

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, MARCH 6, 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 **Dr. Noelle DeMasi of 126 Library Lane**, was called to order.

Mr. Mgrditchian inquired if there have been any changes to the establishment. Dr. DeMasi indicated that there were not. She indicated that the hours of operation are Monday through Friday 8:30 a.m. to 5:30 p.m., Tuesday and Thursday 8:30 a.m. to 8:00 p.m and Saturday 8:30 a.m. to 1:00 p.m. and closed on Sunday. Dr. DeMasi indicated that the violation of the pipe has been corrected, and she submitted a letter from the contractor indicating same. Mr. Mgrditchian indicated that copies of the letter be made for the record.

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

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

The application of **Dominick Paparella from 711 East Boston Post Road (Citibank)**, was called to order.

Mr. Paparella advised the Board the the proposed sign is 3 ½ feet in size and would like to have it installed on two windows. Essential, for marketing purposes only and Mr. Paparella does not believe it will alter the community. Mr. Neuringer inquired if the proposal was made to the Board of Architectural Review yet. The applicant confirmed that it was and they had no issue. Ms. Kramer inquired if they will need additional sign in the future and Mr. Paparella indicated that they would not.

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

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

The application of **211 Mamaroneck Associates LLC of 211 Mamaroneck Ave**, was called to order Mr. Paul Noto, attorney for applicant, appeared. He advised of the proposal to convert an office building into a restaurant at 211 Mamaroneck Avenue. The applicant is seeking a special permit and an area variance for the parking. Mr. Neuringer advised that a variance for a C-2 district is not required unless additional space is required. Mr. Neuringer then suggested that the building inspector advise if parking is permitted in a C-2 District, and also determine if additional parking is required due to the proposed expansion. Mr. Silverberg suggested that the applicant follow the correct procedure and re notice for the parking variance. Mr. Noto resumed with presenting the application for a special permit. The architect presented the proposal beginning with the current basement, which will be used for mechanical use only. He went on to advise that the first level will be used for the restaurant; the second level will be a meeting and banquet room. The proposal included an 8 foot addition to the rear for a terrace, resulting in a total of approximately 3300 square feet. The FAR requirement is conforming. Mr. Mgrditchian inquired if the restaurant will include lunch and dinner in which it was confirmed that it will with proposed hours of operation being 10:00 a.m. to 2:00 a.m. seven days a week. The applicant advised that it will be seeking a liquor license and plans on offering entertainment in the future.

A motion was made from Mr. Mgrditchian to adjourn the hearing, seconded by Mr. Jackson, so the applicant may re notice for the parking variance.

Ayes: Neuringer, Jackson, Mgrditchian, Kramer, Sullivan

Nays: None

The application for Dunkin Donuts at 427 E. Boston Post Road was called to order.

James Staudt, attorney for applicant, appeared. He indicated that the plans were not dispersed and was therefore doing so accordingly. He indicated that the proposed plan provides a 30% reduction of impervious areas and has already been in front of the Planning Board. The Parking revisions give more available parking with the help of the adjacent neighbor, The Elks Lodge. The proposal includes 15 off street parking and 2 on street, where the ordinance requires 8. He advised the Board that he had a letter from the Elks Lodge confirming the parking. Mr. Staudt additionally stated that the SEQRA memo suggested it was an unlisted action but he believes it is a type II action because it is less than 4000 square feet. Mr. Salinitro, engineer for the applicant, appeared. He indicated that the site plan includes improvements to the landscaping by improving the impervious surfaces. The black top will be removed and that addition of pavers will be done to improve the water runoff. He proceeded to advise of the Master Plan which includes one entry and one exit. The premises can accommodate 17 parking spaces and the lighting will be improved. Ms. Kramer inquired why they considered pervious and why more was not considered. Mr. Salinitro advised that 30 % was sufficient and believes the reduction of hard scape maximized the drainage. He also advised that the application is returning to the Planning Board. Mr. Mgrditchian inquired if the proposal is a drive thru in which Mr. Staudt indicated that it is not and there are no intentions for the future. Mr. Staudt then requested that the Board grant him the 24 hour per day special permit.

Mr. Neuringer suggested that the applicant present revised plans with out the Elks consent. Mr. Staudt indicated that the Board may impose the parking from Elks on the resolution instead of obtaining an easement. Mr. Silverberg confirmed that to ensure that the parking spaces stay there that a legal document is acceptable as it will run with the particular use instead of the easement. Mr. John canning, the traffic consultant for the applicant, appeared. He indicated that the study was based on the national standards studies. Mr. Neuringer felt that a "No Left Turn" sign should be considered. Mr. Silverberg suggested that the Zoning Board make the recommendation to the Planning Board. Mr. Neuringer indicated that the intent of the Board is to ensure safety and considers the most crucial details are the examination of the exit and entrance, and a "No Left Turn" sign in place.

A motion was made from Mr. Jackson to close the hearing subject to the submission of a legal document indicating the agreement of spaces from the Elks Lodge to the Dunkin Donuts, was seconded by Mr. Mgrditchian.

Ayes: Neuringer, Jackson, Mgrditchian, Kramer, Sullivan

Nays: None

The application of **Michael Castaldi of 208 Wagner Avenue** was called to order.

Mr. Castaldi appeared to request a variance for a six foot fence. Mr. Jackson inquired if it was along the rear of the property only, in which the applicant confirmed that it was. Mr. Neuringer asked if this 6 foot fence was replacing another fence, in which the applicant confirmed that it was. Mr. Neuringer then inquired if there were any comments or concerns from the public, none were made.

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

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 the inspection of John Winter. Mr. Mgrditchian inquired if the debris belonged to Mr. McMichael, in which he confirmed it does. Mr. Winter advised the Board that he is not a surveyor and therefore cannot comment on whose side the debris falls on. Mr. McMichael reminded the Board that the issue in front of them is the fence and not the debris. Ms. Rena Hart, neighbor of the McMichael's, appeared. She advised the Board that she would like the issue resolved tonight. She indicated that the fence varies in size between six and seven feet and as a result, "dwarfs" her yard. She strongly objects to the height of the fence and has asked the Board to lower it.

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 **Crosby Scott for Mr. & Mrs. Alvarez of 200 Nostradt Avenue**, was called to order.

Mr. Scott, the architect for the applicant, appeared. He is requesting a variance for the steps and the landing due to the set back of 15 feet where 20 feet is required. He believes the proposal will enhance the property value and correct the layout of the current conditions. Mr. Kramer inquired if the steps were just moving over, in which Mr. Crosby indicated yes.

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

Ayes: Neuringer, Jackson, Mgrditchian, Kramer, Sullivan

Nays: None

PENDING APPLICATIONS

On the application of **Jennifer and Gidion Malherbe #6A-2008**

Mr. Jackson requested that the Board that the property be inspected and wants to make sure there are no problems. Mr. Jackson requested the Board vote next month.

Application of **Westchester Jewish Center #2SP-2008** Ms. Kramer indicated that the applicant said they would agree to certain conditions and the Board can impose to changes. Mr. Neuringer added that he was

pleased with the conditions that were presented and informally agreed to. Mr. Kramer noted that the resolution should note that the neighbors and noise were discussed in reference to the hosting of events and parties.

Mr. Neuringer indicated that condition "C" should read: Hours with respect to parties and caterers should be until 1:00 a.m. seven nights a week. He also noted that condition "F" should read: Public garbage should be deleted.

On a motion of Mr. Jackson to approve the application with the modification listed above was seconded by Mr. Mgrditchian.

Ayes: Neuringer, Jackson, Mgrditchian, Kramer, Sullivan

Nays: None

See exhibit "A"

Application of **Eric Detmer #4A-2008**. Mr. Mgrditchian indicated that the applicant chose to live in the smaller unit and fact remains that the house is in a two family zone and house is non compliant. He is not in favor because of the applicant choice to live in the smaller unit. Ms. Kramer stated that the proposed addition will make more non conformity. Mr. Neuringer noted that the intent to eliminate non conformity uses by making them less viable. Also, the applicant did not give compelling reason other than benefiting economically by taking the bigger unit. Ms. Kramer added that the deterrent is self created and the neighboring properties have to face a non conforming two family home and will therefore have a negative impact and that the variance is substantial as the variance will be increasing the non conformity. Mr. Neuringer requested that the condition be added to the resolution that states:

"It is the intent of the zoning ordinance in this municipality to eliminate non conformities and not extend them."

A motion to deny the application was made by Mr. Sullivan, seconded by Mr. Mgrditchian.

Ayes: Neuringer, Jackson, Mgrditchian, Kramer, Sullivan

Nays: None

See exhibit "B"

Application of **Dominic Paparell (Citibank) #1S-2008**.

Mr. Jackson made a motion to approve the sign with the following conditions:

Change to state "is self created", which was seconded by Mr. Sullivan.

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

Ayes: Neuringer, Jackson, Mgrditchian, Kramer, Sullivan

Nays: None

See Exhibit "C"

Application of **Dr. Noel DeMasi #3SP-2005**

Mr. Mgrditchian requested that the application adjourn to the next meeting for voting as he would like to confirm the hours of operation on the resolution and ensure that the corrective work was done.

Ayes: Neuringer, Jackson, Mgrditchian, Kramer, Sullivan

Nays: None

The closed hearing of **Kenneth Lange of 332 Union Avenue.**

Mr. Neuringer indicated that draft finding were prepared by counsel for a series of alternative.

Ms. Kramer stated that one can interpret the older and current codes but the one year lapse is what should be focused on and since the lapse period was longer than one (1) year, the use term has expired.

Mr. Mgrditchian agreed, and added that upon the ceasing of the vacancy the applicant could have rented but chose not to because he was selling the property.

Mr. Neuringer noted that he was convinced that the "one year lapse" does not measure up and based on the facts presented there are discrepancies between the application, the plans, the drawings and the Building Inspector. Mr. Jackson concurred with Ms. Kramer and Mr. Neuringer.

Mr. Silverberg reminded the Board that they must make the determination of which one applies.

On a motion made by Mr. Kramer that based upon the foregoing the board finds the property was vacant for more than one year, seconded by Mr. Jackson

Ayes: Kramer, Mgrditchian, Jackson, Sullivan, Neuringer

Nays: None

On a motion made by Mr. Kramer that based upon the above findings of fact and determinations, this Board finds that the six month lapse period provided for in §342-64(c) is applicable.

Ayes: Mgrditchian, Sullivan, Neuringer

Nays: Kramer, Jackson

See exhibit D

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

GEORGE MGRDITCHIAN
Secretary

Minutes taken and prepared by:
Laura Garcia