

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, SEPTEMBER 1, 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 September 1, 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  
Anna Georgiou, Counsel to Board  
Rob Melillo, Deputy Building Inspector  
Kathy Zalantis, Counsel for pending litigation

**ABSENT:** Gregory Sullivan, 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 7:13 p.m. and he introduced everyone and detailed the procedures for the meeting. Chairman Neuringer stated that Mr. Sullivan would not be in attendance and asked if anyone wished to adjourn their application until there was a full Board present. No applicant wished to adjourn their application. The next meeting is scheduled for Thursday, October 6, 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 Ms. Kramer, seconded by Mr. Weprin.

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

At 7:17 p.m. the Board convened into executive session.

At 7:30 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 recapped the application stating that at the last meeting, there were still some violations that had not been addressed in Court. Mr. Lai stated that he was advised by his attorney to request an adjournment until October because he was scheduled to appear in Court on September 20<sup>th</sup> to address the pending violations. Due to the pending violations and court date, the application is adjourned until the October 6<sup>th</sup> meeting.

**2. Application #7SP-2001, JOHN CECIL & CELIA FELSHER, 521 Eagle Knolls Road**

John Cecil, the applicant, addressed the Board. He stated that he is requesting a renewal of his tennis court special permit. Mr. Cecil indicated that there were no violations with respect to the tennis court. The Board noted that this would be the last time the applicant would need 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, Weprin, Kramer, Neufeld  
Nays: None  
Absent: Sullivan

**3. Application #10SP-2001, FRANCESCO STOIA D/B/A ENZO AUTO BODY, INC.,  
624 Fenimore Road**

Francesco Stoia, the applicant, addressed the Board. He stated that he is requesting the renewal of his special permit to operate an auto body shop. Chairman Neuringer asked if there had been any changes. Mr. Stoia stated that there was a new façade and a new fire suspension system in the spray booth. He also made a conversion to water borne paint. Mr. Stoia stated that there were no changes in the hours of operation or how the auto body shop is run.

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. Neufeld, seconded by Mr. Weprin.

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

**4. Application #4SP-2000, LI QING FANG D/B/A DRAGON CITY, 431 Mamaroneck Avenue**

Paul Noto, Esq., appeared on behalf of the applicant. He stated that the applicant wished to renew the special permit to operate a restaurant. Mr. Noto said that there are no changes to the food establishment and the applicant is in compliance.

Discussion arose regarding violations related to the placement of garbage. Mr. Noto stated that the issues have been rectified. Mr. Neuringer stated that violations are issued to landlords, not the tenants. There was confusion as to whether the violations were for Dragon City or other tenants in the building. It was determined that some of the violations in the packet were directed toward Dragon City. It was noted that all the violations have been closed out.

Mr. Noto stated that his client would have told him if there were any outstanding violations.

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 Ms. Kramer, seconded by Mr. Weprin.

Ayes: Neuringer, Weprin, Kramer, Neufeld

Nays: None

Absent: Sullivan

**5. Application #12SP-2006, AZZEDDINE BENNOUNA D/B/A ZITOUNE RESTAURANT, 1127 W. Boston Post Road**

Azzeddine Bennouna, the applicant, addressed the Board. He stated that he is requesting the renewal of his special permit to operate a restaurant as well as requesting the ability to serve Hookah at his establishment.

Chairman Neuringer stated that it is against state law to smoke in a restaurant and asked if Mr. Bennouna had received permission from the state. He recommended that Mr. Bennouna investigate with the state whether using Hookah is against the state smoking ban law.

Ms. Georgiou, counsel to the Zoning Board, read the definition of smoking and indicated that it referenced tobacco. (Public Health Law 1399-n) Ms. Kramer suggested the applicant speak with restaurant owners in New York City to find out how they are serving Hookah at their establishments.

Chairman Neuringer stated for the record that the Board would look at only the renewal of the special permit as they had no jurisdiction over the Hookah matter. Chairman Neuringer also referenced a letter the Board received from Mr. Seligson opposing the implementation of Hookah at the restaurant.

Mr. Bennouna stated that there are no changes with the operation of the restaurant or the hours. Ms. Kramer asked if there needs to be an amendment to the application since it references the request to serve Hookah and the Board is not responding to that request. Ms. Georgiou stated that this conversation was done on the record, it involves state legislation and that should suffice.

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

**6. Application #10SP-2011, WANG FANG D/B/A NEW GREAT WALL, INC., 587 E. Boston Post Road**

Wang Fang, the owner, addressed the Board. He stated that he is the new owner of the existing restaurant. There will be no changes to the operation or hours of the establishment. The only change is the change of ownership he stated. Everything else remains the same.

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

**7. Application #11SP-2011, MARIO OCCHICONE, 650 Van Ranst Place**

It was noted for the record by Ms. Powers that the application had been withdrawn.

Before moving on to the next application, Chairman Neuringer informed the public that the Board would convene into Executive Session to obtain advice of counsel regarding the upcoming application and pending litigation.

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

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

At 7:51 p.m. the Board convened into executive session.

At 7:56 p.m. the Board returned from executive session and continued with the public hearing.

**8. Application #4I-2011, BENNETT GOLUB & CYNTHIA GOLUB & THE SHORE ACRES PROPERTY OWNERS ASSOCIATION, 700 S. Barry Avenue**

Steve Kass, Esq., appeared on behalf of the applicants. Mr. Kass handed out a document of statutes relevant to ZBA jurisdiction. Mr. Kass began by stating that there are two matters before the Board: 1) does the Board have jurisdiction with respect to the Tax Assessor and, 2) if the Board does have jurisdiction, was the Tax Assessor's action arbitrary and capricious?

Mr. Kass stated that there is nothing in the Village Code that indicates whether or not this Board has jurisdiction over the Assessor. Mr. Kass read the following:

N.Y.S. Village Law § 7-712-a(4)

Unless otherwise provided by local law, the jurisdiction of the board of appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by the administrative official charged with the enforcement of any local law adopted pursuant to this article. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the village.

Village Code § 342-88, Board of Appeals

(C) This section is adopted pursuant to the authority granted by § 10, Subdivision (1)(e)(3), of the Municipal Home Rule Law and shall supersede any provision of the Village Law which is inconsistent herewith.

Village Code § 342-89, Board of Appeals Jurisdiction

The Board shall have exclusive jurisdiction of all matters prescribed by § 7-712 of the Village Law or by this chapter or as may hereafter be referred to it by law or the Village Board. The following provisions relating to its powers and duties shall not be deemed to limit any power conferred by law upon the Board of Appeals.

Village Code § 342-90, Board of Appeals Powers and Duties

The Board shall hear and decide appeals from and review from any order, requirement, decision, interpretation or determination made by any administrative official or board charged with the implementation or enforcement of this chapter and may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and make such determination and order as, in its opinion, ought to be made in the premises.

Mr. Kass argued that the Assessor makes determinations for revenue purposes as well as for zoning purposes. He stated that the Village considers the tax map with respect to “lot”. Mr. Kass stated that if the ZBA does not have jurisdiction over this matter, there is no other municipality board which does. An individual would have to file an Article 78. Mr. Kass stated that the tax assessor’s map relates to zoning and therefore this Board has jurisdiction over the Assessor. Mr. Kass also stated that he believes the Village wanted land use issues processed in a timely fashion and this is why they made the applicable provisions in the code.

Ms. Kass said that it is more costly for individuals to go through the Courts than it is to go before the Zoning Board. He stated that applicants don’t need attorneys when they come before the Zoning Board. He felt that the Trustees knew what they were doing when they wrote the Code. The purpose, as well as their language, is that the ZBA has jurisdiction over the tax assessor as

they affect zoning compliance, Mr. Kass indicated. Mr. Kass stated that he feels this is the duty of the Zoning Board.

Mr. Kass briefly addressed MB&YC's submission to the ZBA. He stated that he felt some of their points were irrelevant. Mr. Kass also referenced that the club cites matters where property owners are asked to work things out with the tax assessor.

Mr. Kass mentioned that even after the OGS stated that they were looking into the matter, the Assessor went ahead and changed the map. Mr. Kass asked the Board to think about what the impact would be if the Board did not have jurisdiction over the Assessor.

Mr. Kass went on to say that the merits are clear. Historically, the deed to the Shuberts and from the Shuberts does not include the parcel of land known as Otter Creek. It was the way the property was described, Mr. Kass noted.

Mr. Kass also discussed the Benchmark memo. He stated that the Benchmark rationale does not hold up. What the club is left with is a deed to itself that can't convey a property interest that they don't have, he said. Mr. Kass stated that now the state says it owns it; the Assessor should not have changed the map.

Mr. Kass asked that the Board overturn the Assessor's decision or at least say that for zoning purposes the map does not apply. Mr. Weprin stated his concern that the Board has jurisdiction over one part of the Assessor's responsibilities (zoning) and not the other part (revenue). He stated that the courts seem to be a better suited avenue for this.

Mr. Kass stated that there is an Article 78 against the Tax Assessor. Mr. Neufeld asked if there was a timeliness factor as to why the Article 78 was commenced. Mr. Kass stated that he was uncertain as to this outcome before the Zoning Board, so he also filed an Article 78. Mr. Kass went on to say that he would prefer it be a local matter, with the ZBA.

Mr. Neufeld asked if Mr. Kass has a certified survey. Mr. Kass said he did not. He noted that there was a Spinelli survey in 2010 that did not include the parcel. It showed that the parcel was to be granted by the state. The second survey by Mr. Spinelli, Mr. Kass believes, was not certified.

Mr. Weprin asked if Mr. Kass was looking to the Board to make an ownership decision. Mr. Kass answered that he was not.

Chairman Neuringer stated that to come before the Zoning Board it has to be an appeal of an action or determination. He questioned how the Board is to know what the rationale was behind the Assessor's change as far as revenue or zoning is concerned. Mr. Kass answered that he is not talking about the Board looking for what the Assessor's intent was.

Ms. Kramer said that she wants to understand what the ZBA has jurisdiction over and what it does not. She asked if what the applicant is saying is that because the Assessor changed the map and it affected the lot, it is a zoning issue. Mr. Kass answered in the affirmative. Ms. Kramer stated that

if someone wanted to challenge something by the Assessor, it would be to the Board of Assessment Review.

Chairman Neuringer asked if anyone wished to address the Board.

Paul Noto, Esq., appeared on behalf of MB&YC. He indicated that he was before the Board this evening in opposition to the appeal by the Golubs and SAPOA. He stated that the Board received a letter from the law firm of Keane and Beane (also representing the club) on August 26<sup>th</sup>. He believes this is not the proper forum for this matter. Mr. Noto went on to say that he believes the applicants feel the same way because they have filed an Article 78 and have sent a letter to the Mayor and Board of Trustees to instruct them to have the Assessor change the map.

Mr. Noto stated that the preparation of the tax map is an assessment administration. Mr. Noto reviewed the procedures to appeal a decision of the Assessor. He said that the ZBA's jurisdiction is related to zoning and involves the Building Inspector. The Building Inspector's determination is what is appealed by coming to the Zoning Board. He stated that never has this Board heard an appeal of the Tax Assessor.

Mr. Noto stated that if the Board determines that they do have jurisdiction, he would submit to the Board that the decision to change the tax map was an appropriate decision and complied with how the Assessor should conduct himself.

Mr. Noto said that the Assessor evaluated all appropriate documents and probably discussed the matter with Village counsel before making a determination. He stated that the letter from the state has not stopped the club from using the property. The OGS has recommended that the best way to put this to rest is to apply for a land grant, Mr. Noto said. He stated that the club has done this as many as many other residents in the Village have done.

With respect to the Spinelli surveys, Mr. Noto stated that there was a certified survey which included the parcel. He said that the state has worked closely with the club to resolve this matter because it has become tiresome for all parties involved.

Mr. Noto stated that the Assessor does not implement or enforce zoning; the Building Department does this. He went on to state that he does not believe the ZBA has jurisdiction over the Clerk-Treasurer or the DPW and those individuals deal with property issues all the time. Mr. Noto stated that only a judge can make the ownership determination. He also noted that no one has brought action against the club with respect to ownership. Mr. Noto said that he did not believe the ZBA wanted to open up a Pandora's Box.

Chairman Neuringer asked if the map change has implications for zoning and Mr. Noto answered that it does affect zoning. Mr. Noto stated that the Assessor did not change the tax map for zoning purposes. Discussion arose as to whether the ZBA could bifurcate the two components of the assessment map (revenue and zoning). Mr. Noto stated that once the Board starts challenging other department heads other than the Building Inspector, this will open up a huge issue. He stated that it is a stretch to say that the ZBA has jurisdiction.

Chairman Neuringer stated that he feels part of this is related to zoning and this Board deals with zoning issues. Discussion arose regarding the deed and what the deed conveyed. Mr. Neufeld stated that the deed conveyed property from the club to the club and the fact that the grantor and grantee were the same entity.

Mr. Noto reiterated the process the club undertook to have the map changed. He stated that everyone was in agreement that the ZBA does not determine ownership.

Mr. Neufeld asked why the club has not gone to the Courts for assistance in resolving this issue. Mr. Noto stated that the state is not disputing the issue; they haven't taken any action. He went on to say that the opponents against the club building want the ZBA to make a determination to stop the club from building.

Mr. Neufeld asked how much the club was paying for insurance on the small parcel of land and Mr. Noto stated that he believed it was about \$10,000. Discussion arose as to the title policy and title insurance, as well as if there is any other way to show ownership besides a deed.

Ms. Kramer asked that based on Section 342-90 of the code, who did Mr. Noto think would be other individuals that the ZBA would have jurisdiction over. He answered the Building Inspector, Assistant Building Inspector and perhaps a code enforcer. Mr. Noto said that the Assessor does not enforce or implement the zoning code.

Ms. Kramer asked if Mr. Noto believed the Board of Trustees wanted to expand the jurisdiction of the ZBA and he said no, they would have made it clear in the code and not so generic. Ms. Kramer stated that Mr. Noto said the assessment map is primarily for tax purposes. She asked what the secondary reason was. Mr. Noto answered that there are other purposes for an assessment map such as providing information.

Discussion arose regarding the fact that the Village Engineer makes the actual change to the tax map and the assessor directs him or her to do so. Chairman Neuringer asked if Mr. Noto could think of any reason why the Village Manager would direct the Assessor to change the map. Mr. Noto stated that he did not know. Mr. Noto concluded by handing out the Town of Mamaroneck assessment map.

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

Mr. Kass addressed the Board again. He stated that the tax map does correlate to zoning and that it isn't simply the Building Inspector who is involved in land use issues. Mr. Kass said that it is not an issue of something falling through the cracks; if the property underwater is not covered by a deed, it is owned by the state. Mr. Kass stated that whatever action was taken by the Assessor was not appropriate.

Discussion arose whether to keep the public hearing opened or to close it. Mr. Kass stated that he did not have any issues with the Board closing the public hearing. Ms. Kramer has some concerns about closing the hearing in case she had further questions. Mr. Neufeld stated that he feels jurisdiction is a legal issue.



Ms. Georgiou asked what was the specific determination of the Assessor that the applicant was appealing. Mr. Kass answered the Assessor's modification on April 21, 2011 of the tax map to include the Otter Creek parcel. Ms. Georgiou stated that the Assessor's letter of February 24, 2011 could potentially start the statutory 60 day period for bringing appeals. Mr. Kass said he would like the hearing to be closed and if the Board wishes to re-open the hearing, he would have no issue. Ms. Georgiou stated that if that were to happen, the hearing would need to be re-noticed and the majority of the Board would have to agree.

Mr. Weprin stated that as a matter of principle, he believes that matter in front of the Board is done and it is not fair to bring the applicants back. Chairman Neuringer asked if the Board could obtain a stipulation that the Board can go beyond the 62 day period. Mr. Kass said he would have no issue with that request.

It was determined that the Board would leave the public hearing open and it would be adjourned for a limited basis until October. The Board also stated that they would try to resolve the matter by November. Mr. Kass stated that it would be helpful to resolve this matter sooner rather than later.

The application was adjourned until October 6<sup>th</sup>.

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

Harry Spadaro, the applicant, addressed the Board. He stated that he was here tonight to obtain a variance for a dumpster enclosure. He said that there was no other feasible location on his property to place the dumpster. The only other place would be in his parking lot and that would take up parking spaces.

Mr. Spadaro stated the dumpster had been there for 29 years and he has to obtain a variance now because the Village law changed. He stated that there is a concrete pad under the dumpster. Based on this, there was discussion amongst the Board members and the Acting Building Inspector as to whether this is a fencing issue or an enclosure issue.

Chairman Neuringer stated that in previous applications, the applicant wanted to place a concrete pad (structure) and an enclosure. This applicant has the concrete pad already, Chairman Neuringer stated.

Ms. Kramer stated that whether the pad exists or is being proposed, the Building Department considers it a dumpster enclosure. Chairman Neuringer stated that he feels this is a fence issue since there is already concrete beneath the dumpster. He went on to say that the applicant is proposing to install a fence and the Board could be setting a dangerous precedent with respect to setbacks. The Board reviewed the code.

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, Neufeld  
Nays: None  
Absent: Sullivan

**10. Application #26A-2011, CHARLES RUDANSKY & HANNI RUDANSKY, 640 Forest Avenue**

Niall Cain, the architect, appeared on behalf of the applicant. He stated that the applicant is requesting a front yard variance for an addition to a single-family home. He stated that the current house is not zoning compliant. He is proposing an addition on the side of the house which will impact the setbacks. He stated that the addition will balance the house. Mr. Cain noted that the house is undersized compared to other houses in the area.

Chairman Neuringer stated that the lot is half the size of other lots in the area. The lot is 7,000 sq. ft. in a 15,000 sq. ft. zone. With this in mind, Chairman Neuringer stated that one can conclude that the house is probably appropriate to the lot size.

Mr. Cain stated that the bulk requirements conform to zoning and that this is a proportional issue. The entire house will be renovated.

Mr. Neufeld noted that the architect has two 15 foot side yard setbacks and he questioned whether it is 35 feet in actuality. The property has two side yards and two front yards because it is on a corner lot.

Mr. Neufeld also asked why the garage and basement are being excluded from the FAR. Mr. Cain stated that he excluded the garage because there is a provision in the code for the height of a basement. If there is less than three feet of basement above grade, it is not counted in the FAR.

Ms. Kramer and Mr. Neufeld both asked why the garage was excluded. Mr. Cain stated that he would have to review the matter. Mr. Melillo interjected that anything less than 400 sq. ft. is not counted toward the FAR.

Chairman Neuringer asked if there are any other alternatives that wouldn't impact the front yard setback. Mr. Cain stated that if he were to push the addition back, it would look very awkward. Chairman Neuringer stated that he feels everything that the applicant wants to do is doable by sliding it back so that it does not impact the setback.

Mr. Cain stated that the ridge lines won't match up and Chairman Neuringer noted that they don't currently match up. He went on to say that if the applicant wanted to accomplish 100% of what they want to do, couldn't it be done without increasing the non-conformity. Mr. Cain stated that it would be extremely awkward, but anything is possible.

Chairman Neuringer stated that, to be fair, the applicant has not shown that alternatives would be awkward.

Hanni Rudansky addressed the Board. She stated that designing the addition another way would remove space inside her house and it would set up an awkward way to walk through to the addition. It would not be a direct flow going through the house, she said.

Mr. Cain stated that the main issue is the bedrooms. There are five boys living in the house, he said. Additionally, the house would look out of place in the neighborhood.

Chairman Neuringer stated that he understands Mr. Cain's point; however, there have been many applications for front yard setback variances that have come before the Board and that have been denied. He went on to say that this is an existing non-conformity to begin with. Chairman Neuringer stated that if the architect feels this is absolutely the only way to build the addition, then he has an obligation to the Board to demonstrate that this is the only way to do it. These drawings do not.

Ms. Kramer stated that she did not understand Mr. Cain's zoning analysis. Mr. Cain reviewed how he set up his zoning analysis and stated that he had done it this way for a number of years. Ms. Kramer said that she now understood and it was clearer to her.

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

Lloyd Landa addressed the Board. He stated that he lives directly across the street from the applicant. He stated that he strongly supports the aesthetic view the applicant is proposing. He knows of no one who has any objections to this application.

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

Ms. Georgiou noted for the record that there was an error in the notice of disapproval. The applicant is requesting to build a 400 sq. ft. front addition, not a rear addition.

A question regarding the FAR came up. Mr. Melillo stated that the FAR appears to be accurate. He did not check the numbers, the previous Building Inspector did. Chairman Neuringer asked to confirm that the FAR is accurate.

Discussion arose regarding the attic. Mr. Cain stated that a person cannot stand up in the attic and that there is no use for the attic. Ms. Rudansky stated that the basement has a television, but would not call it a recreation room. Chairman Neuringer asked if there was an egress and Ms. Rudansky stated that there was not.

Chairman Neuringer cautioned Mr. Cain that what he is proposing is what is built. He stated that the plans are at the maximum and the Board is trying to help the applicant.

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

Ayes: Neuringer, Kramer, Weprin, Neufeld

Nays: None

Absent: Sullivan

**11. Application #27A-2011, PHILIP SILVER & TERESA SILVER, 511 Rushmore Avenue**

Chairman Neuringer stated for the record that he was noticed regarding this application as he is a neighbor. Philip Silver, the applicant, addressed the Board. Chairman Neuringer stated that this is a 5,000 square foot lot zoned for 15,000 square feet and the variance is for setbacks. Mr. Silver stated that he did not know if the house was ever in compliance. Chairman Neuringer stated that every house was compliant at the time that they were built.

Ms. Kramer asked Mr. Silver to show her, on the survey, where the work was going to be performed and he proceeded to show her and the other Board members.

Lee Sterling, the applicant's general contractor also addressed the Board. He went through the project with the Board. A question came up regarding the documents not being stamped and Mr. Melillo stated that any project under \$20,000 does not require stamped documents.

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. Neufeld.

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

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

Shahin Mehrkar, the applicant, addressed the Board. He stated that he was before the Board back in 2009 to request a variance. The variance was approved by the Board; however, Mr. Mehrkar did not obtain a permit within the 12 month time period. Mr. Mehrkar stated that the variance request was to build a portico and the proposed portico violated the front yard setback.

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. Neufeld, seconded by Mr. Weprin.

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

**APPLICATIONS CLOSED**

**1. Application #7SP-2001, JOHN CECIL & CELIA FELSHER, 521 Eagle Knolls 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. Neufeld.

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

**2. Application #10SP-2001, FRANCESCO STOIA D/B/A ENZO AUTO BODY, INC.,  
624 Fenimore 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 Ms. Kramer.

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

**3. Application #4SP-2000, LI QING FANG D/B/A DRAGON CITY, 431 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 with a three year term limit due to multiple violations 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, Neufeld  
Nays: None  
Absent: Sullivan

**4. Application #12SP-2006, AZZEDDINE BENNOUNA D/B/A ZITOUNE  
RESTAURANT, 1127 W. Boston Post Road**

The Board discussed the merits of the case. Because the applicant acknowledges that Hookah contains tobacco and the smoking or burning of any substance which contains tobacco in any food service establishment is subject to regulation by New York State [New York State Public Health Law Article 13-E], this Board could not consider the Applicant's request to serve Hookah. The Board found the within application for the renewal of the special permit 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 restaurant without a 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, Neufeld  
Nays: None  
Absent: Sullivan

**5. Application #10SP-2011, FANG WANG D/B/A NEW GREAT WALL, INC., 587 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 special permit to operate a restaurant 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, Neufeld  
Nays: None  
Absent: Sullivan

**MINUTES**

A motion to approve the minutes of June 2, 2011 was made by Mr. Neufeld, seconded by Mr. Weprin.

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

**ADJOURN**

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

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

On motion duly made and carried, the meeting was adjourned at 10:21 p.m.

ROBIN KRAMER  
Secretary

Prepared by:  
Ann P. Powers