

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, OCTOBER 6, 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 October 6, 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
Gregory Sullivan, Board Member
Robin Kramer, Secretary
Anna Georgiou, Counsel to Board
Rob Melillo, Building Inspector

ABSENT: Dave Neufeld, Board Member

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 Neuringer at 7:09 p.m. and he introduced everyone and detailed the procedures for the meeting. Chairman Neuringer stated that Mr. Neufeld would not be in attendance and asked if anyone wished to adjourn their application until there was a full Board present. He also noted that Mr. Weprin would be late to the meeting. No applicant wished to adjourn their application. Chairman Neuringer stated that both the DCH Mamaroneck application was being adjourned until next month and the two Shore Acres Property Owners Association applications were being adjourned until the December 2011 meeting. The next meeting is scheduled for Thursday, November 3, 2011.

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

Michael Lai, the manager, addressed the Board. He stated that the pending violations had been taken care of. This application was held over until later in the evening when the Building Inspector could get confirmation from the Fire Inspector that the violations had been remedied.

2. Application #9SP-2001, LOUIS RISO D/B/A LUNCH WITH LOU, 257 Mamaroneck Avenue

Louis Riso, the applicant, addressed the Board. He stated that there are no changes in the operation of his food service establishment. The hours of operation are 6:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 3:00 p.m. on Saturday. Mr. Riso stated that he is closed on Sundays.

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

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

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

3. Application #11SP-2009, FRENCH AMERICAN SCHOOL OF NEW YORK, 145 & 159 New Street

Meredith Black, Esq., appeared on behalf of the applicant. She stated that the applicant was requesting an extension of their special permit and a modification of their special permit to add two classrooms in the convent. She said that the special permit was granted in 2009.

Ms. Black stated that the school currently uses seven classrooms, but would like to use two more classrooms. There will be no changes to the number of students or staffing, she said. Additionally, there will be no structural changes to the classrooms, only cosmetic changes.

At 7:19 p.m., Mr. Weprin joined the meeting.

Chairman Neuringer noted for the record that the applicant had been before this Board several times in the past few years. He asked if there would be an increase in students and Ms. Black stated that there would not be an increase in students; the intention is to decrease the class size.

Ms. Kramer asked how the school will increase the number of classes without increasing the number of teachers. Patrick Croze, president of the school, stated that currently the school has teachers that don't have classrooms to teach in. They aren't in class at certain times during the day because there aren't enough classrooms. With the addition of the two classrooms, all teachers will be teaching as opposed to alternating between classrooms as is the present practice. The school will also be able to offer classes earlier in the day with the addition of the two classes.

Discussion arose as to whether the school would have an issue if the resolution limited the number of faculty and Mr. Croze said he had no objection.

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

4. Application #2F-2011, PAUL & KRISTIN DEGEN, 707 Forest Avenue

Kristin Degen, the applicant, addressed the Board. She stated that she is requesting a six foot fence to go along the back of her property between her neighbor and the side of Walton Avenue.

Mr. Melillo clarified for the Board that this is a corner lot and that Ms. Degen's neighbor would be allowed to put up a six foot fence.

Chairman Neuringer asked why there was a need for a six foot fence along Walton Avenue. Ms. Degen stated that it is a privacy and safety issue. She stated that she did extensive renovations and plantings. Because of the rains over the past several months, the plantings haven't filled in properly. She noted that she has five young children and the yard is very exposed. The height of the fence would address the safety and privacy issues, she said. And, a four foot fence would still allow anyone to look over into the property.

Chairman Neuringer stated his concern regarding six foot fences on corner lots. Ms. Degen clarified that there would be bushes in front of the fence which would be a cedar with green coloring. The fence would be behind the bushes and would be setback away from the curb. The fence would be solid with some ornamentation at the top, Ms. Degen stated. Chairman Neuringer asked if Ms. Degen would be averse to having some opening at the top of the fence so it isn't solid. She said she would prefer solid, but would be willing to work with the ZBA.

Discussion arose as to how far the fence would extend toward Walton Avenue. Ms. Degen stated that she is not trying to cut off people from getting by and offered to do a return if that was agreeable to the Board. Ms. Georgiou made mention of the Traffic Commission's recommendation that it should be setback ten feet from Walton Avenue.

Mr. Sullivan stated that he was at the property that day and there was appropriate shrubbery on the property.

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, Weprin, Kramer, Sullivan

Nays: None

Absent: Neufeld

5. Application #5I-2011, LEONARD AUBREY & KATHLEEN SAVOLT & LOIS FENTON, regarding 746 The Parkway

Leonard Aubrey, the applicant, addressed the Board. He stated that he is appealing the issuance of the Certificate of Compliance issued by the Building Department and is asking this Board to deny a variance for a four foot fence above a six foot retaining wall.

Mr. Aubrey asked the Board to open their plans. He stated that these plans were presented at the Board of Architectural Review meeting and a mediation plan was approved. He stated that the homeowner (the Cohens) did not comply with the BAR and they do not comply with Chapter 300 (E-F) Section 3 Prohibitions and Standards. Mr. Aubrey read from the code.

He also noted that the four foot fence will be placed on top of a six foot retaining wall. Chairman Neuringer corrected Mr. Aubrey by stating that the interpretation filed by the applicants is on the

Certificate of Compliance and not the variance application that is currently before the Board by the Cohens.

Mr. Aubrey stated that what was built by the Cohens is not compliant with the plans that were present at the BAR. He stated that the pool equipment is not where it was originally intended to go. It is much closer to Mr. Aubrey's property line and Mrs. Fenton's property line. He said the pool and property should be screened in properly because he has experienced issues with noise and lighting.

Mr. Aubrey continued by saying that the applicants are requesting that the pool equipment be relocated to the location approved by the BAR on the plans and that the plantings should be planted as approved by the BAR. He also noted that Mrs. Fenton had asked that she be given permission to paint the wall facing her property at her own cost.

Mr. Aubrey stated that he has no objection to the Cohens having a swimming pool and enjoying their property as approved by the BAR. Mr. Sullivan wanted clarification as to what the applicants were asking of the Board. He stated that he did not believe providing a remedy for the issue was within the Board's purview.

Mr. Aubrey stated that he wanted the Board to reject the Certificate of Compliance and request full compliance with the BAR or to see if there is a suitable mitigation plan. He said that the plan approved was not what was executed.

Mr. Sullivan stated that he has not had a situation where the Board has parties work out their issues in front of the ZBA. Ms. Kramer stated that she did not believe this is what the applicants are asking. She believes the applicants are asking the ZBA to rescind the Certificate of Compliance or make stipulations. Mr. Aubrey stated that his choice would be to rescind the Certificate of Compliance.

Chairman Neuringer asked if all the parties involved had discussions regarding the issues and Mr. Aubrey stated not directly. Chairman Neuringer asked if they would like to have discussions amongst themselves and Mr. Aubrey indicated that they would like to. Chairman Neuringer stated that he feels the owners should speak with each other and see if there can be a resolution. Then they can come before the Board to present a solution. He went on to say that he does not believe the applicants want the Board to make determinations that might not be in either party's best interests. Mr. Aubrey stated that he would prefer the Board make a determination because they tried in the past and it was not beneficial.

Ms. Kramer asked what is the difference between what was installed and what is on the plan. Mr. Melillo stated that he felt that he should speak to this issue because it is not being completely accurately represented. Chairman Neuringer stated that Mr. Melillo would have his time to address the matter.

Mr. Aubrey answered Mr. Kramer's question by stating that the pool equipment is not where it is indicated on the plans. The orientation of the equipment is different than what was proposed and it affects the neighbors because there are no plantings and it looks highly unattractive.

Ms. Savolt, the applicant, addressed the Board. She stated that the part of the equipment facing the Cohen's house is fenced and screened. The other side of the equipment, facing the neighbors, wasn't, at one time, fenced or screened. Now, Ms. Savolt said the Cohens installed a fence, but it is very high. She stated that it is an illegal fence. Ms. Savolt noted the equipment was placed as originally outlined on the plan, there would be no issue. The pool is right up to the property line and noise travels, she said. Ms. Savolt stated that something must be done to shield the neighbors from the noise and lighting. She suggested there be plantings and that there is no screening or fencing as required by the code.

Mr. Sullivan stated that if the Board decides that the Certificate of Compliance should be rescinded, the Board does not have purview over what would need to be done. Mr. Weprin stated that he agrees with Mr. Sullivan. He feels the neighbors should reach an agreement, because this Board may not have jurisdiction over the remedy.

Chairman Neuringer asked why the applicants didn't go back to the BAR when the issue arose. Why go the Certificate of Compliance route, he asked. Mr. Aubrey stated that he is objecting to the issuance of the certificate. Ms. Kramer clarified by stating that the applicants aren't challenging what was on the plan; they are challenging the issuance of the Certificate of Compliance that was not built according to the plan.

Chairman Neuringer asked if the aluminum fence had been built and Mr. Aubrey stated that it had not. He also said that there is no shrubbery. The Board took a moment to discuss the various components of the plan. Chairman Neuringer asked if there was any documentation and Ms. Savolt stated that she supplied the Board with the BAR action minutes.

Ms. Kramer asked how the fence around the pool equipment affects the applicants' challenge. Ms. Savolt stated that she wants the equipment turned, appropriate setbacks and the proper fencing/screening. Mr. Aubrey stated that he is requesting the Board take action on the appeal.

Lois Fenton, the applicant, addressed the Board. She stated that she has lived in her house for 49 years and has enjoyed a beautiful back yard and view. Now, she says, the Cohens have built large walls that dominate her views. Mrs. Fenton stated that she wants to paint the walls on her side and to put up plantings that don't hinder her view. She said that the Cohens should be rewarded and her punished.

Mrs. Fenton stated that she had invited Mrs. Cohen for tea to discuss the matter and that Mrs. Cohen said she would do anything to make Mrs. Fenton happy. After the BAR meeting, she said things changed.

Mr. Melillo addressed the matter from the Building Department's perspective. He noted that the wall is not one complete height, but rather it is tiered. Mr. Melillo said that the former Building Inspector (John Winter) indicated that the walls would need to be tiered. There are two separate walls, Mr. Melillo stated, not one continuous wall and all plantings are on the bottom tier per the plan. Mr. Melillo noted that he inspected the property personally. He also stated that he can issue a Certificate of Compliance because there is a barrier and it's also a safety issue.

As for the rotation of the pool equipment, Mr. Melillo confirmed that it had been rotated. He indicated that he had met with Ms. Savolt and she had also met with the Village Manager. Mr. Melillo's opinion was that the fencing would help with the noise and lighting issues. Mr. Melillo stated for the record that he believes the project is in compliance with the plans by almost 100%. He also noted that if the Cohens had come to the Building Department and said they wanted to rotate the pool equipment, the Building Department would not have sent them back to the BAR.

Chairman Neuringer asked what he purview of the BAR is and Mr. Melillo stated that pools never went to the BAR until the former Building Inspector determined they should go before the BAR. Mr. Melillo was not certain as to why pools were sent to the BAR, but it might have been the \$10,000 threshold.

Mr. Melillo went on to say that the fencing met the New York State Building Code. The final product does not comply 100% with the BAR plans, but he feels as long as it is zoning compliance it can be addressed in-house as opposed to sending it back to the BAR, Mr. Melillo stated. He also noted that the location of the pool equipment can be up to six feet from the property line.

Ms. Kramer stated that the equipment is ten feet from one property line and four or five feet from another property line; as installed, how far is it? Mr. Melillo answered ten feet; the pool was shifted two feet and so it came closer to the equipment.

Mr. Melillo said that the reason the pool enclosure is so big is because a lot of the pipe work is above ground. He also mentioned that the plans were done by Susan Oakley, the Village's consultant and when the plants start to mature it will be more filled in. Mr. Melillo stated that he did not have an opportunity to sit down with the Savolts, Fenton and the Cohens.

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

Martha Sokol McCarty, attorney for the Cohens, addressed the Board. She indicated that she had a letter from Susan Oakley to the BAR regarding the plantings. Ms. Savolt stated that the plantings on the lower level are not the issue; the pool was supposed to be screened by the plantings. She noted that the actual equipment is on the side of the enclosure, which is also being used for storage. The enclosure, Ms. Savolt asserted, is bigger than originally planned.

Chairman Neuringer referenced the concrete pad that the pool equipment sits upon. He also noted the reference on the plan that it had been revised; this is what was approved but not what was built.

Ms. McCarty stated that she would refrain from speaking about the aluminum fence. She believes the applicants have misread the plans. She noted that there has been substantial compliance by the applicants; there are plantings on the lower tier, there is a lot of greenery and that greenery will get bigger. She stated that it was never the intention to have plantings at the top of the wall; there was going to be black wrought iron fence with some small plantings. Ms. McCarty said that the BAR did not want something that would be obtrusive or offensive. She did acknowledge that the pool equipment was rotated. After a complaint was made, the equipment was enclosed.

As for the lighting, Ms. McCarty stated the lights are about a foot above the ground with 40 watt light bulbs. There are some floodlights, but they don't go on often. Ms. McCarty admitted that she does not know how to deal with the noise complaint; it's a pool and people have fun and make noise around a pool. She requested that the applicants' appeal be denied.

Ms. Kramer stated that the survey shows the hot tub is 9.3 feet from the property line and asked what the distance is between the pool and upper terrace. Ms. McCarty stated that it was 3 1/2 feet.

Ms. Cohen, the applicant, addressed the Board. She stated that there was an earlier version of the plan, but it was changed after the BAR requested plantings. Chairman Neuringer asked if the evergreens have been planted and Ms. Cohen stated they had been. He asked if the evergreens will grow as high as the fencing and she stated they will continue to grow and expand and will screen the aluminum fence.

Chairman Neuringer asked about the pad being rotated. Ms. Cohen stated that Mr. Melillo had said she should remove the shed which was done and then rotate the pad. We put the concrete pad parallel to the wall by 90 degrees, she said.

Ms. McCarty said that one end of the pad was always going to be close along the retaining wall. Ms. Kramer questioned the 14 foot setback. Mr. Melillo stated that the pool needed to be shifted slightly to be zoning compliant and the shed needed to be removed. The pool was shifted by two feet. Ms. McCarty stated that the pool was zoning compliant; an accessory structure used in a permitted manner.

Scott Fenton, the applicant's son, addressed the Board. He stated that there was a substantial difference between having a line of equipment in one direction versus another direction. He said that shifting it by 90 degrees does have a large impact.

Ms. Cohen indicated that Mr. Fenton is saying something completely different than what was said early by Ms. Savolt and Ms. Fenton. Mr. Melillo suggested taking the Board on a site visit. Discussion arose as to whether noticing of the site visit was necessary. Ms. Georgiou stated that she would prefer the Board announce a date at the hearing as to when they would be going on the site visit.

Mr. Aubrey stated that the orientation of the pool equipment could increase the noise level. He also said that the plantings on the lower level will someday grow to a height of ten feet, but they may have to wait five years. He noted for the record that he disagreed with Ms. McCarty's comments relating to lighting and noise.

Ms. Savolt stated that there are two noise issues. She did acknowledge that now that the equipment has been enclosed, the noise is better. However, the noise coming from the pool is still an issue, she said. She noted a day when the Cohens had a pool party and the noise from the music was so loud her house shook.

Ms. Kramer asked if the new fence would block the lighting and Mr. Aubrey stated that a fence and shrubbery that are high now may help, but it depends on the type of fence. Mr. Sullivan asked if Mr. Aubrey had called the police regarding the noise and he indicated he had not.

Ms. Cohen noted that she hears every word of Mrs. Fenton's phone conversations when she is on her porch and when the Savolts are in their backyard, she hears their conversations and smells their BBQ. She said that she has never complained about her neighbors. As for the lights, Ms. Cohen said it's a safety issue.

Mr. Weprin asked about the discussions to paint the wall. Ms. Cohen said that she spoke with Mrs. Fenton before they started work on the project. She mentioned the retaining wall and let Mrs. Fenton pick the plantings; there was never an issue. Ms. Cohen went on to say that she kept Mrs. Fenton informed and then Mrs. Fenton appeared at the BAR meeting and blindsided her with her opposition.

Mr. Melillo noted for the record that there are no other approvals necessary for the retaining wall. Ms. McCarty stated that painting the wall could be problematic with paint chipping, etc. She stated that she did not think it was a good idea.

Ms. Cohen said that in a year the retaining wall has grayed and looks more natural. She said she made all the changes to her plantings plan based on their desire. She noted that there was never supposed to be plantings around the pool equipment and that plantings are only on the lower terrace area.

Mr. Melillo noted that because he was on vacation during this time, he was not able to monitor the noise level issue. Ms. Kramer asked if Mr. Melillo could do that now, but he noted that it was no longer summertime. It was determined that Mr. Melillo would go out and check the lights. Ms. Georgiou noted that the pool code does reference ongoing enforcement.

Ms. Kramer suggested leaving the matter open until the next meeting. The application was adjourned.

The Board took a short recess at 9:20 p.m.

The Board reconvened at 9:26 p.m.

Chairman Neuringer told Mr. Lai, the Haiku applicant, that if he does not have to appear next month because the Board has received confirmation that the violations have been remedied, he will be notified that he does not need to attend.

6. Application #3F-2011, MATTHEW & JENNIFER COHEN, 746 The Parkway

Martha Sokol McCarty, Esq., appeared on behalf of the applicant. She stated that the applicant built a retaining wall which received a certificate of compliance in 2010. The retaining wall was built so that the applicants could build a pool, she said. Ms. McCarty stated that part of the plan was always to build a fence on top of the wall for safety reasons. The BAR had requested a

wrought iron fence because the way the fence is tiered someone could fall off to the next level. By doing this, Ms. McCarty said, it will create a ten foot fence. The wrought iron, Ms. McCarty continued, will make the wall fade. She noted that the immediate neighbors support the fence and Ms. McCarty submitted for the record a letter of support from the neighbors. Because the fence was not zoning compliant, the Building Department referred the applicants to the ZBA.

Chairman Neuringer asked what the width of the retaining wall was and Ms. McCarty said six inches. Discussion arose as to what would be the location of the proposed. Ms Kramer asked if a fence with a lock is required around a swimming pool. Mr. Melillo stated that New York state Building Code says a homeowner needs a wall around to protect neighboring properties; the retaining wall does that.

Chairman Neuringer asked if the applicant can plant on top of the retaining wall and Ms. Cohen, the applicant, stated that she could not; there is only space for two inches of dirt.

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

Mr. Aubrey addressed the Board. He stated that he has disagreements with what has been presented. He said the pool was built too close to the retaining wall. Ms. Kramer asked what is wrong with having a fence on top of a retaining wall and Mr. Aubrey answered that the retaining wall is not an issue; it's the screening to mitigate noise and light. He reiterated that he is satisfied with the plans approved by the BAR.

Ms. Fenton addressed the Board. She stated that she objects to the fence on the retaining wall because there are so many walls and fences. She indicated that she could live with the shrubbery.

Chairman Neuringer stated that the BAR instructed the Cohens to put up an aluminum fence so the retaining wall would disappear. The wrought iron fence is more open; if plantings are added, the fence disappears, he said. Chairman Neuringer said that if plantings are put up in front of the fence, the wall becomes denser. One can assume that having a fence only would make it more open, he said. For safety reasons, a barrier is necessary.

Mr. Aubrey stated that based on the pictures in the Cohen's application, he would be okay with that. Ms. Fenton stated that the wall is very white and putting an open fence on top doesn't shield it.

The matter was adjourned until the November 3, 2011 meeting.

7. Application #29A-2011, DARRIN DELUCIA, 1421 Arlington Street

Mike Csenge, the architect, appeared on behalf of the applicant. He stated that the applicant wishes to reconstruct an existing garage because it is in a precarious state. Mr. Csenge said that the walls and roof need to come down and be rebuilt. The structure is non-conforming due to setbacks; it is a conforming use.

Mr. Sullivan stated that he had visited the site and confirmed the poor shape of the structure. Chairman Neuringer asked if the structure fell down on its own, would the applicant need to come

before the Zoning Board and Mr. Melillo stated that they would still need to come before the Board.

Ms. Kramer read from Section 342-65 of the code. Based on what Ms. Kramer read, she feels that if the applicant isn't increasing the non-conformity, it should be fine. Ms. Georgiou stated that it is a matter of an existing building versus a new building. It's a new building the applicant is requesting to build. Ms. Kramer stated that she did not agree; if the applicant replaces it in kind, it shouldn't require a variance. Ms. Kramer went on to say that if the applicants wants to rebuild it in the exact same way, it can be rebuilt.

Mr. Melillo stated that Ms. Kramer's viewpoint goes against past ZBA interpretations. Variances have been issued in the past, he noted. Mr. Sullivan stated that he believed variances were issued before.

Chairman Neuringer asked if the applicant was adding electricity. Mr. Csenge answered yes. Chairman Neuringer asked if it was possible to rebuild the structure in a conforming manner and Mr. Csenge stated it was not possible without moving the concrete slab. Chairman Neuringer asked if any part of the structure will have a new foundation and Mr. Csenge answered no.

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 Ms. Kramer.

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

**8. Application #30A-2011, HPS 122 LLC. C/O H-P CAPITAL, LLC., 122-134
Mamaroneck Avenue**

Michael Berta, the architect, appeared on behalf of the applicant. He stated that this is an existing one story retail building and the applicant wants a two story addition in the rear. He said the first floor is for retail use and the second floor is for storage. Mr. Berta also stated that the applicant wishes to reface the front of the building. The applicant is before this Board for a parking variance and a loading zone variance, Mr. Berta stated. He said that not all the stores are occupied and that he will renovate each section separately and move tenants around during construction. Discussion arose regarding access to the rear of the building.

Ms. Georgiou asked if there was an approved site plan and Mr. Berta said no, the applicant is currently before the Planning Board and has already received BAR approval. Mr. Berta showed the Board a picture of how the project would look.

Chairman Neuringer stated that this is a situation of six parking spaces needed and zero parking spaces proposed. He noted that there are ways to purchase parking spaces to mitigate this issue. Mr. Berta stated that if involves public parking, the applicant would be unable to guarantee those spaces.

Ms. Kramer asked why the applicant doesn't purchase parking spaces instead of requesting variances. Ms. Kramer requested that Ms. Powers provide previous resolutions regarding parking variance requests for the Board to review.

Discussion arose regarding the gate in the back and how access will be monitored. Chad Doney, the manager of HPS, stated that he is looking to have an electronic self-opening gate to ensure safety. Chairman Neuringer asked how the unloading is performed and Mr. Berta stated that right now trucks double park, unload and then leave.

Chairman Neuringer asked if anyone wished to address the Board.

Harry Spadaro addressed the Board. He stated that he owns the property next to the applicant. He has an issue with the parking. He also inquired about the storage on the second floor; will there be a height requirement? Mr. Spadaro also asked why the applicant couldn't use the back for parking.

George Mgrditchian addressed the Board. He stated that this is a very unique property in that it has a rear yard with potential for parking. No other property has this feature.

Mr. Berta stated that the applicant can maintain their stormwater and not dump it back into the Village. New York State has strict requirements on stormwater.

The application was adjourned until the November 3rd meeting.

9. Application #31A-2011, BRIAN & ANDREA MURPHY, 312 Wagner Avenue

Chris Busnel, the architect, appeared on behalf of the applicant. He stated that the scope of the project is to add more bedroom space and the applicant is requesting setback variances. Chairman Neuringer stated that he finds the submission insufficient with respect to impacts on neighbors. He went on to say that the Board has no indication as to what is being proposed.

Mr. Murphy, the applicant, stated that he submitted all the paperwork weeks ago to the Building Department. Chairman Neuringer stated that all the photos do not show the houses next to the applicant's property. The applicant has an obligation to show what the impacts are to the neighbors. Mr. Murphy reiterated that he presented everything to the Building Department and does not know why it was not included in the packet to the Board.

Ms. Kramer asked if the applicant was changing the footprint and Mr. Busnel stated that he was not changing the footprint.

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

Chairman Neuringer stated that he would like to keep the application open to see all of the material.

The application was adjourned until November 3rd.

10. Application #32A-2011, REALTY GUILD, LLC., 721 W. Boston Post Road

Sande Lichtenstein, Esq., appeared on behalf of the applicant. He stated that in 1985, this property was residential and subsequently converted to offices. At that time, the Board made a condition that there be bushes between the sidewalk and parking area, he said. Mr. Lichtenstein stated that there were hedges which were removed because they blocked the view of egress and ingress according to the New York State Traffic Commission. These shrubs were removed about six months ago.

Chairman Neuringer asked if the applicant can get something in writing from the commissions stating that they requested the bushes to be removed. Mr. Lichtenstein stated that the commission would not give the applicant anything in writing.

Chairman Neuringer stated that the topography provided by the applicant shows this property is the only property without greenery. He asked if the applicant had been before the Planning Board. Mr. Lichtenstein indicated the applicant had not been before the Planning Board.

Discussion arose regarding the buffer area. Ms. Kramer asked by the NYS Traffic Commission became involved and Mr. Lichtenstein stated that people complained that it was unsafe to exit the parking lot. The state suggested putting up "no parking" signs, which was done, but the Village took them down, he said.

Chairman Neuringer suggested that the applicant could have made the bushes smaller to address the complaints. Mr. Lichtenstein stated that the former Building Inspector did not have an issue with the applicant removing the bushes.

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

Marcy Santelli addressed the Board. She gave a brief history of the property and then stated that the property looks terrible since the hedges were removed. She also noted that there is a sign on the Post Road that says "no parking."

Mr. Spadaro stated that the state did put up a sign for "no parking". He said that without the hedges, it makes the property look like an eye soar. Mr. Spadaro stated that he spoke with the state and was told there was never a safety issue entering from the Boston Post Road. He said the hedges should be planted again.

The Board reviewed the plans and discussion arose regarding the curb cuts. It was noted by Mr. Lichtenstein that the curb had deteriorated and that is a Village issue. Ms. Kramer suggested planting strips which would conform to the plan and delineate the driveway. Mr. Lichtenstein stated that would not make a difference, people still parked in front of the driveway.

Mr. Sullivan referenced the 2002 survey and noted that the Planning Board did not exist in 1985. He asked if the ZBA could refer this application to the Planning Board. Mr. Melillo pointed out that the applicant is not in compliance with the site plan and it might make sense to refer this to the

Planning Board. Mr. Lichtenstein clarified that the original resolution came from the Zoning Board. Ms. Kramer asked if the Board can make a recommendation to submit the matter to the Planning Board as to what is an appropriate site plan and necessary shrubbery.

Wendy Hillburg, the applicant, addressed the Board. She stated that she bought the property two years ago. Cars would park and wouldn't leave. She said she now has a tow service. She also stated that tenants were told to park in her driveway. Ms. Hillburg said that police would come and ticket the cars from time to time. She removed the shrubs because the state said it was a hazard. Additionally, people were dumping garbage over the shrubs, she said.

Anthony Cordy addressed the Board. He stated that the state did pave the curbs away. He noted that he spends a lot of money to maintain his property. He's asking the Board to deny the variance. Mr. Cordy said that to start taking greenery away will not end up being a good thing.

Richard Tortarelli addressed the Board. He indicated he owns a two story commercial building in the area. He stated that by planting shrubbery, it helps to delineate the driveway. Mr. Tortarelli also noted that he has never had a problem exiting the driveway.

Mr. Lichtenstein stated that he does not have an objection to putting grass on the area.

Albert Santelli addressed the Board. He requested the Board deny the variance requested. He also feels if the Board did grant the variance, it would set precedence.

Mr. Weprin suggested the matter be referred to the Planning Board for site plan and for the Board to determine what would be appropriate to comply with the original resolution. Ms. Georgiou stated for the record that the application will be referred to the Planning Board.

A motion to refer the application to the Planning Board was made by Mr. Weprin, seconded by Ms. Kramer.

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

The matter was adjourned until the November meeting.

At 11:15 p.m. the Board recessed.

At 11:19 p.m. the Board reconvened.

APPLICATIONS CLOSED

1. Application #22A-2011, J & H SPADARO, 425 Florence Street

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 area 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: None
Abstain: Sullivan
Absent: Neufeld

2. Application #26A-2011, CHARLES RUDANSKY & HANNI RUDANSKY, 640 Forest 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 area 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: None
Abstain: Sullivan
Absent: Neufeld

3. Application #27A-2011, PHILIP SILVER & TERESA SILVER, 511 Rushmore 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 area 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: None
Abstain: Sullivan
Absent: Neufeld

4. Application #28A-2011, SHAHIN MEHRKAR & CHERLY MEHRKAR, 522 Walnut Street

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 area 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: None
Abstain: Sullivan
Absent: Neufeld

5. Application #11SP-2009, FRENCH AMERICAN SCHOOL OF NEW YORK, 145 & 159 New Street

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 renewal of the special permit to operate a school and to add two classrooms with a three year term limit 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 #2F-2011, PAUL & KRISTIN DEGEN, 707 Forest 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 area 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, Kramer, Weprin, Sullivan
Nays: None
Absent: Neufeld

7. Application #9SP-2001, LOUIS RISO D/B/A LUNCH WITH LOU, 257 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 renewal of the special permit without a term limit 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
Absent: Neufeld, Kramer

MINUTES

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

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

ADJOURN

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

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

On motion duly made and carried, the meeting was adjourned at 11:30 p.m.

ROBIN KRAMER
Secretary

Prepared by:
Ann P. Powers