

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

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

**14. Application #17A-2010, ROBIN SIMONSEN**

Donald Mazin, Esq. appeared on behalf of the applicant. He indicated that the applicant submitted a survey and certificate indicating no changes. Ed Jacobson, the architect, appeared. He indicated that the applicant wishes to replace the existing deck. He stated that when the deck is completed, it will meet code and eliminate the non-conformity. Mr. Mazin discussed the importance of the deck to the applicant. He stated that her daughter is ill and the deck makes her life more pleasant. Mr. Mazin stated that the applicant can't use her yard because of water problems in the back yard. Mr. Mazin displayed pictures of the applicant's porch as well as neighboring porches. He stated that any decrease in non-conformity should be applauded. Mr. Mazin indicated that all the neighbors are in support of the application. Mr. Mazin went through the criteria for issuing the variance.

Chairman Neufeld stated that a variance request in 2009 was denied. Mr. Mazin read from the prior resolution and argued each point. He stated that the deck conforms with other neighboring properties. Ms. Simonsen's house is a two-family non-conforming dwelling.

Mr. Jacobson indicated that he did both plans. The plan before the Board is the plan from last year. Chairman Neufeld asked what the differences to the two plans are. Mr. Jacobson indicated the following: 350 sq. ft. in 2009, 325 sq. ft now; rear yard setback in 2009 45 feet and 47 feet now; the new deck is 2 feet further from the line; lesser side yard is 6.4 to 6.5. He went on to say that the applicant is proposing extending the landscaping to the back yard. Mr. Jacobson said that the basic look of the deck is the same, but it has been made smaller. He stated that the deck currently is in substantial disrepair.

Robin Simonsen, the applicant, addressed the Board. She indicated that the back yard gets spongy because of all the water and it can't be used. Because her daughter is ill, the porch is where they spend their time. Ms. Simonsen indicated that she is able to navigate her daughter's wheelchair

onto the porch and can't do that in the back yard. She stated that she needs the additional space because for her daughter's wheelchair and to also have tables and chairs for seating. She went on to say that her daughter cannot tolerate the sun because of her medications and a regular umbrella does not provide enough or proper shade for her. The pergola will be retractable and provide shade to her daughter, while others will be able to enjoy the sun. That way there will be a dining area and a shaded area. Ms. Simonsen stated that the lattice screen, which currently exists, will help with privacy. She noted that she has no intention of enclosing the deck. She said she feels that because she is the only two-family house in the area, she's being held to a different set of standards than her neighbors on each side of her. She stated that she moved from Larchmont so that her daughter could live independently. She indicated that there isn't a home on the street that doesn't have a deck.

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

**15. Application #18A-2010, ETHER ROBERTSON**

Joseph Fernandez, the architect, appeared on behalf of the applicant. He indicated that he did not prepare the drawings. He stated that in 2001 the applicant purchased the house. Mr. Fernandez stated that the applicant's son is confined to a wheelchair and that the house was not handicapped compliant. In 2005, a variance was approved and the work began in July 2006. Mr. Fernandez indicated that it came to light that the plan originally approved did not meet the applicant's needs. The applicant made changes thinking it was legal and proper to do so. Mr. Fernandez stated that the front of the house was built 18 inches larger than proposed and the back of the house has a deck which was made larger to access a door into the kitchen for the wheelchair. Mr. Fernandez stated that the applicant put her faith in the engineer and was not knowledgeable about the process. Mr. Fernandez said that the house does not have a certificate of occupancy and all inspections have been completed. The contractor was Millennium Builders, but they are no longer in business. Chairman Neufeld indicated that he would like to see the engineer. Mr. Fernandez will ask the engineer to appear before the Board at the May 6, 2010 meeting.

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

The application is adjourned to the May 6, 2010 meeting.

10:00 p.m. the Board recessed and at 10:15 p.m. the Board reconvened.



## **MISCELLANEOUS MATTERS**

Application #40A-2009, EAST COAST NORTH PROPERTIES, LLC, 416 Waverly Avenue  
(Scheduling of participation in scoping by involved agencies, interested agencies and public.)

Chairman Neufeld discussed the scoping procedures for the next 60 days. The agencies will notify the Board in writing. Chairman Neufeld indicated the Board would hold a public hearing on matter May 6, 2010. Ms. Zalantis was asked to prepare the public hearing notice and circulate. Ms. Kramer indicated that the Board will need to consider the Village's new Stormwater law.

Mr. Noto addressed the Board. He indicated that he had submitted a letter to the Board asking the Board to rescind their positive declaration and he was before the Board this evening with the same request. He indicated that the applicant is not financially able to do a DEIS. Mr. Noto went on to say that if the Board wished, the applicant would provide additional information before a positive declaration is issued.

Mr. Neuringer stated that the magnitude of the variances were significant. Discussion arose regarding this application being a Type I action and Chairman Neufeld stated that the applicant cannot go to the Planning Board for site plan without coming before the Zoning Board. Ms. Kramer asked if the Board could perform a targeted EIS instead of scoping and the Chairman indicated that the Board could not. Ms. Zalantis reiterated that the Board that there is a 60 day timeline. Since the applicant has submitted materials, time is of the essence on the draft scope. Ms. Zalantis will ask the applicant for an extension of time.

Discussion arose regarding issues with the survey and the Board not accepting applications unless the survey is correct. Chairman Neufeld mentioned that the Building Department should watch for this at the intake. Ms. Kramer suggested obtaining a survey update.

## **APPLICATIONS CLOSED**

### **1. Application #7SP-2010, GO GREEN DRY CLEANERS**

The Board discussed the merits of the application. The Board indicated that the Planning Board had previously declared itself lead agency and issued a negative declaration under SEQRA.

The special permit will be valid for an initial probationary period of three (3) years.

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

### **2. Application #5SP-2010, FAISAL LIADAT**

The Board discussed the merits of the application. The Board indicated that the Planning Board

had previously declared itself lead agency and issued a negative declaration under SEQRA.

The special permit will be valid for an initial probationary period of three (3) years.

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

**3. Application #9SP-2010, MOSIA BROTHERS NORTH, INC.**

The Board discussed the merits of the case. The Board determined that this is a Type II action not subject to SEQRA.

The special permit is granted without a term limit.

The special permit will be valid for an initial probationary period of three (3) years.

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, Kramer, Sullivan, Weprin  
Nays: None

**4. Application #19SP-2009, S&J RESTAURANTS LLC.**

Chairman Neufeld indicated that he had issues with the hours of operation because they seem more like bar hours as opposed to restaurant hours. He went on to say that based on the feedback from the neighbors, he does not get a sense that the applicant is working with the neighbors on the situation. He went on to say that not only does he have issues with the hours, but the menu and type of seating all lean toward a bar setting. There is also the issue of neighbors living in a residential area dealing with the noise, cars, etc. that an establishment such of this may attract.

Ms. Kramer noted that although the neighbors are opposed to the application, zoning does allow for a restaurant at this location and the code does not require parking. She went on to say that the Board can put a condition in the resolution that the restaurant close at midnight.

The problems with the prior restaurant came up and Mr. Neuringer stated that there was a distinct problem with that establishment and the Board handled the issue. This is not a use issue. He also noted that this application would require limitations from the Board. The applicant can either abide by the limitations or apply for a special permit at a different location. Mr. Sullivan suggested issuing the special permit with the condition that the applicant comes back to the Board in one year. Mr. Weprin indicated that he agreed with that idea. He went on to say that the applicant has stated that they have run establishments before and have had no problems. Chairman Neufeld indicated that his objection is that the establishment seems more bar-like: minimal menu,

seating seems thrown together. He stated that he is comfortable placing conditions on the applicant. Mr. Weprin suggested having the applicant come back to the Board one year from the time the restaurant opens. Ms. Zalantis indicated that the code references 12 months from the issue of the special permit.

The hours of operation the applicant requested were: 11:00 a.m. to midnight on weekdays and 11:00 a.m. to 1:00 a.m. on weekends. The Board indicated that once the hour is determined, there may be no more patrons and only cleaning and kitchen staff may remain. Mr. Weprin suggested closing a midnight seven days. Ms. Zalantis said she will prepare findings for the next meeting.

### **MINUTES**

Ms. Kramer submitted her revisions to the minutes and it was indicated that all other revisions had been made. The minutes will be on the agenda next month for approval.

### **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 11:10 p.m.

GREGORY SULLIVAN  
Secretary

Prepared by:  
Ann P. Powers