

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF  
MAMARONECK, NEW YORK, HELD ON THURSDAY, JUNE 5, 2008, AT 7:00 P.M.

PRESENT: Clark Neuringer, Chairman  
George Mgrditchian  
Gregory Sullivan  
Robin Kramer  
Steven Silverberg, Counsel to Board  
John Winter, Director of Building  
Rob Melillo, Assistant Inspector

ABSENT: Peter Jackson

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 at 7:10 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 Board 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. He also noted that since there was not a full Board, any one who would like to have their hearing adjourned may do so;  
No such request was made.

#### **PUBLIC HEARINGS-**

The application of Wei Yank d/b/a New Great Wall, Inc. #3SP-2001, was called for a hearing.

Mr. Yang, owner and operator of the establishment, appeared. He indicated that there were no changes to the business. The hours of operation remain as: 10:30 a.m. through 10:30 p.m. seven days a week. Mr. Mgrditchian inquired if all inspections were up to date and if all certificates and approval were in order. Mr. Yang further indicated that the fire suppression system was up to date and approved.  
No further comments or concerns were made.

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

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

The application of RNJ d/b/a Gusano Loco, # 14A-2008 and 10SP-2008, was called for a hearing.

Mr. Messina, attorney for the applicant, appeared. He Advised the Board that this whole process has turned out to be a marathon. The application was modified and renewed and expired in December 2006. At that time, Mr. Garcia requested a renewal of the special permit and the Board advised him that a 4.5 foot variance was required for the rear. Mr. Garcia then amended the application to include the area variance.

Mr. Neuringer inquired if the covered patio was inspected by the Board. Mr. Melillo confirmed that it was. Ms. Kramer inquired if the enclosure allows more seating as it will affect the parking. Mr. Messina requested that the Board allow 32 seats as per the fire code and that parking has never been an issue. Mr. Neuringer indicated that the findings of the 1994 resolution indicate the off street parking requirements; however, Mr. Messina stated that since it is enclosed it is no longer applicable. Mr. Messina further stated that the patio has been enclosed for almost two years and parking has not been an issue. Mr. Neuringer read a letter from the Fairway Green Association into the record and agreed that the the language should be modified on the prior permit. Ms. Kramer inquired if the door from the rear was egress only, in which Mr. Messina confirmed that it was.

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

Ayes: Neuringer, Sullivan, Mgrditchian, Kramer

Nays: None

Absent: Jackson

The application of RBRC Realty Corp #2SP-2003, was called for a hearing.

Mr. Raffaele Bennuta, owner and operator, appeared. He indicated that he is requesting the renewal of a special permit for his auto body repair shop. Mr. Bennuta further stated that his hours of operation are between 8:00 a.m. and 5:00 p.m..

No further comments or concerns were made.

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

Ayes: Neuringer, Sullivan, Mgrditchian, Kramer

Nays: None

Absent: Jackson

The application of Mr. & Mrs. Ayaso #21A-2008, was called for a hearing.

Ms. Ayaso, applicant and owner of the property, appeared. Ms. Ayaso indicated that she was requesting a variance for a six foot stockade fence for the rear of her property. Ms. Ayaso further stated that the fence in on her side of the property and not the MTA side.

No further comments or concerns were made.

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

Ayes: Neuringer, Sullivan, Mgrditchian, Kramer

Nays: None

Absent: Jackson

The application of Michael Dugan, #18A-2008, was called for a hearing.

Mr. Boetcher, architect for the applicant, appeared. Mr. Boetcher indicated that the design calls for a second floor not to expand the footprint of the house. They are seeking to add a full apartment for their parents to live in with separate utilities. Mr. Winter indicated that the two family home is located in a R-5, single family zone; however, the property is listed as a two family and is being taxed as such. Mr. Boetcher also indicated that due to financial reasons, this is the only scenario they can afford for their parents to live in. Mr. Neuringer indicated that although he understands the attempt, it is the actual execution what is so concerning and he cannot understand why they are asking for a variance with a significant large lot. Mr. Neuringer further added that alternatives are available and the amount of area available is much greater than the foot print of existing house. Mr. Boetcher indicated that they did look

at a number of other options; however, the side yard has a large rock to be blasted and will result in an economic hardship. He also indicated that it is more expensive to build side to side instead of front to back when it comes to the gables. Mr. Mgrditchian stated that he has reserved his questions until the problem is resolved as far as determining whether it is a one or two family property.

Mr. Neuringer stated that the proposal is larger than any thing else in the neighborhood and would therefore have an impact on the neighborhood, is substantial and is self created. He suggested that the architect might want to give thought to an alternative proposal.

No further comments or concerns were made.

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

Ayes: Neuringer, Sullivan, Mgrditchian, Kramer

Nays: None

Absent: Jackson

The application of Marianne Trotta, # 20A-2008 was called for a hearing.

Ms. Trotta, owner and applicant of the property appeared. Ms. Trotta indicated that she would like to erect a six foot fence at the rear of the property. She would like to replace the chain link fence and would like to have over 100 feet of fence for privacy reasons. Mr. Neuringer inquired why the applicant chose the most solid type of fence, where Ms. Trotta replied that she does not want any opening in the fence. She does lots of gardening and would like her privacy.

No further comments or concerns were made.

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

Ayes: Neuringer, Sullivan, Mgrditchian, Kramer

Nays: None

Absent: Jackson

The application of Chris Sallibello, #23A-2008 was called for a hearing.

Mr. Sallibello, owner and applicant, appeared. He advised the Board that he would like to remove the existing roof and add three (3) bedrooms upstairs, using the same footprint, as the applicant proposes 4.58 feet for a lesser side yard and 8 feet are required. The front steps are in violation as 18 feet is proposed and 25 feet is required. Mr. Mgrditchian advised the applicant that the stairs are greater than 18 feet and therefore the proposal increases the degree of non conformity. Mr. Silverberg advised the Board to consider sending a memo to the Board of Trustees suggesting that the present language in various codes be changed to avoid future dilemmas.

Ms. Kramer indicated that the zoning data listed on the plans is incorrect. The FAR states that there will not be an increase but it is clearly incorrect. Ms Kramer further advised the applicant that the Board cannot properly evaluate the proposal until the information is correct. Mr. Neuringer indicated that the submitted photos clearly confirm that the zoning data is incorrect and that the actual proposal doubles the size of the existing home. Mr. Neuringer also stated that the adjacent house is also against the side line and the actual distance is 9 feet (and not the 16 feet indicated on the plan). The suggestion to create an alternative plan was made to the applicant including a revised plan with correct zoning date, revised site plan within the zoning envelope. Mr. Mellillo invited the applicant to seek the assistance of the building department who will be glad to help in the revision.

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

Ayes: Neuringer, Sullivan, Mgrditchian, Kramer

Nays: None

Absent: Jackson

**PENDING APPLICATIONS-OPEN**

Mr. Neuringer indicated that he was changing the order on the Agenda.

The adjourned application of Lisa Flynn, # 15A-2008, was called for a hearing.

Mr. Flynn indicated that at the last meeting in May, he was asked to return to this Board after seeking the cooperation of the neighbor to remove their fence before the applicant installs their own. Mr. Flynn stated that the neighbor is willing to remove her fence. No further comments or concerns were made.

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

Ayes: Neuringer, Sullivan, Mgrditchian, Kramer

Nays: None

Absent: Jackson

The adjourned applications of Joel Jacks, #3A-2008 and # 1I-2008, were called for a continued hearing.

Mr. Neuringer advised the applicant and their attorney that last month the Board heard the issues in depth and he asked that this hearing pick up from where it left off.

Mr. Sullivan stated that although he did not attend the last meeting in May, he did review the tape and minutes and was comfortable in participating.

Ms. Mary Beth Mullins, attorney for the applicants, appeared. She re-introduced both applications and asked that the Board review the revised plans as it does conform to code. Ms. Mullins then advised the Board that the Department of State has granted a variance for the sprinkler system, as she indicated that any portion of a 3<sup>rd</sup> floor must be sprinkled as per state code. She then stated that the initial determination was reasonable and asked the applicant to give a brief summary of the initial meeting with the building inspector.

Ms. Lorien Jacks, owner and applicant, appeared and advised the Board of the number of events that lead to this point. Ms. Jacks advised that the initial plans were submitted in 2006 and rejected. They then met with the inspector, Mr. Carroll, as they wanted to comply with the code and Mr. Carroll proceeded to advise them on how to do just that. She continued to state that the Jacks' then reconfigured the plans and reduced the height to 7.6 feet. Ms. Jacks concluded that the new inspector is now stating that the revisions they made based on the advice of Mr. Carroll, are non conforming.

Mr. Neuringer stated that a memo had been sent to the Board of Architectural Review from the Zoning Board requesting an advisory opinion. To date, the only material received from the BAR was the determination approving the design of the Jack's residence. He further advised that if an attic has been transformed to a habitable space then State Codes Bureau determines it is a 3<sup>rd</sup> story.

Mr. Wexler, Chairman of the Zoning Board of Appeals for the town, appeared. He advised Mr. Neuringer that the State Codes Bureau states that anything habitable above and beyond the 2<sup>nd</sup> floor requires having a partial sprinkler system. He further added that the 5.7 foot window meets all requirements as an egress.

Ms. Mullins stated that the Board must consider granting a variance based on the following factors:

1. No detriment to the neighborhood was made (photos of neighboring houses were submitted) as the entire area consist of various styles and the consensus of the neighbors supporting the Jacks' all agree that the Jack's house has enhanced the neighborhood.
2. The applicant did consider other alternatives but were not feasible.
3. It does not have an environmental impact as there is no evidence that there is additional runoff, more noise, more light and parking problems. No negative issues are raised.

4. The difficulty was not self created as they build as instructed by the building official.

Mr. Neuringer stated that the applicant could have used a dormer as it would not have affected the integrity of the roof but by raising the roof, a 3<sup>rd</sup> story was created. Mr. Wexler advised the Board that any penetration through the roof with its own roof is considered a dormer. Mr. Neuringer then inquired with Mr. Winter if he still feels that his determination is correct.

Mr. Winter commented that all attics' must comply. He added that if the roof is raised it then constitutes a 3<sup>rd</sup> story.

Mr. Neuringer noted that the Board will not be acting tonight, but will have to vote by the next meeting since the Zoning Board of Appeals will not be meeting in August.

A motion was made by Mr. Mgrditchian to close both hearings, and was seconded by Mr. Sullivan.

Ayes: Neuringer, Sullivan, Mgrditchian, Kramer

Nays: None

Absent: Jackson

## **PENDING APPLICATIONS-CLOSED**

The closed application of 211 Mamaroneck Avenue #13A-2008-

After a lengthy discussion, the Board determined to grant the variance subject to the following conditions:

1. That three (3) parking permits, exclusively for use by the employees of the restaurant, shall be obtained annually from the Village of Mamaroneck, or any alternate source within 500 feet of the subject premises, and such permits shall remain valid at all times.
2. The special permit shall expire in three (3) years so the Board may reevaluate the parking issues

A motion was made by Mr. Mgrditchian to approve the variance subject to the purchase of three spaces from the Village of Mamaroneck for permit parking to relieve the pressure of parking situation for employees and three parking permits exclusively used by employees, and the special permit granted is subject to renewal in three years to examine the parking issues, which was seconded by Mr. Sullivan.

Ayes: Sullivan, Mgrditchian, Neuringer

Nays: Kramer

Absent: Jackson

(See copy of resolution, which is attached as Exhibit "A")

The closed application of the Village Luncheonette #9SP-2008

A motion was made by Mr. Sullivan to grant the special permit and seconded by Ms. Kramer

Ayes: Neuringer, Sullivan, Mgrditchian, Kramer

Nays: None

Absent: Jackson

(See copy of resolution, which is attached as Exhibit "B")

The closed application of Ivy Rentz, #8SP-2008

After a lengthy discussion, the Board determined to reopen the hearing.

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

Ayes: Neuringer, Sullivan, Mgrditchian, Kramer

Nays: None

Absent: Jackson

The issues of traffic flow and reconfiguration of the parking lot were discussed. Mr. Neuringer suggested that a draft resolution incorporating the issues be submitted at the July meeting.

The closed application of Juarez Mexican Restaurant, #7SP-2008

A motion was made by Mr. Mgrditchian to approve the special permit and was seconded by Mr. Sullivan.

Ayes: Neuringer, Sullivan, Mgrditchian, Kramer

Nays: None

Absent: Jackson

(See copy of resolution, which is attached as Exhibit "C")

The closed application of Mamaroneck Variety Corp., #10SP-2004

A motion was made by Mr. Sullivan to approve the special permit and was seconded by Ms. Kramer.

Ayes: Neuringer, Sullivan, Kramer

Nays: Mgrditchian

Absent: Jackson

(See copy of resolution, which is attached as Exhibit "D")

The closed application of Duck Inn, # 5SP-1999

A motion was made by Mr. Mgrditchian to approve the special permit and was seconded by Ms. Kramer.

Ayes: Neuringer, Sullivan, Mgrditchian, Kramer

Nays: None

Absent: Jackson

(See copy of resolution, which is attached as Exhibit "E")

The closed application of Michael Smith, # 16A-2008

A motion was made by Mr. Mgrditchian to approve the variance subject to the modification that the fence be 5 feet in height with an addition 1 foot of lattice, and was seconded by Mr. Sullivan.

Ayes: Neuringer, Sullivan, Mgrditchian, Kramer

Nays: None

Absent: Jackson

(See copy of resolution, which is attached as Exhibit "F")

The closed application of Ivy Rentz, # 8SP-2008

After much discussion, the Board determined to grant the special permit contingent upon the condition setforth:

A motion was made by Ms. Kramer that the special permit granted herein is approved subject to the Planning Board's review and approval of the site plan and the configuration and traffic flow into and within the parking lot with a request that the Planning Board take into consideration the safety concerns expressed by this Board and reconfigure the existing parking lot and traffic flow accordingly. We request that that the Board's approval of the site plan include the examination of the parking and traffic flow and ensure that an operator is designated and available all times of the day during the entering and exiting of the parking lot to escort the children across the street safely unless a parent or other responsible adult is available to escort the child, which was seconded by Mr. Sullivan.

Ayes: Neuringer, Sullivan, Kramer,

Nays: Mgrditchian

Absent: Jackson

(See copy of resolution, which is attached as Exhibit "G")

The closed application of John and Mary Leitner, #17A-2008

A motion was made by Mr. Mgrditchian to approve the variance subject to the addition of evergreen trees' on the east side of the property line, seconded by Ms. Kramer.

Ayes: Sullivan, Kramer, Mgrditchian

Nays: Neuringer

Absent: Jackson

(See copy of resolution, which is attached as Exhibit "H")

The closed application of Charles Guadagnolo, #11A-2008

After much discussion, a motion was made by Mr. Sullivan to approve the variance based on the lot being unique in size and that it does not effect the neighbors other than the front east side of the road. The motion was withdrawn by Mr. Sullivan.

A motion was made by Ms. Kramer to approve the variance for the rear yard and reject the front yard variance as it is too close to the road and will therefore have a substantial impact on the neighborhood was seconded by Mr. Mgrditchian.

Ayes: Sullivan, Kramer, Mgrditchian, Neuringer

Nays: None

Absent: Jackson

(See copy of resolution, which is attached as Exhibit "T")

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

GEORGE MGRDITCHIAN  
Secretary

Prepared by:  
Laura Garcia