

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, SEPTEMBER 6, 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 September 6, 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
Rob Melillo, Building Inspector
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 7:08 p.m. Chairman Sullivan stated that the next ZBA meeting will be on October 4, 2012. He went through the procedures of the public hearing.

PUBLIC HEARINGS

1. 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)

Chairman Sullivan noted for the record that the applicant’s violations had been remedied and therefore was contacted and told he did not need to appear this evening.

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

Mr. Neufeld moved to close the public hearing on Special Permit Application #6SP-2012, seconded by Mr. Gutterman.

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

2. Application #11SP-2012, RICHARD BECKER D/B/A 3SIXD RESTAURANT GROUP, LLC, 360 Mamaroneck Avenue (Section 9, Block 18, Lot 23A), for a special permit to operate a restaurant in an existing restaurant space. (C-2 District)

Richard Becker, the applicant, addressed the Board. He provided a brief history. The restaurant was formerly Piri-Q Restaurant and the Board had granted the renewal of the special permit in July 2012, Mr. Becker stated. Since then, Mr. Becker took over ownership of the restaurant.

Mr. Neufeld pointed out that the survey provided by the applicant was from the 1980's. Mr. Melillo stated that he had no issue accepting the survey for a special permit on a commercial property.

Mr. Becker noted that the hours of operation will be the same as the previous restaurant.

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

Mr. Neufeld moved to close the public hearing on Special Permit Application #11SP-2012, seconded by Mr. Gutterman.

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

3. Application 12SP-2012, JAVES CHAVEZ, 543 Halstead Avenue (Section 4, Block 26, Lot 4A1), for a special permit to operate a drop-off/pick-up only dry cleaning service. (C-1 District)

Mike Rino, the architect for the applicant, addressed the Board. He stated that the applicant wishes to obtain a special permit for the operation of a dry cleaning pick-up and drop-off facility. He reminded the Board that a parking variance was granted to Mr. Chavez at the July 2012 ZBA meeting.

Mr. Rino stated that the hours of operation are Monday through Saturday 7:30 a.m. to 6:00 p.m. He also said that he would be going to the Planning Board for site plan approval.

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

Ms. Kramer moved to close the public hearing on Special Permit Application #12SP-2012, seconded by Mr. Neufeld.

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

4. Application #13SP-2012, HECTOR A. SOTO D/B/A ASHLEY CJ CORP., 152-158 Mamaroneck Avenue (Section 9, Block 50, Lot 19A), for a special permit to operate an existing restaurant under new ownership. (C-2 District)

It was noted for the record that the applicant did not perform the appropriate mailing notifications to neighbors. Ms. Powers stated that she contacted the applicant and he understands that the mailing have to be completed for the October 4th meeting.

The application was held over until October 4, 2012.

5. Adjourned Application #24A-2012, F & B LLC. D/B/A CLUB CAR RESTAURANT, 1 Station Plaza (Section 9, Block 2, Lot 2A1), for an area variance of Article VIII, Sections 342-54 (Layout, Location & Maintenance) and 342-56 (Off Street Parking Requirements) 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) **AND** Application #14SP-2012, F & B LLC. D/B/A CLUB CAR RESTAURANT, 1 Station Plaza (Section 9, Block 2, Lot 2A1), to amend a special permit to operate a restaurant in order to increase seating inside the restaurant and add seasonal outside seating. (C-1 District) **AND** Application #1S-2012, F & B LLC. D/B/A CLUB CAR RESTAURANT, 1 Station Plaza (Section 9, Block 2, Lot 2A1), for a sign variance to erect three façade signs as the signs are a violation of Village Code 286-12 (Signs) where business establishments shall be limited to one façade sign and the applicant proposes three façade signs. (C-1 District)

The Board agreed to hear all three matters at the same time.

Paul Noto, attorney for the applicant, addressed the Board. He stated that there are three applications before the ZBA. Two of the applications stem from the request to expand/modify the restaurant approvals (parking variance and special permit). The third application is a request for sign variances.

Mr. Noto reviewed the history of the restaurant. He noted that in 2009, the ZBA granted a 52 space parking variance. At this time, he said, the applicant is requesting a parking variance for 28 spaces. Ms. Georgiou stated that a total of 64 parking spaces were required for the 2009 application.

Mr. Noto stated that there are 138 parking spaces available to the restaurant on weeknights from 6:00 p.m. until 2:00 a.m. and also on weekends. Mr. Noto went on to say that this is an adapted re-use of an existing building. Business has been good and that is why the applicant is expanding the seating, he said.

Mr. Noto indicated that the restaurant took over an empty building and because of the restaurant; the park next to it is in much better shape. The problems with unsavory people hanging out at night have diminished, he noted.

Ms. Kramer asked what the subject of the lease is. Mr. Noto stated that the building is leased, not the parking lot. Mr. Noto demonstrated on the plans the area that was covered by the lease. Mr. Fleming, the architect, handed out a seating plan to the Board members. The Board reviewed Exhibit A of the packet.

Ms. Kramer feels there are portions of the seating that are unclear and requested a survey so that the Board members could accurately determine the property line. Mr. Fleming stated that a survey was supplied with Application #24A-2012 (parking variance). Ms. Georgiou handed her copy of the survey to the Board.

Discussion arose regarding whether or not the property had been sub-divided. Ms. Kramer expressed her concern that the survey was older, dating back to 2008.

Ms. Kramer asked what the hours of operation were for the restaurant. Mr. Noto stated that the kitchen closes at 11:00 p.m. and the restaurant itself closes at 4:00 a.m. Ms. Kramer noted that parking is only permitted until 2:00 a.m. and asked how the restaurant can stay open until 4:00 a.m. Ms. Georgiou noted that the Planning Board minutes from July 25, 2012 reflect different hours of operation and that the applicant provided different hours.

Ms. Kramer stated that she has issues with how the parking signs are labeled. Mr. Noto stated that the signs are not under the jurisdiction of the Zoning Board because the signs are on MTA property. Ms. Kramer noted that the Board should not be granting variances when there appears to be a violation of the lease.

Ms. Georgiou asked if the Board can get clarification from the MTA. Mr. Noto stated that he can speak with the landlord. He went on to say that the MTA is aware of the signs and the applicant has never been asked to remove them.

Mr. Neufeld stated that the applicant has a parking agreement for 12 spaces and the balance is reserved for MTA. The agreement only speaks to the 12 spaces, he noted, and the rest speaks to anyone being able to parking in the lot. Mr. Neufeld stated that he doesn't see anything that indicates the restaurant has complete use of the parking lot. Mr. Noto handed out a memo from the MTA which indicating that the restaurant, per the agreement, is entitled to use unoccupied parking spaces from 6:00 p.m. until 2:00 a.m.

Mr. Neufeld went on to say that he was told at the last meeting that the parking spaces were exclusive. They are not the applicant's parking spaces, yet the signs say the non-patrons of the restaurant will be towed, Mr. Neufeld stated.

Mr. Noto stated that if there was a lot of use for the parking lot, MTA would change the agreement they have with the restaurant. But, the MTA knows that the spaces aren't being heavily used, he said. Mr. Noto said that the restaurant hasn't had an issue with parking concerns.

Ms. Kramer stated that the signs are incorrect. Ms. Kramer would like to know how many parking spaces are used, how much use there is, and what the actual count is. If it's determined that there are a lot of empty spaces, then this isn't an issue, Ms. Kramer said. If it is overcrowded, that might be more problematic, she said. Mr. Neufeld concurred and said that the Board would like a parking analysis.

Mr. Neufeld asked about the 12th parking space. John Verni, the owner of the building, stated that the 12th space is #169 and that is where refuse is picked up. The space is not used for parking, he noted.

Mr. Neufeld reiterated the fact that at the last meeting it was represented to the Board that the parking spaces were exclusive to the restaurant and they are clearly not. Mr. Gutterman stated that having an awareness of how crowded the lot is would be very beneficial. Mr. Weprin stated that it seems that 6:00 p.m. is the cut-off for a lot of the commuters.

Mr. Neufeld said he has concerns with an applicant putting up signs were they don't own the spots and saying that vehicles will be towed if they park there. Mr. Verni then clarified that the MTA actually put the signs up, not the applicant.

With respect to the outdoor seating, Ms. Kramer stated that there are no dimensions showing where the applicant's property ends and the MTA's property begins. Mr. Fleming said that the curb is the actual property line.

Mr. Noto went on to present the application for the modification of the restaurant's special permit to add seasonal outdoor seating. He said that most restaurants in the community have outdoor seating. The seating will be in front and the outdoor seating will be closed at 11:00 p.m. As for indoor seating, Mr. Noto said that there is plenty of space to add more seating.

As for some of the complaints from neighbors, Mr. Noto stated that the applicant had hired a promoter that turned out to be not in line with the community and is no longer with the restaurant.

With respect to the sign variances, the large building has one sign in the front and two on either side of the building, Mr. Noto said. He went on to say that the signs are tasteful and not ostentatious. Ms. Kramer asked if the signs were already up and Mr. Noto answered that they were up and approved by the BAR.

Chairman Sullivan asked if anyone wished to address the Board.

Gina von Eiff, neighbor to the restaurant, addressed the Board. She stated that neighbors were promised a nice restaurant, but after 9:00 p.m. the restaurant turns into a club. Ms. von Eiff felt this was not in keeping with the character of the community.

If the seasonal outdoor seating ends at 11:00 p.m., she said she would have no issue with outdoor seating, but she had concerns that it will increase the problems with noise. Ms. von Eiff stated that she has contacted the MTA Office of the General Counsel to obtain more information.

Ms. von Eiff stated that although the restaurant does not have a cabaret license, they provide entertainment. There are people outside at all hours of the night, she said. The restaurant becomes a lounge and that brings in a different type of clientele, she noted.

She said that as a tax payer, she is required to follow the rules and so should the restaurant. She did note that the restaurant is beautiful, but after hours it turns into something quite different.

Ms. von Eiff went on to say that the deed requires that the restaurant apply to the New York State Office of Parks, Recreation and Historical Preservation and it has not done so. She has concerns with the fact that signs are being displayed stopping the public from parking there. Ms. von Eiff stated that she worries the approvals by this Board won't be for a restaurant, but for a lounge. She also noted that the situation is getting worse and that the issue needs to be contained at this point.

Ms. von Eiff indicated that the venting is still on the outside of the building and the garbage is not enclosed. She requested that the restaurant do what others in the Village are required to do. Ms. von Eiff also noted that the applicant will be going before the Village Court to address the adult entertainment violations. She thanked the Board for listening to her.

Michael Kauflyn addressed the Board. He stated that he has known Brian MacMenamin for a long time and he has been to the restaurant. He asked where all the people from the condominium were to complain; it appeared to be only one person. Mr. Kauflyn did concede that there were trust issues that needed to be remedied and that the promoter was no longer working with the restaurant.

John Rosini addressed the Board. He stated that he lives in the condominium. He asked if the building would need to be expanded because of the additional seating. Mr. Verni stated that the building would not be expanded. Mr. Rosini asked if new parking was going to be built and Mr. Verni answered no. Mr. Rosini concluded by stating that he has concerns about the outdoor dining and is not in favor of it.

Camilla Johansson addressed the Board. She stated that she works with Mr. MacMenamin and that the restaurant is a wonderful place to work in. She noted that Mr. MacMenamin has employed a lot of people during this difficult economy. She went on to say that she has known Mr. MacMenamin for many years. Ms. Johansson said that she lives in Mamaroneck and that there are a lot of restaurants that offer outdoor dining. She noted that there is no adult entertainment and that there may be some noise, but not to the extent that is being portrayed. Ms. Johansson noted that people are enjoying the restaurant.

Christine Lowey addressed the Board. She stated that she enjoys the restaurant, but is concerned about the noise that will be generated from outdoor dining. She also read an excerpt from the restaurant's website where it indicates that the establishment is a late-night lounge after dining hours.

Nancy Wasserman addressed the Board. She noted that the renovation of the train station has been fabulous. The park has now been cleaned up, she said. Ms. Wasserman said that the restaurant has brought life to a blighted area as well as job opportunities. She did agree that there needs to be a resolution to some of these issues.

Richard Merrill addressed the Board. He stated that he has known Mr. MacMenamin since he opened his first restaurant in Larchmont. All his operations have a devotion to excellence, Mr. Merrill stated. He said he understands that the first year or two is a make or break period for a restaurant and he feels these issues can be resolved.

Mr. Kalash addressed the Board. He said that the restaurant has been nicely renovated, but the noise is certainly an issue. It is the noise from inside and also the people gathering outside that creates the problem, he said. The noise continues way beyond 11:00 p.m., he said. He does, however, see the value the restaurant adds to the community, he noted.

Suzi Oppenheimer addressed the Board. She stated that many years ago she became the mayor of the Village and served for eight years. During that time, she said, she wanted to get the railroad into better shape. Ms. Oppenheimer noted that the Verni brothers have taken an impossible site and preserved the property beautifully. She stated that the restaurant, for its first year, is a success.

Ms. Oppenheimer went on to say that the community should be thankful to the applicant and property owners for doing the work they have done at the site. She noted that there are solutions to the problems. Ms. Oppenheimer stated that she hopes there are answers for the neighbors, but she has seen where a handful of people can cause issues for business owners.

Bob Young addressed the Board. He is the owner of 120 Mamaroneck Avenue and he is in support of the restaurant. Mr. Young noted that the health of the community is the restaurants and shops in the Village. He stated that the restaurant has brought nightlife to the area.

Jerry Houlihan addressed the Board. He stated that it took a long time to get this site completed and the only person who saw the vision was Brian MacMenamin.

Esther Neuringer addressed the Board. Ms. Neuringer stated that if there is a disturbance outside, then it should be remedied no matter where it is located in the Village. She said that as long as there are specific hours of operation and appropriate permits, and the owner abides by the regulations, it should be a permitted use. Ms. Neuringer noted that the restaurant is upscale and different than other restaurants in the Village. She stated that the restaurant also employs a lot of people. Ms. Neuringer also stated that if the restaurant doesn't abide by the regulations, the Board has the authority to revoke their special permit.

Lisa Pitt addressed the Board. She stated that she is in full support of the restaurant. She said that the MTA also serves alcohol, so it shouldn't be assumed that all the issues stem from the restaurant. Ms. Pitt went on to say that the issues seem fixable. She also noted that the park has changed for the better. She concluded by stating that she supports this application.

Ralph D'Massey addressed the Board. He stated that for the past 25 years the train station was a disaster. The quality of the work that has been done to the building is amazing, he said. He acknowledged that there are some problems and he hopes that they can be resolved. He reiterated that it is a tremendous improvement to the Village and community.

Matthew Yung addressed the Board. He stated that he is concerned about the outdoor seating and is not in favor of it. He said there have been problems late at night in the past. Mr. Yung stated that being proactive will help eliminate potential problems.

Clark Neuringer addressed the Board. He stated that he is a member of the Harbor Coastal Zone Management Commission and is appearing as a resident. Mr. Neuringer asked that the Board place a condition in the resolution that the sign variances are for this specific owner and this specific operation. If the restaurant closes, then the signage issue goes back to square one.

Ms. Kramer asked what the owner was proposing to do with respect to the following:

- 1) Operating without a cabaret license
- 2) The noise issue
- 3) Music outside
- 4) Enforcement of outdoor seating ending at 11:00 p.m.

Mr. Noto stated that the restaurant does not have a cabaret license. He said the owner didn't know he needed one for the entertainment. Mr. Noto stated that the owner would apply for a cabaret license with the Village Manager's office.

As for noise, Mr. Noto stated that the type of clientele coming to the restaurant isn't people who would hang out on the streets. He noted that there is also a train station which generates more noise than the restaurant itself. Mr. Noto stated that he would like to isolate when the noise occurs. He also stated that the restaurant doesn't attract a lot of young people. As for outdoor seating, Mr. Noto said that people will not be allowed to dine outdoors after 11:00 p.m.

As for music, he isn't sure what the applicant will do. He said that the applicant would like Sunday brunch inside with jazz music playing. There won't be speakers blaring music outside, he said. Mr. Noto said that Café Mozart is a good example where the restaurant has music from time to time on Thursdays. He said that the owner may consider having a singer outside in the evening. There won't be piped music going outside though, Mr. Noto noted.

Mr. Noto said that some comments made tonight were fair and that the owner needs to gain trust again. He went on to say that it is not in the best interest of the restaurant to antagonize anyone in the community.

Mr. Neufeld stated that this is a gorgeous restaurant and that he is hearing a distinction between the restaurant and what happens after dining hours. He noted that the restaurant's webpage references a lounge and asked what exactly the establishment is.

Mr. Noto stated that the establishment is a late night operation; it's not a dance hall. He noted that there isn't a dance floor.

Brian MacMenamin, the applicant, addressed the Board. He stated that there is currently a disc jockey. He said that the nightlife originally instituted did not fit with the community. There isn't a DJ and there is no dancing, Mr. MacMenamin said. He said he envisioned an atmosphere

more like a lounge for people after dinner. He acknowledged that he had a promoter that wasn't a good fit. Mr. MacMenamin stated he is not looking to have what was there in the past and that crowd is not the crowd that he is looking for.

As for the noise, he said he assumed the noise complaints were not recent. If he lived near a similar establishment, he would be protective of the area too, he said.

Mr. Weprin asked about the website still mentioned the dancing. Mr. MacMenamin said that when he receives the cabaret license, he will provide entertainment. He apologized for the inconvenience to the neighbors.

Discussion arose regarding the NYS Historical Society and Ms. von Eiff's comments. Mr. Verni stated that he had spoken with the organization and he has decided not to be registered.

Ms. von Eiff addressed the Board. She stated that the venting was not submitted to the historical society. The trains don't run in the middle of the night, she said. She noted that the issue is the screaming, intoxicated people and all the cars. As for the trains, she has gotten used to them she said.

Chairman Sullivan indicated to Ms. von Eiff that now was not the time for rebuttals. He noted that he had given the public ample opportunity to speak even though some of the discussion was not related to matters before this Board.

The three applications were adjourned until the October 4, 2012 meeting.

6. Application #22A-2012, DANIEL LORD & LAURA COYLE, 315 West Street (Section 4, Block 46, Lot 2D1), to receive a Certificate of Compliance for a deck built under Permit 21306 as the deck violates Article V, Section 342-27 of the Schedule of Minimum Requirements where the applicant has an 8.12 foot front yard setback and 20 feet is required. (R-5 District)

Joseph Messina, attorney for the applicants, addressed the Board. He provided some history regarding the property. Mr. Messina stated that this is not a situation where a property owner built something in violation of the code and is now requesting a variance.

Mr. Messina noted that the original deck was built by prior owners. He stated that the applicants renovated the porch and received the appropriate permits. Mr. Messina said that apparently the builder never closed out the permits. Mr. Messina noted that this property is on a corner lot.

Mr. Messina said that the applicant recently went to the Building Department to obtain necessary permits to remodel their kitchen. The Building Inspector determined that the applicants would need to come before the ZBA for setback variances before they would be able to obtain a Certificate of Compliance. Mr. Messina reiterated that nothing was done improperly by the applicants.

Mr. Melillo noted for the record that he would not have issued a permit for this back in 2004. Ms. Kramer indicated that the original plans were misleading with respect to the corner lot issue. Mr. Melillo stated that the original house was built before 1968 and the deck increased the non-conformity. Mr. Melillo stated that he would check the 1994 plans.

Ms. Kramer stated that it depends on whether the applicant rebuilt the deck the same as the original one or if they built something completely different. If the latter was true, then the non-conformity was increased, Ms. Kramer said.

Mr. Messina stated that the 1994 deck did receive a Certificate of Compliance. Chairman Sullivan stated his concern of going through the history because it could result in a situation where the Board wants the applicant to take down the deck.

Mr. Messina reminded the Board that the applicant was only before this Board for a setback variance and going through the history won't change that fact.

The application was briefly adjourned so that the Assistant Building Inspector could retrieve the Building Department file. The Board went on to hear the Unger application before returning to the Lord application.

7. Application #25A-2012, PETER UNGER AND JULIA UNGER, 540 Munro Avenue (Section 9, Block 47, Lot 12), for an area variance to construct a retaining wall on a corner lot as the retaining wall violates Article IV, Section 342-14C(1) where the applicant proposes a 6 foot high retaining wall with a four foot long section of the wall varying in height from six feet to ten feet, and the maximum height allowed is 4 feet. (R-7.5 District)

Peter Unger, the applicant, addressed the Board. He stated that in May of 2012, he submitted a plan to construct a retaining wall. Mr. Unger said that on July 19th, he received a notice of disapproval referencing Section 342-12 (1) which speaks to trailers and boats. The correct section should be 342-14(c), Mr. Unger stated. Ms. Georgiou stated that the application was properly noticed as 342-14(c). He noted that he was not sure that a variance was needed based on how the code is read because the retaining wall that is being proposed is within the building lines. Ms. Georgiou stated that the Building Inspector determined that a variance was needed for the construction of the retaining wall and that is why the applicant needs a variance.

Jason Morris, the architect, said that the applicant wishes to restructure the retaining wall with varying heights because of how the retaining wall is situated. He noted that the 4 foot portion of the wall is next to the garage and is 10 feet high. Mr. Morris stated that the applicant was referred to the ZBA because some of the proposed fencing was higher than the requirements allow.

Discussion arose regarding whether this was a variance or interpretation. Ms. Georgiou stated that the applicant applied for and is present for a fence height variance request and they are not here for an interpretation. The public hearing notice would need to reflect an interpretation if that was what the applicant was requesting.

Mr. Sullivan asked how much lower the neighbor's driveway was from the Unger's property. Mr. Morris said he believed it was 10 feet lower. Julia Unger, the applicant, stated that the highest point is a 15 foot drop from her property to the neighbor's property. She said it was quite dangerous for her two young children.

Mr. Morris stated that he is installing a fence in front of the retaining wall. The fence is 42 inches in height. Mr. Melillo stated that this is the first time he is hearing about a fence in front of the retaining wall.

Mr. Gutterman reviewed the plan with the architect with respect to the grading. Mr. Morris stated that he can grade it at 4 feet.

Ms. Georgiou stated that the Board needs to know how high the fence is and where it will be located. Mr. Unger stated that the information was on the plan. Mr. Morris stated that the fence height would be 40 inches and installed 1 ½ feet from the retaining wall. The maximum height would be 10 feet with a 4 foot fence on top equaling 14 feet in height, he said. And, the remainder of the fence is 4 feet and 6 feet in height. Mr. Morris stated that he is only fencing the retaining wall and the tapered fence.

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

Mr. Gutterman moved to close the public hearing on Variance Application #25A-2012, seconded by Mr. Weprin.

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

8. Application #22A-2012, DANIEL LORD & LAURA COYLE, 315 West Street (Section 4, Block 46, Lot 2D1), to receive a Certificate of Compliance for a deck built under Permit 21306 as the deck violates Article V, Section 342-27 of the Schedule of Minimum Requirements where the applicant has an 8.12 foot front yard setback and 20 feet is required. (R-5 District)

Application #22A-2012 was continued. Mr. Melillo stated that the Building Department was unable to find anything conclusive. Mr. Messina stated that he is requesting that the Board grant the variance to close out the permit and for the applicants to be able to remodel their kitchen. Mr. Messina went on to say that the neighbor has no issues and has provided a letter supporting the granting of the variance.

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

Mr. Weprin moved to close the public hearing on Variance Application #22A-2012, seconded by Mr. Neufeld.

Ayes: Sullivan, Kramer, Weprin, Gutterman, Neufeld

Nays: None

9. Application #26A-2012, THIERRY POURCHET AND FLORENCE POURCHET, 1000 Seahaven Drive (Section 9, Block 111, Lot 3), to legalize an existing shed where the legalization of the shed violates Article V, Section 342-27 of the Schedule of Minimum Requirements where the applicant proposes 10 feet from the front yard setback and 25 feet is required. The shed also violates the side yard setback where the applicant has 2.2 feet for the side yard and 20 feet is required. The shed also violates the combined side yard setback where the applicant has an 18.6 feet setback and 45 feet is required. (R-20 District)

Florence Pourchet, the applicant, addressed the Board. She stated that she wishes to legalize a shed. The shed is six feet by 8 feet and that she purchased and installed it without knowing that a building permit was required, she noted. Ms. Pourchet said that the shed was placed in the back yard where it wouldn't bother anyone. She said she was before this Board for setback variances in the past.

Ms. Pourchet stated that she tried to avoid requesting variances, but that would mean putting the shed in the middle of her back yard. Ms. Pourchet noted that she did speak to her neighbors and they said the shed is fine where it is.

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

Mr. Weprin moved to close the public hearing on Variance Application #26A-2012, seconded by Mr. Neufeld.

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

10. Application #28A-2012, JEFFERSON MEIGHAN AND MARCIA MEIGHAN, 118 Mt. Pleasant Avenue (Section 9, Block 40, Lot 26), to install on-grade terrace and structural support columns for a second floor balcony where the on-grade deck, change of the rear steps and the alteration of the second floor balcony with a deck below violates Article IX, Section 342-64(A) (Nonconforming Uses & Buildings): A building or structure the use of which does not conform to the use regulations for the district in which it is situated shall not be altered, enlarged or extended unless the use is changed to a conforming use. The dwelling is a three family house in a single family zone. (R-5 District)

Jefferson Meighan, the applicant, addressed the Board. He stated that he purchased the home in 2008. He said that he used to spend Thanksgiving as a child next door to the property. Mr. Meighan said he bought the property in a distressed sale, the house needed a lot of work and there were liens on the property.

He stated that he had some immediate work done on the house. The floors needed to be jacked up and there were many issues that arose as work was being done on the house, he noted. Mr.

Meighan said that he has tried to maintain the integrity of the house and has respected the value of the house which was built in 1865.

Mr. Meighan stated that there are two items before the Board:

- 1) The balcony is in poor shape and leaning over. A beam with two columns is the best option to support the balcony. There will be a decorative railing to match with the rest of the railings outside the house.
- 2) The wooden platform was removed because it was rotting. The platform was rebuilt where part of the driveway was removed.

Mr. Gutterman asked if the non-conformance was with the use and Mr. Meighan said it was and that the house will be used as a three-family. Mr. Meighan stated that if this were a one-family dwelling, there wouldn't be these issues.

Ms. Kramer stated to Mr. Melillo that the code says a person can't do any work on a non-conforming use. Ms. Kramer asked why the applicant made these changes. Mr. Melillo said that if there are healthy and safety concerns or if the applicant is exchanging one for the same thing, he, as Building Inspector, has discretion.

Mr. Meighan stated that the balcony is not being enlarged; only supported. Ms. Kramer asked about the wooden platform. Mr. Meighan stated that the back porch was rotting and instead of stairs, there was a ramp. He removed the ramp and added stairs, he noted. Ms. Kramer said that was an alteration. Mr. Melillo stated that this was done with the previous Building Inspector and some work was done without Mr. Winter's approval. Mr. Meighan said that the former Building Inspector told him to change the plans and file with the Building Depart, which he did at the time.

Ms. Kramer stated that the applicant did the work without a permit after knowing he needed a variance. Mr. Meighan said he did the work and filed the appropriate plans with the Building Department. Mr. Melillo stated that the applicant added a staircase and on-grade deck.

Ms. Kramer asked how much larger the current deck is to the previous deck. Mr. Meighan stated that the square footage is the same. He said that the deck with the stairs was filed as an amendment to the plans. A brief discussion arose as to whether this was an alteration or change. Ms. Kramer felt it was an alteration.

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

Mr. Weprin moved to close the public hearing on Variance Application #28A-2012, seconded by Mr. Neufeld.

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

11. Application #29A-2012, JAMES JACKMAN D/B/A J & G CERTIFIED AUTO SERVICE, INC, 976 Mamaroneck Avenue (Section 8, Block 53, Lot 4), for an area variance of Article VIII, Section 342-56 (Off Street Parking Requirements) where the applicant wishes to alter the interior of an existing convenience store and proposes 10 parking spaces where 12 parking spaces are required. (C-1 District)

Chairman Sullivan noted for the record that his office is across the street from the applicant's business and stated he did not feel this was an issue.

Mark Smith, the engineer, addressed the Board. He stated that the applicant, Jim Jackman and the architect, Mike Rino were also present. He said the filling station had been in its present location since the 1950's or 1960's. It is a one story building with three service bays and a sale room which is 137 sq. ft., Mr. Smith said.

Mr. Smith said the project is a minor interior renovation where half of one service bay will be converted to a sales room. He stated that the applicant is requesting a parking variance. The service bay operation requires ten parking spaces and the sales area requires one parking space for every 150 sq. ft. for a convenience center, he noted. That equals twelve parking spaces, Mr. Smith stated. He said the business is able to accommodate ten spaces and that is why they are requesting a variance for two parking spaces.

Mr. Smith indicated that there are eight additional parking spaces at the filling station. There are four gasoline dispensers and the vast majority of customers park at the pumps, get gas and then go into the convenience store from those spaces, he said. Mr. Smith said that he feels there are a good amount of parking spaces available.

Mr. Gutterman asked about the employee parking and how it works because the spaces seem stacked on each other, blocking people in. Mr. Melillo noted that this application is also in front of the Planning Board. Mr. Rino, the architect, addressed the Board. He stated that there are four parking spaces in the back for employees and the three spaces in the front of them are for the convenience store. He noted that the previous Building Inspector approved the use of tandem parking, especially if it is for employees.

Ms. Kramer asked how many employees worked at the filling station and Mr. Jackman stated that he has three employees and they work in shifts. He stated that these spaces are also used for customers who leave their vehicles at the station for service.

Ms. Kramer asked what is currently in the space that will be the proposed convenience store area and Mr. Rino stated that service bay #3 is currently there and that part of it will be used for sales. She asked how big the convenience store was now and Mr. Rino said 137 sq. ft. Ms. Kramer asked if as of today, the applicant would need one additional spot and Mr. Melillo answered yes.

Ms. Kramer said that the applicant would have needed 11 parking spaces now, but they only have ten. Mr. Melillo stated that was correct. Ms. Kramer asked if that would make it non-compliant. Mr. Melillo stated that now that the applicant is adding the convenience store, the parking is being fixed. Discussion arose as to whether the applicant needs a one space or two

space parking variance. Ms. Georgiou stated that she would defer to the Building Inspector's calculation because it is an off-street parking variance. It was determined that the applicant is losing one parking space for the bay and therefore requires twelve parking spaces.

Mr. Weprin moved to close the public hearing on Variance Application #29A-2012, seconded by Mr. Gutterman.

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

CLOSED APPLICATIONS

1. Application #28A-2012, JEFFERSON MEIGHAN AND MARCIA MEIGHAN, 118 Mt. Pleasant Avenue (Section 9, Block 40, Lot 26), to install on-grade terrace and structural support columns for a second floor balcony where the on-grade deck, change of the rear steps and the alteration of the second floor balcony with a deck below violates Article IX, Section 342-64(A) (Nonconforming Uses & Buildings): A building or structure the use of which does not conform to the use regulations for the district in which it is situated shall not be altered, enlarged or extended unless the use is changed to a conforming use. The dwelling is a three family house in a single family zone. (R-5 District)

The Board discussed the merits of the application. Ms. Kramer stated that she had issues with this application. She noted that the variance for the balcony is clearly needed, but the platform and ramp improved the property. She stated that in the past, the Board has denied applicants when they are improving a non-conforming dwelling. She reiterated that the supports for the balcony are good to improve, but not the deck itself.

Mr. Neufeld stated that the work makes it livable for the applicants. Chairman Sullivan agreed with Ms. Kramer, but stated that the Board approved an application recently where a lot of work was done to the house. Chairman Sullivan stated that he does not feel this is a huge upgrade. He went on to say that he does not believe this is a substantial issue and the Board has granted these variances in the past.

Mr. Weprin stated that he also agrees with Ms. Kramer, but this is an unusual situation. Ms. Kramer stated that the Building Inspector told the applicant they couldn't do it and they went ahead and did it anyway. Mr. Gutterman stated that he agrees with Mr. Weprin and Mr. Neufeld in that it does not exacerbate the matter. The enhancement is hardly visible from the street, he noted.

Mr. Neufeld stated that he agrees with Ms. Kramer, but as a policy matter the interior is not being affected. Ms. Kramer reminded the Board that zoning says non-conforming uses should be terminated and that when you alter something to improve it, you continue the non-conformity.

Mr. Neufeld stated that the Board doesn't want a situation where the Village condemns the property. Ms. Kramer stated that they took the deck down because it wasn't as nice as what they built.

On motion of Mr. Neufeld, seconded by Mr. Weprin, the Application for variances is approved.

Ayes: Sullivan, Weprin, Neufeld, Gutterman
Nays: Kramer

2. 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)

The Board discussed the merits of the application.

On motion of Ms. Kramer, seconded by Mr. Gutterman, the Application for a special permit is approved with a three year time limit.

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

3. Application #11SP-2012, RICHARD BECKER D/B/A 3SIXD RESTAURANT GROUP, LLC, 360 Mamaroneck Avenue (Section 9, Block 18, Lot 23A), for a special permit to operate a restaurant in an existing restaurant space. (C-2 District)

The Board discussed the merits of the case.

On motion of Mr. Sullivan, seconded by Ms. Kramer, the Application for a special permit with a three year time limit is approved.

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

4. Application 12SP-2012, JAVES CHAVEZ, 543 Halstead Avenue (Section 4, Block 26, Lot 4A1), for a special permit to operate a drop-off/pick-up only dry cleaning service. (C-1 District)

The Board discussed the merits of the application.

On motion of Mr. Weprin, seconded by Ms. Kramer, the Application for a special permit is approved with a three year time limit and subject to site plan approval.

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

5. Application #22A-2012, DANIEL LORD & LAURA COYLE, 315 West Street (Section 4, Block 46, Lot 2D1), to receive a Certificate of Compliance for a deck built under Permit 21306 as the deck violates Article V, Section 342-27 of the Schedule of Minimum

Requirements where the applicant has an 8.12 foot front yard setback and 20 feet is required. (R-5 District)

The Board discussed the merits of the application. Ms. Kramer stated that with respect to the plans, the Village didn't do anything wrong. The plans were misleading and did not show the property was a corner lot.

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

Ayes: Sullivan, Kramer, Weprin, Gutterman, Neufeld

Nays: None

6. Application #25A-2012, PETER UNGER AND JULIA UNGER, 540 Munro Avenue (Section 9, Block 47, Lot 12), for an area variance to construct a retaining wall on a corner lot as the retaining wall violates Article IV, Section 342-14C(1) where the applicant proposes a 6 foot high retaining wall with a four foot long section of the wall varying in height from six feet to ten feet, and the maximum height allowed is 4 feet. (R-7.5 District)

The Board discussed the merits of the application.

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

Ayes: Sullivan, Kramer, Weprin, Gutterman, Neufeld

Nays: None

7. Application #26A-2012, THIERRY POURCHET AND FLORENCE POURCHET, 1000 Seahaven Drive (Section 9, Block 111, Lot 3), to legalize an existing shed where the legalization of the shed violates Article V, Section 342-27 of the Schedule of Minimum Requirements where the applicant proposes 10 feet from the front yard setback and 25 feet is required. The shed also violates the side yard setback where the applicant has 2.2 feet for the side yard and 20 feet is required. The shed also violates the combined side yard setback where the applicant has an 18.6 feet setback and 45 feet is required. (R-20 District)

The Board discussed the merits of the application.

On motion of Mr. Neufeld, seconded by Mr. Weprin, the Application for variances is approved.

Ayes: Sullivan, Kramer, Weprin, Neufeld, Gutterman

Nays: None

8. Application #29A-2012, JAMES JACKMAN D/B/A J & G CERTIFIED AUTO SERVICE, INC, 976 Mamaroneck Avenue (Section 8, Block 53, Lot 4), for an area variance of Article VIII, Section 342-56 (Off Street Parking Requirements) where the applicant wishes to alter the interior of an existing convenience store and proposes 10 parking spaces where 12 parking spaces are required. (C-1 District)

The Board discussed the merits of the application.

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

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

MINUTES

On motion of Mr. Sullivan, seconded by Ms. Kramer, the minutes for the April 5, 2012 meeting are approved.

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

On motion of Ms. Kramer, seconded by Mr. Weprin, the minutes for the May 3, 2012 meeting are approved.

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

On motion of Mr. Sullivan, seconded by Ms. Kramer, the minutes for the June 7, 2012 meeting are approved.

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

WORK SESSION

The Board briefly discussed the ZBA rules and application checklist. Because of the late hour, it was decided that the Board would review the materials with respect to the application process and get back with comments.

The landscaping plans for 746 The Parkway (Application #3F-2011) was reviewed by the Board. Mr. Gutterman had issues with the plans as submitted. Ms. Kramer noted that the landscaping plans were the same that were submitted in 2011, before the ZBA approved the application. Mr. Neufeld stated he couldn't discern from the drawings whether this complied with the resolution.

Chairman Sullivan asked that Ms. Powers contact Ms. Cohen to provide a more detailed landscaping plan that better reflects the conditions of the ZBA resolution.

ADJOURN

On motion of Mr. Neufeld, seconded by Mr. Gutterman, the meeting was adjourned at 10:24 p.m.

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

ROBIN KRAMER
Secretary

Prepared by:
Ann P. Powers