

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, JUNE 7, 2012 AT 7:00 P.M. IN THE COURTROOM AT 169 MT. PLEASANT AVENUE, MAMARONECK, NEW YORK.

These are intended to be “Action Minutes” which primarily record the actions voted on by the Zoning Board at the meeting held June 7, 2012. 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:** Gregory Sullivan, Chairman  
Barry Weprin, Vice Chairman  
Robin Kramer, Secretary  
Lawrence Gutterman, Board Member  
Dave Neufeld, Board Member  
Anna Georgiou, Counsel to Board  
Joe Angiello, Assistant Building Inspector

**ABSENT:** Rob Melillo, Building Inspector

Kathleen McSherry, Court Reporter, was present at the meeting to take the stenographic minutes, which will not be transcribed unless specifically requested.

**EXECUTIVE SESSION**

Chairman Sullivan stated that the Board would be going into executive session before the public hearing to discuss pending litigation with respect to the ZBA.

Mr. Sullivan made a motion to enter into executive session to discuss pending litigation matters, seconded by Ms. Kramer, and carried unanimously.

At 7:07 p.m. the Board convened into Executive Session.

At 7:28 p.m. the Board returned from Executive Session.

Chairman Sullivan stated that the Board discussed a settlement with respect to Shel Drake Lofts, LLC. v. the Village of Mamaroneck et al. Mr. Weprin stated that his law firm represents a party related to this matter, but after discussions, feels there is no need to be recused from this matter. Mr. Weprin also stated that although he does agree with the settlement, he feels that the ZBA should have been involved at an earlier stage of the negotiations. He also felt that the meeting should have been separately noticed for a hearing.

Mr. Neufeld stated that he agrees with Mr. Weprin. He has a serious question that a Board can reverse itself without a rehearing. Mr. Neufeld also stated that he felt the situation required a formal hearing.

Ms. Kramer stated that she agrees, but feels the decision could have been reached without the ZBA. She felt that the process was not the best way to go about doing things and she has concerns.

Mr. Weprin clarified that the Board is not voting to approve the variance that was denied in 2009, but is voting to settle the matter.

Mr. Sullivan moved to approve the settlement, seconded by Mr. Gutterman.

Ayes: Sullivan, Gutterman, Weprin

Nays: Kramer, Neufeld

### **CALL TO ORDER**

Chairman Sullivan called to order the Regular Meeting at 7:35 p.m. Chairman Sullivan stated that the next ZBA meeting would be on July 18, 2012 and that the regularly scheduled meeting for July 5<sup>th</sup> would not take place. He went on to say that the August meeting is cancelled.

### **PUBLIC HEARINGS**

1. Application #6SP-2009, BEN MEZA D/B/A LA HERRADURA, 406 Mamaroneck Avenue (Section 9, Block 18, Lot 9A), to renew an existing special permit to operate a restaurant. (C-2 District)

Ben Meza, the applicant, addressed the Board. Chairman Sullivan asked if the violations issued by the Fire Inspector had been remedied. Mr. Meza was unaware of any violations. Ms. Kramer noted that the violations were addressed to the owner of the building. Anthony Caligiuri, the owner of the property, addressed the Board. He stated that he never received any violations in the mail. When asked about the lock box violation, he stated that he had no key box installed.

Chairman Sullivan suggested that the applicant speak with William Ciraco, the Fire Inspector, to find out about the status of the violations. Ms. Powers provided Mr. Meza with a copy of the violations.

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

The application is adjourned until July 18, 2012.

2. Application #14SP-2009, CRC FOODS LLC D/B/A PIRI-Q, 360 Mamaroneck Avenue (Section 9, Block 18, Lot 23A), to renew an existing special permit to own and operate a restaurant. (C-2 District)

Rui Correia, the applicant, addressed the Board. Ms. Kramer stated that there are violations with respect to the operation of the restaurant and asked Mr. Correia if he was aware of them. Mr. Correia stated that records are now kept up to date.

Chairman Sullivan referenced a violation from April of 2011. Mr. Correia stated that he has kept up with the hood cleaning and the suppression system. It was noted that the violations were issued to the owner of the building. Ms. Kramer stated that the applicant will need to check with the Fire Inspector to remedy the violations.

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

The application is adjourned until July 18, 2012.

3. Application #6SP-2012, VIPULKUMAR PATEL D/B/A FARMER'S MARKET, 955 Mamaroneck Avenue (Section 8, Block 54, Lot 1A1), for a special permit to operate an existing farmer's market under new ownership. (C-1 District)

No one appeared on behalf of the application. Chairman Sullivan asked that Ms. Powers send a letter to the applicant regarding the missed public hearing and that the matter is adjourned until July 18, 2012.

4. Application #7SP-2012, KATERYNA ANGELONE D/B/A FRED ASTAIRE DANCE STUDIO, 451 E. Boston Post Road (Section 4, Block 60B, Lot 1), for a special permit to operate an existing Fred Astaire Dance Studio under new management and ownership. (C-1 District)

Kateryna Angelone, the applicant, addressed the Board. She stated that she is taking over the operation of a dance studio. There have been no changes, it is the same franchise and the instructors are the same, she said. Ms. Angelone also stated that the hours of operation are the same, 1:00 p.m. to 10:00 p.m. Monday through Friday.

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

Mr. Weprin moved to close the public hearing on Special Permit Application #7SP-2012, seconded by Mr. Neufeld.

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

5. Application #8SP-2012, PETER CHEN, 249 Mamaroneck Avenue (Section 9, Block 19, Lot 7A), for a special permit to combine two restaurants at 251 & 253 Mamaroneck Avenue into one restaurant with six Hibachi tables. (C-2 District)

Peter Chen, the applicant, addressed the Board. He stated that he is converting two adjacent restaurants (Toyo Sushi and Red Plum) and combining them into one restaurant called Red Plum. He stated that he is taking down a portion of the wall that separates the two restaurants. Mr. Chen stated that six Hibachi tables will be used to fill up the Toyo Sushi area. Mr. Chen explained that Hibachi tables are large counter tables where chefs cook in front of patrons.

Discussion arose regarding the number of seats. Mr. Chen stated that the occupancy would be approximately 90 seats. Mr. Neufeld stated that the plans show an allowable occupancy of 74. Ms. Kramer asked if the 74 is allowable or is that what the applicant was proposing. Mr. Neufeld stated that it was the allowable occupancy.

Mr. Neufeld said that the plans provided by the applicant say that the total allowable occupancy is 74 and that Mr. Chen stated he would have 90 seats. After a brief discussion, it was determined that the plans are for the one restaurant being renovated (Toyo Sushi), not both restaurants combined.

Ms. Kramer stated that for Toyo Sushi, the allowable occupancy is 74 seats and the applicant proposes 42 seats. Mr. Gutterman stated that there are currently two restaurants that seat a certain number of people and he wanted to know what the number of seats will be for the combined restaurant to see if this would be a bigger restaurant than the sum of the two restaurants that were previously there.

Ms. Kramer asked what the addresses were for the two restaurants and Mr. Chen stated that Toyo Sushi is located at 251 Mamaroneck Avenue and Red Plum is located at 253 Mamaroneck Avenue. He also reiterated that construction was only being performed at Toyo Sushi. Red Plum restaurant would remain the same.

Mr. Weprin asked if there would be two kitchens and Mr. Chen stated that there would be one kitchen and the six Hibachi tables. The kitchen will be at the Red Plum restaurant and the Hibachi tables will be where Toyo Sushi used to be located, he said. Mr. Chen also stated that the hours of operation would be the same and that Red Plum will remain open until the renovations at Toyo Sushi are completed.

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

Ms. Kramer moved to close the public hearing on Special Permit Application #8SP-2012, seconded by Mr. Weprin.

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

6. Application #9SP-2012, HARBOR STEAKHOUSE, INC. D/B/A HARBOR STEAKHOUSE, 620-640 E. Boston Post Road (Section 4, Block 53, Lot 2B), for a special permit to operate a restaurant. (C-1 District) and Application #15A-2012, HARBOR STEAKHOUSE, INC. D/B/A HARBOR STEAKHOUSE, 620-640 E. Boston Post Road (Section 4, Block 53, Lot 2B), for a parking space variance of Article VIII Section 342-56 where the applicant has 107 parking spaces and 118 parking spaces are required. (C-1 District)

The Board agreed to hear both applications at once.

Paul Noto, Esq., appeared on behalf of the applicant. He stated that the proposed restaurant will be located at the former Applebee's restaurant site. This will be a full service restaurant, serving steak and seafood, he stated. Additionally, there will be no changes to the site, Mr. Noto indicated.

Mr. Noto stated that the seating will be reduced from 192 inside when it was owned by Applebee's restaurant to 172 seats inside. He also said that the applicant is seeking an amended site plan from the Planning Board for 38 outdoor seats in the parking lot area where Applebee's restaurant had their "to go" pick up area.

Mr. Noto said that the restaurant hours will be 11:00 a.m. to 1:00 a.m. Monday through Thursday, 11:00 a.m. to 2:00 a.m. Friday and Saturday and 11:00 a.m. to midnight on Sunday. Mr. Noto said there will not be live music and that the owner is not expecting a late night crowd. He said the real changes to the location are for the proposed outdoor seating. Mr. Noto said that if the Board does not grant the variance, the applicant won't have outdoor dining and one application doesn't hinge on the other.

Greg DeAngelis, architect for the applicant, addressed the Board. He stated that the applicant is proposing to take away five parking spaces to create more seating. He noted that the seating will be surrounded by attractive landscaping and a platform will be built where the tables and chairs will be set up for dining. Mr. DeAngelis stated that he has already met with the planning consultants with respect to the plantings. There will be a concrete floor and screening, he noted.

Ms. Kramer asked why this applicant needs a parking variance when they have 16 fewer parking spaces than Applebee's did. Mr. Noto stated that the applicant has more outdoor dining and is also taking five parking spaces away. Mr. DeAngelis said that the seating for outdoor dining adds seven spaces to the parking requirement. Additionally, Mr. DeAngelis stated that when he did a review of the site, it was determined that the site was deficient 4 parking spaces to begin with.

Mr. Noto indicated for the record that the application was incorrect in stating how many parking spaces were needed. The existing number of parking spaces is 102 and 118 are required. Mr. DeAngelis stated that the proposed location was the most logical place to put the outdoor dining. Mr. Noto reiterated that the outdoor seating area will be heavily screened.

Mr. Neufeld asked if the outdoor dining area will be converted back to parking in the winter. Mr. DeAngelis stated that it would not return to parking; once the spaces are taken away, that will be permanent.

Ms. Kramer stated that by granting the variance, the Board is enabling the applicant to have outdoor dining. Given that, the Board received a letter from a neighbor who was concerned about the outdoor seating, she said. She noted that the outdoor seating is not located on Boston Post Road as was the Applebee's request for outdoor seating. She asked if there will be any type of music and Mr. Cheng stated there will be some low music outside. Ms. Kramer suggested that the Board decrease the hours for outside dining.

Ms. Kramer asked how many parking spaces did the facility have and Mr. DeAngelis indicated 76 parking spaces. Mr. Noto stated that he does not anticipate the parking lot to be full. He also noted that he understands the Board can reasonably restrict the hours of operation. Ms. Kramer stated that she would suggest the outdoor seating be closed at 10:00 p.m. or 11:00 p.m. on the weekdays and also on the weekends. Mr. Noto stated that closing the outdoor dining at 11:30 p.m. would be amenable to his client. Mr. Cheng stated that 11:30 p.m. on weekdays and midnight on weekends would be his preference.

Mr. Neufeld asked about the music and Mr. Noto stated that there won't be any music playing if there is no one outdoors dining. Mr. Chen noted that he is responsible for how the restaurant will be run and the climate of the restaurant in general.

Chairman Sullivan asked if anyone wished to address the Board.

Philip Horne, of 129 Beach Avenue, addressed the Board. He stated that his property abuts the west corner of the parking lot. He said there has been a long standing issue with this property. Mr. Horne said that ground water collects, creating flooding. After reviewing the plans, he said that he has concerns with this structure causing more flooding in the area where they are building the platform.

Mr. Weprin asked Mr. Horne if he had seen parking issues at the site. Mr. Horne stated that from time to time, but most times the lot can accommodate parking. Ms. Kramer asked if the Board needs to see if there are any plans for the drainage. Mr. Noto stated that this is not an issue for the restaurant. Mr. Horne stated that Sobert Realty is responsible. Mr. Horne stated that he is also concerned with alcohol being served outside since there are children in the area. He also noted that in the past, there were problems with drugs.

Mr. Horne concluded by stating that the dumpster creates an unclean environment and creates the issue of rats. He said that these issues occur when putting a restaurant next to a residential area.

Mr. Noto addressed the comments from Mr. Horne. He stated that the Village is proposing a major stormwater drainage project. He stated that whatever work the new owners do will need to comply with the project.

Corey Shatz, property owner, addressed the Board. He stated that there was a problem in the past with respect to Mr. Horne's complaint about drugs and individuals hanging out. Mr. Shatz noted that problem was caused by another store which is no longer at the location. He stated that he has been working with the Village to install a drainage system to alleviate the flooding issue. Mr. Shatz said he would not permit outside dining if it had impact on the Village's project.

Ms. Kramer noted that with the previous application of Applebee's restaurant, the Board limited outdoor eating to midnight, seven days a week and that was for seating on Boston Post Road. Mr. Noto stated that the application was time-sensitive because the restaurant can't open without a special permit and he would appreciate the Board approving the special permit tonight.

Mr. Weprin moved to close the public hearing on Special Permit Application #9SP-2012 and Variance Application #15A-2012, seconded by Mr. Gutterman.

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

7. Application #8A-2012, MICHAEL FLOOD & CATHERINE O'LEARY, 313 S. Barry Avenue (Section 4, Block 69, Lot 19B), for an area variance of Article IV Section 342-14.A (Building Projections) to construct a covered entry where the sum total of such projections in any one yard shall not exceed 25% of the overall dimensions of the wall from which they project. The front wall is 37' 9" and the projection is 11' 10" wide, resulting in a covered entry of 31%. (R-10 District)

Michelle Lee, the architect, appeared on behalf of the applicant. She stated that the applicant was requesting a variance to construct an entry way and that the portico projects two feet three inches from the setback. She stated that this results in a covered entry of 31% and the code maximum is 25%.

Ms. Kramer asked if the landing will be enlarged and Ms. Lee stated it would remain the same size. Ms. Kramer noted that the applicant's survey is from 1952 and she requested that the Building Department not accept old surveys and that the requirement is to provide a survey no older than twelve months before the application is heard by the Board. Ms. Lee stated that she had requested a new survey, but has not yet received it from the surveyor.

Mr. Weprin asked if there had been any changes to the property. Ms. Lee indicated that she believes the steps have been changed. Mr. Kramer noted that this is an example of why it is necessary to have an updated survey. Ms. Lee stated that she would provide the Board with an updated survey. Mr. Weprin stated that he agrees that the Building Department should only accept current surveys for the applications.

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

Mr. Gutterman moved to close the public hearing on Variance Application #8A-2012, seconded by Ms. Kramer.

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

8. Application #10A-2012, CHARLES & LISA CHMELECKI, 911 Lester Avenue (Section 8, Block 62, Lot 3A), for an area variance of Article V Section 342-27 of the Schedule of Minimum Requirements to construct a garbage enclosure approximately 14' by 6' where the applicant has 6.5' for a combined yard setback where 16 feet is required. (R-2F District)

Lisa Chmelecki addressed the Board. She is requesting a variance for a required dumpster enclosure.

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

Mr. Weprin moved to close the public hearing on Variance Application #10A-2012, seconded by Ms. Kramer.

Ayes: Sullivan, Kramer, Weprin, Neufeld, Gutterman

Nays: None

9. Application #11A-2012, JUAN VELEZ & KAREM ISAAC, 1448 Raleigh Road (Section 8, Block 6A, Lot 1), for an area variance of Article VII Section 342-56 of the Schedule of Off-Street Parking Requirements where one parking space is provided for a one-family dwelling and a minimum of two parking spaces are required. (R-5 District)

Mike Boettcher, the designer, appeared on behalf of the applicant. He stated that the owners wish to enclose the garage into a living space. Mr. Boettcher said that per the code, the applicant needs two off-street parking spaces and that the off-street parking needs to be on the property, not directly off-street. There was some confusion about the term "off-street," he said. Two cars currently fit in the driveway and the cars are off the street, Mr. Boettcher indicated.

Chairman Sullivan asked if this was an issue of the property line being short at the end of the driveway and Mr. Boettcher stated that was correct.

Ms. Kramer asked about signage displaying tonight's meeting. Mr. Angiello said that he checked the signage today and it was up. Chairman Sullivan also confirmed that he saw the sign today. Ms. Kramer indicated that the signage was not up on Sunday when she went to look at the property.

Ms. Kramer stated that the applicant currently has a garage that is only used as a garage and the applicant wants to change the garage so that it can't be used as a garage anymore. Mr. Boettcher stated that the applicant wishes to change the garage to living space.

A question arose as to whether the application required the submission of a survey. Mr. Boettcher said that he asked the Building Department about the need for a survey and he was instructed that he did not need a survey.

Mr. Gutterman wanted to be sure that the delineation of the strip/zone between the street line and property line were correct. Mr. Boettcher concluded by stating that the parking spaces are not on the street.

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



Mr. Gutterman moved to close the public hearing on Variance Application #11A-2012, seconded by Ms. Kramer.

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

10. Application #12A-2012, JOHN & HEATHER HARVEY, 335 Carroll Avenue (Section 4, Block 29, Lot 71), for an area variance of Article V Section 342-27 of the Schedule of Minimum Requirements to construct a two story rear addition to a one family dwelling where the proposed addition will create a floor area ratio of .63 where .55 is the maximum floor area ratio. (R-5 District)

Alfred Cappelli, the architect, appeared on behalf of the applicant. He started that the applicants wish to add a second-story addition. The first floor will be a breakfast and kitchen area and the second floor will be a bedroom suite, he indicated.

Discussion arose that there were no zoning calculations and Mr. Cappelli stated that he submitted calculations to the Building Department for this application. Mr. Cappelli went on to show the Board members his poster with zoning calculations.

Ms. Kramer inquired about the new square footage and Mr. Cappelli said that the first floor will be 370 sq. ft. and the second floor will be 363 sq. ft. He indicated that the existing house is 2300 sq. ft. excluding the basement.

Chairman Sullivan asked if anyone wished to address the Board.

Bonnie Dayton, a neighbor living next door, addressed the Board. She stated that she was not in favor of the enlargement because it is becoming a trend in the entire neighborhood. The lots aren't increasing, only the houses and this is becoming invasive, she noted. Ms. Dayton said that the lots in the neighborhood are about 75ft. by 100 ft. and the entire area is becoming more crowded. She noted that people know the size of the houses they are purchasing to begin with. They should purchase larger homes if that is what is needed, she said.

Mr. Gutterman asked the architect if there had been any review by other Boards and Mr. Cappelli stated that the applicant received approval from the Board of Architectural Review.

Discussion arose as to if the applicant took away the basement, but kept the addition, would the applicant still exceed the FAR. Mr. Cappelli stated that he felt it would still exceed the FAR slightly. He indicated that he can't build on top of a crawl space.

Ms. Kramer asked why the Board should grant the variance. Mr. Cappelli stated that the Mrs. Harvey is expecting another child and the rooms currently are too small. He also noted that the kitchen is non-existent in size. Mr. Cappelli stated that the addition is not taking up much of the backyard space. He concluded by stating that he didn't make the FAR calculations excluding the basement, so he is not sure if he would be over the FAR.

Ms. Kramer asked if the basement was livable and Mr. Cappelli said that it was not; it will be used as storage.

Mr. Weprin moved to close the public hearing on Variance Application #12A-2012, seconded by Mr. Neufeld.

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

11. Application #14A-2012, BARBARA WEISS & ALAN EISENBERG, 705 The Parkway (Section 4, Block 74, Lot 3B), for an area variance of Article V Section 342-27 of the Schedule of Minimum Requirements to legalize an existing rear shed where the applicant has 5.5 feet for the lesser side setback and ten feet is required and where the rear yard setback is 1.15 feet and 6 feet is required. (R-10 District)

Alan Eisenberg, the applicant, addressed the Board. He stated that he was seeking a variance to legalize an existing shed. Mr. Eisenberg stated that the shed was erected a few years ago.

Chairman Sullivan noted that the Board received correspondence from his neighbors stating that they were not in favor of the application. Ms. Powers provided a copy of the letter to Mr. Eisenberg.

Mr. Eisenberg showed the Board photos of the shed and property. He stated that the shed is 596 sq. ft. and will have some electricity. Ms. Kramer noted that she did not believe the survey was accurate. She said the survey depicts more room on the property than when she went to look at the site in person. Mr. Eisenberg stated that he drew the shed on the 1947 survey that he supplied to the Board.

Discussion arose regarding the various areas of the property. Mr. Neufeld asked the applicant if he had received any complaints from his neighbors. Mr. Eisenberg stated that his driveway neighbor does not have an issue with the shed. Mr. Weprin noted that the applicant placed the shed as far away as possible from his house. Mr. Eisenberg stated that he wanted to put it in the area that looks nice.

Discussion arose regarding the other comment from the neighbor regarding the eaves. The eaves appeared to be passing under the neighbor's roof line. Mr. Eisenberg stated that he would provide the Board with a new survey if it is necessary. He said that he did have a more recent survey from work he has done in the past, but isn't sure where it is. The Board felt that an updated survey was needed. Mr. Eisenberg was going to check with the Building Department to see if they had a more recent survey from the sunroom construction he did.

Ms. Kramer stated that she does not believe the Board can grant a variance without an updated survey. Ms. Georgiou agrees that a new survey is needed because it is not clear where the shed is located with respect to the rest of the property. Mr. Eisenberg stated that if any part of the shed is over the property line, he will move it.

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

The Board adjourned the application to the July 18<sup>th</sup> meeting. Mr. Eisenberg will need the survey before the July meeting.

12. Application #16A-2012, HOWARD MOLEN, 145 Teresa Lane (Section 8, Block 13, Lot A12), for an area variance of Article V Section 342-27 of the Schedule of Minimum Requirements where an existing swimming pool has a zero side yard setback and six feet is required and for an area variance of Article V Section 342-27 of the Schedule of Minimum Requirements where the pool equipment violates the front yard setback where the applicant has 18 feet and 20 feet is required. (R-5 District)

Chairman Sullivan recused himself from this application as he represents the applicant on another matter. Mr. Weprin became Acting Chairman.

Paul Noto, Esq., attorney for the applicant, addressed the Board. Ms. Georgiou stated for the record that there was a change in the application which referenced an older 1957 code. The public hearing notice referenced the correct/current code, she noted.

Mr. Noto stated that the house was purchased in 1997. The applicant is putting the house on the market and it was determined that there were outstanding open permits on the house, Mr. Noto stated. The applicant went to the Building Department to rectify the issue and after lengthy discussions with the Building Inspector, it was determined that two variances are needed, he said. Mr. Noto indicated that the pool needs a variance and the pool equipment needs a variance. Mr. Noto went on to say that in 1957, he believes the Building Inspector felt the pool and equipment was zoning compliant. The current Building Inspector is taking the position that variances are needed, Mr. Noto indicated.

Greg DeAngelis, architect for the applicant, addressed the Board. He reviewed the survey with the Board. He said he did not find any reference in the 1957 code with respect to in-ground pools. He went on to say that there is no setback for the pool and the applicant is requesting a variance for that.

With respect to the pool equipment, Mr. DeAngelis stated that there are also issues with setback that requires a second variance. Mr. DeAngelis indicated that a new permit application for the pool equipment has been filed.

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

Mr. Neufeld moved to close the public hearing on Variance Application #16A-2012, seconded by Ms. Kramer.

Ayes: Kramer, Weprin, Neufeld, Gutterman

Nays: None

Recused: Sullivan

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Chairman Sullivan rejoined the meeting.

**CLOSED APPLICATIONS**

1. Application #3SP-2008, 211 MAMARONECK AVENUE LLC D/B/A MOLLY SPILLANE'S RESTAURANT, 211 Mamaroneck Avenue (Section 9, Block 19, Lot 1A), to renew an existing special permit to operate a restaurant and retail space. (C-2 District)

The Board discussed the merits of the application. Ms. Kramer noted for the record that she watched the DVD of the May 3, 2012 meeting. Mr. Weprin stated that it did not appear that the applicant was following the rules with respect to keeping the windows closed after 11:00 p.m. Ms. Kramer stated that she did not believe the applicant's contention that he had been before the Zoning Board six times in one year. Mr. Neufeld stated that the restaurant is in a bad location with respect to the Regatta.

Ms. Georgiou noted that even when the windows are closed, noise is being heard according to the neighbors. Ms. Kramer stated that noise can't be eliminated completely because it is a commercial street. She also noted that all music, live or recorded, is an issue.

Chairman Sullivan stated that Mr. Hynes agreed he would close the windows at 11:00 p.m., but it is not the Board's role to enforce it. Ms. Georgiou suggested that the police department be given the resolution so that they can monitor what should be enforced.

Chairman Sullivan stated that last year the room was filled with neighbors complaining and that this year only one individual had come before the Board with a few letters of complaint.

Discussion arose as to why the application was before the Board in May instead of during the summer and Ms. Powers explained that the original special permit expired in June of 2011 and the one year expiration date fell after the June 7, 2012 ZBA meeting, so it was scheduled for May.

Ms. Georgiou stated that she performed an analysis of the police reports dating back to 2011. Six complaints were for loud music which was corrected. Four complaints were for talking. Five complaints involved loud music and were determined to be unfounded. Two complaints were disputes with patrons. She went on to say that not all the complaints related to loud music.

Chairman Sullivan stated that this is a commercial use in a commercial district.

On motion of Mr. Weprin, seconded by Mr. Neufeld, the Application as submitted to renew the special permit is approved with a two (2) year term limit.

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

2. Application #7SP-2012, KATERYNA ANGELONE D/B/A FRED ASTAIRE DANCE STUDIO, 451 E. Boston Post Road (Section 4, Block 60B, Lot 1), for a special permit to operate an existing Fred Astaire Dance Studio under new management and ownership. (C-1 District)

The Board discussed the merits of the application.

On motion of Mr. Weprin, seconded by Mr. Neufeld, the Application as submitted for a special permit is approved with a three year term limit.

Ayes: Sullivan, Kramer, Weprin, Neufeld, Gutterman

Nays: None

3. Application #8SP-2012, PETER CHEN, 249 Mamaroneck Avenue (Section 9, Block 19, Lot 7A), for a special permit to combine two restaurants at 251 & 253 Mamaroneck Avenue into one restaurant with six Hibachi tables. (C-2 District)

The Board discussed the merits of the case.

On motion of Mr. Weprin, seconded by Mr. Gutterman, the Application as submitted for a special permit to combine two restaurants and add six hibachi tables is approved with a three year term limit.

Ayes: Sullivan, Kramer, Weprin, Neufeld, Gutterman

Nays: None

4. Application #9SP-2012, HARBOR STEAKHOUSE, INC. D/B/A HARBOR STEAKHOUSE, 620-640 E. Boston Post Road (Section 4, Block 53, Lot 2B), for a special permit to operate a restaurant. (C-1 District) and Application #15A-2012, HARBOR STEAKHOUSE, INC. D/B/A HARBOR STEAKHOUSE, 620-640 E. Boston Post Road (Section 4, Block 53, Lot 2B), for a parking space variance of Article VIII Section 342-56 where the applicant has 107 parking spaces and 118 parking spaces are required. (C-1 District)

The Board discussed the merits of the application. It was noted by the Board that the outdoor dining area will be closed no later than 11:00 p.m. Sunday through Thursday and no later than midnight on Friday and Saturday.

On motion of Ms. Kramer, seconded by Mr. Weprin, the Application as submitted for a variance is approved.

Ayes: Sullivan, Kramer, Weprin, Neufeld, Gutterman

Nays: None

On motion of Ms. Kramer, seconded by Mr. Weprin, the Application for a special permit to operate a restaurant is approved for a three year term limit.

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

5. Application #8A-2012, MICHAEL FLOOD & CATHERINE O'LEARY, 313 S. Barry Avenue (Section 4, Block 69, Lot 19B), for an area variance of Article IV Section 342-14.A (Building Projections) to construct a covered entry where the sum total of such projections in any one yard shall not exceed 25% of the overall dimensions of the wall from which they project. The front wall is 37' 9" and the projection is 11' 10" wide, resulting in a covered entry of 31%. (R-10 District)

The Board discussed the merits of the application.

On motion of Mr. Weprin, seconded by Mr. Gutterman, the Application as submitted for a variance is approved.

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

6. Application #10A-2012, CHARLES & LISA CHMELECKI, 911 Lester Avenue (Section 8, Block 62, Lot 3A), for an area variance of Article V Section 342-27 of the Schedule of Minimum Requirements to construct a garbage enclosure approximately 14' by 6' where the applicant has 6.5' for a combined yard setback where 16 feet is required. (R-2F District)

The Board discussed the merits of the application.

On motion of Mr. Weprin, seconded by Ms. Kramer, the Application as submitted for a variance is approved.

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

7. Application #11A-2012, JUAN VELEZ & KAREM ISAAC, 1448 Raleigh Road (Section 8, Block 6A, Lot 1), for an area variance of Article VII Section 342-56 of the Schedule of Off-Street Parking Requirements where one parking space is provided for a one-family dwelling and a minimum of two parking spaces are required. (R-5 District)

The Board discussed the merits of the application.

On motion of Mr. Weprin, seconded by Mr. Neufeld, the Application as submitted for a variance is approved.

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

8. Application #12A-2012, JOHN & HEATHER HARVEY, 335 Carroll Avenue (Section 4, Block 29, Lot 71), for an area variance of Article V Section 342-27 of the Schedule of Minimum Requirements to construct a two story rear addition to a one family dwelling where the proposed addition will create a floor area ratio of .63 where .55 is the maximum floor area ratio. (R-5 District)

The Board discussed the merits of the application.

On motion of Mr. Weprin, seconded by Ms. Kramer, the Application as submitted for a variance is approved.

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

9. Application #16A-2012, HOWARD MOLEN, 145 Teresa Lane (Section 8, Block 13, Lot A12), for an area variance of Article V Section 342-27 of the Schedule of Minimum Requirements where an existing swimming pool has a zero side yard setback and six feet is required and for an area variance of Article V Section 342-27 of the Schedule of Minimum Requirements where the pool equipment violates the front yard setback where the applicant has 18 feet and 20 feet is required. (R-5 District)

The Board discussed the merits of the application. Ms. Georgiou noted that the setbacks are six feet except for the small protrusion.

On motion of Mr. Weprin, seconded by Mr. Gutterman, the Application as submitted for a variance is approved.

Ayes: Kramer, Weprin, Neufeld, Gutterman  
Nays: None  
Recused: Sullivan

### **MINUTES**

On motion of Mr. Weprin, seconded by Mr. Gutterman, the minutes for the March 1, 2012 meeting are approved.

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

The minutes for April 5, 2012 and May 3, 2012 were held over until the Board had time to review them.

### **ADJOURN**

On motion of Mr. Weprin, seconded by Mr. Neufeld, the meeting was adjourned at 9:38 p.m.

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

ROBIN KRAMER  
Secretary

Prepared by:  
Ann P. Powers