

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, OCTOBER 2, 2008, AT 7:00 P.M.

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

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 VILLAGE OF MAMARONECK
 NEW YORK

ABSENT: Robin Kramer

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 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. Additionally, Mr. Neuringer indicated that any one who would prefer an adjournment until a full board is present may do so. No such request was made.

DISCUSSION-

Lucas/ Bliel, 307 Beach Avenue.

Mr. Neuringer indicated that a miscellaneous matter is in front of the Board regarding the property located at 307 Beach Avenue.

Mr. Silverberg stated that it was put on the agenda as a "discussion" for the Board to determine if the appeal was filed in a timely manner. He suggested that because the applicant was present, the Board should provide the opportunity for her to speak. Mr. Silverberg also advised that he will prepare and distribute a memo on this matter to the Board.

Ms. Nora Lucas, Pro Se Petitioner, appeared. She began to explain the chronology of events. She began with the news of a letter written from John Winter, sent to Corey and Erica Bliel, owners of 307 Beach Avenue. Subsequently, she made a FOIL request to the Clerk Treasurer's office in June in search of such letter. On June 25, 2008, she was told by Sally Roberts that a date noted document could not be produced. A copy of the letter was sent to Ms. Lucas in September by Mr. Winter. Ms. Lucas further indicated that since she was given notice of the letter in June (from an outside source), her appeal filed on July 28, 2008 was made in a timely manner.

Mr. Winters stated that he does recall sending the letter to the Bliel's in February because it was sent before his vacation. He further indicated that the Bliel's still have the original, date stamped envelope and letter.

Corey Bliel, owner of 307 Beach Avenue, appeared. He stated for the record that he is in possession of the envelope dated February 14, 2008, and he also has the fax transmittal (of the letter) sent to his attorney on February 28, 2008. He added that there should be no question as to when it was sent. He further stated that the law is very clear in that an appeal may be made within 60 days and the Petitioners have since missed that window of opportunity.

Considering all the facts, Mr. Silverberg suggested that the Board do an analysis and decide at the next meeting whether the Petitioners filed in a timely fashion. He will provide a memo to the Board.

The adjourned application of Raul Silva, 1518 Park Avenue, was called.

Mr. Silva, property owner, appeared. He stated that this is his third visit to the Zoning Board and he would like to resolve this issue. Mr. Neuringer advised Mr. Silva of efforts Planning Board made by providing input and feed back from the Department of Public Works. The Planning Board recommended that the enclosure be relocated to the adjacent building (that currently homes recycling). Additionally, the enclosure should be screened with a chain link fence and colored slats.

Mr. Sullivan stated that he was inclined to go along with the recommendations; however, he believes the applicant will still need a variance. Mr. Silverberg advised that the applicant can seek to amend the application. Mr. Mgrditchian stated that the applicant is entitled to review the correspondence and recommendation between the departments and believes that Mr. Silva should have a copy of it.

Mr. Silva indicated that he will be out of the country in November and would like to be considered in December. Mr. Silverberg suggested that the applicant contact Ms. Garcia before December with intentions of proceeding or withdrawing the application.

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

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

The adjourned application of Richard Santorsola, 628 Wood Street, was called for a hearing.

Mr. Santorsola, owner and applicant of 628 Wood Street, appeared. He stated that he is seeking a variance to build an addition to the deck for his wife so she can access the handicap ramp as she is wheelchair bound. Mr. Neuringer inquired as to where the ramp will be located? The applicant indicated that the ramp is already erected and is currently located on the east side of the property. Mr. Santorsola also indicated that the stairs will further be an encroachment on the driveway and he would not have access to the garage. Mr. Mgrditchian suggested that a landing with a turn be added onto the grass area to minimize the encroachment. Mr. Neuringer also suggested that the drawings be reviewed for corrections by the building department.

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

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

The adjourned application of People's Bank, 1444 E. Boston Post Road, was called for a hearing.

Mr. Noto, attorney for the applicant, appeared. For the record, Mr. Jackson advised that the restaurant is owned by his uncle and will therefore abstain from this application. Mr. Neuringer advised Mr. Noto that comments have been made with reference to the placement of the sign that is still illegible. Mr. Noto advised that the code requires the sign to be 10 feet from the street and he believes the size if conforming. Mr. Noto further advised that he is open to suggestions. Mr. Neuringer indicated that the Zoning Board will make a formal request to enforce the code through the building department. Mr. Noto then advised that they are seeking two variances after implementing the suggestions of the Planning Board. He indicated that they had reduced parking on both the commercial and residential side by rotating the

building that results in a less intrusive and more appealing plan and he has also incorporated heavy street scaping. Mr. Mgrditchian inquired about the hours of operation, in which Mr. Noto replied that it will be between 8:00 a.m. and 5:00 p.m., with a possible late night on Thursday, closing at 8:00 p.m. but will confirm the hours as soon as possible. Mr. Yost, architect for the application, appeared. He advised the Board that the existing gas station currently has an impervious surface. He advised that one entrance is proposed off Sterling Avenue and one exit on Boston Post Road. The proposal also includes 16 parking stalls, 1 handicap and 2 drive thru lanes. The two variances being sought are for the parking and also for the rear yard set back for the canopy that requires 45 feet and 22.8 feet are being proposed. Mr. Yost also advised that they are trying to buffer from the street and will have a cedar fence at the rear of the property for shielding. Mr. Noto stated that they will adhere to the request of the Planning Board to provide heavy planting.

Mr. Neuringer states that there will be more discussion regarding the concerns for the setbacks and parking issues and he believes the parking could be accommodated without a variance.

Anthony Spencer, neighbor to the proposed site, appeared. He advised the Board that the Schedule of Minimum Requirements indicates that a non residential corner lot cannot have parking on a side yard within 25 feet of any street. He also indicated that the canopy should be at least 45 feet off the rear yard and not 22.8 feet that is being proposed. Lastly, Mr. Spencer expressed his concern that the variances are excessive and requested that the Board examine a more reasonable approach.

Mr. Neuringer inquired with Mr. Yost if the building is a prototype or site specific? The architect replied that the shape is prototype but believes the style is site specific.

Mr. Mgrditchian suggested that they should consider shrinking the stalls to 8 1/2 feet to gain an extra space and avoid a variance.

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

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

The application of CAP West LLC, 931 East Boston Post Road, was called for a hearing.

Dan Ferrante, representative for the applicant, appeared. Mr. Ferrante requested a special permit to allow a theater and dance school for children between 1st and 12th grade. The proposed hours of operation are between 4:00 p.m. and 8:00 p.m. Monday through Friday and occasionally on Saturday mornings. Mr. Mgrditchian inquired if the age groups will be in segmented times and if a pick- up /drop- off plan has been implemented. Mr. Ferrante described that communication is made with the parents, as well as the placement of an employee located in front of the building to direct the children inside. A maximum of 20 students will be in at a time. The applicant advised the Board that time is of the essence and if they could vote as soon as possible it would be greatly appreciated.

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

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

The **application of Colman McCarthy, d/b/a The Barnacle**, was called for a hearing.

Mr. McCarthy, applicant, appeared. He advised the Board of his plans to open a BBQ/Seafood restaurant where the old Jolly Trolley used to be. He anticipates the hours of operation between the hours of 11:00 a.m. and 4:00 a.m., if the Board allows him to. He further advised the Board that the kitchen will be open until 2:00 a.m. daily. Mr. Winter advised the Board that the applicant has submitted a site plan for outdoor seating which will be examined by the Planning Board on October 23, 2008. Mr. Neuringer suggested that the application be adjourned until comment has been made by the Planning Board; however, Mr. Sullivan did not see any reason to do so since it's for a special permit only.

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

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

The **application of Dance Cavise, 273 Halstead Avenue**, was called for a hearing.

Mr. Cavise, owner and applicant, appeared. He advised the Board that he is seeking a renewal of the special permit to continue operating a dance studio at 273 Halstead Avenue. Mr. Mgrditchian inquired if any changes were made since the original resolution issued in 1995. Mr. Cavise indicated that there was not and the hours of operation have remained the same.

No further questions or comments were made.

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

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

The **application of Susan Oakley, 421 Beach Avenue**, was called for a hearing.

Ms. Oakley, owner of the property and Mr. Hagle, architect for the applicant, both appeared. Ms. Oakley indicated that she was seeking a variance for the front stairs and entry-way. Ms. Oakley then distributed signatures of approval from her neighbors and, before and after pictures. Mr. Hagle indicated that he originally designed the project in February 2007 and made an application for a variance for the steps and volume of the structure, at which time he was informed to go the Board of Architectural Review first. Mr. Hagle further indicated that he believes the project greatly improves the esthetics within the neighborhood.

Mr. Benny Salinitro, of 517 Linden Street, appeared. He indicated that he was in favor of the variance and it was a job well done. Mr. Salinitro also indicated that based on prior applications, two opinions on whether steps constitute a structure have been made, both personal and professionally. He further indicated that in his opinion, the past application and interpretation of the current code, not including steps as part of measuring yards, is correct. Mr. Silverberg suggested that Mr. Salinitro provide documentation of his opinions. Mr. Pottberg of 410 Beach Avenue appeared and noted that the applicant did a beautiful job and is in favor of the application.

Mr. Neuringer stated that if the variance is granted it is subject to the steps only and he therefore would like to consider a limitation that no other construction be built. Mr. Sullivan disagreed with Mr. Neuringer and stated that it is unjust to put such burden on applicants and the Board should not limit an

applicants ability. Mr. Silverberg reminded the members that the application is for a variance only and not for an interpretation of the ordinance.

Mr. Hagle requested that the Board consider the steps non detrimental to the neighborhood and removing the steps would result in a hardship to his client.

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

Ayes: Sullivan, Neuringer, Mgrditchian, Jackson

Nays: None

Absent: Kramer

The application of Jacques Megroz, 40A-2008, 990 The Parkway, was called for hearing.

Mr. Gaita, architect for the applicant, appeared. He stated that his client seeks to legalize an existing screened porch. The setback is 5.7 feet and 6 feet is required and he is therefore 3.6 inches deficient to code. Mr. Mgrditchian inquired as to why they are seeking the variance now when the applicant built the porch in 1962. Mr. Gaita advised the Board that the applicant were not aware they needed a variance and are now selling the property. Mr. Gaita further advised that the porch was inspected to ensure it structurally sound and it passed.

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

Ayes: Sullivan, Neuringer, Mgrditchian, Jackson

Nays: None

Absent: Kramer

The application of Exxon Mobil, #39A-2008, 651 E. Boston Post Road, was called for a hearing.

Marc Andreotto, representative for the application, appeared. Mr. Andreotto explained to the Board that he is seeking a variance to legalize a six (6) foot fence located at the rear of the property. He further explained that the fence was installed to maintain privacy for the adjacent neighbor located at 115 Barry Avenue. Mr. Mgrditchian advised that comments submitted from the Planning Board indicate that the fence is appropriate for the site. Mr. Jackson also agreed as the fence does not block any traffic views.

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

Ayes: Sullivan, Neuringer, Mgrditchian, Jackson

Nays: None

Absent: Kramer

The application of Patrick Ronan, #41A-2008, 115 Wagner Avenue, was called for a hearing.

Mr. Ronan, owner and applicant, appeared. Mr. Mgrditchian advised that he will recuse himself from the hearing as he is partners with the adjacent property. Mr. Ronan explained that he is seeking a variance for a six foot fence for privacy as his property borders a commercial parking lot. He further advised that the adjacent parking lot is provided for numerous offices and currently has a four (4) foot, chain link fence. Mr. Neuringer inquired if the applicant had any objections to a one (1) foot lattice section on top? Mr. Ronan advised that he would prefer solid but would not oppose to a scalloped edge.

Mr. Sullivan indicated that this application is different from others as it abuts a commercial lot.

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

Ayes: Sullivan, Neuringer, Jackson

Nays: None

Absent: Kramer

Abstained: Mgrditchian

The **application of Erica Cohn and John Zucker, #42A-2008**, was called for a hearing.

Mr. Keller, architect for the applicants, appeared. He explained that the front porch of the property has a deep set and would like to extend toward the street. He also indicated that the house has a non-descript 1960's façade and his clients would like some architectural details. Mr. Neuringer inquired if an alternative studies has been made to accommodate the desired space while staying within the setbacks? Mr. Keller indicated that extending five (5) feet is not enough and the project will have more depth with seven (7) feet. Mr. Keller further stated that the garage is not at the same level and the roof line differs from the home and therefore would not be an ideal venue for porch.

No further comments or questions were made.

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

Ayes: Sullivan, Neuringer, Jackson, Mgrditchian

Nays: None

Absent: Kramer

The **application of Mr. & Mrs. Bunder, #38A-2008**, was called for a hearing.

Mr. Keller, architect for the applicants, appeared.

Mr. Neuringer began by detailing some procedural issues with Mr. Winter. First, he noted that the survey dated June 27, 2008 indicates that there is a 30 foot dimension to the face of the columns which are the structure and foundation. Secondly, Mr. Neuringer stated that everything outside of those columns is protruding and considered an architectural element. Mr. Neuringer further indicated that Section 342-14 indicates that any structure that projects should not be more than 3 feet into any required yard and it appeared to Mr. Neuringer that the rear setback requirements conform. Mr. Winter disagreed stating that he believed a wall is not a structure. Mr. Keller then indicated that it is that distinction that the Board should decide on. Mr. Silverberg reminded the Board that the application is not being appealed but rather seeking an area variance only. Mr. Bunder, owner of property, indicated that the variance is simply because they did not meet the setbacks.

No further questions or comments were made.

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

Ayes: Sullivan, Neuringer, Jackson, Mgrditchian

Nays: None

Absent: Kramer

PENDING CLOSED APPLICATIONS-

Application of Chris Sallibello,-

Mr. Neuringer believes there are other means and that the current plan is unacceptable. On the suggestion of Mr. Jackson, this will be determined in November.

Application of Dikkers Restaurant (La Provencal) #13SP-2008–

On a motion of Mr. Mgrditchian to grant the renewal of the special permit and include the changed hours of operation in the resolution, seconded by Mr. Sullivan.

Ayes: Neuringer, Jackson, Sullivan, Mgrditchian

Nays: None

Absent: Kramer

Exhibit “A”

Application of Vera Cruz, #17SP-2008-

On a motion of Mr. Mgrditchian to approve the special permit only, seconded by Mr. Sullivan.

Ayes: Neuringer, Jackson, Sullivan, Mgrditchian

Nays: None

Absent: Kramer

Exhibit “B”

Application of Gregory Colica, #16SP-2008-

On a motion of Mr. Mgrditchian to approve the special permit subject to the continuance of the original parking agreement and a three (3) year probation, seconded by Mr. Jackson.

Ayes: Neuringer, Jackson, Sullivan, Mgrditchian

Nays: None

Absent: Kramer

Exhibit “C”

Application of Generosa Protano, #32S-2008-

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

Ayes: Neuringer, Jackson, Sullivan, Mgrditchian

Nays: None

Absent: Kramer

Exhibit “D”

Application of Jeffrey and Jennifer Rubin, #37A-2008-

The Board agreed to vote on this application in November. Mr. Neuringer thought that some conditions might be created.

Application of DCH, 27A-2008 and 11SP-2008-

The Board determined to wait for a full quorum in November before deciding.

Application of CAP West, 19SP-2008-

On a motion of Mr. Jackson to approve the special permit with a 3 year probation period, seconded by Mr. Mgrditchian.

Ayes: Neuringer, Jackson, Sullivan, Mgrditchian

Nays: None

Absent: Kramer

Exhibit “E”

Application of Dance Cavise, 5SP-1995-

On a motion of Mr. Jackson to approve the renewal of the special permit with no expiration date, seconded by Mr. Sullivan.

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

Exhibit "F"

Application of Exxon Mobil, 39A-2008-

On a motion of Mr. Jackson to approve the six (6) foot solid fence as it is a replacement fence that abuts a residential property, seconded by Mr. Sullivan.

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

Exhibit "G"

Application of Patrick Ronan, 41A2008-

On a motion of Mr. Jackson to approve the six (6) foot fence with the top scalloped portion, seconded by Mr. Sullivan.

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

Exhibit "H"

Application of Mike and Debbie Bunder, 38A-2008-

A motion was made to approve the variance seconded by Mr. Sullivan.

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

Exhibit "I"

Application of Susan Oakley, 43A-2008-

A motion was made to approve the variance for the steps only that should be indicated in the resolution, seconded by Mr. Jackson.

Ayes: Neuringer, Jackson, Sullivan, Mgrditchian

Nays: None
Absent: Kramer

Exhibit "J"

Application of Jacques Megroz, 40A-2008-

A motion was made by Mr. Jackson to approve the variance, seconded by Mr. Sullivan

Ayes: Neuringer, Jackson, Sullivan, Mgrditchian

Nays: None

Absent: Kramer

Exhibit "K"

MINUTES-

September minutes adjourned.

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

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

GEORGE MGRDITCHIAN
Secretary

Minutes taken and prepared by:
Laura Garcia