

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, APRIL 3, 2014 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 April 3, 2014. 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: Larry Gutterman, Chairman
Dave Neufeld, Board Member
Robin Kramer, Secretary
Greg Sullivan, Board Member
Anna Georgiou, Counsel to Board
Les Steinman, Counsel to Board
Robert Hughes, Assistant Building Inspector

ABSENT: Barry Weprin, Vice Chairman
Bill Gerety, 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 stated that there is not a full Board, and there will not be a full Board in May, any applicant who wishes to be heard before the full Board can reschedule.

OTHER BUSINESS

The Board had a brief discussion regarding submitting additional information in between meetings. The discussion involved how far in advance of the meeting the submissions must be made and the number of hard copies. Mr. Steinman stated that he will circulate a draft summarizing what had been discussed for the Board's consideration.

PUBLIC HEARINGS

1. Application #8SP-2011, MARIO CASTALDO, D/B/A CAS CAR IMPORTS LTD., 519 Waverly Avenue, (Section 8, Block 101, Lot 12) to renew a special permit to operate a motor vehicle repair shop. (M-1 District)

Tony Castro, Esq. representing the applicant, addressed the Board. He stated the application is to renew a special permit to operate a motor vehicle repair shop. Mr. Sullivan questioned what

type of work is done at the premises and why there are 4 signs including 1 for an auto dealer. Mr. Castro stated both auto repair and body work are done as well as selling cars. Mr. Sullivan also questioned if there is designated parking. Mr. Mario Castaldo responded that he only parks on his property (1 car outside and the rest underneath in his garage) as there isn't parking on the street. Mr. Sullivan also asked if there is a spray paint booth and were the proper County permits submitted. Mr. Castro stated the County permits were in the application. Chairman Gutterman stated only the basic application was submitted. Mr. Sullivan stated the parking requirement wasn't spelled out. Mr. Castaldo stated that the customers cars go downstairs. Mr. Sullivan asked Mr. Hughes what the parking requirements are. Mr. Hughes stated that he had gone through the file in the Building Department. The file doesn't have a clear record of the original date of use of the body shop. He stated Mr. Castaldo has been operating there so long you would have to go back to when the use was first allowed to figure out the parking requirements. Mr. Sullivan requested that the permits from the DEC and County be submitted. Mr. Castro responded that he would submit the permits prior to the next meeting.

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

Mr. Sullivan moved to close the public hearing on Application #8SP-2011 on the condition of the requested documents being submitted, seconded by Ms. Kramer.

Ms. Georgiou asked Mr. Sullivan to specify the documents he was requesting. Mr. Sullivan stated his is requesting the DEC permit for the spray booth and the County permit for the auto body.

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

2. Chairman Gutterman stated that Application # 3SP-2008, 211 MAMARONECK AVE. RESTAURANT LLC, D/B/A MOLLY SPILLANE'S would be heard at the next meeting as the public notification was not done.

3. Application #2SP-2011, MONTAGE WINE LLC, D/B/A BAR'LEES, 157 Mamaroneck Avenue, (Section 9, Block 51, Lot 9A) to renew a special permit to operate a wine lounge. (C-2 District)

Mr. Colin Goundrey, proprietor addressed the Board. Chairman Gutterman asked if the hours of operation would stay the same and if there was still light food, no cooking. Mr. Goundrey stated yes, everything stays the same as in the original special permit.

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

Mr. Sullivan moved to close the public hearing on Application #2SP-2011, seconded by Ms. Kramer.

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

4. Application #6SP-2014, ANDREW LAVIGNA, 725 Fenimore Road, (Section 8, Block 77, Lot 8) to obtain a special permit to operate a hot dog cart. (M-1 District)
Paul Noto, Esq. represented Mr. LaVigna. Mr. Noto stated that Mr. LaVigna would like to revive the hot dog cart that was previously operated at the location under a special permit granted by the ZBA in 2005. Mr. LaVigna would like to operate the cart at 725 Fenimore Road as well as DARE school functions and at Mamaroneck Shares functions. The owner of 725 Fenimore Road will provide the same 3 parking spaces as when the previous hot dog cart operated.

Mr. Kramer asked why a special permit is needed. Mr. Noto stated in 2005 there wasn't a provision in the Village Code for a hot dog cart so the Building Inspector said the special permit was necessary.

Chairman Gutterman stated the previous special permit was issued for the hours of 11 a.m. – 2 p.m. Mr. Noto requested an exemption for DARE and Mamaroneck Shares functions. Ms. Kramer asked if the cart would be operated everyday. Mr. LaVigna said yes, it would be operated by his sons. Mr. Sullivan asked what Mr. Johnson, who operates an ice cream truck does. Mr. Noto stated it's a bid through the Village. Mr. Neufeld asked what are the rules for mobile food. Mr. Noto stated the cart will be operating on private property. A roving license is not being requested, the cart will only be operated at 725 Fenimore Road, DARE and Mamaroneck Shares functions.

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

Mr. Sullivan moved to close the public hearing on Application #6SP-2014, seconded by Mr. Neufeld.

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

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

As stated by Chairman Gutterman earlier, this application will be heard at the May meeting.

6. Application #14SP-2012, F&B LLC, D/B/A CLUB CAR RESTAURANT, 1 Station Plaza, (Section 9, Block 2, Lot 2A1) to renew a special permit to operate a restaurant. (C-1 District)

Chairman Gutterman called Application #14SP-2012 and no one was present.

7. Application #5A-2014, HUGO AND BERTHA REYES, 1515 Mamaroneck Avenue, (Section 8, Block 8, Lot 9B) for a variance of Article IX, Section 342-64(A) non-conforming

use of buildings, to construct an addition to a two family dwelling in a single family zone, where 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. (R-5 District)

Mr. Sullivan disclosed he represented the Reyes' when they purchased the house. They are no longer his clients, he does not have any concerns with voting on the application.

Michael Lewis, R.A. represented the Reyes'. He stated the Reyes' have been living there for seven years and that there was a fire last year. A building permit for the fire repair has been issued. While the work for the fire repair is being done they would like to add 65 square feet with a dormer. The footprint and lot coverage won't change, neither will the height as the dormer will be raised.

The Board discussed whether a use variance or area variance was necessary. It was decided it would be an area variance.

Chairman Gutterman asked is anyone wanted to address the Board. None did.

Mr. Sullivan moved to close the public hearing on Application #5A-2014, seconded by Chairman Gutterman.

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

8. Application #4A-2014, PARKWAY 1000 LLC, 1000 The Parkway, (Section 4, Block 71, Lot 28) for an area variance to construct a new dwelling with the proposed dwelling violating Article V, Section 342-27 of the Schedule of Minimum Requirements for residential districts where the maximum floor area ratio for an R-10 zone is .40 and the applicant proposes .45. (R-10 District)

Jack Hughes, Esq. represented Parkway 1000 LLC. Mr. Steven March, principal of Parkway 1000 LLC was also in attendance. Mr. Hughes stated the excavated cellar affects the FAR, other than that the house meets Code. The topography affects the design. The FAR without the cellar is .34 which is below the .40 limit. The house will not affect the neighborhood, it's not oversized in height or density and has received approval from the Board of Architectural Review. The house will not produce an undesirable change in the neighborhood. It will not have an effect on physical or environmental conditions, the SWPPP or the impervious surface. The variance is necessary, there isn't another way to not have useless crawl space. The need for a variance is self created to a certain extent. Mr. Hughes stated that Mr. Marsh is trying to build a comfortable family home but the issue is created by the topography of the property; no public purpose would be served by denying the application.

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

Mr. Sullivan moved to close the public hearing, seconded by Ms. Kramer

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

9. Application #3A-2014, J. HOWARD AND HEATHER MCSPEDON, 355 Rushmore Avenue, (Section 9, Block 71, Lot 1C2) for area variances to legalize a rear addition and trellis with the addition violating Article V, Section 342-27 of the Schedule of Minimum Requirements where the addition is 18.9 feet from the rear yard property line where 30 feet is required. The trellis violates Article V, Section 342-27 of the Schedule of Minimum where the trellis is 20.02 feet from the rear yard property line where 30 feet is required and has a combined side yard setback of 32.19 feet where 35 feet is required. (R-15 District)

Frank Marsella, R.A. represented the McSpedons and discussed the application. They are selling the property and were notified there isn't a Certificate of Occupancy for the family room addition. The addition was there when they purchased the house in 1977. A survey dated 1959 shows a covered terrace. Mr. Marsella has reviewed the structure, it is energy efficient and doesn't have any structural issues. The family room needs the variance due to the configuration of the lot.

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

Mr. Sullivan moved to close the public hearing, seconded by Mr. Neufeld.

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

10. Chairman Gutterman asked if the applicant for Application #14SP-2012, CLUB CAR has arrived. None had.

Chairman Gutterman called for a 2 minute break. Upon returning from break, Chairman Gutterman stated that Application #14SP-2012 would be heard at the May meeting.

11. Application #3I-2013, SHORE ACRES PROPERTY OWNERS ASSOCIATION, ET AL., regarding 700 S. Barry Avenue a/k/a 555 S. Barry Avenue – Mamaroneck Beach and Yacht Club, (Section 4, Block 37, Lot 1) for an appeal of the determination of the Building Inspector, made of April 5, 2013 finding that the amended site plan application of Mamaroneck Beach and Yacht Club is zoning compliant. (MR District)

Paul Noto, Esq. and Gregg DeAngelis, R.A. represented Mamaroneck Beach and Yacht Club. Mr. Noto spoke to SAPOA's 28 appeal items. He stated he doesn't think many of them are subject to Zoning Board of Appeals jurisdiction and therefore aren't appealable. He also discussed the reasons why the information on Mamaroneck Beach and Yacht Club's amended site plan application is correct.

1 VILLAGE OF MAMARONECK
2 ZONING BOARD OF APPEALS
3 APRIL 3, 2014
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6 PRESENT: LAWRENCE GUTTERMAN, CHAIRMAN
7 DAVID NEUFELD, BOARD MEMBER
8 ROBIN KRAMER, SECRETARY
9 GREGORY SULLIVAN, BOARD MEMBER
10 ANNA GEORGIU, COUNSEL TO BOARD
11 LESTER STEINMAN, COUNSEL TO BOARD
12 ROBERT HUGHES, ASSISTANT BUILDING INSPECTOR
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14 ADJOURNED APPLICATION #3I-2013, SHORE ACRES
15 PROPERTY OWNERS ASSOCIATION, ET AL.,
16 REGARDING 700 S. BARRY AVENUE
17 A/K/A 555 S. BARRY AVENUE - MAMARONECK
18 BEACH AND YACHT CLUB,
19 (SECTION 4, BLOCK 37, LOT 1) FOR AN APPEAL
20 OF THE DETERMINATION OF THE BUILDING
21 INSPECTOR, MADE ON APRIL 5, 2013 FINDING
22 THAT THE AMENDED SITE PLAN APPLICATION OF
23 MAMARONECK BEACH AND YACHT CLUB IS ZONING
24 COMPLIANT (MR DISTRICT)

1 MR. GUTTERMAN: THE HEARING IS
2 STILL OPEN ON SAPOA.

3 REMINDER TO SIGN IN AND SPEAK
4 INTO THE MICROPHONE SO WE HAVE A
5 CLEAR RECORD OF ALL EVERYTHING.
6 AFTER INTRODUCING YOURSELF, MAYBE
7 DISCUSS THE STRUCTURE OF WHAT YOU
8 HAVE HERE AND WHICH ISSUES YOU ARE
9 ADDRESSING.

10

11 MR. NOTO: IF I MAY, THANK YOU,
12 MR. CHAIRMAN. PAUL NOTO, 650
13 HALSTEAD AVENUE, MAMARONECK, FOR
14 MAMARONECK BEACH AND YACHT CLUB.

15 WE ARE NOT THE APPLICANT. WE
16 ARE THE, I WOULD SAY A VERY
17 INTERESTED PARTY, AS THIS WOULD
18 AFFECT US, PROBABLY MORE THAN ANYONE
19 ELSE.

20 SO WE ARE NOW IN THE SECOND
21 PHASE OR THIRD PHASE OF THIS
22 APPLICATION THAT WAS FILED BY SAPOA
23 EXACTLY A YEAR AGO, APRIL OF 2013.

24 THIS IS AN AMENDED SITE-PLAN

1 BEFORE THE PLANNING BOARD.

2 THE AMENDED APPLICATION WAS
3 REVIEWED BY THE BUILDING INSPECTOR ON
4 APRIL 5, 2013 AND HE DETERMINED THAT
5 IT WAS ZONING COMPLIANT.

6

7 MS. KRAMER: THESE WERE NOT
8 PART OF THE SUBMITTAL SO I CAN'T LOOK

9 --

10 MR. NOTO: YES, THEY WERE.

11

12 MS. KRAMER: ARE THEY? WE HAVE
13 THEM.

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15 MR. NOTO: YOU SHOULD.

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17 MS. KRAMER: FOR EASE OF
18 LOOKING AT THAT I WAS WANTING TO
19 KNOW.

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21 MR. NOTO: THESE ARE THE ACTUAL
22 DRAWINGS. FULL SIZE DRAWINGS.

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24 MS. KRAMER: NO, NO. THEY

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MR. NOTO: I THINK SAPOA
SUBMITTED THEM TO YOU.

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MS. KRAMER: OKAY.

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MR. NOTO: THEY WOULD HAVE HAD
TO AS PART OF THEIR APPLICATION.
THEY WOULD OF HAD AN INCOMPLETE
APPLICATION, IN WHICH CASE, I COULD
NEEDLE MR. NATCHEZ, WHO IS VERY QUICK
TO TELL PEOPLE WHEN THEIR
APPLICATIONS ARE INCOMPLETE. SO YES,
YOU SHOULD HAVE IT.

MS. KRAMER: BUT I WOULDN'T
HAVE THEM TODAY BECAUSE THEY WEREN'T
PART OF WHAT YOU JUST SUBMITTED.

MR. NOTO: THEY'RE NOT A RECENT
SUBMISSION.

MS. KRAMER: THAT WAS MY
QUESTION.

1 MR. NOTO: UNFORTUNATELY, I
2 THINK, AS YOU MENTIONED EARLIER, YOU
3 HAVE VOLUMES OF MATERIAL SO I'M GOING
4 TO TRY AND ISOLATE WHAT WE'RE DOING
5 TONIGHT AND IDENTIFY THOSE DOCUMENTS
6 THAT YOU SHOULD HAVE TONIGHT.

7 HOWEVER, SO THE BUILDING
8 INSPECTOR THEN FORWARDED THE
9 APPLICATION TO THE PLANNING BOARD FOR
10 SITE PLAN REVIEW. THERE WAS AN
11 APPEAL FILED, AS YOU KNOW, AND THIS
12 BOARD AND THE VILLAGE ATTORNEY
13 DETERMINED THAT THE PRE-2006 ZONING
14 CODE WOULD APPLY TO THIS APPLICATION.

15 SO, RECENTLY WE HAVE SUBMITTED
16 A LETTER FROM ERIC GORDON DATED MARCH
17 21ST, ALONG WITH A COPY OF THE
18 PRE-2006 ZONING CODE SO YOU HAVE THAT
19 TO REFERENCE. AND WE'VE ALSO
20 SUBMITTED A CHART FOR EASE OF
21 REFERENCE TO GO THROUGH THIS TO MAKE
22 THIS GO A LOT FASTER. SO THIS CHART,
23 YOU SHOULD HAVE THIS, WE ARE GOING TO
24 GO THROUGH THIS CHART, WE BROUGHT A

1 EACH APPEAL ONE AT A TIME AND GO
2 THROUGH IT WITH AN ANALYSIS.

3 NOW, THE DOCUMENT THAT THE
4 BUILDING INSPECTOR, THE REFERRAL
5 MEMORANDUM DATED APRIL 5, 2013, IS
6 ATTACHED TO THE SECOND SET OF
7 EXHIBITS BY MR. NATCHEZ, WHICH IS
8 THIS DOCUMENT.

9 NOW, UNFORTUNATELY, WHEN YOU
10 TAKE THESE OFF THE PDF, NONE OF THE
11 EXHIBITS ARE IN ANY PARTICULAR ORDER.
12 SO THE TWO I'M GOING TO USE, THIS IS
13 WHAT I AM GOING TO USE, THIS IS
14 EXHIBIT 1A. THIS IS A COPY OF THE
15 BUILDING INSPECTOR'S REFERRAL
16 MEMORANDUM. AND THEN ATTACHED TO
17 THAT THERE ARE ACTUALLY 11 ITEMS THAT
18 THE BUILDING INSPECTOR CHECKS OFF AS
19 HE REVIEWED THE APPLICATION AND
20 FORWARDED IT TO THE PLANNING BOARD.

21 NOW, AS A RESULT OF THOSE 11
22 ITEMS, MR. NATCHEZ FILED 28 APPEALS
23 ON THOSE 11 ITEMS. SOME ARE SOMEWHAT
24 REDUNDANT, SOME ARE CONSUMED IN OTHER

1 BREAK THOSE DOWN ONE AT A TIME.

2 HOWEVER, THE ESSENCE OF THE
3 APPLICATION IS THAT THE BUILDING
4 INSPECTOR GOT EVERYTHING WRONG,
5 ACCORDING TO THIS EXHIBIT 1A,
6 EVERYTHING THE BUILDING INSPECTOR DID
7 WAS INCORRECT. SO HE DIDN'T GET ONE
8 THING RIGHT ON THIS APPLICATION,
9 WHICH IS AN EXTRAORDINARY ALLEGATION.
10 I WANT TO EMPHASIZE THAT WHAT AN
11 EXTRAORDINARY ALLEGATION THAT IS.

12 SO, TO GO THROUGH THESE ITEMS,
13 WE'VE TAKEN THE SUMMARY, PROVIDED BY
14 MR. NATCHEZ, WHICH IS IDENTIFIED AS
15 THIS DOCUMENT, WHICH IS SUMMARY OF
16 SAPOA'S ET AL, APPEAL OF BUILDING
17 INSPECTOR DETERMINATION 7/9/13. SO
18 YOU HAVE THIS, IF YOU NEED ANOTHER
19 ONE, WE'LL GET IF FOR YOU BUT FOR
20 EASE OF REFERENCE, WE'RE GOING TO GO
21 THROUGH THIS BECAUSE THIS IS WHAT
22 SAPOA SUBMITTED. AND WE'RE GOING TO
23 TAKE THEM ONE AT A TIME.

24 WITH ME TO DO THAT, WHO WILL

1 LIFTING, IS GREGG DEANGELIS, OUR
2 ARCHITECT, WHO PREPARED THESE PLANS.
3 IN FACT, AS YOU KNOW, WE JUST
4 CELEBRATED OUR 10TH ANNIVERSARY OF
5 THIS APPLICATION IN FRONT OF VILLAGE
6 BOARDS. IN JANUARY OF 2004 WE
7 STARTED. SO OVER THE COURSE OF THE
8 LAST DECADE, GREGG HAS BEEN INVOLVED
9 IN EVERY ASPECT OF THESE
10 DEVELOPMENTS. SO IF ANYONE WOULD
11 KNOW WHAT'S GOING ON, IT WOULD BE
12 GREGG.

13 SO, WITH THAT PLUG, GREGG,
14 WE'RE GOING TO START WITH NUMBER 1,
15 AND MAKE IT VERY SIMPLE.

16 NOW, SOME OF THESE, AND WE'RE
17 USING THE TERM SAPOA CLAIM BECAUSE,
18 SOME OF THEM ARE NOT TECHNICALLY
19 APPEALS. SOME OF THEM ARE RHETORICAL
20 QUESTIONS AND SORT OF GENERALIZED
21 QUESTIONS, WHICH WE WOULD SUBMIT TO
22 YOU TECHNICALLY ARE NOT APPEALS AT
23 ALL. GENERALLY YOU ARE HERE IN FRONT
24 OF THE ZONING BOARD TO SAY, THE

1 SHOULD HAVE SAID "Y" AND THIS IS WHY
2 HE'S WRONG ON THE CODE. SOME OF
3 THESE DON'T DO THAT, SOME DO.

4 BUT THE FIRST ONE IS TO
5 DETERMINE WHETHER OR NOT THE USES ON
6 THE PROPERTY ARE PERMITTED UNDER
7 342-35.

8 AS YOU KNOW, YOU HAVE ALREADY
9 MADE A DETERMINATION THAT FIRST OF
10 ALL, THE PRE-2006 ZONING CODE APPLIES
11 AND THEREFORE, WE DON'T HAVE TO
12 COMPLY WITH THE EXISTING CURRENT
13 ZONING. SO THAT'S DONE.

14 NUMBER 3 IS AGAIN, APPLY THE
15 CURRENT REQUIREMENTS, OBVIOUSLY
16 YOU'VE ALREADY RESOLVED THAT. AND
17 YOU RESOLVED THAT ON SEPTEMBER 12,
18 2013.

19 SO, 1, 2, AND 3 HAVE ALREADY
20 BEEN RESOLVED.

21 NUMBER 4, THIS IS A PROCEDURAL
22 QUESTION. IT SAYS, AGAIN, THE
23 APPEAL, IS CERTIFY THAT THE PLAN
24 MEETS ALL OF THE SPECIFIC APPLICABLE

1 INCLUDING 342-74. AGAIN, THAT'S NOT
2 AN APPEAL. THAT'S NOT AN APPEALABLE
3 QUESTION. HOWEVER, WE'VE ATTACHED IN
4 THE MIDDLE COLUMN, WE'VE ATTACHED IN
5 THE MIDDLE COLUMN, THIS IS THE
6 PRE-'06 CODE WHICH APPLIES, 342-74.

7 OUR SITE PLAN APPLICATION, OUR
8 AMENDED SITE PLAN APPLICATION, IS
9 COMPLIANT WITH THAT CODE PROVISION.

10 SO AS WE POINT OUT IN OUR THIRD
11 COLUMN, WHICH IS OUR ANALYSIS, AND I
12 WOULD EMPHASIZE THAT THIS IS THE
13 IDENTICAL ANALYSIS THAT THE BUILDING
14 INSPECTOR USED TO MAKE HIS
15 DETERMINATION. SO WE ARE ON THE SAME
16 PAGE WITH THE BUILDING INSPECTOR.

17 342-74 DOES NOT PROVIDE
18 SPECIFIC REQUIREMENTS FOR SITE PLAN
19 APPLICATIONS, EXCEPT TO INCLUDE
20 CERTIFICATIONS FOR THE INSPECTOR AND
21 THE ENGINEER.

22 I DON'T WANT TO HAVE TO READ
23 THIS AGAIN TO YOU BECAUSE YOU CAN
24 READ IT OBVIOUSLY BUT IT SAYS THAT A

1 UNLESS CERTAIN THINGS CONFORM TO THE
2 SITE PLAN AND I EMPHASIZE NO BUILDING
3 PERMIT HAS BEEN ISSUED HERE FOR THIS
4 AMENDED APPLICATION.

5 SO, THE THINGS THAT WE HAVE
6 INCLUDED IN OUR APPLICATION, UPON
7 WHICH THE BUILDING INSPECTOR DID HIS
8 ANALYSIS, WAS EXACTLY WHAT THE
9 BUILDING INSPECTOR HAD REQUIRED US TO
10 PROVIDE.

11 THE VILLAGE ENGINEER DOES NOT
12 HAVE ANY STANDARDS OR REQUIREMENTS
13 FOR SITE PLAN APPLICATIONS.
14 GENERALLY SPEAKING, WHAT HAPPENS IS,
15 THE VILLAGE ENGINEER AT HIS
16 PREROGATIVE, WILL ESTABLISH CRITERIA
17 FOR SITE PLAN REVIEW. NO BUILDING
18 PERMIT WOULD ISSUE UNLESS THE VILLAGE
19 ENGINEER SIGNS OFF ON IT. SO IF WE
20 HAVE TO DO A SWPP PLAN OR SOMETHING
21 LIKE THAT, WE GO THROUGH HIM BEFORE
22 THE ISSUANCE OF A BUILDING PERMIT.
23 BUT FOR PURPOSES OF INITIATING A SITE
24 PLAN APPLICATION, THERE IS NO

1 CERTIFIED. IN FACT, HE'S NEVER
2 ISSUED A CERTIFICATION THAT WE'RE
3 AWARE OF, PRIOR TO GOING TO THE
4 PLANNING BOARD FOR A APPLICATION.

5 SO, WE SUBMITTED A COMPLETE SET
6 OF DOCUMENTS AND ALL OF THE ITEMS
7 THAT ARE REQUIRED: LIGHTING,
8 LANDSCAPING, PARKING, ARE ALL
9 INCLUDED ON THE VARIOUS PAGES HERE.

10 DO YOU WANT ME TO STOP AND ASK
11 QUESTIONS?

12

13 MR. GUTTERMAN: WE'LL TAKE THEM
14 ONE AT A TIME IF WE HAVE A PARTICULAR
15 QUESTION ABOUT IT.

16

17 MR. NOTO: IF YOU WANT ME TO
18 STOP AND ASK QUESTIONS, IT'S FINE, WE
19 HAVE 28 OF THESE SO, YOU KNOW, I
20 DON'T WANT YOU TO FORGET WHEN I GET
21 TO 28 IF YOU HAD A QUESTION ON NUMBER
22 2.

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24 MR. GUTTERMAN: WE'LL TRY TO

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MR. NOTO: SO BUT SOME OF THEM
ARE REDUNDANT, I THINK WE CAN GO
THROUGH THEM RATHER QUICKLY.

SO THERE IS NO CERTIFICATION
THAT WE'VE EVER OBTAINED OR ANYONE
HAS EVER OBTAINED PRIOR TO GETTING
SITE PLAN APPROVAL WITH THE PLANNING
BOARD.

MS. KRAMER: THAT WAS THE
QUESTION I HAD. THIS SAYS, EVERY
APPLICATION FOR SITE DEVELOPMENT PLAN
APPROVAL SHALL BE ACCOMPANIED BY A
CERTIFICATION. SO YOU HAVE THAT
CERTIFICATION.

MR. NOTO: NO, THERE IS NONE.
THERE IS NO CERTIFICATION THAT THE
VILLAGE ENGINEER WILL ISSUE IN THIS
VILLAGE TO GO TO THE PLANNING BOARD.
HE ISSUES THEM AFTER YOU GO THROUGH
SITE PLAN.

AGAIN, THE WHOLE SITE PLAN

1 MS. KRAMER: SO IT'S NOT ISSUED
2 YET. SO AFTER THE PLANNING BOARD
3 APPROVES YOU, THEN YOU GO BACK TO THE
4 VILLAGE --

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6 MR. NOTO: WELL, HE'S PART OF
7 THAT PROCESS.

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9 MS. KRAMER: BUT IT'S SEPARATE,
10 HE DOESN'T -- AFTER THE PLANNING
11 BOARD APPROVES THE SITE PLAN, THEN
12 YOU TAKE THE SITE PLAN, WHAT YOU'RE
13 PROVING THAT YOUR BUILDING IN
14 ACCORDANCE --

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16 MR. NOTO: NO, DURING SITE PLAN
17 -- NO, THE VILLAGE ENGINEER SITS
18 RIGHT HERE DURING THE PLANNING BOARD
19 MEETINGS. HE ADVISES THE PLANNING
20 BOARD ON ENGINEERING ISSUES. THAT
21 PROCESS IS AN ON-GOING SITE PLAN
22 REVIEW PROCESS.

23

24 SO IF THERE IS AN ENGINEERING
ISSUE, LET'S SAY DURING SITE PLAN,

1 TO DO THIS, YOU HAVE TO DO THAT AND
2 THAT'S WHAT WE DO.

3

4 MS. KRAMER: AND AT SOME POINT
5 THOUGH, HE ISSUES A CERTIFICATION.

6

7 MR. NOTO: AT THE END, WE CAN'T
8 GET A BUILDING PERMIT UNLESS ALL
9 THESE THINGS ARE MET.

10

11 MS. KRAMER: SO THE PLANNING
12 COMMISSION APPROVES THE SITE PLAN IN
13 CONSULTATION WITH THE VILLAGE
14 ENGINEER --

15

16 MR. GUTTERMAN: EXHIBIT "1"
17 342-74, EVERY APPLICATION FOR SITE
18 DEVELOPMENT SHALL BE ACCOMPANIED BY A
19 CERTIFICATION. SO YOU'RE TELLING ME
20 THAT THAT STATEMENT IS LIKE AN
21 OXYMORON?

22

23 MR. NOTO: RIGHT, THERE IS NO
24 CERTIFICATION. WHAT COULD HE CERTIFY

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MR. NEUFELD: IF YOU'RE GOING
TO THE PLANNING BOARD AND YOU'VE GOT
A PROPOSAL, ISN'T IT CERTIFYING THAT
YOU MEET ALL OF THE STANDARDS?

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MR. DEANGELIS: IF I MAY, PART
OF WHAT BILL GERETY DISCUSSED WITH ME
IS IT'S AN APPLICATION UNTIL IT'S
APPROVED. SO JUST BECAUSE A PACKAGE
OF DRAWINGS HAVE BEEN SUBMITTED TO
THE PLANNING BOARD, HIS CERTIFICATION
IS NOT REQUIRED UNTIL THE SITE PLAN
IS APPROVED.

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MR. NOTO: THE PLANNING BOARD
COULD REJECT THE APPLICATION.

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MS. KRAMER: SO IT'S AN
APPLICATION UNTIL THE -- AT WHAT
POINT IS IT AN APPROVED APPLICATION?

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MR. NOTO: AFTER THE PLANNING
BOARD APPROVES IT. THERE'S A SERIES

1 SITE PLAN APPROVAL.

2 AFTER THAT, YOU HAVE TO
3 ACTUALLY THEN PREPARE CONSTRUCTION
4 DRAWINGS, TO GET A BUILDING PERMIT,
5 THERE'S EVEN ANOTHER STEP.

6

7 MS. KRAMER: AND WHEN DOES THE
8 CERTIFICATION PROCESS HAPPEN?

9

10 MR. NOTO: YOUR COUNSEL WANTS
11 TO SPEAK.

12

13 MR. STEINMAN: THE VILLAGE
14 ENGINEER IS PART OF THE PLANNING
15 BOARDS MEETINGS. AS THE APPLICATION
16 PROCEEDS, THERE'S USUALLY CHANGES AND
17 REQUIREMENTS THAT HE'LL IMPOSE.

18

19 BUT BEFORE THE PLANNING BOARD
20 IS IN A POSITION TO APPROVE IT, THEY
21 ARE GETTING A FINAL SIGNOFF FROM THE
22 VILLAGE ENGINEER: ARE YOU SATISFIED,
23 HAVE YOU REVIEWED ALL THE PLANS THAT
24 HAVE TO BE REVIEWED AND DO THEY
COMPLY? HE'LL ACKNOWLEDGE THAT.

1 MS. KRAMER: THAT'S THE VILLAGE
2 ENGINEER BUT THIS ALSO SAYS THE
3 BUILDING INSPECTOR.

4
5 MR. NOTO: WELL, WE HAVE HIS
6 MEMO OF REFERRAL IS HIS
7 CERTIFICATION. THERE'S NO DOCUMENT
8 THAT SAYS CERTIFICATION. THIS IS THE
9 DOCUMENT THAT THE BUILDING INSPECTOR
10 SIGNS THAT SAYS, OKAY, YOU'RE ON TO
11 THE PLANNING BOARD.

12
13 MS. KRAMER: SO HE IN EFFECT
14 CERTIFIED IT WHEN HE FORWARDED IT TO
15 THE PLANNING BOARD.

16
17 MR. NOTO: RIGHT, HE DID.

18
19 MS. KRAMER: OKAY.

20
21 MR. GUTTERMAN: I THINK THAT'S
22 CLEAR ENOUGH.

23
24 MR. NOTO: NUMBER 5, IS, AGAIN,

1 VILLAGE ENGINEER.

2 IF THERE WERE SUCH A
3 CERTIFICATION, OBVIOUSLY WE'D HAVE TO
4 GET IT, THERE IS NONE. CERTAINLY WE
5 ARE NOT GOING TO CREATE NEW RULES FOR
6 THIS APPLICATION AS WE'VE ALL BEEN
7 THROUGH THIS PROCESS, AT LEAST I
8 HAVE, MANY, MANY TIMES. AND THERE'S
9 NEVER BEEN A CERTIFICATION PRIOR TO
10 SITE PLAN APPROVAL OR SITE PLAN
11 REVIEW EVEN BY THE VILLAGE ENGINEER.
12 CLEARLY HE HAS THE PREROGATIVE, THE
13 ENGINEER, TO ESTABLISH WHATEVER
14 REQUIREMENTS HE WANTS. HE HAS NOT
15 EVER CERTIFIED ANYTHING BEFORE IT
16 GOES TO THE PLANNING BOARD.

17 NUMBER 6 IS, AGAIN, THIS IS
18 ANOTHER REDUNDANCY, IT SAYS APPLY THE
19 CURRENT REQUIREMENTS OF 342-35 B5 AND
20 342-3 REGARDING SEASONAL RESIDENCES.
21 AGAIN, IN 2013 YOU DETERMINED THE
22 PRE-2006 IS APPLICABLE. SO
23 THEREFORE, THERE IS NO APPEAL HERE.
24 I SHOULD SAY IT'S ALREADY BEEN

1 NUMBER 7, AGAIN, I DON'T KNOW
2 IF THIS IS AN APPEAL QUESTION. IT
3 SAYS, TO GET AN UPDATED SURVEY BEFORE
4 CERTIFYING. THERE ARE REQUIRED
5 SUBMISSIONS THAT WE HAVE TO MAKE TO
6 THE PLANNING BOARD. WE'VE COMPLIED
7 WITH THOSE SUBMISSIONS. THE
8 REQUIREMENT IS AGAIN, IT'S WITHIN THE
9 DISCRETION OF THE BUILDING INSPECTOR
10 TO MAKE THAT DETERMINATION. IT
11 REFERS TO ADDITIONAL INFORMATION AND
12 IT STATES THAT: IF THE PLANNING
13 BOARD FINDS, AS YOU CAN SEE, THE CODE
14 SAYS, THE PLANNING BOARD CAN MAKE A
15 DECISION.

16
17 MR. GUTTERMAN: AMONG THOSE
18 DRAWINGS, DO YOU HAVE A COPY, A FULL
19 SIZED COPY OF THE SURVEY, A FULL SIZE
20 COPY OF THE SURVEY AS SUBMITTED?

21
22 MR. NOTO: YEAH, WE HAD TO
23 SUBMIT ONE.

24

1 EXISTING PLAN FROM THE PROPERTY
2 SURVEY. BUT IF I CAN ALSO ADD, IF
3 YOU READ THE LEGAL DATA AND LEGAL
4 REQUIREMENT, IT TALKS ABOUT MAPS AND
5 PLANS. IT DOES NOT SPECIFICALLY SAY
6 PROPERTY SURVEY. AND AS PART OF THIS
7 SUBMISSION, IT WAS A COMPREHENSIVE
8 SITE PLAN SUBMISSION AND IF I MAY, IT
9 WENT THROUGH, THERE WAS A STORM WATER
10 PROTECTION PLAN, POLLUTION PREVENTION
11 PLAN; A ENVIRONMENTAL NARRATIVE; AN
12 EXECUTIVE SUMMARY; CLOSE TO 30
13 DRAWINGS OF ARCHITECTURAL DRAWINGS;
14 ZONING ANALYSIS; CLEARING
15 CALCULATIONS, BUILDING COVERAGE
16 CALCULATIONS; ZONING CALCULATIONS,
17 BUILDING CALCULATIONS; EXISTING SITE
18 PLAN, BASED ON THE SURVEY BROUGHT IN
19 FROM RICHARD SPINELLI, THE PROPERTY
20 SURVEYOR; THE PROPOSED PLAN, SITE
21 PLAN DRAWING. NOT ALL THIS COULD
22 FIT, THIS MUCH INFORMATION COULD FIT
23 ON ONE DRAWING. SO IT'S THE WHOLE
24 APPLICATION IS WHAT WE SUBMITTED.

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MR. NOTO: RIGHT. AND THEN AS THE CODE REFERENCES, IT SAYS FOR EASE OF REVIEW, FOLLOWING THE INITIAL PLANNING BOARD MEETING, ANY CHANGES TO THE PLAN MUST BE CLEARLY CALLED OUT. SO, AGAIN, THIS IS AN ONGOING PROCESS. THIS IS NOT -- WE DON'T SUBMIT A PLAN AND THEN IT'S DONE. IN FACT, THAT'S THE BEGINNING OF WHAT IS A VERY LENGTHY AND THOROUGH REVIEW PROCESS WITH CHANGES ALL ALONG THE WAY.

QUITE FRANKLY, I THINK MOST OF THESE APPEALS ARE PREMATURE BECAUSE NOTHING HAS BEEN APPROVED. BUT IT IS WHAT IT IS. SO THE PLANNING BOARD HAS TREMENDOUS DISCRETION HERE TO SAY TO US, LOOK, YOUR PLANS ARE INSUFFICIENT, WE NEED MORE OF THIS OR THAT AND THE APPLICANT HAS NO CHOICE, YOU AMEND YOUR PLAN TO COMPLY. SO, HERE, I DON'T SEE AN APPEAL.

1 PRE-SUBMISSION CONFERENCE TO MAKE
2 SURE WE ARE ADDRESSING WHAT THEY
3 WOULD BE LOOKING FOR.

4

5 MR. NOTO: SO WE ARE UP TO
6 NUMBER 7, WHICH IS AGAIN, I'M SORRY I
7 THINK WE JUST DID NUMBER 7, FORGIVE
8 ME, WE ARE UP TO NUMBER 8.

9

10 MR. NEUFELD: DO YOU HAVE A
11 COPY OF THE SURVEY THAT YOU
12 SUBMITTED?

13

14 MR. NOTO: WELL, IT'S IN THESE
15 PLANS.

16

17 MS. KRAMER: THE APPLICANT SAYS
18 THAT YOU DIDN'T SHOW SPECIFIC
19 INFORMATION. SO THE QUESTIONS IS,
20 DID YOU SHOW THAT SPECIFIC
21 INFORMATION?

22

23 MR. NOTO: WE SHOWED WHAT WAS
24 ASKED OF US, YEAH.

1 MR. DEANGELIS: YES, WE SHOWED
2 IT WITH THE ORIGINAL SUBMISSION. WE
3 ALSO HAD A WHOLE SET OF DRAWINGS FROM
4 SITE, CIVIL, ENGINEER.

5
6 MR. NOTO: WE MIGHT ADD THAT I
7 THINK ONE OF THE SUBMISSIONS THAT MS.
8 COHEN HAD SUBMITTED WAS A COPY OF A
9 PAGE OF THE SCOPING DOCUMENT FROM THE
10 SEQRA REVIEW FOR THE NEW SEWER LINE.
11 AND THAT REQUEST IS TO UPDATE THE
12 SURVEY WITH UTILITIES. SO WE ARE
13 GOING TO DO THAT ANYWAY. SO THAT
14 PROCESS IS UNDERWAY. AND WE WILL
15 AGAIN UPDATE BECAUSE WE FILED THIS A
16 YEAR AND A HALF AGO. SO WE'RE GOING
17 TO UPDATE THE SURVEY AGAIN.

18
19 MR. DEANGELIS: AND THESE ARE
20 THE EXACT COPIES OF THE EXACT
21 SUBMISSION.

22
23 MS. KRAMER: IT'S TOO HARD FOR
24 ME. SO FOR EXAMPLE, THEY SAID, YOU

1 PROPOSED PAVED AREAS. DO YOU SHOW
2 ALL EXISTING -- I DON'T NECESSARILY
3 WANT TO SEE THEM NOW. I DON'T WANT
4 TO GO THROUGH ALL OF THEM. THAT'S
5 WHAT I'M ASKING. THEY IDENTIFY
6 SPECIFIC THINGS AND WHAT I'M ASKING
7 IS DID YOU SHOW THEM.

8

9 MR. NOTO: YES, WE SHOW ALL
10 THAT.

11

12 MR. DEANGELIS: THE GRADING --

13

14 MR. STEINMAN: ONE THING THAT
15 I'LL JUST ADD IS, THIS IS A PROCESS
16 THAT GOES BEFORE THE PLANNING BOARD,
17 THEY'RE GOING TO OVERSEE THE ADEQUACY
18 AND THE SUFFICIENCY OF WHAT'S BEING
19 SUBMITTED AND IF THEY'RE UNHAPPY WITH
20 IT, THEY'RE GOING TO ASK FOR MORE.

21

22 MR. DEANGELIS: THE UTILITIES
23 PLAN, THE LIGHTING PLAN, LANDSCAPE
24 DRAWINGS, WHICH DO SHOW EIGHT INCH

1 IF, AS PAUL MENTIONED, IF THE
2 PLANNING BOARD NEEDS SOMETHING ELSE
3 IN THE PROCESS, THEY'LL ASK FOR IT
4 AND WE'LL PROVIDE THAT. WE'LL LOOK
5 INTO IT. BUT IT WAS A COMPREHENSIVE
6 APPLICATION.

7 THERE WERE A COUPLE OF THINGS
8 THAT WERE MENTIONED THAT ARE NOT
9 REQUIRED.

10 FOR INSTANCE, THE WETLANDS
11 BUFFER, THE DEC 75 FOOT WETLANDS
12 BUFFER IS NOT SPECIFICALLY REQUIRED
13 IN SECTION 342-78. IT WAS NOT A
14 ZONING REQUIREMENT. AND IT DOES NOT
15 APPLY TO AREAS WHERE THERE WAS A
16 SEAWALL OR LAND WITH ELEVATION ABOVE
17 TEN FEET.

18
19 MR. GUTTERMAN: I THINK WE CAN
20 MOVE ON.

21
22 MR. NOTO: NUMBER 8, AGAIN, I'M
23 NOT SURE IF THIS IS AN APPEAL, IT
24 SAYS CORRECTLY DETERMINE FAR. SO I'M

1 BUT IT SAYS, APPARENTLY THEY WANT YOU
2 TO DETERMINE IF FAR IS GREATER THAN
3 15 PERCENT. WELL, THE FAR WAS
4 CALCULATED CORRECTLY. AS YOU KNOW,
5 THE MR HAS THE MOST RESTRICTED FAR IN
6 THE VILLAGE. UNDER THE PRE-2006
7 CODE, THE AREAS MEASURE TO THE
8 PROPERTY LINE, NOT THE MEDIAN HIGH
9 WATERLINE. SO LAND UNDER WATER IS
10 NOT REQUIRED TO BE EXCLUDED IN THESE
11 CALCULATIONS. AGAIN, THAT RELATES TO
12 THE PRE-2006 CODE.

13 SO, ON THE SECOND PART OF HIS
14 APPEAL HERE, IT SAYS, CORRECTLY
15 DETERMINE THE LOT AREA OVERSTATED.
16 SO THAT'S INCORRECT. B) SECOND FLOOR
17 AREAS OF BOATHOUSE, TENNIS
18 MAINTENANCE AND OTHER OMISSIONS. THE
19 AREA LISTED FOR THE BOATHOUSE IS IN
20 THE TOTAL AREA. THE FIRST FLOOR AND
21 THE SECOND FLOORS OF THE TENNIS
22 BUILDING ARE SHOWN ON SHEET A1, SO WE
23 SUBMITTED THAT INFORMATION.

24

1 CALCULATIONS; TENNIS BUILDING;
2 BOATHOUSE; WE DID NOT DIVIDE THE
3 FIRST AND SECOND FLOOR OF THE
4 BOATHOUSE INTO TWO LINES BUT IT IS
5 SHOWN THE FIRST AND SECOND FLOORS FOR
6 THE TENNIS BUILDING AND IT'S
7 ACCURATE.

8 THERE ARE OPEN SPACES AND BOTH
9 OF THESE BUILDINGS HAVE SOME AREAS OF
10 LOW ROOFS. THEY'RE ACCURATE.

11
12 MR. NOTO: THEN, THE THIRD
13 PORTION OF IT IS THAT ATTIC AREAS
14 HAVE BEEN DEEMED, HE'S SAYING, I
15 THINK THAT ALLEGING THAT ATTICS ARE
16 ROOFS, WHICH THEY'RE NOT, THEY'RE
17 DEEMED TO BE ROOF AREAS. THEY'RE NOT
18 INCLUDED IN THE FAR CALCULATION PER
19 THE CODE.

20 SO, AGAIN, THE APPEAL IS
21 INACCURATE. AND WE'VE PROVIDED THE
22 INFORMATION, WE DID THE CALCULATIONS
23 AND THE BUILDING INSPECTOR AGREED
24 WITH THEM.

1 THE FAR, FAILING TO INCLUDE ATTICS.
2 SO, AND I THINK HE HAS A LETTER FROM
3 AN ARCHITECT WHO APPARENTLY HE DIDN'T
4 TELL THAT WE'RE USING THE PRE-2006
5 CODE AND THE ARCHITECT'S LETTER MAKES
6 NO REFERENCE TO ANY DRAWINGS HE
7 REVIEWED OR ANY CODE HE REVIEWED. SO
8 HE MENTIONS ONLY THAT HE LOOKED AT
9 MR. NATCHEZ'S EXHIBITS, WHICH WE KNOW
10 ARE NOT NECESSARILY ACCURATE
11 PORTRAYALS OF WHAT'S HERE. SO I'M
12 GOING TO DISMISS THAT LETTER AS BEING
13 PRETTY IRRELEVANT. BUT TO ANSWER THE
14 QUESTION, THE FLOOR AREA/GROSS AREA,
15 GROSS FLOOR AREA IS DEFINED MEASURED
16 FROM THE EXTERIOR FACES OF EXTERIOR
17 WALLS OR FROM THE CENTER LINES OF
18 PARTY WALLS. SO, THERE ARE NO
19 EXTERIOR WALLS TO MEASURE FROM, SO
20 THE ATTIC SPACES CAN NOT CONTAIN
21 FLOOR AREA. THEY'VE NEVER BEEN BY
22 THE WAY. THE CURRENT BUILDING
23 INSPECTOR, PRIOR BUILDING INSPECTORS
24 HAVE CONSISTENTLY AND HISTORICALLY

1 AS ROOF AREAS.

2 NOW, WE NEED TO BE CAREFUL WITH
3 THESE, NUMBER 9 AND 10 BECAUSE THE
4 RIPPLE AFFECT ON SINGLE-FAMILY HOMES
5 COULD BE EXTRAORDINARY IF WE WERE
6 STARTING TO COUNT THIS AS FLOOR AREA.

7 SO WE'VE GIVEN YOU THE
8 DEFINITIONS OF A STORY THAT ARE IN
9 THE CODE. AND THAT DEFINITION
10 SUPPORTS THE BUILDING INSPECTOR'S
11 INTERPRETATION.

12 IF A UNFINISHED ATTIC SHALL NOT
13 BE DEEMED A STORY, IT COULD NOT BE
14 FLOOR AREA.

15 NUMBER 10 --

16

17 MR. DEANGELIS: IN NUMBER 9,
18 THERE WAS QUESTION, NUMBER 8, OTHER
19 EMISSIONS, I'M NOT SURE WHAT THAT
20 REFERRED TO.

21

22 MR. NOTO: AGAIN, WE DON'T
23 EITHER.

24 NUMBER 10, AGAIN, I'M NOT SURE

1 IT SAYS, CORRECTLY DETERMINE STORY
2 AND HALF STORY COUNT FOR 342-3.
3 FAILED TO COUNT AREA BELOW THE
4 ELEVATED FIRST FLOORS IN THE PROPOSED
5 TWO BUILDINGS ALL OVER SEVEN FEET SIX
6 INCHES.

7 SO, WE'VE GIVEN YOU THE
8 DEFINITION OF STORY IN THE MIDDLE
9 COLUMN AND THE HALF STORY.

10 WE ARE COMPLIANT. LET'S GO
11 THROUGH THE PLAN, WE HAVE
12 MODIFICATIONS TO THE YACHT CLUB DOCK
13 MASTER BUILDING, WHICH IS ONE STORY,
14 WHICH BY THE WAY, THE PLANNING BOARD
15 WILL PROBABLY REDUCE, BECAUSE, AGAIN,
16 THIS IS STILL PENDING BEFORE THE
17 PLANNING BOARD. THEY'VE EXPRESSED A
18 DISCOMFORT WITH THE PROPOSED SIZE OF
19 THE YACHT MASTER BUILDING.

20 THE BEACH SEASONAL RESIDENCES,
21 THAT'S TWO STORIES; THE RECREATION
22 BUILDING, TWO STORIES. WE GIVE YOU
23 THE ANALYSIS OF STORY, IT EXCLUDES
24 ATTICS THAT ARE UNFINISHED AND

1 SO, NONE OF THESE WOULD QUALIFY
2 AS A STORY. AS WE BEGIN THE PLAN.

3
4 MR. DEANGELIS: AGAIN, THIS IS
5 THE SECTION THROUGH THE BEACH
6 SEASONAL RESIDENCE BUILDING. IT'S
7 CLEARLY NOT HABITABLE ATTIC. THERE'S
8 NO STAIRS TO IT, THERE'S NO WINDOWS.
9 IT CAN'T BE HABITABLE WITHOUT
10 APPROPRIATE LIGHT AND AIR. IT'S
11 UNFINISHED. AND HISTORICALLY THAT
12 HAS NOT BEEN INCLUDED AS A STORY AND
13 AGAIN, AS PAUL MENTIONED BEFORE, SOME
14 OF THESE HAVE A LARGE IMPACT, NOT
15 JUST A DECISION ON THIS PROJECT AND
16 OTHER PENDING APPLICATIONS BUT TO A
17 LOT OF SINGLE PROPERTIES IN THE
18 VILLAGE.

19 YOU JUST HEARD ONE EARLIER THIS
20 EVENING, WHICH MIGHT HAVE BEEN EVEN
21 FURTHER IMPACTED IF AN ATTIC, WHICH
22 IS AGAIN, HISTORICALLY HAS NOT BEEN
23 CONSIDERED A STORY.

24

1 SOMETHING. IF THEY'RE NOT STORIES,
2 ATTICS ARE NOT STORIES, JUST WHAT YOU
3 ARE SAYING, IF ATTICS ARE UNFINISHED,
4 THEN THEY ARE NOT STORY BY
5 DEFINITION. OKAY SO WHY WOULD
6 SOMETHING WE ARE GOING TO BE DOING
7 HAVE AN IMPACT ON SOMEBODY ELSE? ARE
8 YOU SAYING THERE'S AN ISSUE?

9

10 MR. NOTO: IF YOU AGREED WITH
11 THE APPLICANT AND SAID ATTICS ARE
12 STORIES --

13

14 MS. KRAMER: NOTWITHSTANDING
15 THE CODE.

16

17 MR. NOTO: THE '06 CODE. I'M
18 SAYING, IF YOU AGREED WITH THIS
19 APPLICANT ON THIS PARTICULAR ISSUE --

20

21 MS. KRAMER: I SEE WHAT YOU ARE
22 SAYING.

23

24 MR. NOTO: EVERY SINGLE HOME IN

1 BAD WAY.

2

3 MS. KRAMER: I GOT IT. I
4 UNDERSTAND.

5

6 MR. NOTO: AND YOU'D EITHER BE
7 FLOODED WITH VARIANCE APPLICATIONS.

8

9 MS. KRAMER: I DIDN'T KNOW IF
10 HE WAS SAYING IT WAS SOME KIND OF --

11

12 MR. NOTO: OR THEY'D BE COMING
13 DOWN HERE WITH PITCH FORKS BECAUSE
14 YOU'D BE CREATING A LOT OF PROBLEMS.

15

16 MS. KRAMER: I GOT IT.

17

18 MR. NOTO: NUMBER 11, BUILDING
19 COVERAGE.

20

21 MR. DEANGELIS: DID YOU MENTION
22 THE LETTER FROM THE ARCHITECT ON THIS
23 ONE?

24

1

2

MR. DEANGELIS: WHICH AGAIN,
HAS NO BASIS FOR HIS DETERMINATION.

3

4

MR. NOTO: RIGHT. THE
ARCHITECT, I THINK, WAS WORKING OFF
BAD INFORMATION.

5

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NUMBER 11, BUILDING COVERAGE.
AGAIN, I DON'T KNOW IF THIS IS AN
APPEAL. IT SAYS CORRECTLY DETERMINE
THAT BUILDING COVERAGE IS UNDERSTATED
BY FAILING TO INCLUDE TENNIS COURTS
AND SWIMMING POOLS, WHICH ARE
STRUCTURES. PER THE ZONING CODE
DEFINITION 342-3 ATTACHMENT 3. WRONG
ATTACHMENT. ATTACHMENT 3, WHICH HE
REFERS TO IN THE FIRST TWO IS FOR
NON-RESIDENTIAL DISTRICTS. WE HAVE
OUR OWN DISTRICT AND IT DOES NOT
APPLY. IN OUR DEFINITION, A
STRUCTURE HAS A ROOF, SUPPORTED BY
COLUMNS, WALLS, INTENDED FOR SHELTER,
IT'S A BUILDING. SO THAT CLEARLY IS
NOT A BUILDING. SO WE SET FORTH ON
THE RIGHT SIDE OF THE SCHEDULE

1 NOT TO REGULATE BUILDING COVERAGE.

2

3 MR. DEANGELIS: IF I MAY, THE
4 KEY PIECE HERE IS WHEN YOU ARE
5 LOOKING AT YOUR BULK REGULATIONS, YOU
6 GO TO THE SCHEDULE OF MINIMUM
7 REQUIREMENTS AND ON THERE IS A COLUMN
8 TITLED MAXIMUM BUILDING COVERAGE. SO
9 IT'S NOT -- THERE ARE OTHER OCCASIONS
10 WHEN LOT COVERAGE IS REGULATED FOR
11 GOOD REASONS, IMPERVIOUS SURFACES,
12 BUT THAT'S NOT WHAT THIS ONE IS
13 TALKING TO. THIS IS A BUILDING
14 COVERAGE CALCULATION. AND THAT'S
15 WHAT WE DID. WE TOOK THE BUILDING
16 COVERAGE. A TENNIS COURT IS NOT A
17 BUILDING, IT DOES NOT HAVE WALLS OR A
18 ROOF. A SWIMMING POOL IS NOT A
19 BUILDING, IT DOES NOT HAVE EXTERIOR
20 WALLS OR A ROOF. SO, THAT'S WHAT WE
21 INCLUDED IN BUILDING COVERAGE. AND
22 BY THE WAY, WE'RE AT 12 PERCENT, 13
23 PERCENT, WHICH IS SUBSTANTIALLY LESS
24 THAN 20 PERCENT, WHICH IS STILL A LOW

1 IN THIS ZONE.

2

3 MR. NOTO: PLUS AGAIN, I THINK
4 IF YOU ADOPTED THE APPELLANT'S
5 POSITION, YOU COULD REEK SOME HAVOC
6 WITH THE OTHER CLUBS THAT HAVE TENNIS
7 COURTS AND SWIMMING POOLS AS WELL AND
8 THEY TOO MIGHT FIND THEMSELVES TO BE
9 NONCONFORMING.

10

11 MS. KRAMER: I'M SORRY, I HAVE
12 QUESTIONS, SO YOU'RE SAYING THAT
13 BUILDING COVERAGE DOESN'T INCLUDE THE
14 TENNIS COURT AND SWIMMING POOLS EVEN
15 THOUGH THEY ARE STRUCTURES.

16

17 MR. NOTO: RIGHT, BECAUSE THEY
18 ARE NOT BUILDINGS. THE CODE DOESN'T
19 REQUIRE A STRUCTURE ONLY BUILDING
20 COVERAGE, NOT STRUCTURES.

21

22 MR. DEANGELIS: IT'S PRETTY
23 CLEAR TO ME. IT'S PRETTY SIMPLE AND
24 CLEAR AND IT'S THE WAY IT'S BEEN

1 MY YEARS --

2

3 MS. KRAMER: WHERE DOES IT
4 DEFINE BUILDING COVERAGE? YOU'RE
5 SAYING BUILDING COVERAGE, THE
6 DEFINITION OF BUILDING COVERAGE, IT
7 DOESN'T INCLUDE STRUCTURES, IT ONLY
8 INCLUDES BUILDINGS BUT I'M READING
9 WHAT YOU GAVE US AND IT SAYS, THE
10 COVERAGE IS THE PERCENTAGE OF THE LOT
11 COVERED BY BUILDINGS OR STRUCTURES.

12

13 MR. DEANGELIS: RIGHT, BUT IT'S
14 CLARIFIED IN THE CHART AS BUILDING
15 COVERAGE, MAXIMUM BUILDING COVERAGE.

16

17 MS. KRAMER: SO YOU'RE SAYING,
18 THAT BY USING THE TERM BUILDING
19 COVERAGE, THEY ARE EXCLUDING
20 STRUCTURE COVERAGE, NOTWITHSTANDING
21 THE DEFINITION OF COVERAGE INCLUDES
22 THE WORD STRUCTURE.

23

24 MR. DEANGELIS: CORRECT.

1 MS. KRAMER: OKAY.

2

3 MR. NOTO: WELL, THAT'S WHAT
4 THE CODE SAYS. AND THE BUILDING
5 INSPECTOR HAS INTERPRETED THAT WAY.

6

7 MR. STEIN: I'M JUST GOING TO
8 POINT OUT THAT THERE IS APPARENTLY NO
9 DEFINITION IN THE PRE-2006 CODE OF
10 BUILDING COVERAGE.

11

12 MS. KRAMER: I UNDERSTAND THAT.

13

14 MR. NOTO: WE'RE WORKING OFF
15 THE PRE-06 CODE, NOT TODAY'S CODE.

16

17 MS. KRAMER: THE DEFINITION OF
18 BUILDING INCLUDES STRUCTURE,
19 SOMETIMES AND THEN HERE IT'S NOT
20 COVERED SO IT'S NOT CLEAR. EITHER
21 WAY, OKAY.

22

23 MR. NOTO: OBVIOUSLY, IF
24 THERE'S ANY AMBIGUITY, IT RUNS IN

1 THINK IT'S THAT AMBIGUOUS. ARE WE
2 GOOD ON 11 SO I CAN MOVE ON TO 12?
3 12 - HEIGHT OF BUILDINGS. I
4 THINK THE TWO BUILDINGS HE REFERS TO
5 IS THE MAIN BUILDING AND THE YACHT
6 CLUB BUILDING. SO, WE'VE GIVEN YOU
7 THE DEFINITION OF HEIGHT, BUILDING
8 HEIGHT, VERTICAL DISTANCE TO THE
9 LEVEL OF HIGHEST POINT TO THE ROOF,
10 FLAT OR TO THE MEAN LEVEL, BETWEEN
11 EAVES AND HIGHEST POINT. I'LL LET
12 GREGG TAKE YOU THROUGH THE HEIGHT.
13 AND ALSO, BE ADVISED, THE
14 BUILDING INSPECTOR WAS NOT ASKED,
15 THERE IS NO CHANGES ON THIS AMENDED
16 SITE PLAN APPLICATION TO THE
17 CLUBHOUSE. IT WAS APPROVED AS PART
18 OF THE 2010 ORIGINAL PLAN. THERE WAS
19 APPROVED CHANGES TO IT. THOSE
20 CHANGES WERE NOT APPEALED TO THIS
21 BOARD IN 2011 AS OTHER ISSUES WERE.
22 SO WE ARE ESSENTIALLY RECREATING THE
23 CLUBHOUSE TO THE PRE-1972. THE
24 CLUBHOUSE WAS DESTROYED IN A FIRE IN

1 MAGNIFICENT BUILDING. IT HAS GREAT
2 ARCHITECTURAL SIGNIFICANCE. SO WE
3 ARE TRYING TO RESTORE IT TO THAT 1972
4 CHARACTER AND SIZE. SO THERE WERE NO
5 CHANGES MADE. SO TECHNICALLY THERE
6 WAS REALLY NO APPEAL BECAUSE THE
7 BUILDING INSPECTOR WAS NOT ASKED TO
8 RENDER AN OPINION ON THIS ISSUE.
9 FROM A LEGAL STANDPOINT, OUR POSITION
10 PARTIALLY ON THIS ONE IS THERE'S
11 REALLY NOTHING BEFORE YOU BECAUSE THE
12 BUILDING INSPECTOR NEVER MADE A
13 DETERMINATION ON THE HEIGHT.

14 BUT, WE WANT YOU TO UNDERSTAND
15 WHAT WE DID.

16
17 MR. DEANGELIS: SO THE YACHT
18 CLUB BUILDING, WHICH WAS PART OF THE
19 2013 APPLICATION IS A ONE-STORY
20 BUILDING AND THERE'S ALSO NO SPECIFIC
21 METHODOLOGY FOR DETERMINING AVERAGE
22 GRADE IN THE PRE-2006 ZONING. SO WE
23 HAD TO USE OUR BEST, PROFESSIONAL
24 JUDGEMENT AND IN AVERAGE GRADE. HERE

1 CLUB. THE ELEVATION AND ONE
2 ELEVATION HAS THE GRADE IS PRETTY
3 MUCH IS WITHIN A COUPLE FEET OF THE
4 FLOOR LEVEL. ON THE PARKING LOT
5 SIDE, THE NORTH EAST ELEVATION, IT'S
6 BASICALLY DOWN A FULL STORY DOWN.
7 FULL STORY, NOT A STORY, DOESN'T
8 COUNT AS A FULL STORY BUT IT'S MOSTLY
9 UNDERGRADE THAT PORTION BUT IT THAT
10 LEVEL AND ON THE OTHER TWO SIDE, IT
11 KIND OF GETS AVERAGED OUT. FROM THAT
12 WE CAME UP WITH AN AVERAGE GRADE
13 ELEVATION OF 13.5. AND WHICH LED US
14 TO GO IN TO THE MID POINT OF THE
15 ROOFS. IN THIS CASE, THIS TOWER IS
16 OKAY, BUT THERE'S ALSO AN EXCEPTION
17 IN THE CODE, 342-14 FOR BUILDING
18 PROJECTIONS AND THINGS LIKE SPIRES
19 AND MECHANICAL PENTHOUSES ARE NOT
20 COUNTED IN THE CALCULATION OF THE
21 BUILDING HEIGHT. THAT'S NOT
22 UNTYPICAL.

23 WE HAVE A BUILDING HEIGHT HERE
24 OF 29 FEET, 6 INCHES, BASED ON THE

1 YACHT CLUB. THE ALLOWABLE BUILDING
2 HEIGHT IN THIS DISTRICT IS 40 FEET.
3 SO THE YACHT CLUB IS SUBSTANTIALLY
4 UNDER.

5
6 MR. GUTTERMAN: TO PARAPHRASE,
7 IF YOU SIMPLIFIED THE TOPOGRAPHY
8 SURROUNDING THE BUILDING, IT'S AS
9 THOUGH THE BUILDING SITS ON SOME KIND
10 OF INCLINE PLAIN AND YOU FOUND THE
11 AVERAGE GRADE ROUGHLY IN THE MID
12 POINT.

13
14 MR. DEANGELIS: ROUGHLY
15 MIDPOINT. IT'S A LITTLE BIT HIGHER
16 BECAUSE THE GRADE DOESN'T DROP OFF.

17
18 MR. GUTTERMAN: YEAH, IT'S
19 IRREGULAR.

20
21 MR. DEANGELIS: TOWARDS A
22 LITTLE BIT FURTHER TOWARDS THE
23 PARKING LOT SIDE.

24

1 APPEAL. CORRECTLY DETERMINE BUILDING
2 HEIGHT FOR MAIN CLUBHOUSE AND YACHT
3 CLUB. OUR RESPONSE IS SEE ANSWER TO
4 NUMBER 12 BECAUSE IT'S THE SAME
5 QUESTION.

6
7 MS. KRAMER: SO YOU'RE, WHAT
8 YOU REFER TO AS WHAT THEY CALL
9 AVERAGE GRADE, IS WHAT YOU'RE SAYING
10 IS BASED ON THE FINISHED LEVEL OF THE
11 GRADE AND THEN YOU TOOK THE AVERAGE.

12
13 MR. DEANGELIS: YES, BECAUSE
14 THE GRADE IS VARIED AND --

15
16 MS. KRAMER: IT USES THE
17 FINISHED LEVEL, THAT'S WHAT I'M
18 ASKING, IT'S THE FINISHED LEVEL.
19 THAT'S WHAT THIS SAYS, BASED ON THE
20 AVERAGE LEVEL OF THE FINISHED GROUND
21 SURFACE.

22
23 MR. DEANGELIS: AND IN THIS
24 CASE WE'RE NOT ALTERING GRADE AROUND

1 SETTING THEM IN EXISTING GRADES.
2 THERE ARE SOME OTHER PROVISIONS THAT
3 YOU CAN'T ALTER MORE THAN THREE FEET
4 IN ONE WAY OR THE OTHER. THAT'S NOT
5 THE CASE HERE.

6
7 MR. NOTO: NUMBER 14,
8 CORRECTLY, AGAIN, DETERMINE BUILDING
9 SEPARATION PURSUANT TO 342-27 AND
10 342. ATTACHMENT 2 NOTE 4. 342-7, WE
11 HAVE TO ASSUME THAT'S WHAT THEY'RE
12 REFERRING TO, ARE FOR RESIDENTIAL
13 DISTRICTS AND WE ARE NOT A
14 RESIDENTIAL DISTRICT, WE ARE A MARINE
15 RECREATION. SO THESE DON'T APPLY.

16 NUMBER 15, DETERMINE WHETHER
17 THE FIVE THOUSAND SQUARE FEET PER
18 DWELLING UNIT RULE HAS BEEN ACHIEVED.

19 AGAIN, WE'RE LOOKING AT THIS
20 FOR THE NON-RESIDENTIAL DISTRICTS.
21 WE DO COMPLY. GREGG, IF YOU WANT TO
22 TAKE THEM THROUGH, YOU CAN DO THE
23 MATH. WE DID THE MATH IN THE COLUMN.

24

1 IS REALLY SPEAKING TO DENSITY. IT'S
2 TOTAL, THE SITE AREA IS FIVE HUNDRED
3 THIRTY-FOUR THOUSAND SQUARE FEET AND
4 CHANGE. THERE ARE A TOTAL OF 21 NEW
5 AND EXISTING RESIDENTIAL UNITS.
6 DIVIDING 534,000 BY 21 UNITS, GETS
7 ABOUT 25,000 SQUARE FEET PER UNIT.
8 SO I THINK WE'RE WELL WITHIN THAT
9 REQUIREMENT.

10

11 MS. KRAMER: AND SITE AREA IS A
12 LOT AREA BASED ON THE PROPERTY,
13 THAT'S WHAT THE SITE AREA --

14

15 MR. DEANGELIS: BASED ON THE
16 PROPERTY LINES BUT THAT'S NOT GOING
17 TO EFFECT THIS CALCULATION.

18

19 MS. KRAMER: I REALIZE IT'S
20 MUCH MORE, BUT I'M JUST MAKING SURE
21 THAT I UNDERSTAND HOW YOU DID IT.

22

23 MR. NOTO: WE DID THE MATH IN
24 THE COLUMN. THAT'S MATH EVEN A

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MS. KRAMER: YEAH, IT WAS MY
DEFINITION OF SITE AREA. I WANTED TO
MAKE SURE I KNEW WHAT YOU USED AS A
SITE AREA.

MR. NOTO: NUMBER 16, CORRECTLY
DETERMINE LOT FRONTAGE. 342-3 AND
342, ATTACHMENT 3 THE EXTENT OF A
BUILDING OR OF LAND ALONG A STREET.
THEY ALLEGE THE REQUIRED LOT IS 150
FEET IS NOT MET BY THE PROPERTY
THOUGH THE LOT IS BELIEVED TO BE AN
EXISTING NON-CONFORMING PROPERTY WITH
REGARDS TO THE FRONTAGE. WE'VE GIVEN
YOU THE 150 FEET. I THINK EVERYONE
HAS LONG ACKNOWLEDGED THAT THE LOT
FRONTAGE IS AN EXISTING NONCONFORMITY
AND WE ARE NOT INCREASING THAT
NONCONFORMITY. THE BUILDING
INSPECTOR AGREED. SO THERE WAS NO --
BY THE WAY, THERE WAS NO CHANGE FROM
THE 2010 APPROVED PLAN. SO AGAIN,
THERE WAS NO REQUEST OR NO DECISION

1 WITH REGARDS TO LOT FRONTAGE. IT'S
2 NOT BEING AMENDED.

3 NUMBER 17 - AGAIN, I THINK THIS
4 IS AN APPEAL, CORRECTLY DETERMINE
5 REQUIRED YARDS 342-3, 342 ATTACHMENT
6 3. IF THE MEAN HIGH WATER LINE IS
7 SHOWN ON THE ARCHITECTURAL PLAN IS
8 USED, THE SIDE YARD SETBACK GETS
9 TAKEN FROM THIS LINE. THE YACHT CLUB
10 BUILDING, SO I GUESS THIS REFERS ONLY
11 TO THE YACHT CLUB BUILDING, DOES NOT
12 MEET SIDE YARD SETBACKS. SO WE'VE
13 GIVEN YOU THE DEFINITION OF SIDE YARD
14 IN THE MIDDLE COLUMN, WE ARE
15 COMPLIANT. THE REQUIREMENT, THERE IS
16 NO REQUIREMENT THAT IT BE TAKEN FROM
17 THE MEDIAN HIGH WATER LINE.

18
19 MR. GUTTERMAN: THE WATER IS TO
20 THE SIDE OF THAT SIDE YARD, RIGHT?

21
22 MR. DEANGELIS: THE PROPERTY
23 LINE EXTENDS INTO THE WATER. BUT THE
24 CODE IS VERY CLEAR, THE ZONING IS

1 ARE TAKEN FROM THE PROPERTY LINE.

2

3 MR. NOTO: FOR GOOD REASON.

4

5 MR. DEANGELIS: AND NOW, BY THE
6 WAY, THIS BUILDING HAPPENS TO BE
7 WITHIN THE 50 FOOT MEAN HIGH WATER
8 SETBACK; AND THE PLANNING BOARD HAS
9 TAKEN A HARD LOOK AT THIS BUILDING,
10 AS PAUL MENTIONED, TO REDUCE IT'S
11 SIZE, OR LOOKING TO REDUCE IT, BUT
12 THAT'S A SEPARATE ISSUE.

13

14 MR. GUTTERMAN: AGAIN THAT'S IN
15 THE MIDST OF ANOTHER DISCUSSION.

16

17 MR. NOTO: NUMBER 18 - VERY
18 SHORT APPEAL, CORRECTLY DETERMINE THE
19 REQUIRED PARKING. SO THIS ONE IS
20 INTERESTING BECAUSE IT'S ONE OF THE
21 FEW TIMES I GET TO REFER TO A ZONING
22 BOARD DECISION ON THIS APPLICATION
23 THAT HELPS US.

24

YOU HAD MADE A DECISION IN 2011

1 INSPECTOR USED THE CORRECT FORMULA IN
2 DETERMINING THE PARKING.

3 WHAT I THOUGHT WAS INTERESTING
4 WAS IN, AGAIN, IN THESE EXHIBITS,
5 WHICH ARE OUT OF ORDER BUT I DID FIND
6 THIS ONE AND MR. NATCHEZ'S EXHIBIT
7 31, PARKING ANALYSIS. HE WAS,
8 ACCORDING TO THEM, WE WOULD NEED A
9 MINIMUM OF 727 PARKING SPACES, WHICH
10 IS A LOT. AND ESSENTIALLY, WHAT
11 THEY'RE ALLEGING IS THAT EVERY SINGLE
12 SEPARATE DINING AREA SHOULD BE
13 CALCULATED SEPARATELY FOR PARKING.
14 SO I THOUGHT, YOU KNOW, WHAT WOULD
15 THAT DO TO THE OTHER CLUBS AND I'M
16 GOING TO LIST FOR YOU ALL OF THE
17 PLACES AT ORIENTA BEACH CLUB WHERE
18 PEOPLE EAT DINNER: THE TRAP ROOM;
19 THE LIVING ROOM; THE TILE ROOM; THE
20 OAK ROOM; THE GRILLE ROOM, THE MAIN
21 DINING ROOM; THE TERRACE, THE
22 PAVILION AND THE DOLPHIN LOUNGE. ALL
23 OF THOSE PLACES, AT THE SAME TIME,
24 PEOPLE EAT. SO, WERE EACH OF THESE

1 PURPOSES OF PARKING, THEY'D PROBABLY
2 NEED EIGHT OR NINE HUNDRED PARKING
3 SPACES, WHICH THEY ARE NO WAY NEAR.
4 SO, IF THIS APPEAL WERE GRANTED,
5 WOULD REEK HAVOC ON BEACH POINT AND
6 ORIENTA AND HAMPSHIRE AND THE OTHER
7 CLUBS.

8 WE DID NOTE AND WE DID LOOK IN
9 THE FILE, BEACH POINT DID A MAJOR
10 EXPANSION OF THEIR DINING ROOM; AND
11 THE NOTATION ON THE FILE WAS, SAME
12 PARKING, NO INCREASE IN PARKING.

13 SO OUR CALCULATIONS ARE ON THE
14 PLAN, AND THEY WERE VERIFIED BY THIS
15 BOARD IN 2011 AND WE DID NOT CHANGE
16 THE WAY WE CALCULATED THE PARKING.

17 19 - CORRECTLY DETERMINE
18 REQUIRED SETBACKS, SCREENING
19 LANDSCAPING. SUB-APPEAL, I GUESS,
20 PARKING WITHIN THE LOT ADJACENT TO
21 OTTER CREEK DOES NOT MEET THE
22 REQUIREMENTS FOR TEN FOOT WIDE BUFFER
23 PLANTING STRIP.

24 AGAIN, BUFFER PLANTINGS AND

1 MAP.

2 WE'LL ADDRESS EACH ONE. A)

3 DOES NOT -- WE DON'T ABUT A

4 RESIDENTIAL AREA. WE ABUT --

5

6 MR. DEANGELIS: IT SAYS, THE

7 EDGE OF THE PROPERTY AS SUBMITTED TO

8 THE PLANNING BOARD IN 2013, WHICH IN

9 THIS CASE IS ADJACENT TO ANOTHER

10 MR-DISTRICT, PIECE OF PROPERTY.

11

12 MR. NOTO: MR WHICH IS ADJACENT

13 TO THE CREEK.

14

15 MR. DEANGELIS: AND EVEN IF YOU

16 GO AHEAD AND SAY, YOU KNOW, THIS IS A

17 DISPUTED PARCEL, THIS IS OTTER CREEK

18 HERE IT'S NOT ADJACENT TO A

19 RESIDENTIAL PROPERTY.

20

21 MS. KRAMER: ON ANY SIDE.

22

23 MR. DEANGELIS: NO, IT'S ALL

24 WATER. ACROSS THE WATER, BUT IT SAYS

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MR. NOTO: B) A PORTION OF THE
PARKING AT THE YACHT CLUB MAY REQUIRE
ADDITIONAL BUFFER PLANNING. I DON'T
THINK THAT'S AN APPEAL.

EXPAND THE GRAVEL LOT MAY
REQUIRE, AGAIN, THAT'S NOT APPEAL.
AND IT SAYS, THE MAIN PARKING AREA,
DOES NOT HAVE LANDSCAPED ISLANDS.

NOW, IF YOU LOOK IN THE CODE,
AGAIN, THESE ARE SITE PLAN ISSUES,
THAT ARE CLEARLY THE PURVIEW OF THE
PLANNING BOARD. THEY ARE VERY TOUGH
WITH THESE THINGS. THEY ARE VERY
THOROUGH AND AS YOU SAID, THIS IS AN
ONGOING PROCESS. WE ARE STILL IN
FRONT OF THE PLANNING BOARD. WE HAVE
NOT COMPLETED THIS PROCESS BY ANY
MEANS AND SO AS FAR AS LANDSCAPING
AND BUFFERING, WE ARE IN THE TEXT OF
THE MIDDLE OF THE VERY, I'D SAY
SERIOUS CONVERSATIONS WITH THE
PLANNING BOARD ABOUT HOW BEST TO
ACCOMPLISH OUR GOALS, OUR MUTUAL

1 AS A ZONING ISSUE WHERE THE BOARD OF
2 APPEALS WOULD RULE THAT THE BUILDING
3 INSPECTOR WAS INCORRECT, BECAUSE IT'S
4 AN ONGOING PROCESS. IF HE WERE
5 INCORRECT, WHAT WOULD WE DO, WE COULD
6 ADD A FEW TREES. BUT I DON'T KNOW
7 WHY THE ZONING BOARD WOULD GET
8 INVOLVED IN THAT. I DON'T SEE IT AS
9 AN APPEAL.

10

11 MR. DEANGELIS: TO THE EXTENT
12 IT'S RELEVANT, THE PROPOSED
13 LANDSCAPING PLAN REPLACES TREES THAT
14 ARE REMOVED CLOSE TO TWO TO ONE. SO
15 THERE'S AMPLE AMOUNTS OF LANDSCAPING
16 BEING INSTALLED IN STRATEGIC
17 LOCATIONS THROUGHOUT THE SITE.

18

19 MR. NOTO: NUMBER 20 -
20 CORRECTLY DETERMINE THE NUMBER AND
21 TYPE OF ADA PARKING SPACES.

22

23 THERE IS NO CODE REQUIREMENT
24 REFERENCED AND THIS IS NOT, IN OUR
OPINION, SOMETHING THE ZONING BOARD

1 JURISDICTION OVER.

2

3 MS. KRAMER: WHAT ABOUT, I KNOW
4 THEY DIDN'T RAISE IT, BUT SINCE IT'S
5 HERE, WHAT ABOUT, IS THERE A STATE
6 CODE REQUIREMENT ON THIS?

7

8 MR. NOTO: YEAH, THERE'S STATE
9 FIRE CODES --

10

11 MS. KRAMER: NO, I'M TALKING
12 ABOUT THE ADA, I'M TALKING ABOUT THE
13 HANDICAP.

14

15 MR. NOTO: YEAH, WE HAVE TO
16 COMPLY.

17

18 MR. GUTTERMAN: STATE
19 ACCESSIBILITY.

20

21 MR. NOTO: WE HAVE NO CHOICE.

22

23 MS. KRAMER: THAT'S --

24

1 ISSUE.

2

3 MS. KRAMER: BUT WHO DETERMINES
4 COMPLIANCE?

5

6 MR. NOTO: THE BUILDING
7 INSPECTOR. HE WOULDN'T GIVE US A
8 PERMIT. AT THE END OF THE DAY, THE
9 PERMIT IT WHAT EVERYBODY WANTS SO
10 BADLY.

11

12 MR. DEANGELIS: I THINK THE KEY
13 THING HERE, PAUL, IS WE'VE
14 ACCOMMODATED THE HANDICAP SPACE, THE
15 NUMBERS REQUIRED IN VARIOUS, SEVERAL
16 LOCATIONS THROUGHOUT THE SITE, NEAR
17 THE MAJOR BUILDINGS. AND THE COUNTS
18 ACCOMMODATE FOR THE SPACES. SO IF
19 THERE IS ANY SPECIAL REQUIREMENTS FOR
20 THE SURFACES, THERE IS DIFFERENT WAYS
21 TO HANDLE THAT. THAT'S A CODE
22 REQUIREMENT THAT HAS TO BE DEALT WITH
23 AND WORKED OUT WITH THE BUILDING
24 INSPECTOR PRIOR TO BUILDING PERMIT.

1 COUNT.

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MR. NOTO: 21, DETERMINE THE
ADEQUACY OF THE LIGHTING PLAN
PURSUANT TO 342-18. SO WE WENT TO
SEE 342.18 PRE-'06 AND IT REALLY
APPEARS NOT TO APPLY TO AN MR-ZONE
BUT MOSTLY EXTERIOR, MANUFACTURING,
COMMERCIAL, OFFICE, MULTIPLE
RESIDENTIAL DISTRICTS, NONE OF WHICH
APPLY TO US.

HOWEVER, WE DON'T BELIEVE THAT
THE LIGHTING PLAN IS A LEGITIMATE
ZONING BOARD ISSUE. WE SUBMITTED A
LIGHTING PLAN TO THE PLANNING BOARD,
AGAIN, THEY'RE GOING TO REVIEW IT AND
ULTIMATELY THEY APPROVE IT OR NOT
APPROVE IT. IN FACT, IN CONSULTATION
WITH THE BUILDING INSPECTOR, THEY
WOULD MAKE A DETERMINATION BUT WE
DON'T THINK IT'S A ZONING ISSUE PER
SE. BUT WE DID SUBMIT A LIGHTING
PLAN; AND IT'S GREAT. IF YOU WANT TO
LOOK AT IT.

1 WE DID SHOW THIS INFORMATION. SO
2 AGAIN, THE APPEAL, IF IT IS AN APPEAL
3 SAYS, CORRECTLY DETERMINE THE
4 ADEQUACY OF THE PLANS PRESENTED. I'M
5 NOT SAYING IT'S YOUR PURVIEW TO
6 DETERMINE "ADEQUACY OF SUBMISSIONS".
7 I DON'T THINK THAT'S A LEGITIMATE
8 ZONING BOARD FUNCTION.

9

10 MR. DEANGELIS: THESE ARE
11 DRAWINGS TO SCOPE OUT FOR SITE PLANS
12 APPLICATIONS. THEY ARE NOT BUILDING
13 PERMIT DRAWINGS, THEY DO NOT HAVE
14 EACH EVERY DETAIL THAT'S NEED TO
15 CONSTRUCT THE BUILDING. THAT'S THE
16 NEXT STEP.

17

18 MR. NOTO: SO WE DID SHOW POOL
19 AREA CONFIGURATIONS ON THE PLANS.
20 AND AGAIN, THIS IS AN ONGOING PROCESS
21 OF REVIEW. WE MAY END UP CHANGING
22 THOSE PLANS, DEPENDING ON WHAT THE
23 PLANNING BOARD DOES.

24

23 - CORRECTLY DETERMINE THE

1 THIS IS A FIRST FOR THE ZONING BOARD
2 OF APPEALS, DETERMINING THE ADEQUACY
3 OF PLUMBING CONNECTIONS. NOT ONCE
4 HAVE I EVER HEARD OF A ZONING BOARD
5 OF APPEALS DETERMINING ADEQUACY OF
6 PLUMBING CONNECTIONS. I DON'T THINK
7 ANY MEMBER OF THIS BOARD IS A
8 LICENSED PLUMBER. I COULD BE WRONG,
9 BUT I DON'T THINK IT'S SOMETHING THAT
10 YOU HAVE EVER HAD TO DEAL WITH OR
11 SHOULD YOU. WE HAVE A BUILDING
12 INSPECTOR WHO WOULD DETERMINE THAT
13 WHETHER OUR CONNECTIONS ARE CORRECT
14 OR NOT AND IF THEY WERE NOT, WE WOULD
15 NOT GET A BUILDING PERMIT TO BUILD.

16 LASTLY, WE DID MENTION THAT
17 THIS IS A CHAPTER 186, WHICH IS NOT
18 IN THE ZONING CODE SO WE SEE NO
19 JURISDICTION FOR THE ZONING BOARD.
20 NOT THAT YOU'D EVEN WANT JURISDICTION
21 ON THIS BUT WE DON'T THINK YOU HAVE
22 IT.

23 24 - ANOTHER ENGINEERING
24 QUESTION, THIS IS FOR YOU TO CERTIFY

1 POLLUTION PREVENTION PLAN AND THE
2 DEFINITION OF SUBSTANTIAL IMPROVEMENT
3 TO DETERMINE WHETHER STORM WATER
4 MANAGEMENT MUST BE ADDRESSED. I
5 DON'T KNOW WHAT THAT MEANS BUT
6 PRESUMABLY YOU'RE BEING ASKED TO
7 CERTIFY THE ADEQUACY OF THE STORM
8 WATER POLLUTION PREVENTION PLAN,
9 WHICH AGAIN, IS NOT A ZONING
10 COMPLIANCE ISSUE. WE HAVE A VILLAGE
11 ENGINEER WHO REVIEWS THESE PLANS AND
12 ADVISES THE PLANNING BOARD AND OTHER
13 BOARDS. I DON'T SEE THAT YOU WOULD
14 HAVE ANY JURISDICTION TO APPROVE OUR
15 STORM WATER POLLUTION PLAN. YOU'RE
16 WELCOME TO REVIEW IT. WE DID SUBMIT
17 IT AS PART OF OUR APPLICATION. BUT I
18 DON'T SEE IT AS A ZONING ISSUE AND I
19 DON'T SEE WHERE THE JURISDICTION
20 WOULD LIE FOR YOU TO DO THAT.

21 25 - CORRECTLY DETERMINE THE
22 USE OF THE MANAGER'S HOUSE. AGAIN,
23 I'M NOT SURE HOW THAT'S A ZONING
24 ISSUE FOR THE ZONING BOARD OF

1 THOUGHT -- CURRENTLY IT'S VACANT, IF
2 ANYONE WANTS TO KNOW. I THINK LISA
3 RESIDES THERE ON OCCASION. AND SHE
4 IS AFFILIATED WITH THE CLUB. AGAIN,
5 I DON'T SEE A ZONING ISSUE THERE.

6 26 - CORRECTLY DETERMINE THE
7 TYPE OF USES ON THE PROPERTY. THAT
8 WAS RESOLVED AT THE LAST MEETING. I
9 ASSUME THAT'S WHAT THAT'S ABOUT. SO
10 WE'RE NOT GOING TO RE-OPEN THAT CAN
11 OF WORMS.

12 AND 27 - CORRECTLY DETERMINE
13 THE APPLICATION IS NOT CODE COMPLIANT
14 BASED ON FAILURE TO SHOW FIRE
15 HYDRANTS, ROAD WIDTHS AND FIRE
16 APPARATUS TURN AROUND PROVISIONS.
17 FIRST OF ALL, WE DO SHOW THAT
18 INFORMATION ON THE PLANS. BUT
19 SECOND, WE DON'T SEE ANY ZBA
20 JURISDICTION HERE. INTERESTINGLY, IF
21 WE NEEDED A VARIANCE, WE'D HAVE TO GO
22 TO THE NEW YORK STATE CODE'S COUNSEL,
23 WHICH WE DON'T NEED A VARIANCE BUT
24 THE NEW YORK STATE FIRE CODE WOULD

1 DEPARTMENT, WE HAVE A FIRE INSPECTOR
2 WHO REVIEWS THE PLANS AND WOULD
3 ADVISE US OR THE PLANNING BOARD IF
4 THERE WERE A PROBLEM, THEY WOULD LET
5 US KNOW IN THE SITE PLAN PROCESS AND
6 WE'D HAVE TO AMEND OUR PLANS.

7
8 MR. DEANGELIS: WE'VE WALKED
9 THE SITE MULTIPLE OCCASIONS WITH
10 MULTIPLE BUILDING INSPECTORS TO GO
11 THROUGH THE REQUIREMENTS AND
12 NECESSITIES, WHAT HAD TO BE PROVIDED
13 FOR THE FIRE HYDRANTS, THE TURN
14 AROUND SPACES, DISTANCE TO BUILDINGS
15 IN GREAT DETAIL.

16
17 MR. NOTO: INTERESTINGLY, THEY
18 DON'T ALLEGE THAT WE'RE NOT IN
19 COMPLIANCE, THEY ARE SIMPLY WANT YOU
20 TO CORRECTLY MAKE THAT DETERMINATION.
21 SO, I DON'T GET THAT APPEAL, BUT
22 ANYWAY WE ARE IN COMPLIANCE, WE
23 SHOWED IT ON THE PLANS. CERTAINLY
24 SUFFICIENT INFORMATION TO GO THROUGH

1 28 - CORRECTLY DETERMINE THAT
2 THE APPLICATION IS NOT CODE COMPLIANT
3 BASED ON THE ALLEGED FAILURE TO
4 COMPLY WITH THE MR ZONE 50 LONG
5 ISLAND SOUND SET BACK FOR NON-WATER
6 DEPENDANT USES. FIRST OF ALL, WE ARE
7 A WATER DEPENDANT USE. POLICY 2 OF
8 THE LWRP SPECIFICALLY CLASSIFIES
9 CLUBS AS WATER DEPENDANT. SO THAT
10 ISSUE HAS BEEN ADDRESSED BY THE LWRP.

11 THE PLANNING BOARD ISSUES THE
12 PERMIT ON THE 50 FOOT SETBACK. WE
13 ARE IN FRONT OF THE PLANNING BOARD.
14 WE OBTAINED THAT PERMIT IN 2010. WE
15 ARE AMENDING IT THIS TIME AROUND ON
16 THE AMENDED SITE PLAN SO WE ARE IN
17 THE MIDDLE OF THAT REVIEW PROCESS.
18 IT WILL BE UP TO THE PLANNING BOARD
19 TO MAKE THE DETERMINATION WHETHER
20 THEY GRANT THE PERMIT OR NOT. AGAIN,
21 WE ARE NOT CLEAR WHERE THE ZONING
22 JURISDICTION WOULD LIE HERE.

23 THE BUILDING INSPECTOR NEVER
24 REALLY MADE A DETERMINATION ON THAT

1 CAN GRANT THE PERMIT. NOT EVEN THE
2 BUILDING INSPECTOR CAN GRANT THIS
3 PERMIT SO HE DIDN'T MAKE A
4 DETERMINATION ON THIS PARTICULAR
5 ISSUE.

6 SO, THAT CONCLUDES THE 28
7 APPEALS AND OUR RESPONSES THERETO AND
8 WE HAVE NO MORE SUBMISSIONS, YOU'LL
9 BE HAPPY TO HERE, HOPEFULLY,
10 DEPENDING ON WHAT THE APPELLANT DOES,
11 BUT WE DON'T KNOW WHAT ELSE WE COULD
12 GIVE YOU.

13
14 MR. GUTTERMAN: THANK YOU VERY
15 MUCH FOR RUNNING US THROUGH IT IN
16 ABOUT AN HOUR'S TIME. IT'S MUCH
17 APPRECIATED.

18
19 MR. NOTO: I DID SEE MS.
20 COHEN'S LETTER SHE DID SAY SHE WANTED
21 TO MAKE A PRESENTATION MAY IN
22 RESPONSE TO WHAT WE DID. OBVIOUSLY,
23 WE HAVE NO CONTROL OVER THAT.
24 PRESUMABLY YOU COULD CLOSE IT OUT AND

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MS. KRAMER: UNLESS YOU FEEL A
NEED TO MAKE A RESPONSE TO THAT.

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MR. NOTO: I DON'T KNOW WHAT
ELSE YOU'RE GOING TO SAY. WE HAVE
RESPONDED TO THE APPEALS.

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MR. GUTTERMAN: I WOULD EXPECT
THAT THEY'LL MAKE THE PRESENTATION IN
MAY AND THEN THEY'LL --

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MR. NOTO: I'M SURE THEY'LL
HAVE SOMETHING TO SAY.

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MR. GUTTERMAN: WITHIN THE 28
ISSUES, THERE MIGHT BE A FEW THAT
NEED FURTHER ELABORATION AND WE'LL
IDENTIFY THEM.

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22

MR. NOTO: OKAY. THAT TIME
SCHEDULE IS FINE WITH US.

23

24

MR. STEINMAN: DOES THE BOARD

1 OF SAPOA'S WRITTEN MATERIALS IN
2 ADVANCE OF THE MEETING.

3

4 MR. GUTTERMAN: TWO WEEKS
5 BEFORE THE NEXT MEETING, ELECTRONIC
6 AND HARD COPIES.

7

8 MR. STEINMAN: TO THIS
9 BUILDING.

10 MR. GUTTERMAN: YES TO
11 BARBARA'S RITTER'S ATTENTION AT THIS
12 ADDRESS, NOT AT 123 MAMARONECK
13 AVENUE. DEFER TO BUILDING MANAGER AS
14 FAR AS ANY FURTHER NUANCES FOR
15 PROCEDURE IN THAT REGARD.

16

17 MR. NOTO: THANK YOU.

18

19 MR. GUTTERMAN: THANK YOU VERY
20 MUCH.

21

22 I'LL NOTE FOR THE RECORD
23 CORRESPONDENCE IS FROM NEWMAN FERRARA
24 AND SUZANNE MCCRORY DATED MARCH 20TH,
THAT WE RECEIVED THAT INCLUDED IN THE

1 THESE LETTERS FROM THE ARCHITECT,
2 MARIO CONTEROSE THAT GREGG AND PAUL
3 REFERENCED JUST NOW, AS WELL AS THE
4 LAND SURVEYOR; AND SUZANNE MCCRORY'S
5 CORRESPONDENCE THAT REFERENCES SOME
6 ADDITIONAL FINANCIAL INFORMATION IN
7 THE CONTEXT OF A USE ISSUE. DO YOU
8 WANT ME TO SAY ANYTHING ABOUT THIS?

9

10 AUDIENCE MEMBER: NO.

11

12 MR. GUTTERMAN: NOTED. THANK
13 YOU. THE HEARING WILL REMAIN OPEN.
14 AS WE SAID, SAPOA WILL PRESENT A
15 RESPONSE TO THE MAMARONECK BEACH AND
16 YACHT'S PRESENTATION AT THE NEXT
17 MEETING.

18 IF ANYONE WANTS TO SPEAK IN
19 ADDITION TO THESE THINGS, TO THIS
20 APPLICATION, THEY MAY DO SO NOW.

21 OKAY. WE WILL ADJOURN SAPOA.
22 NOW WE'LL MOVE TO CLOSED
23 APPLICATIONS.

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C E R T I F I C A T I O N

STATE OF NEW YORK)

COUNTY OF WESTCHESTER

I, KATHLEEN M. MCSHERRY,
A SHORTHAND REPORTER AND NOTARY PUBLIC OF
THE STATE OF NEW YORK, DO HERE BY CERTIFY:

THAT, THE ABOVE
TRANSCRIPTION OF THE HEARING IS A TRUE
RECORD OF THE TESTIMONY GIVEN BY SUCH
PARTIES.

I FURTHER CERTIFY THAT I AM
NOT RELATED TO ANY OF THE PARTIES TO THIS
ACTION BY BLOOD OR MARRIAGE; AND THAT I AM
NO WAY INTERESTED IN THE OUTCOME OF THIS
MATTER.

KATHLEEN M. MCSHERRY APRIL 3, 2014

Chairman Gutterman stated that if SAPOA wants to submit any further information it must be done 2 weeks before the May meeting, both electronic and hard copies. Ms. Debra Cohen, Esq. submitted a request on March 20, 2014 for her rebuttal to be heard at the May meeting.

Chairman Gutterman then asked if anyone wanted to address the Board. None did. He specifically asked Ms. Sue McCrory if she would like to speak. She did not.

The open hearing was adjourned to the May meeting.

Stenographic minutes have been transcribed by the Court Reporter and are available by PDF by contacting the Zoning Board Secretary.

CLOSED APPLICATIONS

1. Application #1I-2014, JOHN MAWE, regarding 841 Taylor's Lane, (Section 4, Block 79, Lot 8B4) for an appeal of Building Permit #14-0012 (R-15 District)

Ms. Georgiou stated that the draft resolution before the Board did not reflect the latest revisions. The first revision is on page 4, ("iv") , the 5th line has been reworked to read the stairs which do not project more than 3 feet into the rear yard are a permissible building projection under Chapter 342-14. The second revision is on page 5 at the top of the page, last sentence of "(v)" after: "conferred under Village Code Chapters . . .", "126" is stricken.

On motion of Mr. Sullivan, seconded by Ms. Kramer, the appeal was denied and the draft resolution was adopted as revised.

Ayes: Sullivan, Kramer, Neufeld, Gutterman

Nays: None

2. Application #1SP-2014, HAMPSHIRE CLUB, INC., 1025 Cove Road, (Section 9, Block 89B, Lots 15 & 16, Section 9, Block 89C, Lots 22A & 23, Section 9, Block 89D, Lots 24, 25, 26, 27, & 28, Section 9, Block 72, Lots 1, 2, 3, 11, 17B, 17C, 18D, 24, 25, 28 & 29) for a special permit to host non-member events (MR/R-20 Districts)

Chairman Gutterman adjourned for Advice of Counsel.

Mr. Steinman stated it's for Advice of Counsel, not Executive Session.

Upon returning from Advice of Counsel, the Board discussed the merits of the application.

1

1 VILLAGE OF MAMARONECK
2 ZONING BOARD OF APPEALS
3 APRIL 3, 2014
4
5
6
7 PRESENT: LAWRENCE GUTTERMAN, CHAIRMAN
8 DAVID NEUFELD, BOARD MEMBER
9 ROBIN KRAMER, SECRETARY
10 GREGORY SULLIVAN, BOARD MEMBER
11 ANNA GEORGIOU, COUNSEL TO BOARD
12 LESTER STEINMAN, COUNSEL TO BOARD
13 ROBERT HUGHES, ASSISTANT BUILDING INSPECTOR
14
15 APPLICATION #1SP-2014, HAMPSHIRE CLUB,
16 INC., 1025 COVE ROAD (SECTION 9, BLOCK 89B,
17 LOTS 15&16, SECTION 9, BLOCK 89C, LOTS 22A
18 & 23, SECTION 9, BLOCK 89D, LOTS 24, 25,
19 26, 27 & 28, SECTION 9, BLOCK 72, LOTS 1,
20 2, 3, 11, 17B, 17C, 18D, 24, 25, 28 & 29)
21 FOR A SPECIAL PERMIT TO HOST NON-MEMBER
22 EVENTS (MR/R-20 DISTRICTS).
23

24

25

1 MR. GUTTERMAN: SO NOW WE ARE IN TO
2 THE HAMPSHIRE CLOSED APPLICATION.

3 I THINK THAT I'D LIKE TO
4 ADJOURN BRIEFLY FOR ADVICE OF
5 COUNSEL.

6
7 MR. STEINMAN: THIS IS FOR
8 ADVICE OF COUNSEL. IT'S NOT
9 CONSIDERED AN EXECUTIVE SESSION ITEM.
10 IT'S JUST TO RECEIVE ADVICE OF
11 COUNSEL.

12
13 MR. GUTTERMAN: YES, THAT'S
14 CORRECT. THIS WON'T BE LONG.

15
16 (WHEREUPON, THE BOARD EXITS FOR OFF
17 THE RECORD DISCUSSION.)

18
19 MR. GUTTERMAN: BACK IN
20 SESSION. OKAY. SO WE HAVE BEFORE
21 US, THE HAMPSHIRE HEARING WAS CLOSED
22 AND WE ARE CONSIDERING A SPECIAL
23 PERMIT TO HOLD NON-MEMBER EVENTS.
24 WHO WANTS TO START?

1 MS. KRAMER: I WAS TROUBLED
2 LAST TIME. MY CONCERN, NOT WITH
3 RESPECT TO THE MR ZONE, I DON'T THINK
4 THERE'S A QUESTION THERE BUT MY
5 CONCERN, AS I RAISED IT LAST TIME,
6 WAS THAT I WASN'T SURE THAT THE BOARD
7 HAD THE JURISDICTION TO GRANT A
8 SPECIAL PERMIT FOR NON-MEMBER EVENTS
9 IN THE R-20 ZONE; AND I STILL DON'T
10 AND AT THE TIME I DIDN'T KNOW THE
11 ANSWER. I DIDN'T KNOW IF THERE WAS
12 AND I SORT OF HAVE COME TO THE
13 CONCLUSION THAT IT DOESN'T HAVE THAT
14 POWER.

15
16 MR. NEUFELD: DO YOU WANT MY
17 TWO CENTS?

18 ON THE ISSUE OF THE ZONE
19 ITSELF, I CONCUR WITH ROBIN. I THINK
20 THAT THE CODE IS WRITTEN SO THAT IT
21 DELINEATES WHAT USES ARE PERMISSIBLE.
22 I'M NOT GOING TO SPECULATE AS TO WHY
23 BUT IF I DID SPECULATE AS TO WHY A
24 CODE IS WHERE IS IT, IT WOULDN'T BE

1 IT COMES DOWN TO THE FACT THAT
2 THE CODE SAYS YOU CAN HAVE THE CLUB
3 IN THE RESIDENTIAL ZONE BUT YOU CAN'T
4 HAVE THE NON-MEMBERS. AND THEY
5 ACTUALLY GO INTO THE REASONS WHEN
6 THEY DELINEATED THE MR FOR NON-MEMBER
7 EVENTS. SO I DON'T SEE HOW WE CAN DO
8 THAT.

9 ONE OF THE REASONS WAS TO
10 CREATE PROTECTION ON SOME RESIDENCES;
11 AND HERE, I JUST DON'T UNDERSTAND HOW
12 THEY CAN MAKE THE APPLICATION.

13 IF ANYTHING, THEY WANT TO MAKE
14 AN APPLICATION, IT SHOULD BE FOR A
15 CHANGE OF ZONE OR CHANGE OF THE CODE
16 SOMEHOW TO ADDRESS THEIR CONCERNS.
17 BUT I DON'T SEE HOW WE HAVE THE RIGHT
18 TO CHANGE THAT ZONING.

19 I THINK WITH REGARD TO THE
20 PRIOR NON-CONFORMING ISSUE THAT'S
21 RAISED BY SOME, I DON'T UNDERSTAND
22 THAT EITHER, I CAN'T FOLLOW THAT.
23 I'VE TRIED TO. I DON'T FOR VARIOUS
24 REASONS TO. I DON'T THINK YOU HAVE

1 REALLY REGULATORY AND NOT A VESTED
2 PROPERTY RIGHT. THIS IS AN ACCESSORY
3 USE ACCORDING TO THE APPLICATION AND
4 PAPERS.

5 PLUS, THERE'S SOME DISCUSSION
6 ABOUT CESSATION. BUT MORE
7 IMPORTANTLY, EVEN UNDER OUR OWN CODE
8 UNDER CHAPTER 342, IF YOU WERE,
9 ASSUMING FOR ARGUMENT, YOU WERE NON
10 CONFORMING, YOU LOSE IT WHEN YOU
11 START EXPANDING IT AND CHANGING IT
12 AND I DON'T THINK THERE'S ANY SECRECY
13 IN THE APPLICATION TO -- YOU'VE GOT
14 ADDITIONS ADDED, YOU'VE GOT SEVERAL
15 PERMIT FOR CHANGES: ADDITION TO A
16 COCKTAIL LOUNGE; ADDITION TO AN
17 EXTENSION OF A GOLF COURSE BUILDING;
18 NEW TENNIS COURTS. I MEAN, IT'S
19 BASICALLY, YOU DON'T GET PRIOR
20 CONFORMING RIGHTS, I DON'T THINK, OUT
21 OF A REGULATORY SITUATION,
22 PARTICULARLY WHERE THEY'VE APPLIED
23 FOR THE PERMIT. SO, THAT'S JUST -- I
24 DON'T SEE, THIS IS NOT A SITUATION

1 STRUCTURE OR AN EXISTING MAIN USE
2 THAT SOMEHOW IS ABLE TO SURVIVE
3 BECAUSE OF THE RESPECT IT GETS AS A
4 PRIOR CONFORMING USE. THIS IS
5 ACCESSORY. THIS IS REGULATORY. JUST
6 THE PERMITS ISSUED FOR THE ADDITIONS,
7 I THINK, ENDED IT. EVEN ASSUMING IT
8 DID EXIST.

9 I'M TROUBLED BY, I WAS READING,
10 PART OF THE CODE TALKS ABOUT THE
11 PURPOSE AND THE INTENT IN 2001 WHEN
12 THEY SET UP THE MR DISTRICT AND IT
13 TALKED ABOUT THE RECOGNITION THAT THE
14 REALITY IS THAT THERE ARE COMMUNITY,
15 CIVIC AND SOME CHARITABLE
16 ORGANIZATIONS AND THAT'S WHY THEY
17 WENT INTO THE NON-MEMBER EVENTS. BUT
18 IF YOU TAKE A LOOK, THEY OPENLY, IT'S
19 A MATTER OF PUBLIC NOTICE, THEY
20 OPENLY ADVERTISE FOR WEDDINGS, TO
21 COME AND SEE THE PLACE. THEY'VE GOT
22 EVENT PLANNERS. I MEAN, IT'S A
23 MATTER OF PUBLIC KNOWLEDGE AND THEY
24 ADVERTISE IT. IT'S RIGHT ON THEIR

1 HAVE YOUR EVENTS HERE. THEY DO GOLF
2 CLUB OUTINGS TOO. I THINK THAT THIS
3 IS, IT CUTS TO, ROBIN, WHAT YOU SAID,
4 I THINK PUTTING THAT IN A RESIDENTIAL
5 ZONE, IT'S NOT MR, IS COMPLETELY
6 CHANGING ANY JURISDICTION WE HAVE. I
7 DON'T SEE THIS AS ANY VESTED RIGHTS
8 FOR PRIOR NON-CONFORMING USES. SO, I
9 HAVE JURISDICTIONAL PROBLEMS AND THEN
10 ALSO, I DON'T SEE AN EXCEPTION FOR
11 IT.

12 IF THEY MADE AN APPLICATION IN
13 THE OTHER ZONE AND DIRECTED IT. BUT
14 OTHERWISE, I DON'T SEE IT. YOU CAN'T
15 HAVE IT ALL WAYS.

16
17 MR. GUTTERMAN: GREG.

18
19 MR. SULLIVAN: I APPRECIATE
20 WHAT ROBIN AND DAVID HAVE SAID. IT
21 SEEMS LIKE, I GUESS I SHOULD HAVE
22 NEVER GOTTEN ON THE LWRP COMMITTEE
23 BECAUSE WE SAT THERE FOR SO MANY
24 MONTHS TALKING ABOUT HOW TO BE ABLE

1 PROPERTIES IN A RECREATIONAL FASHION
2 AND MORE PEOPLE WHO DON'T NORMALLY
3 HAVE ACCESS TO THEM AND THESE TWO
4 APPLICATIONS THAT ARE BEFORE US,
5 THEIR DRIVE IS TO TRY TO TAKE THAT
6 OPPORTUNITY AWAY.

7 IN ALL THE TIME THAT I LIVED UP
8 HERE, THIS HAS ALWAYS BEEN A CLUB,
9 IRRESPECTIVE OF THE FACT THAT IT'S IN
10 TWO DIFFERENT ZONES. I WOULD BE
11 INCLINED TO TREAT IT AS ONE PROPERTY
12 FOR THE PURPOSES OF DETERMINING
13 WHETHER OR NOT TO GIVE A SPECIAL
14 PERMIT.

15 AGAIN, I APPRECIATE WHAT YOU
16 GUYS SAID BUT, I THINK THAT, YOU
17 KNOW, IN LIGHT OF WHAT THE MR ZONE IS
18 DESIGNED TO DO AND THE FACT THAT THIS
19 CLUB HAS BEEN AROUND FOR QUITE SOME
20 TIME AND I KNOW IT'S A DEBATE WHETHER
21 IT WAS IN THE 20'S OR IN THE 50'S OR
22 EVEN THE 60'S BASED ON THE CO'S THAT
23 WERE ISSUED, YOU KNOW, FOR A CADDIE
24 SHELTER AND PRO SHOP AND STORAGE OF

1 I WOULD BE INCLINED TO, IF THE
2 BOARD WAS GOING TO VOTE TO GRANT A
3 SPECIAL PERMIT, TO INCLUDE BOTH
4 PROPERTIES.

5

6 MS. KRAMER: I JUST WANT TO,
7 SINCE I ONLY GAVE A SIMPLE STATEMENT,
8 I WANT TO JUST EXPLAIN WHY I BELIEVE
9 THE WAY I DO.

10 THE ZONING CODE SAYS THAT, THE
11 FOLLOWING FOR EACH DISTRICT, IT SAYS
12 THAT THE FOLLOWING USES ARE THE ONLY
13 USES PERMITTED IN EACH DISTRICT. THE
14 WORD ONLY IS INCLUDED.

15 IN THE R-20 DISTRICT, ALTHOUGH
16 MEMBERSHIP CLUBS ARE ALLOWED, THERE
17 IS NO LISTING OF NON-MEMBER EVENTS.

18 IN THE MR DISTRICT, THERE IS;
19 WHEN THE REGULATIONS FOR NON-MEMBER
20 EVENTS WAS ADOPTED, IT SPECIFICALLY
21 REFERRED TO THE REGULATIONS FOR THE
22 MR DISTRICT. I CERTAINLY WASN'T
23 HERE. BUT WE DON'T KNOW WHAT THE
24 TRUSTEES INTENDED WHEN THEY SAID MR

1 INCLUDE ALL THE CLUBS; WAS THE MR
2 DISTRICT A SHORTHAND? WE HAVE NO
3 IDEA SO WE CAN ONLY WITH WHAT THE
4 CODE. IT'S NOT LISTED IN THE USES,
5 WHICH ARE ONLY THE USES PERMITTED.

6 I DON'T SEE HOW WE HAVE
7 JURISDICTION TO GRANT A SPECIAL
8 PERMIT IN AN R-20 DISTRICT WHEN THE
9 CODE DOES NOT ALLOW NON-MEMBERS
10 EVENTS AS A PERMITTED USE.

11 NOW, GOING TO -- I DON'T REALLY
12 WANT TO GET INTO THE DISCUSSION OF
13 NON-CONFORMING USE BECAUSE THAT IS
14 NOT WHAT THE APPLICATION WAS FOR, THE
15 APPLICATION WAS FOR A SPECIAL PERMIT.
16 AND IF WE WERE GOING TO TALK ABOUT
17 NON-CONFORMING USES, WE'D NEED
18 EVIDENCE; WE'D NEED SOMEBODY TO
19 DEMONSTRATE THAT IN 1957 WHEN IT
20 BECAME A NON-CONFORMING -- WHEN IT
21 MAY OR MAY NOT HAVE BECOME A
22 NON-CONFORMING USE, THAT IT WAS IN
23 FACT VALIDLY OPERATING. WE'D HAVE TO
24 ESTABLISH THAT IN 1957 IT WAS A

1 CONFORMANCE WITH ALL OF THE STANDARDS
2 AND REQUIREMENTS IN EFFECT IN 1956;
3 AND THAT FROM 1957 THROUGH TO THE
4 PRESENT DAY, THAT USE THAT WAS LEGAL
5 IN 1956 HAS NOT TERMINATED IF THEY
6 WANTED TO PROVE THAT THEY WERE A
7 NON-CONFORMING USE AND WE CERTAINLY
8 DON'T KNOW THAT. AND SINCE IT'S NOT
9 RELEVANT BECAUSE IT WASN'T PART OF
10 THE APPLICATION, I THINK THAT THAT'S
11 WHY I THINK WE DO NOT HAVE NOT THE
12 JURISDICTION.

13 TO THE EXTENT THAT THERE IS A
14 QUESTION ABOUT HOW CAN WE GRANT IT ON
15 HALF, I SUPPOSE I COULD SAY IF THE
16 PARKING IS SPLIT BETWEEN THE MR AND
17 THE R-20 DISTRICT, SINCE THE PARKING
18 IS NECESSARY TO OPERATE THE
19 CLUBHOUSES. PRESUMABLY WE'D HAVE TO
20 EXTEND IT TO THE PARKING. YOU CAN
21 SAY, BUT WE DON'T HAVE JURISDICTION,
22 BUT I THINK IT'S REASONABLE TO SAY WE
23 CAN EXTEND IT THERE. BUT I DON'T SEE
24 HOW ANYTHING BEYOND THAT COULD BE

1
2 MR. GUTTERMAN: WELL, MY SENSE,
3 I REMAIN BAFFLED BY THE ZONING MAP
4 THAT PUTS THIS LIMITED EXTENT OF THIS
5 CLUB IN THE MR ZONE AND THEN HAS THE
6 VAST AREA, PRINCIPALLY THE GOLF
7 COURSE AND PARKING, IN THE
8 SURROUNDING R-20 ZONE. IT'S UNIQUE
9 TO ALL THE OTHER CLUBS AND THE MR
10 ZONE IN THE VILLAGE. IT'S A VERY ODD
11 CONDITION.

12 I HAVE STRONG SYMPATHY WITH
13 GREG'S ARGUMENT ABOUT THE CONTINUITY
14 OF USE AND THE GENERAL CONTINUED
15 EXISTENCE AND GENERAL ACCESSIBILITY
16 OF A CLUB IN THE VILLAGE AS A DRIVING
17 INTENT OF THE MR ZONE. BUT THE MAP
18 WAS DRAWN AT SOME POINT AND HAS BEEN
19 AMENDED AND MODIFIED OVER TIME.

20 BUT THIS CONDITION, THIS ODD
21 CONDITION, HAS CONTINUED TO EXIST
22 WITH NO STATEMENT OF ANY INTENT ON
23 THE RECORD FOR WHY IT IS THE WAY IT
24 IS.

1 TROUBLED BY THE IDEA OF BEING ABLE TO
2 GRANT SPECIAL PERMITS FOR NON-MEMBER
3 EVENTS IN RESIDENTIAL DISTRICTS AS
4 OPPOSED TO THE ENOUGH OF A CHALLENGE
5 WE HAVE DOING IT IN MR DISTRICTS WITH
6 COUNTING WHAT'S A MEMBER EVENT AND
7 WHAT'S A NON-MEMBER EVENT. ALTHOUGH
8 I THINK WE'VE WADED OUR WAY THROUGH
9 THAT ONE A NUMBER OF TIMES.

10 BUT, I ALSO THINK THAT WHEN
11 THERE ARE AMBIGUITIES, YOU DO
12 GENERALLY LOOK IN FAVOR OF THE OWNER
13 AND OF MAINTAINING AND NOT MAKING
14 ANY, WORSENING, OR MAKING ANY MORE
15 DISRUPTIVE TO THE NEIGHBORHOOD AND
16 COMMUNITY AROUND IT, THE USES THAT
17 ARE ALREADY THERE.

18 AND OF COURSE, AS WITH SOME
19 OTHER APPLICATIONS, NUMEROUS
20 STATEMENTS, COMPLAINTS ABOUT POSSIBLE
21 ENFORCEMENT ISSUES, PARKING, TRUCKS,
22 NOISE, YOU KNOW, WHAT ACTUALLY GOES
23 ON, AND THAT SORT OF THING, ALL OF
24 WHICH WE HAVE ON THE RECORD.

1 WITHIN THE MR ZONE SEEMS FINE.

2 I THINK THE QUESTION IS, DOES
3 THE R-20 THAT SURROUNDS IT, THE
4 PORTION OF THE CLUB IN THE R-20 THAT
5 SURROUNDS IT GET SORT OF ATTACHED TO
6 IT IN THE UNIQUE SET OF CIRCUMSTANCES
7 BECAUSE IT ALL SOMEHOW PRE-EXISTED
8 THIS? ANYONE HAVE ANY MORE THOUGHTS?

9

10 MR. SULLIVAN: NO.

11

12 MS. KRAMER: IF WE WANT TO MOVE
13 THIS THEN WE JUST HAVE SOMETHING TO
14 DISCUSS, I WOULD MAKE A MOTION THAT
15 WE APPROVE THE SPECIAL PERMIT FOR THE
16 NON-MEMBER EVENTS IN THE MR-ZONE; AND
17 IF THE PARKING, BECAUSE I KNOW
18 SOMEBODY SAID SOMETHING ABOUT THIS
19 AND IF I'M WRONG THEN NOT, THAT IF
20 THE PARKING FOR THE CLUBHOUSE IS IN
21 THE R-20 ZONE, TO INCLUDE THAT
22 PARKING WITHIN THE SPECIAL PERMIT.

23

24 MR. NEUFELD: WOULD THAT

1 MOTION, WOULD THAT ALLOW THE EVENTS
2 TO BE THROUGHOUT THE GOLF COURSE AND
3 THE RESIDENTIAL ZONE?
4

5 MS. KRAMER: NO, THEY'D BE
6 ALLOWED IN THE CLUBHOUSE, WHICH IS IN
7 MR ZONE. THEY WOULD NOT BE ALLOWED
8 IN THE GOLF COURSE AND WHATEVER ELSE.
9 I DON'T KNOW WHAT ELSE IS IN THE --

10
11 MR. GUTTERMAN: THE ONLY REASON
12 YOU MENTION THE PARKING IS TO ENSURE
13 THERE IS SUFFICIENT PARKING TO
14 ACCOMMODATE THOSE EVENTS. YOU'RE
15 ACTUALLY NOT TALKING ABOUT HOLDING
16 NON-MEMBER EVENTS IN THE PARKING LOT.

17
18 MS. KRAMER: CORRECT. I'M
19 TALKING ABOUT AS TO PROVIDE THE
20 NEEDED FOR THE CLUBHOUSE.

21
22 MR. GUTTERMAN: YEAH. I
23 CERTAINLY FIND SUCH A RESOLUTION
24 ACCEPTABLE.

1 MS. KRAMER: THERE WERE SOME
2 CONCERNS ABOUT -- ACTUALLY, I HAVE TO
3 WAIT TO SEE IF SOMEBODY IS GOING TO
4 SECOND IT.

5
6 MR. GUTTERMAN: YEAH. I
7 QUALITATIVELY --

8 MR. NEUFELD: I'LL SECOND IT.
9 IT DOESN'T MEAN I'LL VOTE FOR IT.

10
11 MS. KRAMER: THE ONLY FURTHER
12 COMMENT I WANT TO SAY IS, THERE WERE
13 A LOT OF CONCERNS ABOUT WHERE PEOPLE
14 WERE PARKING -- WHERE ATTENDANTS,
15 PERSONS ATTENDING THE NON-MEMBER
16 EVENTS WERE PARKING ABOUT THE ROAD
17 AND WHERE THEY WERE PARKING. AND I
18 THINK WE'D WANT TO PUT AS A CONDITION
19 THAT THEY DON'T PARK ON THE ROAD THAT
20 EVERYBODY THAT THERE WAS SOME CONCERN
21 ABOUT.

22
23 MR. GUTTERMAN: ON COVE ROAD?

24

1

2

MR. GUTTERMAN: WELL, ISN'T
THERE A PORTION OF COVE ROAD THAT THE
CLUB OWNS?

5

6

MR. NEUFELD: DO THEY?

7

8

MR. GUTTERMAN: YEAH.

9

10

MR. SULLIVAN: I THINK THAT YOU
HAVE TO PUT THAT THEY ARE REQUIRED TO
MAINTAIN ALL THEIR GUESTS ON THEIR
LOT.

11

12

13

14

MS. KRAMER: RIGHT, THAT'S THE
ANSWER. SO WHERE EVER THAT IS THEN.

15

16

17

MR. GUTTERMAN: SO I THINK WE
WANT A RESOLUTION DRAFTED.

18

19

OBVIOUSLY, WE WANT TO HOLD OFF
ON A MOTION UNTIL THAT RESOLUTION IS
DRAFTED. I THINK THE WORDING COULD
BE VERY IMPORTANT HERE.

20

21

22

23

24

MR. STEINMAN: I'M SORRY. I

1 OF THE CONVERSATION ABOUT THE
2 PARKING, I JUST MISSED IT.

3

4 MS. KRAMER: THERE WAS CONCERN
5 ABOUT THE PARKING AND SO WE'D WANT TO
6 MAKE SURE THAT ALL PARKING FOR THE
7 NON-MEMBER EVENTS HAD BE HELD, HAD TO
8 BE ACCOMMODATED WITHIN, ON COVE ROAD.

9

10 MR. GUTTERMAN: SO WE DON'T
11 WANT TO FOUL UP THE PARKING SITUATION
12 OR ANYONE'S PROPERTY ON COVE ROAD
13 THAT'S ON THE PART OF COVE ROAD
14 THAT'S OUTSIDE THE PROPERTY, LIKE
15 ANYTHING ELSE, MAINTAIN THE SAFE
16 PASSAGE AND ALL THE ADEQUATE
17 CONDITIONS FOR ROADWAY.

18 SO YOU'LL DRAFT A RESOLUTION
19 AND CIRCULATE IT AND I THINK WE'LL
20 TAKE IT UP AT THE NEXT MEETING.

21

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C E R T I F I C A T I O N

STATE OF NEW YORK)

COUNTY OF WESTCHESTER

I, KATHLEEN M. MCSHERRY,
A SHORTHAND REPORTER AND NOTARY PUBLIC OF
THE STATE OF NEW YORK, DO HERE BY CERTIFY:

THAT, THE ABOVE
TRANSCRIPTION OF THE HEARING IS A TRUE
RECORD OF THE TESTIMONY GIVEN BY SUCH
PARTIES.

I FURTHER CERTIFY THAT I AM
NOT RELATED TO ANY OF THE PARTIES TO THIS
ACTION BY BLOOD OR MARRIAGE; AND THAT I AM
NO WAY INTERESTED IN THE OUTCOME OF THIS
MATTER.

KATHLEEN M. MCSHERRY APRIL 3, 2014

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Chairman Gutterman suggesting holding off on the motion until a draft resolution is discussed and considered at the next meeting.

Stenographic minutes have been transcribed by the Court Reporter and are available by PDF by contacting the Zoning Board secretary.

3. Application #2SP-2011, MONTAGE WINE LLC, D/B/A BAR'LEES, 157 Mamaroneck Avenue, (Section 9, Block 51, Lot 9A) to renew a special permit to operate a wine lounge (C-2 District)

The Board discussed the merits of the application.

On motion of Mr. Neufeld, seconded by Ms. Kramer, the application to renew the special permit with the same conditions as the original special permit was approved.

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

4. Application #6SP-2014, ANDREW LAVIGNA, 725 Fenimore Road, (Section 8, Block 77, Lot 8) to obtain a special permit to operate a hot dog cart (M-1 District)

The Board discussed the merits of the application.

On motion of Ms. Kramer, seconded by Mr. Sullivan, the application for a special permit to operate a hot dog cart is granted for the location as set forth and for other lawful events.

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

5. Application #5A-2014, HUGO AND BERTHA REYES, 1515 Mamaroneck Avenue, (Section 8, Block 8, Lot 9B) for a variance of Article IX, Section 342-64(A) non-conforming use of buildings, to construct an addition to a two family dwelling in a single family zone, where 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 (R-5 District)

The Board discussed the merits of the application. Mr. Neufeld wants the resolution to indicate this is an area variance. The Board discussed that an additional variance would be required pertaining to the restoration of a damaged nonconforming use (§342-66) and that it was reasonable to merge the home restoration and dormer work.

On motion of Mr. Sullivan, seconded by Mr. Neufeld, the application for area variances was approved.

Ayes: Sullivan, Neufeld, Gutterman
Nays: Kramer

6. Application #4A-2014, PARKWAY 1000 LLC, 1000 The Parkway, (Section 4, Block 71, Lot 28), for an area variance to construct a new dwelling with the proposed dwelling violating Article V, Section 342-27 of the Schedule of Minimum Requirements for residential districts where the maximum floor area ratio for an R-10 zone is .40 and the applicant proposed .45 (R-10 District)

The Board discussed the merits of the application. The Board felt the application represented a unique situation and the new home will be an improvement to the neighborhood.

On motion of Mr. Neufeld, second by Mr. Sullivan, the application for an area variance was approved.

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

7. Application #3A-2014, J. HOWARD AND HEATHER MCSPEDON, 355 Rushmore Avenue, (Section 9, Block 71, Lot 1C2), for area variances to legalize a rear addition and trellis with the addition violating Article V, Section 342-27 of the Schedule of Minimum Requirements where the addition is 18.9 feet from the rear yard property line where 30 feet is required. The trellis violates Article V, Section 342-27 of the Schedule of Minimum Requirements where the trellis is 20.02 feet from the rear yard property line where 30 feet is required and has a combined side yard setback of 32.19 feet where 35 feet is required (R-15 District)

The Board discussed the merits of the application. Board members commented that the applicants had not created the situation.

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

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

MINUTES

On motion of Mr. Sullivan, seconded by Ms. Kramer, the minutes of the March meeting were approved.

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

Mr. Steinman stated it is critical to request through the Village Manager a transcript of the meeting. The Board agreed.

ADJOURNMENT

On motion of Mr. Sullivan the meeting was closed.

Prepared by:
Barbara Ritter