

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, JANUARY 3, 2013 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 January 3, 2013. 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: Lawrence Gutterman, Chairman
Barry Weprin, Vice Chairman
Robin Kramer, Secretary
Greg Sullivan, Board Member
Dave Neufeld, Board Member
Lester Steinman, Counsel to Board
Rob Melillo, Assistant 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 Gutterman called to order the Regular Meeting at 7:07 p.m. He stated that Dave Neufeld was not yet present. Chairman Gutterman stated that he would be changing the order of the agenda this evening. There was also some minor Board business that Chairman Gutterman wanted to address, but he would wait until Mr. Neufeld arrived. Chairman Gutterman stated that he would begin the public hearings with All Green Dry Cleaners.

PUBLIC HEARINGS

1. Application #1SP-2013, ALL GREEN DRY CLEANERS, 360B Mt. Pleasant Avenue (Section 9, Block 17, Lot 1), for a special permit to operate a pick-up/drop-off dry cleaner. (C-2 District)

John Kaufman, the applicant, addressed the Board. He stated that he is requesting a special permit to operate a drop-off and pick-up laundering service on the premises. There will be no machines and no laundering on the premises, he stated. Mr. Kaufman noted that he would be appearing before the Planning Board on January 9, 2013.

Mr. Kaufman stated that previously, the premises housed a delicatessen and prior to that, a dry cleaning establishment operated out of the location. Ms. Kramer asked for clarification on the “twice a day” reference. Mr. Kaufman explained that twice a day a delivery truck would pick-up and drop-off the clothes.

Mr. Kaufman stated that the clothes will be sent to Larchmont, White Plains and the Bronx for cleaning. He also noted that there is no delivery service for customers; it's a walk-in service only.

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

Mr. Weprin moved to close the public hearing on Application #1SP-2013, seconded by Mr. Sullivan.

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

2. Application #1A-2013, DOMINGOS SOUSA AND NATIVIDADE SOUSA, 514 Carroll Avenue (Section 4, Block 15, Lot 214), for an area variance of Article V, Section 342-27 of the Schedule of Minimum Requirements to construct a second story addition where the applicant proposes a 5.9 foot combined side yard setback and 16 feet is required for a combined side yard setback. (R-2F District)

Steve Marchesani, the architect for the applicant, addressed the Board. He stated that he is building a second floor addition onto a section of the applicant's home. Mr. Marchesani stated that the applicant requires a variance for the combined sideyard setbacks. Mr. Marchesani noted that the house and garage are existing non-conforming structures.

Mr. Sullivan asked if there would be a change in the footprint. Mr. Marchesani indicated there would be no change to the footprint. Chairman Gutterman asked if the footprint, FAR and other setbacks were compliant and Mr. Marchesani stated that they were all compliant. Chairman Gutterman referenced the letter submitted by neighbor Maria Savarino opposing the granting of the variance. Mr. Marchesani said he was unaware of her letter and Ms. Powers provided a copy to Mr. Marchesani.

At 7:13 p.m., Mr. Neufeld joined the meeting.

Mr. Weprin stated that the Board has heard these matters before where the footprint isn't changed, but the house has long violated setbacks. Unless there is an unusual situation, Mr. Weprin stated that he did not have a problem with this application because it does not alter the character of the neighborhood.

Ms. Kramer asked if the addition was going to be constructed straight up (vertically) on top of the existing structure and Mr. Marchesani answered yes. Mr. Neufeld referenced the 1990 survey and that a recent survey is required to go along with the application. Chairman Gutterman stated that the Board has had issues in the past where old surveys have been provided to the Board instead of new surveys being done. Mr. Marchesani stated that he was told by the Building Department that if he provided a letter stating that nothing had changed on the survey, the requirement of a new survey could be waived.

Mr. Melillo stated that there have been no changes to the property that would require a new survey in his opinion. Mr. Neufeld asked if the side yard determination was based on the 1990 survey and Mr. Melillo answered yes. Ms. Kramer noted that the survey was overlaid with the plan. Mr. Marchesani stated that what is illustrated on the plans is what he is proposing. Chairman Gutterman asked if anyone wished to address the Board.

Dan Castor, a neighbor at 518 Carroll Avenue addressed the Board. He stated that he wished to look at the plans. Mr. Castor indicated that he is opposed to modifications in the area because the homes have a certain appealing character. After reviewing the plans, he stated that although not completely in favor of the addition, he will leave it in the Board's hands to make the determination.

Mr. Sullivan moved to close the public hearing on Application #1A-2013, seconded by Mr. Weprin.

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

BOARD BUSINESS

Chairman Gutterman stated that before continuing with the public hearings, the Board had some brief business to discuss. He thanked the previous Chairman, Greg Sullivan, for his past service as Chair on the Board. Chairman Gutterman moved on to re-appoint Mr. Weprin as Vice-Chairperson and Ms. Kramer as Secretary. As there was no opposition to the re-appointments, the Board consented.

The second matter Chairman Gutterman wished to discuss is changing the regular meeting start time from 7:00 p.m. to 7:30 p.m. until further notice as it would make it more convenient for individuals commuting from the city. Chairman Gutterman stated that he did hear back from some Village staff and the Board members on making the change.

Mr. Weprin suggested that if the problem with a large agenda happens in the future, then the Board could re-evaluate the start time. Chairman Gutterman noted for the record that all future meetings will begin at 7:30 p.m. He asked that the time change be noted on the web and for future notices. The Board continued with the public hearings.

PUBLIC HEARINGS (continued)

3. Adjourned Application #2I-2012, HENRIETTE MCCABE, regarding 418 North Barry Avenue (Section 4, Block 27, Lot 12), for an appeal of the issuance of a building permit (revision) for authorized grading changes. (R-5 District)

Henriette McCabe, the applicant residing at 416 N. Barry Avenue, addressed the Board. She noted that her application regards the construction and property at 418 N. Barry Avenue. And she stated that she is an interested neighbor. Ms. McCabe indicated that it was a fascinating experience to watch the modular home being built. While she watched the construction, she

indicated that she noticed a significant change in the grade; the grade was significantly increased from when the previous house stood.

Ms. McCabe stated that on August 2, 2012, she contacted the Building Department and a violation was filed to remedy the situation. Ms. McCabe noted that grade changes impact neighboring properties and that she shares a long property line with 418 N. Barry Avenue. She said that when she realized there wasn't going to be a remedy for the situation, she hired her own engineer at her expense, he prepared a report and he shared his findings with the Village. The report, she stated, showed errors and deviations that had been made in the calculations and in the plans.

Chairman Gutterman stated that he has concerns about this Board's jurisdiction regarding the stormwater aspects and he stated that he reserves the right during deliberations to debate and consider jurisdiction. Chairman Gutterman stated that the Board did want to continue to hear the matter and gather all the facts.

Ms. Kramer asked if Ms. McCabe has seen more water since the grade change. Ms. McCabe stated that yes, on December 21st when there was 1.6 inches of rainfall, her property flooded. She stated that her backyard flooded and adjacent properties flooded. Ms. Kramer asked if prior to the grade change, did Ms. McCabe's property flood when there was 1.6 inches of rainfall and Ms. McCabe answered not to the extend it does now.

Ms. Kramer asked if there was an increase in impervious pavement. Ms. McCabe stated that she is not an engineer, but that the engineer she hired is in the audience. The applicant's consulting engineer Ralph Mastromonaco addressed the Board. He stated that he did not do calculations of what was there before and what is there now with respect to impervious surface. Mr. Mastromonaco stated that what the applicant is concerned with is the adherence to the stormwater law. Chapter 294 requires property owners to install 2,000 cu. ft. of underground storage, he noted. The Village Engineer, Mr. Mastromonaco stated, confirmed that 762 cu. ft. were installed. Mr. Mastromonaco stated that the Building Department was notified of the underground storage deficiency before the Certificate of Occupancy was issued. He went on to say that the Building Department apparently took no action. Mr. Mastromonaco stated that this deficiency, half of what is required, aggravates the problem with the grade that makes the flooding situation worse. The ZBA needs to determine whether the property owners conformed to the Village stormwater law, he said.

Mr. Weprin asked if Mr. Mastromonaco had any suggestions to remedy the situation. Mr. Mastromonaco stated that he presented two alternatives in November and December of 2012, but there hasn't been much movement from the property owner's side. Mr. Mastromonaco stated that the two alternatives were:

1. Build a small stone wall so that the grade is no longer pointing directly towards the McCabe property.
2. Install additional storage chambers (swales), with some gravel and pipes so the water does not tip towards the McCabe property.

Chairman Gutterman asked if Mr. Mastromonaco could go through the mathematical calculation errors he noted in his letter with the Board. Mr. Mastromonaco stated that there were some minor math errors that should have been picked up prior to issuing the building permit. He noted that the larger issue is the conformance to the stormwater. Had that been done, he said, the other minor math errors would be insignificant.

Ms. Kramer asked if Mr. Mastromonaco had seen the December 6, 2012 response by the Village Engineer and he stated he did. Mr. Mastromonaco stated that the six culverts, which holds 762 cu. ft. of stormwater, is the most important issue. The most significant part of the Village Engineer's letter, Mr. Mastromonaco said, was on page 3, the third bullet where it addresses the total number of storage units which is 762 cu. ft. Mr. Mastromonaco indicated that the Village Engineer is agreeing with his assertion that only 762 cu. ft. of storage was installed and per the Village stormwater law, at least double that amount of storage should have been installed.

Ms. Kramer asked if the railroad ties solve the problem. Ms. McCabe stated that wood does not stop the water. Mr. Mastromonaco stated that the railroad ties do not seem to be a permanent solution. Chairman Gutterman thanked Mr. Mastromonaco.

Chairman Gutterman asked if anyone wished to address the Board.

Susan Oakley, a neighbor at 421 Beach Avenue, addressed the Board. She stated that she lives directly behind 418 N. Barry Avenue. Ms. Oakley distributed photos of 418 N. Barry Avenue and adjoining properties. Ms. Oakley stated that the first picture is taken from the rear of 418 N. Barry Avenue. The property originally had the same grade as Mrs. McCabe's property, Ms. Oakley stated. She said that based on the photos, the grade change is very noticeable. She also noted the railroad ties which were discussed earlier. Ms. Oakley also included photos of 419 and 421 Beach Avenue.

Ms. Oakley also presented the Village Engineer's (Woodard & Curran) drainage map. She went through the map noting the depiction after the December 21st rainstorm of 1.6 inches. The yards are flooded, Ms. Oakley stated. She went on to say that the dotted lines on the drainage map are grade lines, depicting 64 ft. above sea level on down to 55.58 ft. above sea level. Ms. Oakley indicated that the flow lines are not complete because the water flows directly to Beach Avenue.

Mr. Steinman, counsel for the ZBA, indicated that there had been a request that people in the audience be able to see what Ms. Oakley is referencing. *The map was redirected so that the audience could view it.*

Ms. Oakley stated that the low point on the drainage map is opposite Linden Avenue on Beach Avenue. With the subsequent grade change, Ms. Oakley stated that it only increases the water. Ms. Oakley also stated that although Mr. Mastromonaco's plan may help the McCabe's property, it will only make Beach Avenue flooding problems worse. She said that the properties would never have flooded to this degree, with 1.6 inches of rainfall, as they do now.

With respect to the drainage lines shown, Ms. Kramer asked if this is a depiction before or after the construction. Ms. Oakley stated that this is a depiction pre-construction. Discussion arose as to what the difference was before and after. Ms. Kramer referenced the letter from Woodard & Curran which stated that the area behind the newly constructed home and deck were filled approximately one foot to 15 inches higher than the grade that previously existing. Ms. Kramer stated that assuming this is correct, 62 feet would be 63 feet or 60 feet would be 61 feet. Ms. McCabe stated that was not accurate. She invited the Board members to come visit her property. On the chain link fence that separates the two properties, she said she has marked 12 inches, 18 inches and the Village Engineer has put in writing that it is up to 30 inches.

Mr. Neufeld asked if Ms. McCabe knew the amount of fill used and she stated that she did not. Mr. Neufeld asked if the fill was brought onto the property. Ms. McCabe stated no, it was fill that was removed when a hole was dug for the new basement. Mr. Neufeld asked if the engineer did any calculations to determine the amount of soil that would have been removed. Ms. McCabe said it would have been the Village's engineer, not her engineer.

Chairman Gutterman asked if anyone else wished to address the Board.

Tim Farrell, a neighbor at 415 Beach Avenue, addressed the Board. He stated that he has lived at this location since 1984. He said he doesn't understand why the grade was changed from what was originally planned. Mr. Farrell said that he did not want someone else's water coming on to his property. Mr. Farrell stated that Mr. Pisco doesn't live at the property. He also stated that he did not know why neighbors weren't notified about this situation.

Joseph Maeder, a neighbor at 419 Beach Avenue, addressed the Board. He stated that prior to the construction of the new building, everything was normal. Now there are all sorts of problems with respect to water, he noted. Something needs to be done about this situation, Mr. Maeder said.

Martha McCarty, attorney for Marbourne Realty (Jack & Maggie Pisco), addressed the Board. She handed out a document to the Board members. Ms. McCarty noted that the Piscos are not a party to this application as the house was sold in November 2012. She also noted that she has permission from the new owners (Jen & Yuko Obato) to speak.

Ms. McCarty stated that her clients did everything by the book. She stated that when Mr. Pisco realized an error had been made with the evaluation, he went to the Building Department to rectify the matter. When the Building Department told her clients to install five cultecs, they installed six cultecs, Ms. McCarty stated. Ms. McCarty noted that in the 30 years she has lived in the Village, it has gotten wetter and wetter. She went on to say that water goes where water goes.

Ms. McCarty reviewed what was at the location prior to the new construction and what is there now after the new construction. Ms. McCarty stated that the home that previously existed at 418 N. Barry Avenue had no system for handling runoff from storms. The site plan for the new home included six dry wells, of which four are in the front of the house and handle all of the water from the gutters on the home and water in the front of the property. Ms. McCarty stated

that the water from the front of the property is directed into the Village's storm sewer by an overflow pipe. She went on to say that in the back, there are two culverts by the driveway. Both culverts and the overflow pipes were built according to plans submitted to the Building Department, she said.

Ms. McCarty stated that there was a question earlier about impervious surface; she said she would suggest that there is less impervious surface now than when the old house was standing.

Ms. McCarty noted that Ms. McCabe had asked Mr. Pisco for some fill during construction and her clients gave her fill. Ms. McCarty stated that Ms. McCabe stockpiled the fill in her back yard and she did not know if it was still stockpiled. It was covered by a blue tarp and Ms. McCarty believes the water goes around the tarp. She noted that her clients have done everything they were supposed to do.

Ms. McCarty stated that she can't account for Mr. Mastromonaco's report that states there is an inaccuracy in the Village Engineer's calculations. Ms. McCarty stated that she does not agree with Mr. Mastromonaco's assertion that her client was given options and they did nothing. She said that her client has tried to come to an agreement. Ms. McCarty stated that she has emailed Ms. McCabe's attorney on a weekly basis, reaching out in order to come to some sort of agreement.

Ms. McCarty stated that she agrees that the wall is not a solution for Ms. Oakley's issue. She went on to say that her client doesn't want to lose property by building a wall and backfill a foot from the property. No one would want to give up space on a small parcel, she noted.

Ms. McCarty stated that her client had offered to do the swale, but want some assurances that the new owners will be left alone. The added soil would unfairly impact neighbors to the rear of the property, she said. Ms. McCarty stated that the property has been surveyed at a foot or a foot and half grade. She also noted that her client has continued to try and work with Ms. McCabe.

Ms. McCarty stated that she understands that Ms. McCabe feels that her property has been worsened, but that Ms. McCarty is not sure it is because of any work her client did. Ms. McCarty said that the weather has changed in recent years and there are more storms in the last several years. She also wanted to correct the record to state that a new survey has been done and the property has been surveyed at one foot to a foot and a half higher.

Chairman Gutterman referenced Mr. Mastromonaco's earlier comments about mathematical errors in the Village Engineer's report. Ms. McCarty stated that Ms. McCabe's engineer said there was an error, but she didn't have the expertise to address it.

Chairman Gutterman asked Ms. McCarty to specify what error she was referencing during her presentation; was it a design error or construction error. Ms. McCarty stated that she was referencing the mathematical errors that Ms. McCabe's engineer had referenced. She stated that information is beyond her expertise.

Ms. Kramer stated that Ms. McCarty had referenced a survey; however, she doesn't have a copy of the survey. Ms. McCarty stated that there is a memo that acknowledges that a survey was re-shot by Richard Spinelli, the surveyor and that the Village Engineer affirmed the survey is

correct. Chairman Gutterman stated that he would like to see a copy of the survey being referenced. Mr. Melillo stated that he has the entire Building Department record and will submit it to the Board and it includes the survey.

Ms. Kramer stated that the Village Engineer's letter says the spot between 416 and 418 N. Barry Avenue is the low point of the drainage area, but looking at the drainage area map that the engineer submitted, that is not the case. Ms. McCarty stated that the only part of the property that is in question now is the part behind the deck up to the garage. Ms. Kramer had more concerns about the discrepancy in the memo and the drainage map. Ms. McCarty went on to say that the only question is how much water there is now and she feels it has been made better. She reiterated that her client has six cultecs installed on the premises. Ms. Kramer asked what a cultec is and Ms. McCarty said it's a dry well.

Mr. Sullivan stated that, to his recollection, he doesn't remember a situation where the Board was hearing an application while the neighbors were trying to settle the matter on the side. Mr. Sullivan asked for Ms. McCarty's interpretation on jurisdiction. Ms. McCarty stated that she does not believe this application should be before the ZBA. She noted that Ms. McCabe should have taken issue when the permit was first issued and believes the time has lapsed on that matter. Ms. McCarty stated that she does not feel this should be before the ZBA.

Ms. McCabe addressed the Board and stated that the Village is here to uphold the code. She stated that the code is not being followed and she wants the Village to uphold the law. Ms. McCabe went on to say that if the Village is unwilling to protect her property, she will work on the side to try and come up with a resolution. She concluded by stating that she feels her recourse is through the ZBA since she has an issue with the Building Inspector's actions. Mr. Sullivan stated that he was still uncertain as to why the application was before the ZBA; there were other avenues for Ms. McCabe to appeal. Ms. McCabe stated that the code states that if a constituent has an issue with the determination of the Building Inspector, the recourse is the Zoning Board.

Mr. Steinman noted that the Village Engineer and the Building Inspector are present at the meeting.

Ms. Oakley addressed the Board. She stated that neither the stone wall nor swale will cause to lessen additional water to the properties behind the 418 N. Barry Avenue.

Anthony Carr, the Village Engineer, addressed the Board. Mr. Carr stated that based on information he had from the Village topography, it shows the water does drain from 416 and 418 N. Barry Avenue towards Beach Avenue. Based on his research, there is a low-lying area there, he said. He noted that the drainage area map shows that 416 and 418 N. Barry Avenue are the furthest point downstream of the watershed and that 33% of that area is impervious. Mr. Carr went on to say that most of the properties upstream have uncontrolled water run-off because the codes were adopted only a few years ago.

Chairman Gutterman asked how the existing drainage area boundary is defined. Mr. Carr stated that basically there are a few homes, some asphalt driveways, walkways and grass area.

Chairman Gutterman asked why it isn't a bigger/wider area. Mr. Carr answered because of the way the land is carved out/shaped; some of the water drains to the front and some of the water drains to the back. Chairman Gutterman then asked if a natural boundary exists and Mr. Carr answered yes. Mr. Carr went on to say that the applicant is correct with respect to the elevation levels going from high to low, however it is not continuous, otherwise the water wouldn't pond.

Ms. Kramer asked why this is the drainage area and Mr. Carr stated that it's a natural boundary. Ms. Kramer stated that she did not understand why this area is the drainage area. She said that it appears that an artificial drainage area is being created. Mr. Carr stated that the map shows that these two properties are downstream from a bigger watershed that may be releasing uncontrolled run-off to that property, hence the buildup of water. Regardless of whether or not the grade is raised one or two feet, the water is still getting to the same place, he noted. Ms. Kramer stated that if an area is made steeper, the water will travel faster and if the area is less steep, there is time for the water to absorb into the ground as it travels downward. Mr. Carr stated that as an example, there is a path of water that travels from a far distance to a particular spot, the path is still unaffected based on the peak rate of discharge and peak rates are influenced by land coverage. What the property owner's engineer did was not only connect the impervious areas of the property to culverts; they also did a reduction in impervious coverage by going to a gravel driveway, Mr. Carr stated.

Mr. Carr stated that the map shows there were no stormwater controls before and now there are stormwater controls. Now, the water takes a small detour and then ends up on the same area, he said. Mr. Carr noted that Mamaroneck is a downstream watershed. He said that he accepts the Pisco's plan and that nothing is being done underhandedly. Mr. Carr stated that per Chapter 294-2, he believes what was constructed meets the purpose and intent of the code.

Ms. Kramer stated that the drywells don't have the capacity. Mr. Carr stated that he has no issue with the drywells; he feels the culverts satisfy the code and is adequate. He also noted that he reviewed this project the same way he reviews every application.

Mr. Sullivan asked if the work meets or exceeds the code. Mr. Carr answered that parts meet the code and parts, such as the water quality, that exceed the code. It meets the minimum requirements for the permit.

Mr. Neufeld asked if adding the fill added to the run-off problems. Mr. Carr answered that he feels it was not exacerbated and believes everything to be in order. Flooding has always been a problem, he stated. The property owner's engineer and the property owner Ms. McCabe stated that it was a problem before the work was done and it is a problem still. He said his contention is that the problem was not made worse by this construction.

Mr. Neufeld asked if changing the grade increased the problem. Mr. Carr said the grade that was raised is on 800 sq. ft. of grass and after the heavy rains, there was no water coming off the lawn.

Mr. Neufeld stated that once someone starts artificially changing the grade, isn't there an effect. Mr. Carr stated that he does not believe the grade is causing an adverse effect. Mr. Neufeld asked why the grade was changed. Mr. Carr stated that it was a field adjustment change made

during construction and that he did not know the specific reason for the change. Mr. Melillo stated that he doesn't know why the grade was changed; it was the builder's decision. He also asked the Board to keep in mind that this is a 20 ft. by 20 ft. area.

Ms. McCabe distributed photos from 2010 during a heavy rain. She stated that before the construction, with rainfall, both 418 N. Barry Avenue and her property flooded. She said that since the change, she only floods.

Sue McCrory addressed the Board. She stated that she agrees with Mr. Neufeld as to why the topography was changed. Best practices, she said, say to keep the topography the same. Ms. McCrory stated that the plans said the topography was going to be unchanged and yet it was changed. She stated that there appears to be no reason why it was changed. Ms. McCrory stated that people obtain permits, do what work they want to do and then ask for forgiveness. Ms. McCrory stated that the Village has to start dealing with these water problems and she hopes this Board makes things right.

Mr. Mastromonaco said that the statement of fact is whether or not the Village's stormwater plan was followed. There are no exceptions to the law, he said. He stated that he respectfully disagrees with Mr. Carr's analysis. Secondly, Mr. Mastromonaco stated that he is questioning whether the pond area was filled. That would aggravate the water problem on Ms. McCabe's property, he noted. He said that he believes the Building Department made an error in issuing the Certificate of Occupancy.

Mr. Neufeld asked what the reasoning was behind raising the grade. Mr. Pisco, the property owner, stated that it was an oversight in an 800 sq. ft. area. He stated that Ms. McCabe's property was always below his property. He stated that the entire back yard is 5,000 sq. ft. and that everything is pitched toward a drain that is in front of the garage. Before the adjustments, the property pitched toward Ms. McCabe's property, Mr. Pisco said.

Mr. Neufeld asked if there was flooding on Mr. Pisco's property before the construction. Ms. McCarty stated that her client did not live there long enough to answer that question. Mr. Pisco stated that the water is now 90% contained. Mr. Pisco stated that Ms. Oakley failed to show the long rock cropping that runs along her property line.

Mr. Neufeld stated that his issue is that the grade has been artificially altered. Ms. Kramer asked if fill was added to the southwest part of the property. Mr. Pisco indicated it was not. Ms. Kramer stated that what Ms. McCabe is saying is that since the grade change; 418 N. Barry Avenue has less flooding than Ms. McCabe's property. Ms. Kramer and Mr. Pisco reviewed the photos submitted.

Ms. Kramer asked what was on the property before the construction and Mr. Pisco stated that it was all grass. Now, he said, it is gravel. Mr. Pisco also noted that the driveway went from being asphalt to being gravel.

Mr. Melillo showed the before and after maps to the Board. Ms. McCabe stated that surveys from August only have spot elevations, but that it is actually a larger area. The topography has

been changed in a larger area than is being depicted, she said. Ms. McCabe supplied the Board with more photos before the work was performed.

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

Mr. Weprin moved to close the public hearing on Application #2I-2012, seconded by Mr. Sullivan.

Ayes: Gutterman, Sullivan, Weprin, Neufeld

Nays: Kramer

4. Application #2A-2013, EDUARDO MAIRENA, 611 Rushmore Avenue (Section 9, Block 83, Lot 17), for an area variance of Article V, Section 342-27 of the Schedule of Minimum Requirements to legalize an existing 16 foot by 22 foot detached garage constructed without a permit to replace a demolished detached garage where the applicant proposes 4.3 feet for a combined side yard setback and 35 feet is required for a combined side yard setback. The detached garage also violates the rear yard setback where the applicant has 3 feet and 6 feet is required for a rear yard setback. (R-15 District)

Sam Vieira, the architect for the applicant, addressed the Board. He stated that the applicant needs to legalize an existing detached garage. Mr. Vieira said that the home was built in 1923.

Mr. Vieira stated that in 2008, a greenhouse and garage were removed with the proper permits. The subsequent detached garage was constructed without a permit, he noted. He stated that the variances are needed in order for George Wood, the contract vendee, to purchase the property. Mr. Vieira indicated that the property is a small lot for the zone. He went on to say that the lot is also very narrow. Both the size and the narrowness of the lot contribute to the numbers for the setback, Mr. Vieira stated.

Mr. Vieira referenced the survey to illustrate that the new structure is basically in the same place, except that the original structure was over the property line and now it is not. Mr. Vieira also noted that there are a few detached garages in the surrounding neighborhood.

Chairman Gutterman asked when the garage was reconstructed and Mr. Vieira said it was between 2008 and 2010. Mr. Neufeld asked that based on the old survey, the house looks like it was extended and if it was, was there a permit for it. Mr. Vieira stated that he did not know. Mr. Neufeld asked what the garage is used for. Mr. Vieira stated that currently a truck is parked in it. Mr. Neufeld then asked what the future plans for the garage were and Mr. Vieira answered the same as how it is used now. Mr. Neufeld asked if the garage had plumbing and Mr. Vieira indicated that it did not.

Mr. Vieira stated that there is no record of the greenhouse. The greenhouse was gone and the new garage was built before Mr. Wood became involved. Mr. Neufeld asked if the house is occupied. Mr. Wood stated that he is not sure, but there are things still in the house from the sellers.

Mitchell Rutkin, attorney for Mr. Wood, stated that the house is in the process of being foreclosed and is in a short sale. He explained that is the reason Mr. Wood is before the Board. In order to close on the loan, the variance is required, Mr. Rutkin stated.

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

Mr. Neufeld moved to close the public hearing on Application #2A-2013, seconded by Mr. Weprin.

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

5. Application #1I-2013, STUART TIEKERT, regarding 0 Pine Street (Section 4, Block 54, Lot 23A), for an appeal of the issuance of a building permit and Storm Water Pollution Prevention Plan to construct a single-family house. (R-5 District)

Mr. Tiekert, the applicant, addressed the Board. He stated that he has concerns as to whether the Village is following the code with respect to stormwater management plans and protecting the general welfare of the Village. It's about Chapters 342, 186 and 294 of the Village code, he noted. Mr. Tiekert stated that he would be happy to answer any questions the Board may have. As a reference point, he noted, in 1994, the ZBA was effective in redirecting the Village after the original Article 78 was lost by the Village on Pine Street to get the Village on the right course and get the Planning Board in on the decision making. Mr. Tiekert stated that work has not yet begun on 0 Pine Street and the Board has an opportunity to get it right before the house is built.

Chairman Gutterman stated that the Board may discuss the question of jurisdiction, but that the Board does want to hear the application and look at the facts. Ms. Kramer asked what the specific issue is. Mr. Tiekert stated that with respect to Chapter 186, a site development permit has not been issued and it is clearly required. Mr. Tiekert went on to say that he does believe the stormwater plan is deficient and that the Planning Board should have done site plan review per Chapter 342-75.

Mr. Sullivan said that Chapter 186 states that this type of matter should be taken up with the Planning Board. Mr. Tiekert stated that it may well, however he is appealing it based on Chapter 342-75 and 294. Mr. Sullivan stated that Mr. Tiekert's application references both Chapters 342 and 186-10 and that 186-10 indicates that the matter should be taken up with the Planning Board. Mr. Tiekert stated that Chapter 186 also relates to complying with Chapter 294. Mr. Tiekert also stated that he did not know that the Planning Board hears appeals; he thought that was under the purview of the Zoning Board. Mr. Sullivan referenced Chapter 186-10(G), in which it references appealing to the Planning Board. Mr. Tiekert said he felt the attorneys should figure that out.

Ms. Kramer asked if Mr. Tiekert is saying that the Village's determination of the Stormwater Management drainage doesn't meet the code/standards and is he saying that proper site plan wasn't done. Ms. Kramer asked why Mr. Tiekert says this application needs a site development plan approval per 342-75. Mr. Steinman stated that there is a site plan approval that the Planning

Board does and a site development plan approval per Chapter 186 that is done through the Building Department.

Ms. Kramer stated that she is not speaking about that. She said she is referencing 342-75 that refers to a site development plan approval. Ms. Kramer said that based on the code, a site development plan is not needed for a single-family house. Ms. Kramer stated that she knows that Mr. Tiekert, in his application, referred to Section B (proposed use of open land).

Ms. Kramer stated that the property owner is not having a use of open land, they are building a house. She went on to say that this is not a use of open land (per the code). Examples of uses of open land would be building golf courses or parking lots, Ms. Kramer said. She noted that the code says this type of project does not need a site development plan for one and two family dwellings. Ms. Kramer said that a house is not a use of open land. Ms. Kramer asked why Mr. Tiekert feels the property owners need a site development plan in this instance. Mr. Tiekert stated that his read of the code states that all proposed uses of open land that a Certificate of Occupancy is required and that a house requires a Certificate of Occupancy. Ms. Kramer said that a house is not a use of open land; it is development of open land. Ms. Kramer stated that she did not believe a site development plan was needed for a single family home.

Mr. Melillo stated that the Board has already addressed this in the Ottinger case and the Board has already ruled that site development plans are not needed for residential properties. He also stated that the intent of Chapter 342-75 is for site plan approval.

Mr. Tiekert stated that he believes the Planning Board has done site plan review on houses being built on open land on Frank Avenue and that he would be happy to get the information to the Board. Mr. Tiekert stated that there is also Section E of Chapter 342 which is the Stormwater Pollution Prevention Plan. That is if an individual is going for site plan approval, Mr. Melillo stated. The intent of Chapter 342-75 is for commercial properties, Mr. Melillo noted.

Ms. Kramer stated that Section B (not a use of open land) does not apply and D (didn't have a previously approved site development plan) does not apply. Ms. Kramer's question is regarding Section E; she asked if a Stormwater Pollution Prevention Plan has been reviewed by the Planning Board. Mr. Tiekert said he did not think it had.

Mr. Steinman stated that this provision is added to conform to what is already in Chapter 294. Its intent is where you have an application that is going to have site plan approval; then there is going to be a Stormwater Pollution Prevention Plan as a condition, he noted. Ms. Kramer stated that the way the code is written, it does seem to imply an independent basis for jurisdiction. Mr. Steinman said that it doesn't.

Mr. Tiekert stated that Chapter 294 of the code goes well beyond the state's Stormwater Pollution Prevention Plan and he believes the application is appropriately before this Board. Clearly, Chapter 186 has not been complied with and a building permit was issued, Mr. Tiekert stated. Since the project hasn't been built, there is the opportunity to correct problems if there are any, Mr. Tiekert said.

Chairman Gutterman asked if anyone else wished to address the Board.

Mr. Melillo stated that he wished to include a few more items for the record. He said that the site development permit referred to in Chapter 186 is issued by the Building Department. This permit has only been used when the entire action was for a grading/filling activity, he noted. When a building permit is issued this permit is not necessary, he said. The grading work is considered by the Building Department when reviewing the application, he indicated. Mr. Melillo went on to say that the Village Engineer reviews everything, including the Stormwater Pollution Prevention Plan.

Mr. Tiekert stated that 0 Pine Street was originally referred to the Planning Board for site plan review, but that review never took place even though it was publicly noted. Clearly there is a difference of opinion as to whether this needs to be reviewed by the Planning Board, he said.

Mr. Steinman clarified that there was an application submitted by Mr. Brescia (property owner) for 0 Pine Street for site plan approval, but when Mr. Steinman reviewed it, he advised that site plan approval was not required and nothing was done further as it is the construction of a single family house.

Chairman Gutterman asked if anyone wished to address the Board.

Ms. McCrory addressed the Board. She stated that if Mr. Brescia wasn't aggrieved by the zoning official's determination to require site plan approval, site plan approval should have occurred.

Mr. Sullivan moved to close the public hearing on Application #11-2013, seconded by Mr. Weprin.

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

6. Adjourned Application #16SP-2009, MAMARONECK BEACH & YACHT CLUB, LLC., 700 South Barry Avenue (Section 4, Block 77, Lot 31), to renew a special permit to host non-member events. (R-10 District)

Paul Noto, attorney for the applicant, addressed the Board. He stated that he submitted from the Club a list of member and non-member events per the Board's request. He noted that based on the submission, the Club is under the stated threshold. Mr. Noto reiterated that the Club did provide the 990 forms and feels that the Club has complied with both stipulations in the resolution.

Mr. Noto submitted copies of contracts the Club has with various individuals to hold events. He noted that personal information had been redacted. Discussion arose regarding the actual legal name of the Club, based on a question Ms. Kramer asked regarding prior litigation illustrating several different names. Mr. Noto stated that the Club's name is Mamaroneck Beach and Yacht Club.

Ms. Kramer noted that the Board had received material from opponents of the Club. She asked why the 990's don't indicate employees and how can the Club run events without employees. She also asked for clarification as to which entity is running the events.

Mr. Noto responded by stating that the Club does not need to report employees on the 990 tax forms. He also stated that the tax preparer prepares the form as he sees fit. Mr. Noto went on to say that everything with the Club revolves around Club activities and there are no other businesses being run out of the Club. He said that the Club is simply seeking a renewal of their special permit.

Ms. Kramer stated that if there is something that is brought to the Board's attention, the Board can't issue the special permit if it thinks there is an issue. Mr. Noto stated that he feels any issues are enforcement issues, not something the ZBA should be involved with. He also noted that there are no violations with respect to the Club.

Ms. Kramer read from the code's definition of a non-member event. Mr. Noto said that the Club has used their judgment as to what a non-member event is, even though the code isn't well written. He noted that every club in Mamaroneck would not be in compliance based on the wording of the definition.

Ms. Kramer stated that the Board may have to make an interpretation in order to grant the renewal of the special permit. Mr. Noto stated that the law was written so that there wouldn't be an overabundance of non-member events, thereby creating a catering business. Mr. Noto also said that when the laws were drafted, no Village representative sat down with the clubs to better understand how they work. Mr. Noto indicated that there are many categories of membership.

Chairman Gutterman stated that at the prior meeting, a member from the public mentioned that a complementary membership was offered in order to host an event. Mr. Noto stated that in order to have dining privileges at the Club, one has to pay. Chairman Gutterman asked if that situation would change a non-member event to a member event. Mr. Noto said that yes it would.

Mr. Neufeld stated that the idea was that this was to be an ancillary component for a not-for-profit organization. Mr. Noto stated that from 1984-2000, there was a movement to attract people to the Village's waterfront. That all changed in 2000 with the Local Waterfront Revitalization Plan (LWRP), he said. Mr. Noto indicated that he feels it is a good thing to showcase the waterfront and off-set membership dues by hosting non-member events.

Mr. Neufeld stated that Mr. Noto said the Board of Trustees did not consult the Clubs when drafting the laws, but that the Clubs could have gone to the trustees.

Discussion arose as to whether the Club was a legal non-conforming before the MR district was established. Mr. Noto stated that the Club is not non-conforming.

Chairman Gutterman asked if anyone wished to address the Board.

Sue McCrory addressed the Board. She stated that she has no antagonism to MB&YC or any other club. She said that her feeling is that the code should be enforced. Ms. McCrory stated that she believes the Club is not a not-for-profit organization. She said she believes it is a for profit business.

Ms. McCrory went on to say that in Lisa Rosenshein's transcript, she states that prior to the creation of the MR-ZONE [1984-85], MB&YC was located in a residential zone. Since MB&YC is not residential, it was non-conforming, and needed a zoning variance, she said. Ms. McCrory stated that she asked Ms. Powers to look into it and was awaiting an answer.

Ms. McCrory went on to say that members are defined in not-for-profit clubs and that the members control the operation of the Club. She said that according to the Rosenshein transcripts, that is no longer the case. She noted that she believes this is a Rosenshein family business. Ms. McCrory said that the code states that a club must be a not-for-profit and by sworn testimony by Ms. Rosenshein, that is not the case. The zoning code, Ms. McCrory said, states that this should be not-for-profit. Membership and non-membership has no meaning, she stated.

Ms. McCrory indicated that as far as entity names are concerned, she has always been confused with the different business names. Ms. McCrory stated that the public hearing notice states the Club's name as MB&YC LLC., which she said does not exist. Mamaroneck Beach and Yacht LLC and Taylor Point Associates are the true entities, she said. She said that the lawsuit captions don't show the correct names either.

Ms. McCrory stated that she contacted the Department of State to find out which names are filed with the state. She said that the Department of State informed her that it has no such entity (MB&YC LLC) on file. She went on to say that the Club is portraying itself as a not-for-profit when it is, in fact, a business. Ms. McCrory also stated that the Board should not be making an interpretation as the first order of business, given the way this renewal for the special permit has come before the Board.

Mr. Neufeld asked what Ms. McCrory's issue is with selling memberships. Ms. McCrory stated that she believes that would be against the code. Discussion arose regarding not-for-profit and for profit businesses. Ms. McCrory argued that the discussion was hypothetical because the club is not a not-for-profit.

Ms. Kramer stated that in the R-20 district there is a definition of annual memberships and Ms. McCrory stated that it still needs to be a not-for-profit entity.

Chairman Gutterman asked if anyone else wished to address the Board.

Dan Natchez addressed the Board. He submitted a position statement from Coordinating Council of Neighborhood Associations. He stated that he was here tonight representing Shore Acres Homeowners Association. He stated for the record that he filed a letter on December 31, 2012 by email and hand delivered a copy to the Zoning Board office on January 2, 2013.

Mr. Natchez stated that no one is trying to stifle club activities. The issue at hand is that the activities are for its members, he said. Mr. Natchez noted that the 990's are filed with the incorrect entity name and the issue is that there are many different entities. Mr. Natchez stated that the application is really for a special permit to continue operating non-member events. MB&YC is not an entity and either way, it is uncertain if it is a commercial entity or not-for-profit entity. Mr. Natchez went on to say things were not as clear in the past, but now that there are depositions available, situations that were not known in the past are known now.

Ms. McCrory noted that through a FOIL request, she had asked for copies of MB&YC documents in 2010. Those requests were denied and then subsequent to filing an Article 78, she said she received documents related to the Club in 2011.

Chairman Gutterman asked if anyone else wished to address the Board.

Nadia Valla addressed the Board. She stated that she is scared and concerned about the noise coming from the Club. She referenced Section 254 (Noise) and asked if the noise code will have any impact on the special permit. She stated that she has had to deal with noise issues coming from events at the Club and wants to know who will enforce the noise.

Mr. Sullivan stated that the Club must abide by all the codes and if they do not, the Board can revoke the special permit. Chairman Gutterman suggested Ms. Valla reach out and work with the Club.

Mr. Noto addressed the Board. He stated that the not-for-profit is the Mamaroneck Beach and Yacht Club Inc. Income and expense reports ended in 1998 for Taylor Point Associates, he said. Mr. Noto stated that the Club is operating as a not-for-profit and that nothing precludes the Club from having another entity manage the business. Mr. Noto noted that Club activities are the only things being run through the Club. He said that the Club has complied with the resolution. Mr. Noto also reminded the Board that the Club pays hundreds of thousands of dollars in taxes and employs 200 people, many of whom live in the Village. He said the Village must be more supportive of the clubs in the area. He concluded by stating that the Club has demonstrated compliance with the code.

Mr. Natchez asked if Inc. is a not-for-profit or for profit entity. Mr. Weprin stated that Mr. Noto indicated Inc. was a not-for-profit. Discussion arose as to whether all of the Club's revenue from events is reflected in the 990's.

Ms. Kramer stated that too many issues have been raised regarding this application. She noted that the Club appears to have met the 20% standard. She questioned whether the Board needed anything further to make an interpretation. Mr. Sullivan stated that the Club provided copies of the 990's, provided an affidavit of non-member events and also provided a break-out of the events.

Chairman Gutterman moved to close the public hearing on Application #16SP-2009, seconded by Mr. Sullivan.

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

7. Adjourned Application #26SP-2006, ORIENTA BEACH CLUB, 1025 Rushmore Avenue a/k/a 1054 Walton Avenue (Section 9, Block 98, Lot 1), to renew a special permit to host non-member events. (R-15 District)

Mark Sheehan, General Manager of the Club, addressed the Board. He stated that at the last meeting, his associate was asked to provide a break-out of member/non-member events. It was prepared, however, it was not sent to the Zoning office, Mr. Sheehan stated. He said he had some numbers with him to share with the Board.

Mr. Sheehan said that the club is a member-owned facility, the board is elected and they govern the club/control the equity of the club and all revenue is used to enhance the club. Mr. Sheehan stated that the club hosted 141 member events and 31 non-member events in 2012, which would be 18% non-member events. The Board asked that Mr. Sheehan provide member vs. non-member event numbers for 2010, 2011 and 2012.

Mr. Weprin asked how the club defines a member event and a non-member event. Mr. Sheehan stated that it's when a member has an event or sponsors an event. Ms. Kramer then asked if she was a member and wanted a friend to have a function at the club, could that happen and would it be considered a non-member event. Mr. Sheehan stated that would be a non-member event. He noted that without an association to the member, the club would not allow the event.

Chairman Gutterman asked if anyone wished to address the Board.

Ms. McCrory addressed the Board. She stated that the comparison between the 990's of the Orienta Beach Club and MB&YC is very illustrative. She noted that Orienta names the directors and MB&YC does not. Chairman Gutterman reminded Ms. McCrory that the MB&YC application was closed and it was not appropriate for her to make public comments. Ms. McCrory continued by stating that Orienta Beach Club is operating compliant with the code.

Discussion arose as to whether the Board should close the public hearing or keep it open until the club provided the requested document. Mr. Steinman stated that the Board could close the hearing conditioned upon the applicant submitting the paperwork promptly.

Mr. Weprin moved to close the public hearing on Application #26SP-2006, seconded by Ms. Kramer.

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

CLOSED APPLICATIONS

1. 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)

The Board discussed the merits of the application and reviewed the draft resolution. Chairman Gutterman stated that the hours for outdoor dining have been addressed in the draft resolution. Mr. Neufeld thought the Board had agreed upon requiring that the windows and doors be closed at 10:00 p.m. not 11:00 p.m. The Board felt windows and doors should be closed at 11:00 p.m.

Ms. Kramer asked if the Board had decided to allow music on the weekends and Chairman Gutterman stated that the Board had said no music was to be played outdoors and compromised with allowing outdoor dining on the weekends. Discussion arose as to whether the Board could vote based on the changes to the current draft resolution and it was decided that they could vote.

The Board agreed to allow outdoor dining on Saturdays and Sundays, with the last seating for dining to be 7:00 p.m. so that the outdoor seating area could close by 9:00 p.m.

On motion of Mr. Neufeld, seconded by Ms. Kramer, the application to amend the special permit is approved.

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

2. Application #35A-2012, SRN CORP. D/B/A SARAH NEUMAN CENTER, 845 Palmer Avenue (Section 9, Block 3, Lot 3B), for a variance to facilitate renovation and expansion of a nursing home facility, including a two-story 19,108 square foot addition with additional parking where the applicant proposes 30% land area coverage and 25% maximum land area coverage is allowed pursuant to Article VII, Section 342-52.1(D) (Building Coverage) (RM-2 District)

Chairman Gutterman stated that he feels this is a substantial variance. Mr. Steinman noted that the Planning Board has issued a Negative Declaration and is awaiting a consistency determination from HCZM. The Board felt that since the Planning Board is waiting on HCZM's determination, so should the Zoning Board.

It was noted that the February 7th meeting is past the 62 day period for the ZBA to make a determination on the application. Ms. Powers will send a letter to the applicant's attorney requesting an extension of time until after the HCZM has reviewed the application.

The application was held over.

3. Application #1SP-2013, ALL GREEN DRY CLEANERS, 360B Mt. Pleasant Avenue (Section 9, Block 17, Lot 1), for a special permit to operate a pick-up/drop-off dry cleaner. (C-2 District)

The Board discussed the merits of the application.

On motion of Mr. Weprin, seconded by Mr. Sullivan, the application for a special permit is approved for a three-year time period.

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

4. Application #1A-2013, DOMINGOS SOUSA AND NATIVIDADE SOUSA, 514 Carroll Avenue (Section 4, Block 15, Lot 214), for an area variance of Article V, Section 342-27 of the Schedule of Minimum Requirements to construct a second story addition where the applicant proposes a 5.9 foot combined side yard setback and 16 feet is required for a combined side yard setback. (R-2F District)

The Board discussed the merits of the application. Mr. Weprin stated that the second story addition doesn't increase the footprint and that the neighbor, after seeing the plans, didn't have any issues and was leaving it up to the Board's determination. Ms. Kramer said that the construction was consistent with the neighborhood.

On motion of Ms. Kramer, seconded by Mr. Weprin, the application for an area variance is approved.

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

5. Application #2A-2013, EDUARDO MAIRENA, 611 Rushmore Avenue (Section 9, Block 83, Lot 17), for an area variance of Article V, Section 342-27 of the Schedule of Minimum Requirements to legalize an existing 16 foot by 22 foot detached garage constructed without a permit to replace a demolished detached garage where the applicant proposes 4.3 feet for a combined side yard setback and 35 feet is required for a combined side yard setback. The detached garage also violates the rear yard setback where the applicant has 3 feet and 6 feet is required for a rear yard setback. (R-15 District)

The Board discussed the merits of the application. Ms. Kramer stated that there were less setback violations now than when the prior garage was there. She said that many garages violate the setbacks in that area because they were built in the 1920's, prior to the zoning code.

On motion of Ms. Kramer, seconded by Mr. Sullivan, the application for area variances is approved.

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

With respect to the two appeals (#2I-2012 – 418 N. Barry Avenue and #1I-2013 – 0 Pine Street), Mr. Steinman suggested that Ms. Powers create a document list of the submissions from the Building Department and provide them to the Board and him.

MINUTES

On motion of Mr. Sullivan, seconded by Ms. Kramer, the minutes as amended for the October 4, 2012 meeting are approved.

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

On motion of Mr. Neufeld, seconded by Mr. Weprin, the minutes as amended for the December, 2012 meeting are approved.

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

ADJOURN

On motion of Chairman Gutterman, seconded by Mr. Neufeld, the meeting was adjourned at 10:44 p.m.

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

ROBIN KRAMER
Secretary

Prepared by:
Ann P. Powers