

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, NOVEMBER 7, 2013 AT 7:30 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 November 7, 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: Barry Weprin, Vice Chairman (Acting Chairman)
Greg Sullivan, Board Member
Dave Neufeld, Board Member
Anna Georgiou, Counsel to Board
Bill Gerety, Building Inspector

ABSENT: Larry Gutterman, Chairman
Robin Kramer, Secretary

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

Acting Chairman Weprin called to order the Regular Meeting at 7:31 p.m. He noted for the record that Mr. Gutterman and Ms. Kramer would be absent from the meeting and asked if any applicant wished to adjourn their application until the December meeting. Acting Chairman Weprin indicated that absent members would be able to review the DVD of the meeting. No one wished to adjourn the meeting.

PUBLIC HEARINGS

1. Application #6SP-2013, SHORE ACRES POINT CORP., 504 The Parkway (Section 4, Block 76A, Lot 1), for a special permit as required by Article V, Section 342-21A (7) for a club and reconstruction of a clubhouse. (R-10 District)

Pierre Valla, President of Shore Acres Point Corp., addressed the Board. He stated that the club is before the ZBA to request a special permit to operate a club. Mr. Valla noted that the club has been operating since 1945, before a special permit was required and that is why the club has never received a special permit.

Mr. Valla stated that there are no issues with the neighbors. He said that the club is in the process of fixing the clubhouse which was destroyed during Hurricane Sandy. Mr. Valla noted that Arthur Wexler, the architect for the project, is also in attendance. Mr. Valla went on to say that in order to move forward with the renovations, he is required to go before both the Planning Board and ZBA. He said that the next Planning Board meeting is November 13th.

Mr. Wexler submitted new plans for the project. He stated that the existing building's first floor is at an elevation of nine feet. Mr. Wexler noted that the building, over the years, has sustained a lot of damage. Mr. Wexler submitted photos of the existing building. The proposed building, Mr. Wexler stated, is a larger structure with only one floor proposed because the building had to be raised 17 feet. He noted that the previous structure had two floors.

Mr. Wexler showed on the plans that the foundation walls have to be open and breakaway so that water can pass through without damaging the structure. He indicated that there will be an elevator leading to the first floor. He also stated that there will be an employee apartment which is allowed under the code. Mr. Wexler showed the Board elevations from the north, south, west and east directions. He said that the building is taller because the first floor is being elevated. Mr. Wexler noted that only when there are strong storms or surges will the water reach the building. He also stated that handicapped parking will be constructed and that 23 dry wells are being installed on the property.

Acting Chairman Weprin asked if the building is zoning compliant. Mr. Wexler indicated that it was zoning compliant. Acting Chairman Weprin asked if the intensity of the use is increasing and Mr. Wexler said it is not. Mr. Wexler stated that the applicant is planning to begin construction after Labor Day of 2014.

Mr. Neufeld asked if the area behind the breakaway walls is usable. Mr. Wexler answered that the area has some storage and will have a temporary bathroom. Mr. Sullivan asked if the footprint is the same. Mr. Wexler stated that the square footage is less, but the first floor is bigger to compensate for the loss of the second floor. Discussion arose as to who oversees the approval of the bathrooms and it was determined that the Department of Health is responsible.

Acting Chairman Weprin asked if a special permit was needed all along and Mr. Gerety stated that they did and do need a special permit. Ms. Georgiou noted for the record that this club is in a residential district.

Mr. Neufeld asked if the club complies in use. Ms. Georgiou stated that there are four points the applicant needs to comply with in addition to general special permit requirement and she read from Section 342-42.

Clubs and other recreational structures and uses permitted under Articles V and X shall:

- A. Be on lots of adequate size with sufficient parking and screening as determined by the Board of Appeals.*
- B. Have no outdoor entertainment, live or mechanical, except under permission granted by the Village Manager for particular occasions.*
- C. Have no exterior lighting other than that essential to the safe and convenient use of the premises, which lighting shall meet the standards of Section 342-18.*
- D. Have no outdoor public address systems, except for such as may be specifically permitted under the approval of Article X.*

Acting Chairman Weprin asked if the ZBA should hold off and wait for the applicant to finish with the Planning Board. Mr. Neufeld asked why the applicant is before the Planning Board and Mr. Gerety stated that they were before the Planning Board for site plan approval. He went on to say that either the Planning Board or the ZBA, in this instance, can approve a special permit. Ms. Georgiou stated that the application is within the ZBA's jurisdiction with respect to the four points in Section 342-42. Mr. Neufeld asked what triggered the site plan approval and Mr. Gerety stated that any commercial property doing work or changing the footprint automatically goes before the Planning Board for site plan.

Acting Chairman Weprin stated that the ZBA can consider the screening aspects or leave it to the Planning Board. Ms. Georgiou suggested that the Board ask the applicant what screening they plan to install.

Mr. Wexler stated that the applicant is currently negotiating with the Planning Board with respect to screening. He said that five or six times a year, saltwater gets washed up and it will make the sustainability of plants difficult. He went on to say that the applicant and tree consultant are trying to pick plantings that will survive the soil quality. Mr. Wexler said that not many types of plantings survive in that environment. He went on to say that they will plant and are negotiating with the Planning Board on how many to plant because of the cost as well. If the plants survive, the club will add more planting, he said. Ms. Georgiou stated that with respect to the screening, the ZBA could leave the application open and have it addressed by the Planning Board as part of its site plan review. Mr. Neufeld asked for the screening plan.

Acting Chairman Weprin asked if anyone wished to address the Board.

Nadia Valla addressed the Board. She stated that she is the wife of Mr. Valla and also a neighbor of Shore Acres Point. She said she is before the Board tonight to get clarification on certain aspects of the project. Ms. Valla said that she wants to ensure that the special permit is contingent on the four points of the code read earlier. She also referenced Section 342-71(c): *That operations in connection with the proposed use will not be objectionable by reason of noise, fumes, smoke, dust, vibration, glare, intensity or flashing lights.* She noted that the club holds soccer games early in the morning which creates noise.

Ms. Valla also referenced Section 342-71(d): *That the parking areas to be provided will be of adequate capacity for the particular use, properly located and suitably screened from adjoining residential uses and that the entrance and exit drives shall be laid out so as to achieve maximum safety.* Ms. Valla stated that cars enter and exit the club very quickly and asked if there could be speed limits posted.

Acting Chairman Mr. Weprin stated that if cars are speeding in excess of the speed limit that is an enforcement issue. Ms. Valla stated that she felt this forum was an opportunity to get answers to her questions. She said that there is also a lot of music outside. Acting Chairman Weprin stated that the applicant is now aware that outside music is not allowed. He asked Ms. Valla if she had an opinion on the screening matter. She stated that she has also planted many plantings and they simply don't survive because of the soil.

Mr. Sullivan asked where Ms. Valla's house was in relation to the club and she said she is situated on the left hand side of the club as you enter it. Acting Chairman Weprin asked if there has been music in the past and Mr. Valla stated that he understands that music isn't permitted and it hasn't happened in five years. Ms. Georgiou stated that the club would be in violation of special permit requirements if they had music outdoors, unless the exception in 342-42(B) was met. Mr. Valla stated that the club is trying to strike a balance with the members enjoying the club and the other community members.

Acting Chairman Weprin asked if the soccer games are formal or informal in nature. Mr. Valla stated that they are informal and the club is dealing with the matter. Acting Chairman Weprin asked what the hours of operation are for the club. Mr. Valla said the club is kept open until 8:00 p.m. during the summer. Ms. Valla clarified that the pool is closed at 8:00 p.m., but people stay later to enjoy the sunset. Acting Chairman Weprin asked if staff remains after hours and Mr. Valla said they do not. He went on to say that the club is open from Memorial Day through Labor Day.

Discussion arose about the screening matter. Mr. Neufeld suggested the Planning Board give the ZBA a recommendation for the screening. Mr. Sullivan suggested that the screening matter be dealt with by the Planning Board.

Mr. Wexler said it was suggested by the Planning Board attorney that the applicant should plant plantings to see if they will survive. Acting Chairman Weprin suggested imposing the screening and then having a two year renewal period to see if the plantings hold.

Acting Chairman Weprin asked about the parking. Mr. Wexler stated that there are 42 cars that visit the site and that the population of the pool generates the parking. He also stated that the membership consists of local residents that walk to the club. Mr. Wexler said that the parking spaces are not changing; the club is adding two handicap spaces. He went on to say that the lot size is not changing and the parking area is not changing.

Acting Chairman Weprin asked if there was any way to deal with the speeding issue. Mr. Valla stated that is a Village issue and he will present it to the Village. Mr. Gerety stated that the applicant could go to the Traffic Commission to get approval for speed limits and signage. With respect to the screening issue, Mr. Gerety stated that screening doesn't have to be limited to plants; there can be fencing. He said that the definition of screening could be enhanced to include fencing. Acting Chairman Weprin stated that this is a unique situation and the club's approach seems reasonable

Mr. Neufeld moved to close the public hearing on Application #6SP-2013, seconded by Mr. Sullivan.

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

2. Application #15A-2013, SALVATORE CIRIGLIANO, 1035 Old Boston Post Road (Section 9, Block 56, Lot 12), for area variances to obtain Certificates of Occupancy for Building Permit #14252 (issued in 1971 for a two-story addition) and Building Permit #15449 (issued in 1979 for a second floor addition) for a multi-family home. The second story addition violates Article V, Section 342-27 of the Schedule of Minimum Requirements where the applicant has a lesser side yard setback of .4 feet and 30 feet is required and a combined side yard setback of 30 feet where 60 feet is required. The second floor addition violates Article V, Section 342-27 of the Schedule of Minimum Requirements where the applicant has a lesser side yard of .9 feet and 30 feet is required. (RM-1 District)

David Robak, the architect for the applicant and Salvatore Cirigliano, the applicant addressed the Board. Mr. Robak stated that the applicant was before the ZBA back in 2012 for variances to legalize an existing seven-family house. He indicated that after all the approvals were granted, the Building Inspector said that a side yard variance was now needed. Mr. Robak stated that there was an existing house and the property was subsequently sub-divided. He went on to say that the house was approved and then it was discovered that a side yard variance was needed. It is physically impossible to meet the required 30 foot setback, Mr. Robak said.

Mr. Neufeld asked what the use of the property was. Mr. Robak said that it is a multi-family dwelling with seven units. Mr. Sullivan asked if the bungalow was the issue. Mr. Robak stated that he did not believe so. Mr. Neufeld asked how many units there are. Mr. Gerety said he didn't know, but that he was okay with the use. Mr. Robak noted that the Village's property card listed four units before the variance was approved.

Acting Chairman Weprin asked if the Board is being asked to approve what was already approved 22 months ago. Mr. Gerety said that there is a significant issue; the building extends over the property line and the applicant needs to purchase that portion of the property. Mr. Robak stated that he believes the applicant has received an easement. Mr. Cirigliano stated that last week he signed all documents to obtain an easement in perpetuity and that Mr. Noto advised him on the matter. He said he paid \$4,000 for the easement. Acting Chairman Weprin questioned whether a perpetual easement was satisfactory. Ms. Georgiou stated that the lot is what is relevant. Ms. Georgiou clarified that the ZBA can't give the relief the applicant is seeking since the lot lines have not changed.

Acting Chairman Weprin stated that this application will need to be adjourned and that Mr. Noto will need to speak with Ms. Georgiou about the relative issues. He went on to tell Mr. Cirigliano that if he owned the property, the ZBA could grant the variance, but it is not Mr. Cirigliano's property.

Mr. Cirigliano stated that the Building Department has not been in contact with Mr. Noto. Mr. Gerety took issue with that statement saying he has spoken with Mr. Noto regarding the matter.

The application is adjourned to the December 5, 2013 meeting.

3. Application #17A-2013, BARRY AND PATRICIA MELANCON, 580 Shore Acres Drive (Section 4, Block 67, Lot 16B), for area variances to add an outdoor sink and generator where the proposed generator violates Article V, Section 342-27 of the Schedule of Minimum Requirements where the side yard setback is 5.9 feet and 10 feet is required. The proposed outdoor sink violates Article V, Section 342-27 where the combined side yard setback is 19.6 feet and 25 feet is required. (R-10 District)

John Scarlato, Jr., the architect for the applicant, addressed the Board. Mr. Scarlato stated that the house has been renovated. In the process, the applicant wished to install a generator and an outdoor sink, he stated. Mr. Scarlato noted that the existing house is a non-conforming use. He said that there is no room in the backyard to install a generator and that the generator needs to be raised 18 inches because of the flooding situation. Mr. Scarlato stated that the applicant needs a variance for the structure that the generator will sit on. He also noted that because of all the windows of the house, the generator needs to be five feet from the house.

Mr. Neufeld stated that the applicant has not provided a current survey. Mr. Scarlato stated that there is a plot plan on the drawing he submitted. Mr. Neufeld stated that the plot plan is not a survey and the survey itself hasn't been updated in 20 years. Because of the variances requested, an updated survey would be appropriate, Mr. Neufeld stated.

The application is adjourned to the December 5, 2013 meeting so that the applicant may submit an updated survey.

4. Application #18A-2013, BRANKO AND PATRICIA RADULOVIC, 1506 Harrison Avenue (Section 4, Block 49, Lot 76-24B), for an area variance to rebuild an existing entry steps and create additional parking in the front yard where the proposed parking violates Article VIII (Off Street Parking), Section 342-54 where no parking is allowed in a required front yard. (R-5 District)

Patricia Radulovic, the applicant, addressed the Board. She stated that she and her husband Branko purchased the house six months ago and that they are in the process of fixing it up. She said they wish to do some extensive work in the front yard. She said that they are working with architect Ronald Katen.

Mr. Katen addressed the Board. He stated that this is a single-family home with a driveway. He said that the applicant is currently proposing to renovate or replicate what is already there. Mr. Katen said that the parking currently is head to tail, with no side by side parking. He went on to say that Harrison Avenue is pretty busy; in the mornings parents drop their kids off on the applicant's block.

Mr. Katen said that the reason the applicants are proposing this is for function and safety. He said it is dangerous to back up into traffic. Mr. Katen showed pictures of the congestion in the mornings and afternoons during school hours. He said that he is proposing to keep the curb cut the same to match the driveway width of 10.5 feet and then provide a small area to park side by side, as well as to provide a turnaround area (for a three point turn) so that cars can safely exit onto Harrison Avenue.

Mr. Katen indicated that the existing driveway is 750 sq. ft. and the proposed extension would be about 400 sq. ft., so it is below the 500 sq. ft. limit. He stated that the applicants also wish to move the front stairway back to make room for the parking and reconstruct the platform and stairway to the house. Mr. Katen stated that there is no entrance to the house from the street currently; the applicants have to come in through the driveway. The proposed plan will alleviate that, he noted. Mr. Katen also stated that the proposed parking area falls within the 20 foot setback of the front of the house.

Mr. Katen said the reason for doing this is that the driveway area is encroaching onto the front yard area. Nothing is supposed to be in the front yard area from side to side except for the driveway, Mr. Katen stated. Part of the expansion that is being proposed falls into that 20 foot setback, for which the variance is being requested, he said.

Acting Chairman Weprin asked if this is a request for an area variance or use variance. Ms. Georgiou stated that it is an area variance because it relates to the location of the parking; this is a permitted use. Ms. Georgiou read from Section 342-54B(1) of the Code: *Unless a special permit has first been obtained pursuant to Article X or a site development plan has first been approved pursuant to Article XI, parking spaces in the open shall not be located in any required front yard.* That is what the Board is varying, she said. Ms. Georgiou asked Mr. Gerety if that was correct and he said it was.

Ms. Georgiou stated that the applicant is requesting a variance to permit parking in the required front yard. Acting Chairman Weprin stated that if the Board is permitting parking in the front yard, that is more of a problem for him then giving a variance from the amount of yard required. Ms. Georgiou said that the Board would apply the area variance standards to the review. Mr. Neufeld noted that the applicants mention a use variance in their application. If it says you can't use this property for something, isn't it a use variance, Mr. Neufeld asked. Ms. Georgiou stated that it relates to the front yard and you are encroaching on the required front yard. Mr. Neufeld said then that this is modifying the front yard. Ms. Georgiou said the applicant is requesting that parking be allowed within the required front yard.

Acting Chairman Weprin asked what will be left of the front yard. Mr. Gerety stated that a parking space is defined as 19 feet in depth. Nineteen feet back from as far as you can move a car in, the remainder is what you would be encroaching on, Mr. Gerety said.

Mr. Katen stated that currently the car closest to the house can't back out if there is a car behind it. Mr. Gerety asked if these plans submitted are identical to what was originally proposed and Mr. Katen said they were identical. Mr. Gerety asked what the depth was from the stairs. Mr. Katen said it is 35 feet to the point of which the parking radius takes place. Acting Chairman Weprin stated that the cars will still be parked up against the house and the area Mr. Katen is speaking about is the turnaround area, not the parking area, so they are still setback 20 feet from the street. Mr. Katen said that was correct. Mr. Gerety said that based on what Mr. Katen is describing, the applicant doesn't need a variance because the portion that leads to the parking space would be considered a driveway; the space itself is the parking space. Acting Chairman Weprin stated that if the cars are parked 20 feet from the street, a variance isn't needed. He said the Building Department will issue a building permit. Mr. Gerety went on to say that in a legal

one or two-family residence, you are allowed to park in the driveway in the front yard, but the driveway has to lead to a legal parking space. Because the space is 19 feet, it is legal, he noted. The Acting Chairman Weprin suggested adjourning the application with the assumption that it will be withdrawn. The Building Department will issue the applicants a permit and they will not need to come back to the ZBA, he stated.

OTHER BUSINESS

1. Application #3SP-2013, WILLIAM VITALE D/B/A ANDREA'S 25 OF WESTCHESTER, LLC., 974 E. Boston Post Road (Section 4, Block 63, Lot 4A), for a special permit to operate a restaurant. (C-1 District)

Acting Chairman Weprin noted for the record that the Board had received the updated survey. The purpose of the survey was to confirm the other building on the property, he noted. The matter is referred to the Building Department for closing.

2. Lead Agency Letters regarding 209 Grand Street and 108 Mamaroneck Avenue

With respect to 108 Mamaroneck Avenue, Mr. Neufeld stated that the Lead Agency packet doesn't mention the need for variances from the ZBA and feels the correspondence is defective. Ms. Georgiou stated that it was her belief that variances were needed since the ZBA received notice as an involved agency. There was no issue with regard to 209 Grand Street.

3. Proposed Local Law P-2013 (Chapter 342-60 – Use of Alternative Surfaces for Parking Facilities)

The Board held over this law to the December meeting as there wasn't a full Board in attendance.

CLOSED APPLICATIONS

1. Application #6SP-2013, SHORE ACRES POINT CORP., 504 The Parkway (Section 4, Block 76A, Lot 1), for a special permit as required by Article V, Section 342-21A (7) for a club and reconstruction of a clubhouse. (R-10 District)

Acting Chairman Weprin asked if Ms. Georgiou could draft a resolution for the Board's review at the December meeting. Discussion arose as to the hours of operation of the facility. It was determined that the club be open until 8:00 p.m. Sundays through Thursdays and until 9:00 p.m. on Fridays and Saturdays from May 15th through September 30th. The screening is approved per the Planning Board and the renewal period is two years with one year in operation.

Ms. Georgiou will prepare a draft resolution for the Board's review at the December meeting.

MINUTES

On motion of Mr. Sullivan, seconded by Mr. Neufeld, the July 23, 2013 meeting minutes are approved.

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

On motion of Mr. Sullivan, seconded by Mr. Neufeld, the September 12, 2013 meeting minutes are approved.

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

ADJOURN

On motion of Mr. Sullivan, seconded by Mr. Neufeld, the meeting was adjourned at 8:55 p.m.

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

Prepared by:
Ann P. Powers