

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON WEDNESDAY, JULY 18, 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 July 18, 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

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

Chairman Sullivan called to order the Regular Meeting at 7:07 p.m. Chairman Sullivan stated that there will be no August meeting and the next ZBA meeting will be on September 6, 2012. He went on to say that Mr. Neufeld will join the meeting in a half hour and asked if any applicant wished to adjourn their application until after Mr. Neufeld arrived. None did.

PUBLIC HEARINGS

1. Adjourned 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)

Anthony Caligiuri, the landlord, addressed the Board. He stated that all violations have been remedied. The lock box was installed with keys and everything has been inspected by the Fire Inspector, Mr. Caligiuri indicated. Mr. Angiello confirmed that the violations had been remedied. Mr. Caligiuri said that the operation of the restaurant is unchanged from the original special permit in 2009.

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

Mr. Weprin moved to close the public hearing on Special Permit Application #6SP-2009, seconded by Ms. Kramer.

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

Absent: Neufeld

2. Adjourned 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. Discussion arose regarding the violations that were outstanding as well as the outdoor seating issues. Ms. Kramer stated that the applicant needs to return to the ZBA once the outdoor seating is rectified to amend the existing special permit to include outdoor dining.

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

A brief discussion arose as to whether to close the public hearing or keep it open. A determination was made to close the hearing.

Mr. Gutterman moved to close the public hearing on Special Permit Application #14SP-2009, seconded by Mr. Sullivan.

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

Ms. Georgiou noted for the record that the applicant currently has a temporary Certificate of Occupancy and is in the process of obtaining a permanent Certificate of Occupancy.

3. Adjourned 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)

Vipulkumar Patel, the applicant, addressed the Board. He stated that he took over the store in 2010 and was unaware that he needed to obtain a special permit. Ms. Powers stated that she sent out a renewal letter to the Farmer's Market, having no knowledge that the establishment changed ownership. Mr. Patel received the renewal notice and followed up with the Building Department.

Mr. Patel stated that the hours of operation are from 7:00 a.m. to 9:00 p.m. seven days a week. It was noted that the hours are changing from the previous owner's hours of operation.

With respect to the pending violations, Ms. Kramer asked if Mr. Patel still had the clothes drop-off bin and ice machine. Mr. Patel stated that he did have them. He was unaware of the violations or when he would need to appear in court. Ms. Georgiou noted that the violations were issued to the owner of the property. Mr. Angiello was unaware as to whether this matter had been remedied.

Ms. Kramer stated that the violation notice in the packet says the applicant needs Planning Board review to continue having the ice machine and clothes drop-off bin. If this is the case, Ms. Kramer stated that the ZBA should send Mr. Patel to the Planning Board. Chairman Sullivan provided Mr. Patel with a copy of the violations. He directed Mr. Patel to contact the Building Department to be placed on the Planning Board agenda. Mr. Patel will call the Building Inspector to follow up.

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

The application is adjourned until September 6, 2012.

4. Application #10SP-2012, COSIMO PANETTA, 124 E. Prospect Avenue (Section 9, Block 19, Lot 1B), for a special permit to operate a Laundromat. (C-2 District)

Frank Marsella, the applicant's architect, addressed the Board. He stated that the applicant is applying for a special permit to open a Laundromat on the ground level of the building. The space is 960 sq. ft., he noted. Mr. Marsella stated that he will need to go to the Planning Board for a change of use from retail to Laundromat. He stated that the applicant will be going before the BAR for façade restoration as well. Ms. Georgiou said that the applicant is going for amended site plan approval and she clarified that what is triggering the Planning Board's site plan review is the change of use.

Mr. Marsella stated that the applicant is adding a handicapped bathroom and other internal fixes which will comply with the Americans with Disabilities Act. The facility will be open seven days a week from 5:00 a.m. to 10:00 p.m., he stated. Additionally, there will be 30 units, which comply with the Zoning Code, Mr. Marsella indicated.

Mr. Gutterman questioned whether there was a parking requirement and Mr. Marsella stated that there was no such requirement. It was noted by Mr. Marsella that the scope of the work is within the building; no exterior work will be performed.

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

Ms. Kramer moved to close the public hearing on Special Permit Application #10SP-2012, seconded by Mr. Gutterman.

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

5. Adjourned 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)

Mr. Eisenberg, the applicant, addressed the Board. He handed out an updated survey as requested from the Board at the June 7th meeting. Mr. Eisenberg stated that the shed needed to be moved two feet based on the survey. The setback is now 2.7 feet, he noted. Ms. Georgiou clarified that the setback is 3.2 feet for the lesser side yard and 2.7 feet for the rear yard setback. Mr. Eisenberg stated that there is a 75 year old maple tree in front of the shed and he is unable to move the shed forward anymore because of the tree.

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

Mr. Weprin moved to close the public hearing on Variance Application #14A-2012, seconded by Mr. Gutterman.

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

6. Application #17A-2012, FRENCH AMERICAN SCHOOL OF NEW YORK, 300 Waverly Avenue (Section 8, Block 112, Lot 1B), for an area variance where the proposed site plan violates Article VIII, Section 342-54B(1) where parking spaces in the open shall not be located in any required front yard nor within a point of eight feet from any side lot line that is within 50 feet of a front street line, but may be within five feet of a side or rear lot line elsewhere on the lot. The applicant shows no buffer. And, for an area variance of Article II, Section 342-3 which defines a parking space as being accessible and available at all hours for parking where the applicant plans to close off the 6 parking spots during pick up and drop off. (M-1 District)

The Board decided to wait on hearing this application until Mr. Neufeld joined the meeting.

7. Application #18A-2012, FRENCH AMERICAN SCHOOL OF NEW YORK, 545 Fenimore Road (Section 8, Block 112, Lot 1A), for an area variance where the proposed site plan violates Article VIII, Section 342-54B(1) where parking spaces in the open shall not be located in any required front yard nor within a point eight feet from any side lot line that is within 50 feet of a front street line, but may be within five feet of a side or rear lot line elsewhere on the lot. The applicant shows no buffer. (M-1 District)

The Board decided to wait on hearing this application until Mr. Neufeld joined the meeting.

8. Application #19A-2012, JAVES CHAVEZ, 543 Halstead Avenue (Section 4, Block 26, Lot 4A1), for an area variance of Article VIII, Section 342-56 where the applicant is required to have 2 off street parking spaces where zero spaces are provided when changing the use from retail to a dry cleaner. (C-1 District)

Mike Rino, the applicant's architect, addressed the Board. He stated that the applicant is proposing a dry cleaning service for pick up and drop off. Mr. Rino stated that there will be no interior or exterior changes to the facility. The hours of operation will be 7:30 a.m. to 6:00 p.m.

Monday through Saturday and the drop off times will be 8:00 a.m. to 4:00 p.m. (twice a day) between Monday and Saturday. Mr. Rino stated that a variance for parking is needed.

At 7:32 p.m., Mr. Neufeld joined the meeting.

Mr. Rino indicated that the dry cleaner is a permitted use in the C-1 district and that he is improving the parking requirements by changing the use. The proposed dry cleaning establishment will have less impact on parking, he noted.

Ms. Kramer asked why the applicant was requesting a variance for two parking spaces and Mr. Rino stated that one parking spot is needed for every 750 sq. ft. and the complete square footage is 1,436.

Discussion arose as to whether this was a cleaning business as opposed to a retail or service business. Mr. Rino stated that if the applicant kept it as a retail business, there would be no need for parking variances. Mr. Angiello noted that the Building Inspector did not feel this was an issue and felt it should be categorized as a cleaning service.

Ms. Georgiou stated that this establishment requires a special use permit and that the applicant will need to come back in September for a special permit from this Board.

Ms. Kramer believes this is a retail/service business. Ms. Georgiou stated that based on the Zoning Code's special use permit classifications, it falls under the category of a dry cleaning establishment. Ms. Kramer pointed out that the more transient the use the more traffic there is.

Ms. Georgiou stated that the applicant is required to go to the Planning Board for site plan approval. Mr. Rino stated that he was already before the Planning Board. He will need to go back, but there were no outstanding issues as far as the Planning Board was concerned.

Mr. Weprin asked what the last use of the space was and Mr. Rino stated that the space was used as a repair service for appliances.

Questions arose as to whether the Board should be voting on a variance for a use that is not permitted. Chairman Sullivan felt the application should be closed. Ms. Georgiou noted that site plan approval is also required.

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

Mr. Weprin moved to close the public hearing on Variance Application #19A-2012, seconded by Ms. Kramer.

Ayes: Sullivan, Kramer, Weprin, Gutterman, Neufeld

Nays: None

9. Application #17A-2012, FRENCH AMERICAN SCHOOL OF NEW YORK, 300 Waverly Avenue (Section 8, Block 112, Lot 1B), for an area variance where the proposed

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site plan violates Article VIII, Section 342-54B(1) where parking spaces in the open shall not be located in any required front yard nor within a point of eight feet from any side lot line that is within 50 feet of a front street line, but may be within five feet of a side or rear lot line elsewhere on the lot. The applicant shows no buffer. And, for an area variance of Article II, Section 342-3 which defines a parking space as being accessible and available at all hours for parking where the applicant plans to close off the 6 parking spots during pick up and drop off. (M-1 District) AND Application #18A-2012, FRENCH AMERICAN SCHOOL OF NEW YORK, 545 Fenimore Road (Section 8, Block 112, Lot 1A), for an area variance where the proposed site plan violates Article VIII, Section 342-54B(1) where parking spaces in the open shall not be located in any required front yard nor within a point eight feet from any side lot line that is within 50 feet of a front street line, but may be within five feet of a side or rear lot line elsewhere on the lot. The applicant shows no buffer. (M-1 District)

The Board agreed to hear both applications together. David Cooper, Esq., the attorney for the applicant, addressed the Board. He stated that the French American School of New York (FASNY) needs to relocate eight classrooms to two buildings (300 Waverly Avenue and 545 Fenimore Road). Six classrooms will be at the Waverly Avenue address and two classrooms will be at the Fenimore Road address, he said. Mr. Cooper explained that this is a temporary move while FASNY awaits approval for a location at another municipality. He said that he is before this Board for parking variances.

Mr. Cooper relayed the process it took to get to this point and that this was a joint effort by FASNY and the Planning Board to create a safe pedestrian and vehicular site. Mr. Cooper noted that the project received site plan approval in June from the Planning Board.

Mr. Cooper explained that there are two separate lots that share a lot line in the middle of the parking lot. There are two parking spaces on the Fenimore Road side and four parking spaces on the Waverly Avenue side which the school wants to close; when those spots are removed, it narrows the area for both vehicular and pedestrian traffic. Mr. Cooper said that FASNY wishes to close off the six parking spots only during pick up and drop off times. He noted that sixteen students can drive, but the actual usage is far lower. Mr. Cooper stated that the Planning Board was comfortable with blocking off the six parking spaces and including that in the special permit.

Mr. Cooper stated that the alternative would be to narrow travel lanes and that would be far less safe. For the six parking spaces, Mr. Cooper stated that the school would place cones marking which spaces were not to be used. He went on to say that if the parking spaces are permanently eliminated, then the school will fall short of the parking requirements. As for SEQRA, Mr. Cooper stated that this application is Type II, with no further review. He also stated that the letter from the Planning Board to the ZBA summed everything up.

Ms. Kramer asked if the uses at 300 Waverly will remain the same. Mr. Cooper said yes, LA Boxing will stay and the rest of the building, although vacant, is a warehouse use. Discussion arose regarding not only the EAF focusing on pick-up and drop-off times, but during the entire/full/whole day as well. Mr. Cooper stated that all peak times were looked at, both for the school and the other business.

Mr. Gutterman asked how long the school planned to use the facility and Mr. Cooper stated three years with an option of an additional three years. The maximum is six years. Mr. Gutterman asked if the parking would be restriped and Mr. Cooper stated that it would be.

Mr. Neufeld asked why the ZBA was not listed as an involved agency. Mr. Cooper stated that, at the time, he did not know a variance would be needed.

Chairman Sullivan asked if the pick-up and drop-off would only be in that lot and Mr. Cooper answered yes and said that the school moved the queue further into the lot to lessen the back-up of traffic onto the street.

Discussion arose as to whether more high school seniors would be driving now that there are so many spaces. Mr. Cooper stated that it is more of a cultural issue and does not believe there will be an increase in parking. He noted that there are 23 seniors.

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

Mr. Weprin moved to close the public hearing on Variance Application #17A-2012 and Variance Application #18A-2012, seconded by Ms. Kramer.

Ayes: Sullivan, Kramer, Weprin, Gutterman, Neufeld

Nays: None

10. Application #20A-2012, THOMAS BARCHETTA & LYNDA BARCHETTA, 305 Sterling Avenue (Section 4, Block 65B, Lot 279), for an area variance of Article IV, Section 342-14C to install a 4 foot fence on top of a rear wall where the maximum height of 4 feet on a corner property is allowed and the applicant has a height ranging from 6 feet to 8.5 feet. (R-5 District)

Tom Barchetta, the applicant, addressed the Board. He stated that he was requesting a variance for a four foot fence to enclose a swimming pool for safety reasons. Chairman Sullivan said that the property next door is higher than Mr. Barchetta's property and Mr. Barchetta said that was correct. Mr. Angiello stated that the applicant was on a corner lot, blocking the site lines which aren't an issue with respect to this property.

Ms. Kramer noted that this application had an old survey. She stated that this is becoming an issue and that the Building Department should not be accepting these old surveys even with a certification from the applicant that there have been no changes. Mr. Angiello said that the applicant needs the fence; it's a property maintenance issue.

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

Ms. Kramer moved to close the public hearing on Variance Application #20A-2012, seconded by Mr. Gutterman.

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

11. Application #21A-2012, MARC STREET FAMILY TRUST/BRIAN STREET, TRUSTEE, 877 Orienta Avenue (Section 9, Block 99, Lot 1A), for an area variance of Article V, Section 342-27 of the Schedule of Minimum Requirements to construct an addition on the rear (south) side of the house and enlarge an existing garage where the applicant has 35.05 feet for a combined side yard setback and 45 feet is required. (R-20 District)

Arthur Wexler, the applicant and architect, addressed the Board. He stated that he owns the property and that Marc Street lives at the property. He stated that in 1986, a variance was granted to construct a house with a setback of ten feet instead of twenty feet. The house is a 2 ½ story structure, Mr. Wexler stated. He is proposing to extend the garage eight feet towards the front. Mr. Wexler said that the side is going to be extended to create an office and provide access to the second floor. The house sits about six feet from the front property line, Mr. Wexler noted.

Mr. Wexler stated that doing the work another way would make the structure look strange. The reason it is before zoning is because he is building over the existing footprint, Mr. Wexler noted. He continued by stating that it is a change in the non-conformity of the house. Mr. Wexler handed out a revised zoning chart. He indicated that he had been before the BAR and everything was approved.

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

Mr. Weprin moved to close the public hearing on Variance Application #21A-2012, seconded by Mr. Gutterman.

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

12. Application #23A-2012, LIDIA KAUFFMAN & SHANA KAUFFMAN, 807 Hall Street (Section 9, Block 57, Lot 10A), for an area variance of Article V, Section 342-27 of the Schedule of Minimum Requirements to reconfigure a deck where the applicant has 7.98 feet for a combined side yard setback and 16 feet is required. (RM-2 District)

Greg DeAngelis, the architect for the applicants, as well as Shana Kauffman, the applicant, addressed the Board. Mr. DeAngelis stated that the applicant wishes to construct an addition. Due to the changes in the code, because of the garage, the deck needs to be reconfigured because it is included in the combined side yard setback, Mr. DeAngelis noted. Everything else complies with setbacks, he noted.

Mr. DeAngelis stated that the combined side yard setback at the deck expansion is 7.8 feet where 16 feet is required. Otherwise it is conforming, he said. If the garage wasn't there, it would be as of right, Mr. DeAngelis said.

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

Mr. Weprin moved to close the public hearing on Variance Application #23A-2012, seconded by Mr. Neufeld.

Ayes: Sullivan, Kramer, Weprin, Gutterman, Neufeld

Nays: None

13. Application #24A-2012, CLUB CAR RESTAURANT, 1 Station Plaza (Section 9, Block 2, Lot 2A1), for an area variance of Article VIII, Sections 342-54 and 342-56 for a Certificate of Occupancy for additional seating where the applicant proposes zero on-site parking spaces and 28 on-site parking spaces are required. (C-1 District)

Jim Fleming, the architect for the applicant addressed the Board and stated that Brian MacMenamin, the applicant, was also present. Mr. Fleming stated that when the restaurant was first proposed, he was before the ZBA last year for a special permit. He noted that, at the time, there were also spaces for two proposed retail spaces. Due to the economy, Mr. Fleming stated that retailers did not occupy the location, so the applicant took over the additional two proposed retail spaces.

In order to get the restaurant up and running, it was decided to keep the 126 seats as stated within the original approvals, Mr. Fleming said. The applicant wishes to increase the seating to 200 plus seats, he noted. Mr. Fleming said that he worked with the Building Department. There is no parking on site. Mr. Fleming stated that the applicant would like to increase interior seating and requests that the number include exterior seating.

Mr. Fleming stated that the space under the building code could hold more people as the restaurant was still somewhat empty. He said that he spoke with the Building Inspector who indicated that per the NYS Building Code, the applicant could increase the seating to 200 plus seats and still have be in compliance with bathroom requirements, etc. Mr. Fleming noted that even with the additional seating, there is still a lot of room in the restaurant.

Mr. Fleming went on to say that there is no parking on the site, and therefore the applicant would have to be before the Board under any circumstances with respect to parking. The applicant wishes to increase the interior seating and requests that included in that number is seasonal exterior seating, Mr. Fleming indicated. Per Mr. Fleming, there are 100 plus/minus Metro North parking spaces in this area, which, by the agreement between Metro North and the owner of the building is available for restaurant patrons after 6:00 p.m. In Mr. Fleming's estimation, that more than compensates for the parking that is needed for the amount of seats the applicant is requesting.

Mr. Fleming said the required parking is for 26 parking spaces, plus two for employees. He said that the applicant is asking to increase the interior seating and therefore he is asking for a variance for parking. Mr. Fleming reiterated that after 6:00 p.m., the restaurant has enough parking spaces because they are available through the agreement with Metro North. Mr. Fleming

noted that the parking has been working out thus far. He added that there are 11 parking spaces designed for the restaurant and they are located right out front.

Mr. Fleming stated that the applicant will be going before the Planning Board for a dumpster enclosure and also to modify the duct work on the side of the building.

Mr. Gutterman stated that with respect to the site plan exhibit in the applicant's packet, there are 69 available parking spaces, 11 designated parking spaces, a designated loading space and there are additional spaces not shaded. Mr. Gutterman asked what the disposition of these spaces is. Mr. Fleming stated that the 30 spaces should have been shaded; it was his error. Mr. Gutterman clarified that there were 110 parking spaces and Mr. Fleming said that was correct.

Ms. Georgiou stated that the original variance approval considered 12 parking spaces where 64 parking spaces were required. When the additional 28 spaces for this variance are added to the 64 parking spaces, a total of 92 parking spaces would now be required for the site. The additional 28 spaces are added to the 64 parking spaces, totaling 92 parking spaces. Ms. Georgiou asked if the Building Inspector was determining that 92 parking spaces are now required for the site. Mr. Angiello stated that he did not believe 92 spaces were needed. The ratio is 1:3 for customers and 1:2 for employees.

Mr. MacMenamin stated that at the busiest time, the restaurant has not been able to fill the parking lot. Ms. Kramer asked how full the parking lot is on a Saturday night, at lunch time and other times. Mr. MacMenamin answered approximately 50% full.

Ms. Kramer noted that to have outdoor seating, the applicant will need to amend the current special permit. The special permit will also need to be amended for an increase in seating, she stated. She went on to say that based on the plans being revised the special permit needs to be revised as well.

Mr. Neufeld asked if the 100 parking spaces were exclusive to the restaurant after 6:00 p.m. Mr. Fleming stated that 60 spaces are exclusive to the restaurant. Mr. Neufeld asked if there was signage regarding the parking spaces and Mr. MacMenamin stated that there was signage prohibiting parking to non-patrons. Mr. MacMenamin interjected, saying there were 12 exclusive parking spots for the restaurant.

Discussion arose regarding the interior duct work being placed on the exterior of the building. Mr. MacMenamin stated that usually this type of work would be on the roof and it would not be on the interior. Mr. Fleming stated that they are working to rectify the issue of the duct work.

Discussion arose regarding the original seating being 126, which included bar seating (12 seats at the bar and the rest were table seating). The proposed is 154 seats on the inside and 48 seats on the outside. Discussion arose regarding seating of the original special permit application. Mr. Neufeld reviewed the seating plan provided at the July 2011 meeting for the special permit.

Mr. Fleming stated that he is adding 76 seats; 48 seats for outdoor dining and 28 seats for indoor dining. Ms. Kramer noted that she came up with 86 seats. Mr. Fleming stated that the additional seats were for employees. The outdoor seating has to be included because of the plumbing.

Ms. Kramer asked if the applicant had considered paying the fee in lieu of parking. Mr. Fleming stated that he had not. Mr. MacMenamin stated that the restaurant has enough parking. Ms. Kramer noted that the applicant would not be before the Board if he didn't need a parking variance. Mr. MacMenamin stated that there is signage for parking and he does have enough parking spots.

Chairman Sullivan reminded the Board that the zoning had changed in 2009. Discussion arose as to whether there is a need for a parking variance. Ms. Kramer asked for a copy of the parking agreement with Metro North and Mr. Fleming provide a one page copy.

Chairman Sullivan asked if anyone wished to address the Board.

Gina Von Eiff addressed the Board. She stated that she likes the renovation, but is not happy with what happens after 11:00 p.m., when the restaurant changes from a restaurant to a lounge. She went on to state that the noise is becoming a problem, with music being blared at night even though the restaurant owner does not have a cabaret license.

Ms. Von Eiff stated that as a commuter, there are issues with the sidewalk when considering the use. She noted that there are issues with loud, inebriated individuals and that the restaurant stays open 2:00 a.m. to 4:00 a.m. in the morning. Ms. Von Eiff stated that these issues need to be considered and that the neighborhood is changing.

Ms. Kramer noted that the agreement is not clear as to whether parking is provided and requested the full parking agreement. Mr. Neufeld concurred.

Mr. Fleming stated that the outdoor seating and how late the outdoor area stays open can be addressed. Ms. Kramer reminded the applicant that he should amend his special permit. Ms. Georgiou noted that this should be a separate application.

The application was adjourned to the September 6, 2012 meeting.

CLOSED APPLICATIONS

1. Application #21A-2012, MARC STREET FAMILY TRUST/BRIAN STREET, TRUSTEE, 877 Orienta Avenue (Section 9, Block 99, Lot 1A), for an area variance of Article V, Section 342-27 of the Schedule of Minimum Requirements to construct an addition on the rear (south) side of the house and enlarge an existing garage where the applicant has 35.05 feet for a combined side yard setback and 45 feet is required. (R-20 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

2. Application #17A-2012, FRENCH AMERICAN SCHOOL OF NEW YORK, 300 Waverly Avenue (Section 8, Block 112, Lot 1B), for an area variance where the proposed site plan violates Article VIII, Section 342-54B(1) where parking spaces in the open shall not be located in any required front yard nor within a point of eight feet from any side lot line that is within 50 feet of a front street line, but may be within five feet of a side or rear lot line elsewhere on the lot. The applicant shows no buffer. And, for an area variance of Article II, Section 342-3 which defines a parking space as being accessible and available at all hours for parking where the applicant plans to close off the 6 parking spots during pick up and drop off. (M-1 District)

The Board discussed the merits of the application. Discussion arose as to whether there was a need to include a time limit for the variances. Ms. Georgiou stated that normally a variance runs with the land, but under these circumstances the Board could tie the variances to the duration of the special permit.

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

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

3. Application #18A-2012, FRENCH AMERICAN SCHOOL OF NEW YORK, 545 Fenimore Road (Section 8, Block 112, Lot 1A), for an area variance where the proposed site plan violates Article VIII, Section 342-54B(1) where parking spaces in the open shall not be located in any required front yard nor within a point eight feet from any side lot line that is within 50 feet of a front street line, but may be within five feet of a side or rear lot line elsewhere on the lot. The applicant shows no buffer. (M-1 District)

The Board discussed the merits of the case. It was noted that this variance would also be tied to the duration of the special permit.

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

4. 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)

The Board discussed the merits of the application.

On motion of Mr. Weprin, seconded by Ms. Kramer, the Application as submitted for a renewal of a special permit is approved without a term limit.

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

5. 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)

The Board discussed the merits of the application. It was noted that the applicant needed to obtain a permanent Certificate of Occupancy and remedy the outstanding violations.

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

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

6. Application #10SP-2012, COSIMO PANETTA, 124 E. Prospect Avenue (Section 9, Block 19, Lot 1B), for a special permit to operate a Laundromat. (C-2 District)

The Board discussed the merits of the application. It was noted that the applicant will be required to go to the Planning Board for site plan approval and also to the BAR.

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

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

7. 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)

The Board discussed the merits of the application. Ms. Georgiou noted that the setback variances are for 3.2 feet for the lesser side setback and 10 feet is required and where the rear yard setback is 2.7 feet and 6 feet is required.

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

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

8. Application #19A-2012, JAVES CHAVEZ, 543 Halstead Avenue (Section 4, Block 26, Lot 4A1), for an area variance of Article VIII, Section 342-56 where the applicant is required to have 2 off street parking spaces where zero spaces are provided when changing the use from retail to a dry cleaner. (C-1 District)

The Board discussed the merits of the application. Ms. Georgiou noted that a special permit approval by the ZBA and site plan approval by the Planning Board are necessary. Ms. Kramer noted that the demand for parking is not changing.

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

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

9. Application #20A-2012, THOMAS BARCHETTA & LYNDA BARCHETTA, 305 Sterling Avenue (Section 4, Block 65B, Lot 279), for an area variance of Article IV, Section 342-14C to install a 4 foot fence on top of a rear wall where the maximum height of 4 feet on a corner property is allowed and the applicant has a height ranging from 6 feet to 8.5 feet. (R-5 District)

The Board discussed the merits of the application.

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

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

10. Application #23A-2012, LIDIA KAUFFMAN & SHANA KAUFFMAN, 807 Hall Street (Section 9, Block 57, Lot 10A), for an area variance of Article V, Section 342-27 of the Schedule of Minimum Requirements to reconfigure a deck where the applicant has 7.98 feet for a combined side yard setback and 16 feet is required. (RM-2 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

MINUTES

The minutes for April 5, 2012, May 3, 2012 and June 7, 2012 were tabled so that the Board could review them.

ADJOURN

On motion of Mr. Sullivan, seconded by Mr. Neufeld, the meeting was adjourned at 9:30 p.m.

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

ROBIN KRAMER
Secretary

Prepared by:
Ann P. Powers