

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, JANUARY 3, 2008, AT 7:00 P.M.

PRESENT: Clark Neuringer, Chairman
George Mgrditchian
Peter Jackson
Robin Kramer

Steven Silverberg, Counsel to Board
John White, Director of Building

ABSENT: Gregory Sullivan

Lisa Casey, court reporter, was present at the meeting to take the minutes, which will not be transcribed unless specially requested.

The meeting was called to order by Mr. Neuringer, Chairman at 7:00 p.m., and he explained the procedures that would be followed. Mr. Neuringer informed the applicants that there was not a full Board as Mr. Jackson was absent and that they could therefore elect to have their case adjourned until the next meeting. No applicant requested an adjournment. He further advised that any who would like to submit material intended for the Boards consideration, must do so no later than the Monday prior to the Thursday meeting. This must be submitted to Laura Garcia at the Village Attorney's Office

PUBLIC HEARINGS-

The application of **Simply Fit LLC.**, 1000 East Boston Post Road, was called to order. Ms. Moshira Namoury, of 1000 East Boston Post Road, appeared. Mr. Mgrditchian inquired if there were any violations or any changes made. He advised Ms. Namoury that there have been some concerns made regarding the conditions of trees located on the island in the parking lot. Ms. Namoury indicated that the trees are dry due to the winter weather and also indicated that the trees are relatively young having been planted two years ago. Ms. Namoury also indicated that the hours of operation are Monday through Thursday from 6:00 a.m. to 9:00 p.m., Friday 6:00 a.m. to 8:00 p.m. and Saturday through Sunday 8:00 a.m. to 4:00 p.m..

A motion was made by Mr. Jackson to close the hearing, seconded by Mr. Mgrditchian.

Ayes: Neuringer, Jackson, Mgrditchian, Kramer
Nays: None
Absent: Sullivan

The application of **Enzo Auto Body Inc.**, 624 Fenimore Road, was called to order. Mr. Stoia, of 624 Fenimore Road, appeared. Mr. Mgrditchian inquired if any changes have occurred during the last three years, in which Mr. Stoia indicated no. Mr. Stoia indicated that the hours of operation are Monday through Friday 8:00 a.m. to 5:00 p.m. and Friday 9:00 a.m. to 1:00 p.m.
A motion was made by Mr. Mgrditchian to close the hearing, seconded by Mr. Jackson.

Ayes: Neuringer, Jackson, Mgrditchian, Kramer
Nays: None

Absent: Sullivan

Adjourned application of **Melonie Hodges, Danse Elite**, was called to order.

Mr. Paul Noto, attorney for applicant, appeared. He advised the Board that the prior concerns of the Board focused on the pick up and drop off location of the children. Mr. Noto indicated that plans were submitted and on the suggestion of the Board, went in front of the Planning Board.

Mr. Gregg DeAngelis, architect for the applicant, appeared. He explained in his presentation that the building allocated 10 parking spaces to Danse Elite. Additionally, he indicated the additional areas available for parking. Various clients of the dance studio appeared to support this proposal in its' new location and indicated that all of their children will be walked in to their classes.

Mr. Neuringer inquired if signage would be allowed on the front, back and side of the building, in which case Ms. Hodges indicated that it would.

A motion was made from Ms. Kramer, seconded by Mr. Mgrditchian, to close the hearing.

Ayes: Neuringer, Jackson, Mgrditchian, Kramer

Nays: None

Absent: Sullivan

Mr. Neuringer advised the public that the pending closed application of Lucas-Falk/Benmar is intended to be deliberated on this evening despite the fact that three participants will partake in the matter. Mr. Neuringer wanted to advise the applicant of this.

The application of **Joel Jacks**, 545 Claflin Avenue, was called to order.

Mr. Jacks, applicant and owner of 545 Claflin Avenue, appeared. Mr. Jacks indicated that he is highly embarrassed to be in this predicament defending what he thought to be "right" and acceptable by village code. He indicated that page six (6) of his application clearly identifies the steps that were taken in obtaining permission to construct his addition, and did so accordingly. Mr. Jacks indicated that he had permission by Mr. Carroll, the then building inspector, and his plans were stamped and approved to move forward with the addition.

Mr. Neuringer advised the applicant that although Mr. Jacks should be requesting an area variance, his application indicated "other". Mr. Jacks advised the Board that the clerk in the building department actually checked that box for him and he is unclear as to various types of variances. Mr. Jacks stated that he simply built as per Mr. Carroll and it would be conforming. He further added that now the new inspector has indicated that his addition is non compliant.

Ms. Kramer advised Mr. Jacks that although the permit was issued incorrectly, it does not bring his property into conformity. Mr. Ron Glitt, a resident of the neighborhood, expressed his opposition to the addition as considers the addition to be considerably large for the size of the lot.

Mr. Silverberg suggested that the applicant request an adjournment to seek advise from a knowledgeable source and return to the Board.

A motion was made by Ms. Kramer to adjourn the hearing to March, seconded by Mr. Jackson.

Ayes: Neuringer, Jackson, Mgrditchian, Kramer

Nays: None

Absent: Sullivan

The application of **Eric Detmer**, 321 Fenimore Road, was called to order.

Mr. Detmer, applicant and owner of 321 Fenimore Road, appeared. He advised that Board that he recently purchased a pre existing two family home in a single family zone. He is seeking to enlarge the square footage of the upstairs apartment he currently lives in. Mr. Neuringer inquired if the first floor apartment would suffice as far as space is concerned. Mr. Detmer agreed that it would; however, it would be a financial hardship as the rent is significantly higher compared to the 2nd floor.

Mr. Silverberg suggested that the applicant file for a use variance and not an area variance. He also indicated that this will have to re-notice neighbors within the 400 foot radius since it will become a new criteria.

A motion was made by Mr. Mgrditchian to adjourn the hearing until February 7, 2008, seconded by Mr. Jackson.

Ayes: Neuringer, Jackson, Mgrditchian, Kramer

Nays: None

Absent: Sullivan

The adjourned hearing of **Mr. & Mrs. Pires**, 22A-2007 was called to order.

Ms. Caberra, daughter of the applicants, appeared. She indicated that the hearing was adjourned so they may submit a survey as per the suggestion of the Zoning Board in December, 2007.

The survey was submitted and upon review, Mr. Neuringer inquired if there were any comments or concerns. None were made.

A motion was made by Mr. Mgrditchian to close the hearing, seconded by Ms. Kramer.

Ayes: Neuringer, Jackson, Mgrditchian, Kramer

Nays: None

Absent: Sullivan

The application of **Kimberly and Paul Huang**, of 981 Green Meadow Lane, was called to order.

Ms. Cindy Park, architect for the applicants, appeared. She indicated that she is seeking an area variance on an existing floor plan, on the second floor. Ms. Park indicated that she was told by the former inspector, Mr. Carroll, that she did not need a variance. She added that the property has a deep property line and the neighbor is more than 250 feet away and therefore does not believe it affects the neighborhood. Ms. Kramer indicated that the survey was incorrect as it shows a two story except for the garage. Mr. Silverberg suggested that the resolution state that the survey is incorrect.

A motion was made by Mr. Jackson to close the hearing, seconded by Ms. Kramer.

Ayes: Neuringer, Jackson, Mgrditchian, Kramer

Nays: None

Absent: Sullivan

The adjourned hearing of **Kenneth Lange**, of 332 Union Avenue, was called to order.

Mr. Tom Cunanne, attorney representing 330 Union Avenue, appeared. Mr. Cunanne summarized the chronology of events in this matter. He indicated that on April of 2004, the tenant moved out. On February 14, 2005, a building permit application was made.

Ms. Kramer then inquired when last the family was occupied by three families.

Mr. Neuringer stated that he understood a discrepancy if he read sections 342 and 126 together.

Mr. David Soto appeared and indicated that the property was used as a three family home since 1940, as per the previous owner, Michelle Bouchard.

On a motion of Ms. Kramer to close the hearing, seconded by Mr. Mgrditchian.

Ayes: Neuringer, Jackson, Mgrditchian, Kramer
 Nays: None
 Absent: Sullivan

The adjourned application of **Seth Neubardt**, Taylors Lane, was called to order:

Mr. Neubardt, owner and applicant of 907 Taylors Lane, appeared. This application was adjourned by the Board so the applicant may submit an "as built" survey of his installed six (6) foot fence. Upon review of such survey, the Board determined that the fence was built off the property line. Mr. Neuringer indicated that in such cases, the applicant must contact the Village Manager, Lenny Verrastro, to seek a license agreement for having a fence on village right-of-way. Such agreement must then be in front of the Board of Trustees for approval.

A motion was made by Mr. Mgrditchian to adjourn the hearing until April, seconded by Mr. Jackson.

Ayes: Neuringer, Mgrditchian, Jackson, Kramer
 Nays: None
 Absent: Sullivan

CLOSED HEARINGS-

Application of **Ulysses Davis**. On a motion of Mr. Mgrditchian, based on the conditions of the draft resolution and hours of operation submitted, to approve the renewal of the special permit, seconded by Mr. Jackson.

Ayes: Neuringer, Mgrditchian, Jackson, Kramer
 Nays: None
 Absent: Sullivan

See Exhibit "A"

Application of **Salvatore Loscuito**. On a motion of Mr. Mgrditchian to approve the variance for a six foot fence, seconded by Ms. Kramer.

Ayes: Neuringer, Mgrditchian, Kramer
 Nays: None
 Absent: Sullivan
 Abstained: Jackson

See Exhibit "B"

Application of **Richard Graham**. On a motion of Mr. Mgrditchian to approve the variance for a six foot fence, seconded by Mr. Kramer.

Ayes: Neuringer, Mgrditchian, Kramer
 Nays: None
 Absent: Sullivan
 Abstained: Jackson

See Exhibit "C"

Application of Jovita Calimlin. A motion was made by Mr. Mgrditchian to approve the variance for a six foot fence, seconded by Ms. Kramer.

Ayes: Neuringer, Mgrditchian, Kramer
 Nays: None
 Absent: Sullivan
 Abstained: Jackson

See Exhibit 'D'

Application of Elrac, d/b/a Enterprise Car Rental. A motion was made by Mr. Mgrditchian to approve the special permit renewal, based on the draft resolution, seconded by Ms. Kramer.

Ayes: Neuringer, Mgrditchian, Kramer
 Nays: None
 Absent: Sullivan
 Abstained: Jackson

See Exhibit 'E'

Application of Melonie Hodges, d/b/a Danse Elite. A motion was made by Ms. Kramer to approve the special permit, to allow a dance studio with conditions set forth in the resolution, seconded by Mr. Jackson.

Ayes: Neuringer, Jackson, Kramer
 Nays: Mgrditchian
 Absent: Sullivan

See Exhibit 'F'

Application of Lucas/Falk. Mr. Silverberg, attorney for the Zoning Board of Appeals advised that the Board must have a unanimous vote. Mr. Neuringer reminded the Board that Mr. Sullivan's prior statement is correct in that the denial letter did not relate to existing non conformities. Such denial letter issued in December 2005 notes same deficiencies as the denial letter first issued in 1991 with regards to the front yard and depth of the lot. Mr. Neuringer indicated that because Mr. Carroll mistakenly overlooked the deficiencies of the lot, it should not suggest that the lot is compliant. He further added that this Zoning Board has an obligation to follow other Zoning Boards' precedence. Mr. Neuringer also noted that Mr. Carroll mistakenly issued a permit in July 2007, along with a pattern of wrongly issued permits; however, this Board has always dealt with them and Judge Lippman concluded that Mr. Carroll made an error. The following are various segments in this matter:

A- **May the Actions of the Building inspector be appealed:** A motion made by Mr. Neuringer, seconded by Mr. Jackson, that the 5/30/07 letter and the building permit for 609 Brook St. be reviewed by this Board.

Ayes: Jackson, Neuringer, Mgrditchian
 Nays: None
 Absent: Sullivan
 Abstained: Kramer

B – Has Judge Cohens recent decision resolved any issues: A motion made by Mr. Neuringer, seconded by Mr. Jackson, that Judge Cohen’s decision has not resolved the issued before this board.

Ayes: Jackson, Neuringer, Mgrditchian
 Nays: None
 Absent: Sullivan
 Abstained: Kramer

C- Is SEQRA required? A motion made by Mr. Neuringer, seconded by Mr. Jackson, that the application before does not require a SEQRA determination.

Ayes: Jackson, Neuringer, Mgrditchian
 Nays: None
 Absent: Sullivan
 Abstained: Kramer

D – Does the pre existing non conformity of setbacks at 307 Beach Ave preclude the transfer of land adjoining parcel from 307 Beach? A motion made by Mr. Jackson, seconded by Mr. Neuringer, that for the foregoing reasons the pre-existing non conformity as to setbacks at 307 Beach Ave do not preclude the transfer of a strip of land to the adjoining parcel from 307 Beach.

Ayes: Neuringer, Jackson, Mgrditchian
 Nays: None
 Absent: Sullivan
 Abstained: Kramer

E – Does the transfer of land to adjoining parcel from 307 Beach create a non conformity at 307 Beach in violation of the code: A motion made by Mr. Neuringer, seconded by Mr. Jackson, that the transfer of land to 307 Beach Ave. creates a non-conformity at 307 Beach Ave.

Ayes: Neuringer, Jackson, Mgrditchian
 Nays: None
 Absent: Sullivan
 Abstained: Kramer

F-Are the lots at 601 and 609 Brook Street non conforming: A motion made by Mr. Jackson, seconded by Mr. Neuringer, that 601 Brook St. is non conforming, the granting of a building permit for 609 Brook St was in error because section 342-11(D) has been violated.

Ayes: Neuringer, Jackson
 Nays: Mgrditchian
 Absent: Sullivan
 Abstained: Kramer.

See exhibit G

On motion duly made and carried, the meeting was adjourned.

GEORGE MGRDITCHIAN
 Secretary

Minutes taken and prepared by:
 Laura Garcia