

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, JULY 7, 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 July 7, 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  
Dave Neufeld, Board Member  
Greg Sullivan, Board Member  
Anna Georgiou, Counsel to Board  
Rob Melillo, Deputy Building Inspector  
Steve Silverberg, Counsel for pending litigation

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 7:04 p.m. and he introduced everyone and detailed the procedures for the meeting. Chairman Neuringer stated that there will be no meeting in August. The next meeting is scheduled for Thursday, September 1, 2011.

At this time, Chairman Neuringer stated that the Board would convene into executive session to discuss pending litigation matters.

A motion to convene into executive session to discuss pending litigation matters was made by Mr. Sullivan, seconded by Ms. Kramer.

At 7:07 p.m. the Board convened into executive session.

At 7:29 p.m. the Board returned from executive session and continued with the public hearing.

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

Michael Lai, the manager, addressed the Board. Chairman Neuringer asked if the pending issues from last month’s meeting had been corrected. Mr. Lai stated that they had been corrected. Mr. Melillo indicated that there are new violations that have occurred in the past two and a half weeks. He also noted for the record that summonses have been issued with a return date of July 12<sup>th</sup>.

Mr. Melillo stated that the violations are for parking a commercial vehicle in a prohibited area and operating a wholesale refrigerated fish business when it is prohibited. Mr. Lai stated that he is using the lower level to store food and that he is not running a fish business.

Chairman Neuringer noted that this is an enforcement issue and it must go through the proper process. He asked if these issues impact the special permit and Mr. Melillo stated that it is a use issue and does impact the special permit. Chairman Neuringer indicated to Mr. Lai that these issues must be addressed before the Board can move forward on the special permit.

Due to the pending violations and court date, the application is adjourned until the September 1<sup>st</sup> meeting.

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

Paul Noto, Esq. appeared on behalf of the applicant. Mr. Noto handed out the decibel readings that the restaurant was at last month's meeting to record. Mr. Noto stated that different individuals who work at the restaurant to the readings during the month.

Ms. Kramer stated that the decibel levels exceed the permitted levels. Mr. Noto stated that the applicant's understanding is that they are in compliance as it relates to the cabaret license, which permits 100 decibels. Ms. Kramer asked where it stipulates in the code that a cabaret license supersedes the code. Ms. Georgiou, counsel to the Zoning Board, noted that the cabaret license states that all locals laws shall be adhered to.

Ms. Kramer asked that given what counsel stated regarding compliance with Village code, why the applicant fees he does not have to comply with the Village code. Mr. Noto stated that it was his understanding that he was using the 100 decibel level.

Ms. Kramer stated that the Board needs to know whether the applicant has exceeded the noise code or if there is something in the cabaret license that allows the applicant to exceed the Village's noise code. Mr. Noto conceded that the restaurant sometimes exceeds the noise code.

Mr. Hynes, the applicant, stated that all decibel readings were taken 100 feet from the restaurant. Ms. Georgiou read from the Code, Chapter 254-3(B).

Radios, phonographs, etc.: the using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of involuntary listeners thereto or at any time with louder volume than is necessary for convenient hearing for the person or persons who are located where such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 8:00 a.m. in such a manner as to be plainly audible at a distance of one hundred (100)

feet from the place in which it is located shall be prima facie evidence of a violation of this chapter.

Ms. Kramer stated that the applicant can't have mechanical equipment outside after 11:00 p.m. if it is within 100 feet. Mr. Hynes stated that there is no amplification noise after 11:00 p.m. coming from his restaurant.

Chairman Neuringer stated that at 1:25 a.m. on June 26<sup>th</sup>, the decibel level was at 82. Mr. Hynes stated that the restaurant held a party for the Special Olympics and the windows were left open instead of having the air conditioning on per the request of the guests.

Chairman Neuringer asked if the applicant had complied with the mediation steps they presented last month and Mr. Noto stated that the restaurant had complied. Ms. Kramer stated that she drove by the restaurant at 11:30 p.m. one evening and the windows were open. She felt the applicant was not making enough of an effort.

Ms. Kramer also noted that the noise coming from the open windows was very loud. Mr. Hynes answered by stating that he tries above and beyond the call of duty. He went onto say that he is on the corner of one of the busiest areas. He also stated that he does not understand why he can't keep his windows open on beautiful days.

Ms. Kramer stated that she understands that the restaurant is in a commercial district. Mr. Hynes stated that he pays a lot of taxes and has every right to keep his windows open. He stated that this is hurting his business.

Chairman Neuringer asked if anyone wished to address the Board.

Lucia Tatautto addressed the Board. She stated that she had provided the Zoning office with documents to deliver to the Board members. She stated that she performed decibel readings from more than 100 feet and the readings were in the 60's. She stated that the windows are never closed and she does not see a significant difference from last month's meeting with respect to the mitigation plan Mr. Hynes provided the Board.

Van Caplan addressed the Board. He stated that he has owned his unit for twelve years. He would like to present new evidence from a Wall Street Journal article. Mr. Caplan stated that he believes it is incorrect to call Molly's a restaurant. He believes it is a pub/bar. Mr. Caplan stated that in 2008, Mr. Hynes represented the restaurant as a family restaurant. Mr. Caplan stated that the restaurant has a bouncer and questioned what type of family restaurant needs a bouncer.

Mr. Caplan read from the June 11<sup>th</sup> Wall Street Journal article – Mamaroneck Starts to Lose Sleepy Feel.

Mr. Caplan stated that he believes the special permit should be denied. Chairman Neuringer asked if Mr. Caplan has made an official complaint to the Building Department. Mr. Caplan answered that he has complained to the police and did not know he could also make a complaint with the

Building Department. Mr. Caplan concluded by stating that the fair thing to do would be to correct the wrong that was done three years ago.

Michael Chapparelli addressed the Board. He stated that he has lived in the Village for fifty-five years. Mr. Chapparelli said that twelve years ago the Village residents were asked to subsidize the Regatta and the residents have done nothing to give back to the community.

Chairman Neuringer stated that the Board was not here to discuss the Regatta. Mr. Chapparelli stated that the restaurant has added much to the Village and that Mr. Hynes has done a lot for the community. He stated that the restaurant has been beneficial to the community. Mr. Chapparelli went on to say that he feels Mr. Hynes will do the right thing.

Young Min Song addressed the Board. He stated that he had made a complaint to the Building Department two years ago. Mr. Melillo clarified for the record that the complaint was made to the Village Manager's Office and not the Building Department.

Mr. Song stated that he took some audio of the noise coming from Molly Spillane's if the Board was interested in hearing it. Chairman Neuringer stated that perhaps the Board can listen to it later on or it can be re-submitted to the Zoning Office due to the large agenda tonight. Mr. Song stated that the DVD had been submitted to Ann Powers in the Zoning Office, but her computer was not able to read and play the DVD. Chairman Neuringer suggested working with LMC-TV to provide a workable DVD.

Dennis DeRienzo addressed the Board. He stated that he is an advocate for the restaurant. He noted that a lot of store fronts in the Village are closed or closing. Mr. DeRienzo stated that Molly's has brought a lot to the Village.

He stated that he has small children and takes them to the restaurant. Mr. DeRienzo also noted that his wife held his 40<sup>th</sup> birthday party at Molly's. He stated that Molly's has helped the community. Mr. DeRienzo stated that he has been at Molly's late at night and it's nice to be able to go a nice place at night to socialize. He also stated that the owners have taken it upon themselves to provide security.

Bradley Gaiser addressed the Board. He stated that he lives across the street from the restaurant and Molly's is not a bar. Mr. Gaiser said that he brings his children to the restaurant. He also noted for the record that after 10:00 p.m., Applebee's has people mainly at the bar area. He concluded by saying that Molly's is a family place and he is in favor of the restaurant.

Jean Starace addressed the Board. She noted that the restaurant windows are left open 9 out of 10 nights. She wanted to clarify that her complaint is with the music, not the people eating at the restaurant. Ms. Starace said that when the restaurant has a band, it gets very loud.

Ms. Starace indicated that a group of the Regatta residents met with Chief Leahy. She noted that there have been over 20 calls to the police since January complaining about Molly's.

Mike Hynes, the applicant, addressed the Board. He stated that the bouncer is not there for security reasons. He indicated that he was asked by the Fire Inspector and the former Village Manager to make sure that no one under the age of 21 would be in the bar. Mr. Hynes stated that the person at the door is there to check ID and keep under aged individuals out of the bar.

At this time the Board asked Mr. Song to play the DVD of the noise coming from Molly's. Mr. Song stated that the recording was done from the 6<sup>th</sup> floor of the Regatta facing the restaurant. Chairman Neuringer asked about any volume controls on the recorder. Mr. Song stated that the recorder did not have a volume control.

Discussion arose amongst the Board members regarding the noise emanating from Molly's and the white noise from the recorder. There was also discussion that by raising or lowering the volume button on the computer, it makes it difficult to determine the actual level of noise.

Mr. Noto stated that the applicant has submitted a proposal that will work. He said that the restaurant and the Regatta residents were dependent upon each other.

Mr. Caplan started to make a comment on the length of time he has lived in Mamaroneck and Chairman Neuringer stated the matter was not up for discussion. Mr. Weprin concurred with Chairman Neuringer's comment.

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

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

**3. Adjourned Application #11A-2011, ELIZABETH COVINGTON, 210 Nostrand Avenue**

Chairman Neuringer asked the applicant to come forward. Gail Hiler, the applicant's attorney, addressed the Board. Chairman Neuringer stated that the Building Department had informed the Board that the signage was not updated with tonight's meeting date. Ms. Hiler stated that it was her fault; she did not know the sign needed to be updated. Chairman Neuringer asked Ms. Georgiou for direction. Ms. Georgiou stated that it was the Board's discretion whether or not it would hear the matter tonight. The Board agreed to hear the matter tonight when it comes up on the agenda.

**4. Adjourned Application #19A-2011, SANDE LICHTENSTEIN, 817 Hall Street**

Chairman Neuringer asked the applicant to come forward. Joe Hinchy, co-owner of the property, addressed the Board. He noted that Mr. Lichtenstein was not present this evening and he would be representing the applicant. Chairman Neuringer stated that the signage for this application had also not been updated to reflect the correct meeting date. He asked if there was any reason the Board could not hear this application. Mr. Weprin stated that he believes the Board can hear the matter, but feels that the applicants need to be told that the signs need to be updated for each meeting. The Board agreed to hear the matter tonight when it comes up on the agenda.

**5. Application #5SP-2002, CVS, 1100 E. Boston Post Road**

Daniel Laub, Esq., appeared on behalf of the applicant. He stated that CVS is requesting the renewal of its special permit to continue operating a drive-up pharmacy window and retail store. Mr. Laub stated that CVS has operated this way for ten years. He also requested that the special permit be renewed with a term limit.

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, Neufeld  
Nays: None

**6. Application #9SP-2011, F & B, LLC, 1 Station Plaza**

James Fleming, the Architect, appeared on behalf of the applicant. He handed out the applicant's proposal for the establishment. There was some confusion as to who was the applicant (Parkview Station, LLC. or F & B, LLC.) A determination was made that the applicant was F & B and that Parkview owned the property.

Mr. Fleming stated that the applicant wants to open and operate a restaurant. He stated that whatever approvals were given to Parkview Station, LLC. in 2009 are still in effect. Mr. Fleming stated that the applicant is eliminating the retail space on the first floor and the entire first floor will be a restaurant. Chairman Neuringer asked if there were still going to be offices and Mr. Fleming stated yes, the second floor is all office space.

Mr. Fleming went through his submission with the Board. He stated that the restaurant proposed is an American bistro cuisine type facility. It will serve lunch and dinner with a night operation centered on the tavern and bar aspect of service.

Mr. Fleming stated that there are eleven designated spaces for the restaurant and the remaining train station parking has been approved for use of the station after 6:00 p.m. He went on to say that valet parking is also approved for operation under the original approvals and that parking has been approved for this facility. Mr. Fleming stated that the proposed seating shown relates to previous approvals.

Mr. Fleming stated that the hours of operation are from 11:00 a.m. to the NYS regulated closing hours. He said that the delivery of food service items is expected as needed before and up to 10:00 a.m. as needed.

Ms. Kramer expressed some concerns about the delivery due to the traffic congestion at that time of the morning. Brian MacMenamin, the applicant, stated that he would adjust the delivery time so traffic would not be impacted.

Chairman Neuringer asked about trash pick-up and Mr. MacMenamin stated that trash will be picked up at least three times a week. Chairman Neuringer asked if the applicant has control over when the trash is picked up and Mr. MacMenamin stated that he does have control of that. He stated that trash will be stored inside and that there would be no trash outside.

Chairman Neuringer asked if the applicant was applying for a cabaret license. Mr. MacMenamin stated that he will be applying for a cabaret license shortly.

Discussion arose regarding the valet parking and Mr. MacMenamin stated that he was not looking to bring the parking off-site with respect to valet parking. There is plenty of space at the train station.

The hours of operation were clarified to be between the hours of 11:00 a.m. and 4:00 a.m. Mr. Sullivan asked when the restaurant would open and Mr. MacMenamin said November 2011.

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, Neufeld  
Nays: None

**7. Adjourned Application #11A-2011, ELIZABETH COVINGTON, 210 Nostrand Avenue**

Gail Hiler, attorney for the applicant, addressed the Board. She noted that she did not have a drawing of the fence and its location on the property. She stated that she had submitted the additional materials recently and hoped the Board had an opportunity to review them.

Chairman Neuringer stated that he appreciated what the applicant had subsequently submitted. He stated that it raises all sorts of questions as to why the applicant wants to do this. Chairman Neuringer asked about the staggering of the fence heights and the line of the fencing.

Charles Howard, the builder, explained that it was done this way due to the four foot chain link fence. Chairman Neuringer asked if a five foot fence provided the applicant with privacy and Mr. Howard said that it did not. Ms. Hiler stated that the applicant would prefer a six foot fence, but it is not allowed. Chairman Neuringer noted that for a corner lot, no sides can have a six foot fence.

Mr. Howard went on to say that the staggering heights of the fencing gives character to the property. Chairman Neuringer stated that it is very complicated with the mixing of fence heights and materials.

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

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

**8. Adjourned Application #14A-2011, ENZO'S RESTAURANT, 451 Mamaroneck Avenue**

Caroline Savone, the applicant, addressed the Board. Ms. Georgiou stated that after doing research after the last meeting, she determined that awning signs are considered façade signs.

Michael Reno, the architect, stated that the restaurant had received approval from the Board of Architectural Review, but the Building Department referred Ms. Savone to the Zoning Board of Appeals.

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, Neufeld  
Nays: None

**9. Adjourned Application #19A-2011, SANDE LICHTENSTEIN, 817 Hall Street**

Joe Hinchy, co-owner of the property, addressed the Board. He stated that Mr. Lichtenstein couldn't be in attendance and Mr. Hinchy was representing him tonight. Mr. Hinchy went on to describe the property.

Ms. Kramer stated that there was some discussion at last month's meeting as to whether parking was an issue. Mr. Melillo stated that the Building Department determined it was appropriate.

Chairman Neuringer asked if there was anything in the code that prohibits tandem parking and Mr. Melillo stated that there was not, but one car can't block another car in a two-family. Ms. Georgiou stated that the parking issue is small based on her conversations with John Winter, the Building Inspector. Mr. Melillo stated that he was not sure; it may apply to commercial businesses. Mr. Melillo will look into it.

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, Neufeld  
Nays: None

**10. Application #1F-2011, ROBERT & JANE HASSLER, 850 Rushmore Avenue**

Dary Khen appeared on behalf of the applicant. She stated that she is Mr. Hassler's assistant. She submitted a letter and drawings to the Board.



Ms. Khen stated that the applicant was seeking a variance to erect a five foot fence on a corner lot and only four feet is allowed. Ms. Kramer asked what type of fence the applicant wants to erect and Ms. Khen stated that it was the same type of fence that is currently on the property, wood.

Mr. Melillo stated that there appears to be a pattern for these types of requests and perhaps the law needs to be revisited.

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, Neufeld  
Nays: None

**11. Application #20A-2011, J & N LEASING, 501 E. Boston Post Road**

Nat Picco appeared on behalf of the applicant. Mr. Picco stated that he is here for approval to install a dumpster enclosure. The reason he requires a variance is because the concrete slab under the dumpster is considered a structure. Mr. Picco stated that he will need to go before the Planning Board to receive approval for the enclosure once he receives a variance from the Zoning Board.

Ms. Kramer wanted to get an idea of what the enclosure looks like. Mr. Picco stated that it is fencing built around the dumpster as required by the code.

Ms. Kramer asked if the dumpster was there with no enclosure, would that violate zoning. Mr. Melillo stated that it would not. He continued by saying the zoning issue comes from the concrete pad underneath.

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 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, Neufeld  
Nays: None

**12. Application #23A-2011, WAYNE & BONNIE LIN, 705 Old Boston Post Road**

Chairman Neuringer stated for the record that he had done some work for Mr. and Mrs. Lin at a different property.

Jennifer Huestis, the Architect, appeared on behalf of the applicant. She stated that the applicants are asking for a variance to add a rear yard addition. Ms. Huestis stated that the addition was built

and then the owners realized it was not built to code. When the applicants submitted plans to the Building Department, it was determined that they were not in compliance, she said.

Chairman Neuringer clarified that the variance request is for eight inches. Ms. Huestis displayed a board with photos and went through them with the Board.

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, Neufeld

Nays: None

**13. Application #24A-2011, HEALTHY FIT FOR WOMEN, 1000 E. Boston Post Road**

Jeremy Lafaro, the applicant, addressed the Board. Ms. Kramer noted for the record that she is a member of the health club.

Mr. Lafaro stated that he is requesting a variance for a dumpster enclosure. Mr. Lafaro said that it is actually a rolling cart, not a dumpster. The enclosure will be chain link with slats, he said.

Ms. Kramer noted that the special permit to operate the health club had expired in January 2008. Mr. Lafaro was instructed to renew his special permit.

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, Neufeld

Nays: None

**APPLICATIONS CLOSED**

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

The Board discussed the merits of the case. Mr. Sullivan stated that he did not have an issue with the variance. Ms. Kramer stated that variances to allow signs are fine, but the second sign should be placed in a conforming manner.

Chairman Neuringer reminded the Board that it had made findings in 2010 and if the Board makes a change now it must take the position that it was wrong in the earlier determination. Mr. Neufeld agreed with the Chairman's comments and stated that this could end up where applicants come back to see if the Board will make a change. Mr. Weprin agreed with both the Chairman and Mr. Neufeld.

A motion to deny the variance was made by Mr. Neufeld for the reasons stated on the record and

recorded in the verbatim transcript, seconded by Mr. Weprin.

Ayes: Neuringer, Weprin, Neufeld

Nays: Kramer, Sullivan

**2. Application #5SP-2002, CVS, 1100 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).

A motion to approve the renewal of the special permit without a term limit 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, Neufeld

Nays: None

**3. Application #9SP-2011, F & B, LLC, 1 Station Plaza**

The Board discussed the merits of the case. 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).

Chairman Neuringer stated that there is built-in parking and it is an ideal location. He also noted that the chef has a great reputation. Mr. Weprin stated that he has some concerns with the restaurant staying open until 4:00 a.m. Ms. Kramer stated that deliveries should not be made to the restaurant until 10:00 a.m. or later.

Ms. Kramer also stated that the valet parking concerns her because they are charging for parking on something they do not own. Chairman Neuringer stated that valet parking is nothing more than a service. Mr. Neufeld stated that the owner is not requiring valet parking.

A motion to approve the special permit with a three (3) year term limit was made by Mr. Weprin for the reasons stated on the record and recorded in the verbatim transcript, seconded by Mr. Neufeld.

Ayes: Neuringer, Kramer, Weprin, Sullivan, Neufeld

Nays: None

**4. Application #11A-2011, ELIZABETH COVINGTON, 210 Nostrand 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 Ms. Kramer for the reasons stated on the record

and recorded in the verbatim transcript, seconded by Mr. Neufeld.

Ayes: Neuringer, Kramer, Weprin, Sullivan, Neufeld

Nays: None

**5. Application #14A-2011, ENZO'S RESTAURANT, 451 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).

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, Neufeld

Nays: None

**6. Application #1F-2011, ROBERT & JANE HASSLER, 850 Rushmore Avenue**

The Board discussed the merits of the application. 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, Weprin, Sullivan, Kramer, Neufeld

Nays: None

**7. Application #23A-2011, WAYNE & BONNIE LIN, 705 Old Boston Post Road**

The Board discussed the merits of the application. 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 Mr. Sullivan.

Ayes: Neuringer, Weprin, Sullivan, Kramer, Neufeld

Nays: None

**8. Application #20A-2011, J & N LEASING, 501 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).

A motion to approve the variance was made by Mr. Weprin for the reasons stated on the record

and recorded in the verbatim transcript, seconded by Mr. Neufeld.

Ayes: Neuringer, Kramer, Weprin, Sullivan, Neufeld

Nays: None

**9. Application #24A-2011, HEALTHY FIT FOR WOMEN, 1000 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).

Discussion arose as to whether the Board should hold off granting the variance until the applicant renewed his special permit. Mr. Melillo stated that the applicant still needs to go before the Planning Board and doesn't want to hold up the process.

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

Ayes: Neuringer, Kramer, Weprin, Sullivan, Neufeld

Nays: None

Ann Powers will follow-up with the applicant with respect to the special permit renewal.

**MINUTES**

A motion to approve the minutes of May 5, 2011 was made by Mr. Weprin, seconded by Mr. Sullivan.

Ayes: Neuringer, Kramer, Sullivan, Weprin, Neufeld

Nays: None

**APPLICATIONS CLOSED, (continued)**

**10. Application #3SP-2008, MOLLY SPILLANE'S RESTAURANT, 211 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).

Ms. Kramer stated that she understands the concerns of the Regatta residents, but the restaurant is located in a commercial district. Mr. Weprin stated that he had no problem putting restrictions on the music, but had concerns about limiting talking on the patio.

Discussion arose regarding the decibel readings and their accuracy. Readings were not done in the apartments themselves.

Chairman Neuringer stated that everything he has heard points to an enforcement issue. He went on to say that there was never a situation where a violation was given. The officers can't substantiate the noise.

Mr. Weprin reiterated that he has trouble coming up with conditions for people talking on the patio. Mr. Neufeld stated that there seems to be a combination of complaints from the neighbors and the Board needs to eliminate some of the causes.

Ms. Kramer stated that the Board can stipulate that the terrace should not be open after 11:00 p.m. She said that the Board could mandate that the speakers be turned off at 11:00 p.m. and have the windows closed.

Chairman Neuringer stated that the Board could grant the special permit for a period of only one year. The restaurant must take appropriate steps and the Board will have one year to evaluate. Chairman Neuringer stated that in one year the Board can make stronger requirements if the problems are not rectified.

Mr. Sullivan stated that he has concerns that the Board is telling a business owner when he can and can't open his windows. Mr. Window noted that he would be in favor of the restaurant closing their windows at 11:00 p.m. if the music is playing.

Mr. Sullivan stated that he believes if Mr. Hynes continues to give in, the neighbors will continue to want more.

Chairman Neuringer stated that there are residents closer to the restaurant than the Regatta residents and they have not complained.

Ms. Kramer stated that the Board should grant the renewal of the special permit for one year from the date of expiration (June 2011) and that the windows and doors must be closed if there is live or canned music inside and no amplified sound outside after 11:00 p.m. due to the concerns of the neighbors.

A motion to approve the special permit with a one (1) year term limit was made by Ms. Kramer for the reasons stated on the record and recorded in the verbatim transcript, seconded by Mr. Weprin.

Ayes: Neuringer, Kramer, Weprin, Sullivan, Neufeld

Nays: None

#### **11. Application #19A-2011, SANDE LICHTENSTEIN, 817 Hall 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 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, Neufeld  
Nays: None

**ADJOURN**

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

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

On motion duly made and carried, the meeting was adjourned at 10:05 p.m.

ROBIN KRAMER  
Secretary

Prepared by:  
Ann P. Powers