

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

PRESENT: Clark Neuringer, Chairman  
 George Mgrditchian  
 Peter Jackson  
 Robin Kramer  
 Gregory Sullivan  
 Steven Silverberg, Counsel to Board  
 John Winter, Director of Building

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. 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 **Vincent Graziano, of Coxe & Graziano, 767 & 785 East Boston Post Road**, was called to order.

Ms. Graziano, of 767 East Boston Post Road, appeared. Mr. Mgrditchian inquired if there were any violations or any changes. Mr. Graziano replied that no changes have been made and nothing has changed in the last 25 years and would prefer to not have to renew his special permit every three years. Mr. Mgrditchian explained that needs of other establishments that may have changes that are imperative to zoning ordinance.

A motion was made by Mr. Mgrditchian, seconded by Mr. Jackson.

Ayes: Neuringer, Jackson, Mgrditchian, Kramer, Sullivan

Nays: None

The application of **Haiku Asian Bistro., 265 Mamaroneck Avenue**, was called to order.

Mr. Messina, attorney for applicant Hsing-Ya Chiang, and Mr. Neutgen, architect, appeared. Mr. Messina indicated that this application is a proposal for an Asian Bistro in a C-2 district. The attorney indicated that the application has already been approved by the Board of Architectural Review and is a fully sprinkled building. The proposal presents 71 seats on premises and anticipates the hours of operation will be between 10:00 a.m. and 11:30 p.m., seven days a week. Ms. Kramer inquired if the establishment is considering a liquor license, in which Mr. Messina confirmed that they will be. Mr. Mgrditchian was content that the building was sprinkled and inquired if any additional exhaust fans were required, other than what was proposed. Mr. Messina indicated that no further requirements were necessary. Mr. Mgrditchian asked the Building Inspector, John Winter, to verify that.

Mr. Kramer posed the question of parking. Mr. John Neutgen indicated that the municipal parking in the rear would suffice, not to mention ample parking on Mamaroneck Avenue. He further indicated that a corridor from the front door of the building connects to the municipal parking area in the rear. Mr. Messina requested that the Board try to deliberate tonight as the applicant is currently paying rent and would like to commence with plans.

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

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

Adjourned application of **Westchester Jewish Center of 175 Rockland Avenue** was called to order. Ms. Marilyn Reiter, president of WJC, appeared. She advised the Board that they are seeking a special permit for the proposal of four (4) nursery classrooms, an activity center, office, expand existing library and add a holocaust memorial. She advised the Board that they already received Board of Architectural Review approval and received site plan approval from the Planning Board. The site plan includes additional landscaping and drench drains. Ms. Kramer inquired if it was ADA compliant. In which Ms. Reiter indicated that it was. She also indicated that they are adding sprinklers. Mr. Neuringer inquired about parking. Ms. Reiter advised the board that because the synagogue is a conservative one, congregation is permitted to drive on Friday evenings; however, will be closed on Sabbath. Ms. Reiter also indicated that the synagogue does have permission to park at the Town Center.

Various neighbors appeared and voiced their concern for the proposed expansion. The concerns range from noise, late hours of operation, light runoff, parking and more traffic generated on their neighboring Prospect Avenue. Mr. Mgrditchian advised the neighbors that a worse condition exists now and that they will benefit from the extra items approved in the site plan, such as light control, additional parking spaces and conditions setforthe to time, which will improve their quality of life. As many complaints were made related to the noise made during early hours of the morning, it was suggested by Mr. Jackson that the sanitation department be notified to schedule an alternative pick up time.

Mr. Neuringer stated that the Zoning Board may impose terms or conditions but prefer to have dialogue with the applicants and resolve the concerns. Mr. Neuringer encouraged the neighbors to call the police department should they have further complaints, but believes the proposal will address such issues.

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

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

The adjourned application of **Mr. & Mrs. McMichael, 123 Carroll Avenue**, was called to order.

This adjourned application was asked to return to the Board upon submission of an as-built survey. The issue of the six foot fence also includes debris of rocks that the neighbor, Ms. Hart, believes is on her side of the property line. Mr. Neuringer read the letter submitted to the Board into the record.

Mr. McMichael indicated that the "debris" was once a neat pile of stones forming a wall. He believes Ms. Hart disheveled the stones after being verbally abused by her and nearly assaulted by Mr. Hart.

Ms. Hart indicated that the six (6) foot fence results in a "claustrophobic feeling" and would like the fence to be code compliant.

Unanimously, the Board requested that John Winter, the Village Inspector, inspect the property to determine the owner side of the debris.

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

Ayes: Neuringer, Jackson, Mgrditchian, Kramer, Sullivan

Nays: None

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, and is seeking an area variance and all setbacks have been met. Mr. Neuringer asked if the property was in any violation to the zoning ordinance with regard to set backs? Mr. Detmer replied that there was not. Mr. Neuringer reminded the Board that the applicant 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 2<sup>nd</sup> floor.

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

Ayes: Neuringer, Jackson, Mgrditchian, Kramer, Sullivan

Nays: None

The adjourned hearing of **Mr. & Mrs, Malherbe**, 6A-2008 was called to order.

Jim Fleming, architect for the proposal, appeared. He advised the Board that the proposal consisted of replacing and extending the front porch, with a front yard set back of 17 feet, where 25 is required. Mr. Fleming further advised the Board that the proposed porch is of modest size and fits in the architecture of the property. Mr. Neuringer inquired what the function was of the porch. Ms. Malherbe, owner and applicant of the property, stated that the existing vestibule is an eye sore and would like the port to dress up the house. She intends to use the porch with rocking chairs. Mr. Neuringer indicated that the eight (8) foot width seems reasonable for chairs, but he is concerned with the length of 61 feet of porch and it may appear to be out of scale. Mr. Fleming indicated that the proposal included a 12 foot vestibule in the middle, with two sides of porch each 23 feet long.

A motion was made to close the hearing based on the amendment that the variance request is that the step will be within the set backs of 17 feet by Mr. Jackson, seconded by Mr. Sullivan.

Ayes: Neuringer, Mgrditchian, Jackson, Kramer , Sullivan

Nays: None

The application of **Michael Santoliquido**, **2S-2008**, was called to order.

Mr. Coccaro, sign manufacturer of Hudson Valley Bank, appeared. He is seeking the permission to install a second sign of equal size to the principal sign on Norstrand Avenue. Mr. Neuringer inquired if they have gone to the Architectural Board of Review ('BAR'), in which he replied that he did. The BAR had made recommendations to install the second sign that is equal in size to the first.

**CLOSED HEARINGS-**

Application of **Lucinda Stoll # 25A-2007**. A motion was made by Mr. Mgrditchian, based on the conditions of the draft resolution, to approve the variance for the addition, seconded by Mr. Sullivan.

Ayes: Mgrditchian, Jackson, Sullivan

Nays: Kramer

Abstained: Neuringer

**See Exhibit "A"**

Application of **Mathew and Marie Lewis #31A-2007**. Ms. Kramer indicated that enlarging the property to include a 3<sup>rd</sup> floor increases the FAR and would be a detriment to the neighborhood. Mr. Neuringer stated that the proposed increase by 50% of what already exists and is too substantial and applicant did not present any alternatives. Mr. Mgrditchian added that the Village Code does not permit 3<sup>rd</sup> floor additions in residential areas. Based on the draft findings from the resolution, a motion was made by Mr. Mgrditchian to deny the application, seconded by Ms. Kramer.

Ayes: Neuringer, Mgrditchian, Kramer, Sullivan, Jackson

Nays: None

**See Exhibit "B"**

Application of **Enzo's Body Shop #10SP-2001**. A motion was made by Mr. Mgrditchian, to approve the renewal of the special permit, seconded by Mr. Jackson.

Ayes: Neuringer, Mgrditchian, Kramer, Jackson

Nays: None

Abstained: Sullivan

**See Exhibit "C"**

Application of **Simply Fit #6SP-2001**. A motion was made by Mr. Mgrditchian to approve the special permit renewal based on the previous conditions stated, seconded by Mr. Jackson.

Ayes: Neuringer, Mgrditchian, Kramer, Jackson

Nays: None

Abstained: Jackson

**See Exhibit "D"**

Application of **Jose Pires #22A-2007** A motion was made by Mr. Mgrditchian to approve the variance for the six foot fence, seconded by Ms. Kramer.

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

**See Exhibit "E"**

Application of **Paul and Kimberly Huang**. A motion was made by Mr. Jackson to approve the variance seconded by Ms. Kramer.

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

**See Exhibit "F"**

Application of **Kenneth Lange #8A-2006**. Ms. Kramer stated that the issues are as follows: 1. Is it a one year or a six month lapse period. 2. Was it complete cessation of use longer than the lapse period? Mr. Neuringer indicated that Section 342-64 states, 'if any nonconforming use of a building ceases for any reason for a continuous period of more than six months or is changed to a conforming use or if the building in or on which such use is conducted or maintained is moved for any distance whatever, for any reason, any future use of such building shall conform and be subject to the prevailing standards specified by this chapter for the district in which such building is located.'. He further indicated that there is a clear conflict of that code, compared to Section 128-18(d), which states, 'the use of a building or premises shall not be deemed to have changed because of a vacancy of less than one year or a change of ownership or tenancy.'

Ms. Kramer stated that the threshold issue is if a conflict occurs, than the Section 342-64 (c) applies. Unanimously, all Board members agree that the Section 342-64(c) governs. Mr. Jackson suggested that counsel draft findings for the Board, based on the criteria laid out. The Board agrees to vote at the next meeting.

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

On a motion of Mr. Jackson, the request for an executive session was made, seconded by Mr. Sullivan.

Application of **Vincent Graziano, d/b/a Coxe & Graziano #3SP-2002**. A motion was made by Mr. Mgrditchian to approve the special permit renewal, was seconded by Mr. Jackson, provided that condition A and B be removed from the resolution and leave in Special Use.

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

**See exhibit "G"**

Application of **Haiku Asian Bistro #1SP-2008**. A motion was made to approve the new special permit by Mr. Mgrditchian, seconded by Mr. Jackson.

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

**See exhibit "H"**

Application of **Hudson Valley Bank #2S-2008** On motion duly made and carried, the meeting was adjourned. A motion was made by Mr. Mgrditchian to approve the second sign, seconded by Mr. Jackson.

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

**See exhibit "I"**

Application of **Westchester Jewish Center #2SP-2008**. It was the consensus of the Board to have counsel draft a resolution before the next meeting.

**MINUTES**

A motion was made by Mr. Mgrditchian to approve the minutes of **October 4, 2007**, seconded by Mr. Jackson.

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

A motion was made by Mr. Mgrditchian to approve the minutes of **November 1, 2007**, seconded by Mr. Sullivan.

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

A motion was made by Ms. Kramer to approve the minutes of **December 6, 2007**, seconded by Mr. Mgrditchian.

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

A motion was made by Mr. Jackson to approve the minutes of Special Meeting on **January 30, 2008**, seconded by Ms. Kramer.

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

A motion to adjourn the hearing was made by Mr. Jackson, seconded by Mr. Sullivan.

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

GEORGE MGRDITCHIAN  
Secretary

Minutes taken and prepared by:  
Laura Garcia