

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, JUNE 2, 2011 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 2, 2011. 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: Clark Neuringer, Chairman
Barry Weprin, Vice Chairman
Robin Kramer, Secretary
Greg Sullivan, Board Member
Anna Georgiou, Counsel to Board
John Winter, Building Inspector
Rob Melillo, Deputy Building Inspector

ABSENT: Dave Neufeld, Board Member

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 Neuringer at 7:07 p.m. and he introduced everyone and detailed the procedures for the meeting. He noted for the record that Mr. Neufeld would not be present at tonight's meeting and that Ms. Kramer would be slightly late. He asked if anyone wished to adjourn their application in light of the fact that there was not a full board. No one did. The next meeting is scheduled for Thursday, July 7, 2011. Chairman Neuringer introduced the new legal counsel to the Zoning Board, Anna Georgiou.

1. Application #1SP-2008, HAIKU ASIAN BISTRO, 265 Mamaroneck Avenue

Michael Lai, the manager, addressed the Board. He stated that the violations have been corrected. Mr. Melillo stated that there are two outstanding violations (Kitchen Hood/Duct System/Sprinkling & Knox Box) based on his discussions with the Fire Inspector in the afternoon.

Mr. Lai stated that he needs to have the Code Enforcement Officer come to inspect the Knox Box that was installed on June 1st and the sprinklers have been installed.

Chairman Neuringer stated that the paperwork must be brought up to date and he asked the Building Department to notify the Board that the violations have been remedied. He requested that the applicant come back July 7, 2011 and that the violations be resolved before then.

Mr. Melillo stated that these violations have been an issue for a year. Mr. Sullivan stated that the Board can adjourn this matter until July and if at that time the violations are rectified, that will be a matter the Board will have to take up.

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

The application is adjourned until July 7, 2011.

With respect to the application of the Seventh Day Adventist, Chairman Neuringer stated that he received a communication from the Building Department that there was no signage in place at the premises. A member of the church stated that the sign fell down due to the bad weather and it was placed back up.

2. Application #6SP-2011, 1202 WBP REALTY, 1208 W. Boston Post Road

Chairman Neuringer called the next application. No one was in attendance. Chairman Neuringer stated that he would come back to this application at a later time.

3. Application #7SP-2011, T & A PIZZA INC, 357 Mamaroneck Avenue

Howard Smolen, the attorney for the applicant, addressed the Board. He stated that the applicant is requesting a special permit be granted to operate a pizzeria. He stated that the applicant purchased the existing pizzeria in April.

Mr. Smolen stated that there will be no changes to the hours of operation, seating or menu. The only change is ownership.

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

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

Ayes: Neuringer, Sullivan, Weprin

Nays: None

Absent: Kramer, Neufeld

4. Application #8SP-2011, MARIO CASTALDO, 519 Waverly Avenue

Tony Castro, the attorney for the applicant, addressed the Board. He stated that the applicant is requesting a special permit to operate an existing motor vehicle repair shop. Mr. Castro stated that Mr. Castaldo purchased the property in 1979 and it was a body shop at that time and has continued as a body shop.

At 7:21 p.m., Ms. Kramer joined the Board.

Mr. Castro stated that the recent tenant moved out and Mr. Castaldo would like to continue to operate the repair shop. Mr. Castaldo stated that this is a change of ownership of the business.

Chairman Neuringer asked if there were any other auto body repair shops within the proximity (200 feet) of this shop and Mr. Melillo stated that he was not aware of any.

Discussion arose regarding what address the building is actually at (517 or 519 Waverly). Mr. Castro stated that the Building Department lists it at 519 Waverly Avenue.

Mr. Sullivan stated that there are too many signs on the premises. Mr. Castro said the signs need to be addressed.

Ms. Georgiou asked if there is an existing special use permit. Mr. Castro replied no, only a permit from the state. Ms. Kramer asked if the use is currently illegal and Mr. Castro stated that, technically, it was. He noted that the applicant was cited by the Building Department and the applicant is here to comply.

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

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

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

5. Adjourned Application #3SP-2008, MOLLY SPILLANE'S RESTAURANT

Paul Noto, the attorney for the applicant, addressed the Board. He stated that he submitted a letter on May 26, 2011 to illustrate the mitigation efforts the applicant is willing to put into place to address the concerns of the neighbors. Mr. Noto stated that he is not going to address last month's meeting due to time constraints.

Mr. Noto stated that he would address the mitigation measures. He stated that the speakers on the outside patio will be disconnected each night no later than 11:00 p.m. The awning over the patio will be set out each night no later than 9:00 p.m. weather permitting. Chairman Neuringer asked if Mr. Noto could elaborate on the last point. Mr. Noto stated that if the weather is windy, it would be unsafe to have the awning open.

Mr. Noto went on to say that the restaurant will take a decibel reading each night and the results will be recorded. Chairman Neuringer asked where the decibel reading will be read. Mike Hynes, the owner, stated that this will be done on the interior and exterior of the building (patio and across the street, east side of prospect).

Mr. Hynes stated that he will take readings throughout the course of the day and night. Ms. Kramer asked Mr. Hynes to confirm that there is no music or television sound coming from the speakers outside and Mr. Hynes stated only music, never television. Mr. Hynes stated that he does not have live music playing outside. Mr. Hynes said that he closes the windows around 10:30 p.m. or 11:00 p.m. He did admit that sometimes his staff forgets.

Mr. Noto stated that the restaurant employees will be instructed to park their vehicles in legal Village parking spaces. He also said that the manager of the restaurant will carefully monitor any

potential situation that may result in excessive noise and ensure compliance with all directives of the Building Department and the Police Department.

Mr. Weprin stated that this is an effort that the Board was looking for and he would like to know what the neighbors think. Chairman Neuringer asked Mr. Hynes if he thinks these measures will be meaningful and Mr. Hynes stated that he believes they will be.

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

Young Min Song addressed the Board. He stated that the awning is up but does not seem to help with the people talking. As for the decibel readings, Mr. Song stated that the measurements might not be accurate and he has concerns about where the measurements will be taken. He noted that the tenants at the Regatta hear the noise more from their apartments.

Mr. Weprin asked that if a reading was taken from the patio, would that not be the same as what the residents are hearing. Mr. Song stated that it needs to be addressed how the readings will be done.

Chairman Neuringer asked what if the readings are in the permitted range and Mr. Song stated that the readings in the past have been much higher than what is allowed. He went on to say that the neighbors' recommendation is that the patio is closed at 11:00 p.m. Mr. Song stated that it is inconvenient to call the police and they don't always come in a timely manner.

Chairman Neuringer asked if the establishment was called before calling the police. Mr. Song stated that in the beginning, the restaurant was called first, but now they don't take his calls.

Van Caplan addressed the Board. Mr. Caplan stated that he has been a resident since the building was completed. He said that he recalls when the restaurant first was conceived, it was proposed to the neighbors as a family restaurant. He stated that he has been deceived. Mr. Caplan stated that this is not a family restaurant, but a sports bar that serves food.

Mr. Caplan stated that the noise level is very high and it is difficult to get a good night's sleep. He also has concerns that the restaurant will affect his property value. He stated that the restaurant windows are open and the crowds get very boisterous. Mr. Caplan said that this is not appropriate for Mamaroneck Avenue. He also stated that the residents bought their apartments long before this establishment came to be.

With respect to noise level, Mr. Caplan stated that he is a retired physics professor. The sound reverberates on the surface. Mr. Caplan stated that in order to make proper readings, the sensors should be put on the Regatta wall facing the building.

Chairman Neuringer asked if Mr. Caplan had complained about Café Mozart with the music they have in the summer months. Mr. Caplan stated that his primary issue is their music early in the morning.

Dominick Ruggiero, Regatta Condominium Board President, addressed the Board. He stated that the decibel readings are a way of controlling the noise, however, noise will travel. He said that the readings must be 100 feet from the source. Mr. Ruggiero stated that if Mr. Hynes takes a reading from the patio, it should be much higher than what the residents of the Regatta hear. Mr. Ruggiero is in favor of the continuous monitoring of the noise level.

Mr. Ruggiero stated that the current law allows for 100 decibels until 11:00 p.m. The cabaret license allows for 100 decibels until 2:00 p.m. Mr. Ruggiero stated that the Village should follow its law.

Ms. Kramer stated that if something is illegal, it is illegal. The issue is whether the Board feels it is appropriate or not.

Mr. Weprin asked which regulation the code enforcement officer would apply, the Village Code or the cabaret license. Ms. Georgiou stated that she would look into the matter to see whether the code or the cabaret license takes precedence. Mr. Melillo stated that the Building Department would use the cabaret license as a guide. Ms. Kramer asked what the cabaret license permits and Mr. Melillo said it allows live music inside and outside.

Lucia Tatautto addressed the Board. She stated that she had created a petition and asked if that petition had any value with the Board. Chairman Neuringer stated that the petition got the Board's attention. He went on to say that the Board has spent a lot of time on this application as opposed to other applications that have come before the Board.

Ms. Tatautto stated that Café Mozart does not play music late into the night and they do not disturb her. As for the readings, Ms. Tatautto stated that with Mr. Hynes being away throughout the summer, who will be responsible for taking the readings and monitoring the situation.

Chairman Neuringer stated that the applicant was asked to provide a mitigation plan and that is what they did. Chairman Neuringer asked if Ms. Tatautto had any suggestions to add to the plan. Ms. Tatautto stated that the neighbors want Mr. Hynes to meet them half way and bring people in from the patio at 11:00 p.m. Mr. Weprin noted that the Board can put requirements in the resolution. The Board does not enforce, this is done by the police Mr. Weprin stated.

Jean Staris addressed the Board. She wants to know who will monitor the decibel readings and how will these readings be conveyed to the neighbors. She also noted that in the past few weekends the music inside the restaurant has been very loud.

Mr. Weprin stated that Mr. Hynes will take the readings and maintain a record. Ms. Kramer stated that the cabaret license does not allow music after 11:00 p.m. Mr. Melillo corrected Ms. Kramer by stating that live music is allowed up to 2:00 a.m. There is no maximum decibel level. Mr. Melillo stated that the noise ordinance states an establishment can't have music after 11:00 p.m. That would be a violation.

Jeff Hammer addressed the Board. He asked what Mr. Hynes was going to do with the readings. He stated that the business is permitted, the location is permitted and there will be a certain amount of noise that people will hear.

Mr. Weprin asked if Mr. Hammer had any suggestions that would help the situation. He went on to say that the Board can also deliberate conditions when the application is closed.

Chairman Neuringer asked if the music from Café Mozart bothered Mr. Hammer. Mr. Hammer said that he does not hear the music, but other people in his building do. He said the music ends at 10:30 p.m. at Café Mozart.

Dominick Ruggiero addressed the Board again. He stated that even if the decibel level is at 60, some people will be bothered by it. He went on to say that not everyone can be satisfied.

Ms. Kramer stated that since the issue is with the Regatta, one sensor should be on the patio and the second sensor should be on the Regatta wall. She asked if Mr. Hynes would consider installing a remote system at the Regatta. Mr. Noto stated that he didn't know if Mr. Hynes can do it and the applicant won't have control of it on another building.

Mr. Weprin suggested the decibel readings measured on the patio will be sufficient. Discussion arose regarding noise coming from passing cars and people on the street not directly related to the restaurant.

Mr. Hynes stated that the reason why he has not received any violations is because noise levels bother some people while not others. He said that he closes his windows at 11:00 p.m. He stated that he does not have any issues with conditions in the resolution, but feels it is unfair to him and is a quality of life issue for him.

Ms. Kramer discussed an issue in New York City where a builder had to install air conditioning units in apartments across the street from where construction was being performed to help mitigate the noise issues.

Mr. Ruggiero stated that all Regatta units have air conditioners and the majority of them are used during the summer months. Mr. Ruggiero offered to do research regarding decibel readings for remote locations. Ms. Kramer stated that she did not think it was necessary at this stage.

Mr. Caplan stated that to do an analysis one would need an acoustic engineer and it is not a simple problem to analyze. Mr. Caplan stated that even with his windows closed and the air conditioner running, he can hear shouting and screaming coming from inside Mollys.

Ms. Tatautto stated that she will be willing to work with Mr. Hynes and she will purchase a decibel reader and monitor from the Regatta. Mr. Hynes stated that he will take readings from outside. He will do this after 11:00 p.m.

Chairman Neuringer requested that any documentation be submitted a week before the meeting.

The meeting is adjourned until June 2, 2011.

6. Application #6SP-2011, 1202 WBP REALTY, 1208 W. Boston Post Road

Natchapart Chantharotorn, the owner and applicant, addressed the Board. She stated that she is requesting a special permit to operate an existing Thai restaurant under new ownership. She stated that everything will remain the same: hours of operation, no changes to the kitchen and seating.

Chairman Neuringer asked if anyone wished to address the Board. None did.

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

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

7. Adjourned Application #7A-2011, DUNKIN DONUTS, 427 E. Boston Post Road

Paul Noto, the attorney for the applicant, addressed the Board. Mr. Noto stated that he has nothing new to add to last month's presentation. He handed out photos depicting examples of how the signage would look. Mark Maday displayed a sample of the actual size the sign would be.

Chairman Neuringer stated that at the last meeting, a consultant spoke about line of sight. Chairman Neuringer noted that he took photographs which he presented to the Board and the applicant. The photos showed the Dunkin Donuts building while traveling on Boston Post Road.

Chairman Neuringer stated that the consultant's opinion was that one could not see the Dunkin Donuts building traveling east until it was almost at Dunkin Donuts. Chairman Neuringer's photograph shows that one can see the building further back than what was indicated by the consultant.

Chairman Neuringer stated that a person traveling on Boston Post Road can't see the McMichael's façade sign from the street. He went on to say that every one of the businesses in his photograph could argue that they should have a pole sign.

Mr. Noto stated that with respect to the first photograph, a driver paying attention to the road would not see Dunkin Donuts because the building is set back 39 feet. The consultant's argument, Mr. Noto stated, was that people may slam on their breaks and cause a hazardous driving condition.

Chairman Neuringer stated for the record that in 2009, a variance request for a pole sign was made by the property owners of 703 West Boston Post Road for setback reasons. That application was denied by the Board. Chairman Neuringer also noted that Dunkin Donuts had recently come before the Board for a variance for a pole sign. That 2010 resolution denied the applicant the requested variance as well.

With respect to Harvest Market (703 West Boston Post Road), Mr. Noto said that their setback was not an issue and that made his variance request more difficult to approve. The consultant, Mr. Canning, made a strong case with respect to safety reasons, Mr. Noto said. Mr. Noto went on to say that the applicant is not looking to clutter the Village with signs.

Discussion arose as to how many variances the applicant is requesting. Mr. Noto stated that he is requesting two variances. Ms. Kramer asked why the sign couldn't be placed in the middle of the lot and Mr. Noto said that was an option.

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

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

Ayes: Neuringer, Kramer, Weprin, Sullivan

Nays: None

Absent: Neufeld

8. Application #11A-2011, ELIZABETH COVINGTON, 210 Nostrand Avenue

Gail Hiler, attorney for the applicant, addressed the Board. Ms. Hiler stated that the applicant is seeking a variance to erect a six foot fence on a corner lot. The code allows for a maximum of four feet. Ms. Hiler indicated that this is a unique property and that the house was built high above grade. She stated that the ground floor looks like a plaza and people walk through it. She said that the applicant also wishes to plant trees.

Discussion arose as to the type of fence and that the applicant did not include a picture and description of the fence for the Board to analyze.

Chairman Neuringer stated that there are reasons why the corner fences are not allowed to be any higher than four feet and that is for safety reasons. Ms. Hiler stated that this is not a high traffic area.

Chairman Neuringer asked that in order to obtain a degree of privacy is there any reason why the applicant can't close the pillars. Ms. Hiler stated that the applicant would prefer to keep it open.

Chairman Neuringer noted that in a conventional structure, the wall comes down to grade. Ms. Compton, the applicant, stated that it would cut off the property in the back yard if it was built that way. She stated that the house was required to be built in this manner.

Chairman Neuringer stated that that was not entirely accurate. The applicant did need to build according to FEMA regulations, but that building it this way was a choice and it could have been built differently.

Chairman Neuringer also stated that the Board has no idea what the applicant is proposing. Ms. Covington stated that the fence will be a solid fence. Ms. Kramer asked why a four foot fence couldn't be built instead to keep the people out. Ms. Covington said that people are currently

climbing over the existing four foot fence. Ms. Covington distributed photographs of individuals climbing the fence.

Chairman Neuringer asked if the applicant wants to wall in the property and Ms. Covington answered that yes she would like to do that, but it wouldn't be practical. That is why they are requesting the fence at these locations.

Discussion arose regarding individuals cutting through the garage area to go to the neighbor's property. Ms. Kramer suggested putting a six foot fence in the backyard from Howard Street running 100 feet.

Charles Albert stated that he submitted a drawing of the fence but it appears it did not make it into the Board's packets.

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

9. Application #14A-2011, ENZO'S RESTAURANT, 451 Mamaroneck Avenue

Carolina Savone, the applicant, addressed the Board. Ms. Savone stated that she is requesting a variance to erect an awning sign. The restaurant is newly expanded to include a catering hall and she would like a matching awning. Ms. Savone distributed photographs to the Board and indicated that this is all one business with a main entrance and a sliding door. The extension is for catering ad that has a separate entrance, Ms. Savone stated.

Chairman Neuringer asked if the sign will be the same retractable sign as is currently on the building and Ms. Savone stated it would be. Chairman Neuringer asked if a retractable awning was considered a sign and Mr. Melillo stated that he would have to research and get back to the Board. Ms. Kramer stated that an awning would not be a sign, but words on the awning would be.

Ms. Georgiou stated that awning signs are defined in Chapter 286 of the code. Ms. Georgiou read the definition of a façade sign versus an awning sign. Discussion arose regarding whether there is a need for a variance in this matter.

Ms. Kramer stated that the Board has denied signs in the past because of visual clutter. Discussion arose as to whether this is a façade sign or an awning, and what the restrictions are for the number of awnings.

Ms. Georgiou suggested putting the application over to July to get confirmation from the Building Inspector. The Board does not feel there is a need for a variance. Ms. Georgiou will discuss with the Building Inspector and determine if he concurs with the Board's opinion.

The applicant was told that she may not have to appear next month and the Zoning Secretary would notify her before the July 7th meeting.

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

10. Application #15A-2011, SANDRA DIRUZZA, 1600 Mamaroneck Avenue

Sandra DiRuzza, the applicant, addressed the Board. She stated that she is requesting a variance to remove interior walls and a door inside her house. She stated that the property is an existing non-conforming dwelling and may not be altered unless it is for health and safety reasons.

Ms. Kramer asked what work the applicant was planning to do. Ms. DiRuzza stated that she is opening three rooms into one. She resides there with her parents. Ms. DiRuzza noted that her father is ill and removing the walls would help him move around the home more easily. She stated that currently there are six rooms and with the removal of the walls, it will be four rooms. She said the walls to be removed would be for the living room, dining room and kitchen.

Mr. Weprin cautioned the applicant that putting the walls back up may be a challenge and it will be much more difficult than obtaining a variance to remove them.

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

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

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

11. Application #18A-2011, GREATER NEW YORK CORPORATION OF SEVENTH-DAY ADVENTISTS, 191 Prospect Avenue

Dennis Cucinella appeared on behalf of the applicant. He stated that the applicant is required to construct a handicap ramp, but the proposed ramp will have a zero foot front yard setback and the code requires 20. Also, proposed lesser side yard setback is 3.8 feet where 14 feet is required, Mr. Cucinella stated.

He stated that different alternatives were tried, but this is the only feasible place to install the ramp. The grade level windows hinder the church from moving the ramp closer to the building.

Chairman Neuringer noted that the stairs will lead to nowhere and the egress is blocked to Prospect Avenue. He went on to say that the solution may be to eliminate the stairs.

Mr. Cucinella stated that handrails would be needed on both sides and that a ramp is more cost effective than installing a lift. Chairman Neuringer stated that his only concern is that there will be no access to Prospect Avenue. Mr. Weprin stated that the resolution could condition the applicant to remove the stairs. Chairman Neuringer was uncertain whether the Board could condition that.

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

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

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

12. Application #19A-2011, SANDE LICHTENSTEIN, 817 Hall Street

Sande Lichtenstein, the applicant, addressed the Board. Before he began, Ms. Kramer wanted clarification as to whether this was a use variance or an area variance. It was determined that this is an area variance.

Mr. Lichtenstein stated that he is requesting a variance to convert from a single-family dwelling to a two-family dwelling by finishing the basement to create an apartment. He stated that most properties are 50 by 100. He also showed a map from the Assessor's office of Hall Street. The Board and the applicant reviewed the map.

Mr. Sullivan stated for the record that he represented the family that sold the house, but he felt it did not present a conflict.

Chairman Neuringer stated that there are some conflicts with the survey and the plan. The lot is a non-conforming lot to begin with. Chairman Neuringer asked if this was originally a two-family house. Mr. Lichtenstein said he was not sure, but there was a kitchen in the basement at one time.

Mr. Melillo stated that the 1963 building permit lists the property as a single-family home. In 1958, it was a new single-family building.

Mr. Lichtenstein stated that the second variance is for parking. Chairman Neuringer noted that there are four cars in the driveway and there is no provision in the code that prohibits tandem parking. Mr. Lichtenstein stated that tandem parking is not a problem. Chairman Neuringer stated that the applicant, then, does not need a parking variance. Ms. Kramer stated that if this is a two-family house, parking spaces are needed for each unit. Tandem parking prevents someone from getting in and out of the driveway. Ms. Kramer stated that the Board would not grant a variance where parking spots couldn't be used.

John Winter, the Building Inspector, joined the meeting at 9:50 p.m.

Discussion arose about obtaining an easement.

Mr. Melillo stated that the applicant can't do tandem parking with the width that the applicant currently has. He also stated that in 1989, a house was built as an undersized two-family dwelling.

The application was adjourned until the July 7th meeting. The Board requested the Zoning Board secretary provide them with copies of any Zoning Board resolutions pertaining to properties on Hall Street or abutting streets with respect to two-family dwellings.

13. Application #21A-2011, JP MORGAN CHASE BANK, 535 E. Boston Post Road

Tim Austin, a representative from the Bank, addressed the Board. He stated that he is here to request a variance for a required dumpster enclosure. He said that the dumpster is being moved from where it is currently to another location and the Bank is required by the Code to have an enclosure. The dumpster currently does not have an enclosure, Mr. Austin stated. Mr. Austin indicated that the garbage bin is six feet wide.

Ms. Kramer voiced her concerns that the structure is huge. Chairman Neuringer stated that the applicant is asking for a variance to build a fence around the dumpster. The dumpster is a structure per the code and the dumpster is on a concrete pad.

A question arose as to what the Board was giving a variance for and it was determined that the concrete slab under the dumpster is the issue.

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

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

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

APPLICATIONS CLOSED

1. Application #4SP-2008, DUNKIN DONUTS, 427 E. Boston Post Road

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

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

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

2. Application #9A-2011, STEVEN & JENNIFER MARGOLIS, 513 Alda Road

The Board discussed the merits of the case. They felt the second scheme the architect prepared, which did not require a variance, was a better proposal.

A motion to deny 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: Neuringer, Kramer, Weprin, Sullivan
Nays: None
Absent: Neufeld

3. Application 16A-2011, ANTHONY PECORA, 1005 Nine Acres Lane

The Board discussed the merits of the case. Mr. Weprin stated he doesn't understand why the applicant can't build a house that conforms. Ms. Kramer stated that the applicant did not provide a good enough reason why he needed to build a house this large on a small lot. Chairman Neuringer stated that it is the wrong house for this lot. Mr. Sullivan stated he didn't have a problem with the application and the applicant shouldn't be denied solely on the basis that he is asking for a big house. Mr. Weprin stated that this is a substantial variance. Ms. Kramer stated that most of the houses on the street are set back substantially.

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

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

4. Application #17A-2011, MELINDA & OLIVER WINTERMANTEL, 655 Shore Acres Drive

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

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

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

5. Application #6SP-2011, 1202 WBP REALTY, 1208 W. Boston Post Road

The Board discussed the merits of the application. The Board, based upon a review of the EAF accompanying the application and all other relevant materials, deemed this as an unlisted action and issued a negative declaration requiring no further action under the State Environmental Quality Review Act (SEQRA). The special permit granted herein shall be valid for an initial 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 Ms. Kramer.

Ayes: Neuringer, Kramer, Weprin, Sullivan

Nays: None
Absent: Neufeld

6. Application #7SP-2011, T & A PIZZA INC, 357 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, deemed this as an unlisted action and issued a negative declaration requiring no further action under the State Environmental Quality Review Act (SEQRA). The special permit granted herein shall be valid for an initial period of three (3) years.

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

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

7. Application #8SP-2011, MARIO CASTALDO, 519 Waverly 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, deemed this as an unlisted action and issued a negative declaration requiring no further action under the State Environmental Quality Review Act (SEQRA). The special permit granted herein shall be valid for an initial period of three (3) years.

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

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

8. Application #15A-2011, SANDRA DIRUZZA, 1600 Mamaroneck Avenue

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

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

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

9. Application #18A-2011, GREATER NEW YORK CORPORATION OF SEVENTH-

DAY ADVENTISTS, 191 Prospect 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, deemed this as an unlisted action and issued a negative declaration requiring no further action under the State Environmental Quality Review Act (SEQRA).

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

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

10. Application #21A-2011, JP MORGAN CHASE BANK, 535 E. Boston Post Road

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

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

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

MINUTES

A motion to approve the minutes of April 7, 2011 was made by Mr. Weprin, seconded by Mr. Sullivan.

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

A motion to approve the minutes of April 28, 2011 was made by Mr. Weprin, seconded by Mr. Sullivan.

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

ADJOURN

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

Ayes: Neuringer, Kramer, Weprin, Sullivan

Nays: None

Absent: Neufeld

On motion duly made and carried, the meeting was adjourned at 10:24 p.m.

ROBIN KRAMER
Secretary

Prepared by:
Ann P. Powers