

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, NOVEMBER 6, 2008, AT 7:00 P.M. IN THE COURTROOM AT 169 MOUNT PLEASANT AVENUE, MAMARONECK, NEW YORK.

These are intended to be "Action Minutes" which primarily record the actions voted on by the Zoning Board on November 6, 2008. The full public record of this meeting is the audio/video recording made of this meeting and kept in the Zoning Board's Records. The stenographic record will not be transcribed unless specifically requested.

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

ABSENT: George Mgrditchian

Lisa Casey, Court Reporter, was present at the meeting to take the stenographic minutes, which will not be transcribed unless specifically requested.

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VILLAGE OF MAMARONECK  
NEW YORK

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**CALL TO ORDER**

The meeting was called to Order by Chairman Neuringer at 7:05 P.M.

The Chairman announced that this will be Peter Jackson's last meeting. He has served two consecutive years with the ZBA. All applaud his efforts.

The Chairman also announced that agenda item B5 Caparelli (210 Jefferson Avenue, variance to reduce side and combined yard) will be adjourned to January, and item B6 Mahal (322 Mamaroneck Avenue, increase height of existing sign) will be adjourned to the December meeting.

**DISCUSSION**

**1. Lucas Appeal (307 Beach Avenue)**

Steven Silverberg, Counsel to the Board, opened the discussion by stating that he had a chance to look over the legal issue and give an opinion as to whether the matter was filed in a timely matter. He submitted a confidential memorandum to the Board. The members of the Board authorized him to state his opinion for the record.

Silverberg noted that under the provision of the Village Law 7-712(A) (5) (B) an appeal has to be taken within sixty (60) days and when a third party is appealing the decision the time to appeal runs from when

they received notice. Silverberg stated that the issue is whether the appellants received the decision more than sixty days before they submitted the application to the Building Department. Silverberg noted that in the written submission by the applicants they acknowledged they received a copy of decision on May 23, 2008 and he is of the opinion that as of May 23, 2008 they were reasonably notified of what had occurred. The filing of the application on July 28, 2008 was more than sixty days after receiving notice.

Board member Kramer questioned the adequacy of the notice. Board members Jackson and Sullivan discussed the timeliness issue noting that they believed the appeal was not timely. Chairman Neuringer noted that the document was sent out without a date and that created an undue burden on the applicant. This is a decision whether to permit an appeal to be heard by the Board and the ambiguities have to be taken into account.

Board member Kramer observed that the decision was not filed with the Village Clerk within five days and questioned when the time limitation began to run; it was never filed.

Chairman Neuringer noted that a FOIL request could not be honored because there was no date on the letter and the Village had no record of the undated letter. The Board discussed whether this should be on the agenda at a future public hearing.

ALL PRESENT AGREED TO CONTINUE THE DISCUSSION AT NEXT MEETING TO BE HELD IN DECEMBER.

## **2. Mamaroneck Train Station Rezoning -Referral from the Board of Trustees Pursuant to Section 342-97**

Presentation by John Verni, attorney for the Applicant, regarding the application for rezoning.

John Verni indicated that the referral is from the Board of Trustees (pursuant to 342-97) and noted that this is not the final version of the site plan. He is not seeking variances at this time.

Chairman Neuringer indicated that the purpose is for referral only pending the action of the Village Board and that any variance application will be entertained in the future. Mr. Verni indicated that he presented the proposed rezoning to the Planning Board and they made a positive recommendation. Chairman Neuringer thanked Mr. Verni for the presentation.

### **PUBLIC HEARINGS**

#### **1. Adjourned application #34A-2008, Richard Santorsola, 628 Wood Street, to vary Section 342-27 by reducing a rear yard setback from 25 feet (required) to 14 feet (proposed) to build an addition to an existing deck (R-5 District)**

The applicant Richard Santorsola appeared on his own behalf. He indicated that there was a question at last meeting regarding the steps off the deck. He redesigned the plans without steps.

A motion was made by Gregory Sullivan, seconded by Robin Kramer, to close the public hearing.

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

- 2. Adjourned application #35A-2008, People's Bank, 1444 East Boston Post Road, to vary Section 342-38 to convert an existing gas station and restaurant to a bank with a drive thru and parking in a required front yard. The proposed front yard set back is 2 feet (10 feet is required) and the proposed side yard set back is 14.4 feet (45 feet is required). The proposed parking is 10 feet from a street / lot line and 25 feet is required (C-1 District)**

**Adjourned application #20SP-2008, People's Bank, 1444 East Boston Post Road for a special permit to change the existing use from a gas station and restaurant to a bank (C-1 District)**

Peter Jackson is recused from this matter. Paul Noto appeared for the applicant People's Bank. A presentation was made with respect to the request for variances. He noted that the Planning Board recommended landbanking and that the applicant was opposed to any landbanking.

Craig Tompkins of Bohler Engineering also appeared and spoke on behalf of the applicant People's Bank with respect to the site plan given to the Board at the public hearing. A lengthy discussion ensued regarding the requested variance and the adequacy of parking.

Mr. Spencer stated that he had an issue with the fact that there was a new site plan presented this evening, which he had not seen. He addressed the magnitude of the requested variances. He noted that the application only makes reference to 1444 East Boston Post Road but should include 1442 East Boston Post Road. He questioned the adequacy of the notice.

Lee Wexler of the Planning Board informed the Board about the pending review of the application made by the members of the Planning Board and their comments regarding parking and other planning issues.

Mr. Noto responded to those concerns. Board member Kramer raised the issue of whether the traffic study was newly submitted today and the applicant's engineer responded. The applicant offered to withdraw the document.

A motion to close the public hearing was made by Gregory Sullivan, seconded by Robin Kramer.

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

The matter was adjourned to the December meeting.

- 3. Application # 20SP-2008, Michael Donnadio, 324 Halstead Avenue, to modify the special permit to extend an existing roof (C-1 District)**

Reno Sasini appeared for the applicant Michael Donnadio (owner of Diamond Car Wash) and made a presentation.

A motion to close the public hearing was made by Robin Kramer, seconded by Gregory Sullivan.

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

Absent: Mgrditchian

- 4. Application #11SP-1996, Ninmar Corp., 1029 W. Boston Post Road, for a renewal of a special permit to continue operating an existing restaurant (C-1 District)**

Paul Noto, Esq. appeared on behalf of applicant Ninmar Corp.

A motion to close the public hearing was made by Gregory Sullivan, seconded by Peter Jackson.

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

- 5. Application #45A-2008, Pantallo Capparrelli, 210 Jefferson Avenue, for variances from Article V Section 342-50 (A)(3) (g) [2] and [3] to reduce a side yard from 0 feet (required) to 6.5 feet (proposed) and to reduce the two side yards combined to 12.4 feet ( 20 feet is required) to convert a third floor to an apartment (C-1 District)**

ADJOURNED TO JANUARY MEETING AT APPLICANT’S REQUEST.

- 6. Application #49A-2008, Rani Mahal, 327-322 Mamaroneck Avenue, for a variance from Article V Section 286.10 to increase the height of an existing sign from 30 inches (permitted) to 38 inches (proposed) (C-2 District)**

ADJOURNED TO DECEMBER MEETING DUE TO APPLICANT’S FAILURE TO POST NOTIFICATION SIGN.

- 7. Application #46A-2008, Ana Rojo, 738 River Street, for a variance from Article V Section 342-21 B (9) to increase a fence height from 5 feet (permitted) to 6 feet (proposed) (R-5 District)**

Anna Rojo appeared on her own behalf and made a brief presentation.

A motion to close the public hearing was made by Peter Jackson, seconded by Gregory Sullivan.

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

- 8. Application #48A-2008, Rita M. Banaham, 414 Hunter Street, for a variance from Article V Section 342-27 to reduce the rear yard setback from 25 feet (required) to 8.3 feet (proposed) to construct a deck (R- 2F District)**

Victor Carozzi, P.E. appeared for the applicant and made a presentation.

A motion to close the public hearing was made by Peter Jackson, seconded by Robin Kramer.

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

**9. Application #47A-2008, Victor Caceres & Casiano Dominguez d/b/a Vera Cruz , 639 Mamaroneck Avenue, for variances from Article VIII Sections 342-55 and Section 342-61 to expand a store with insufficient parking (0 spaces proposed, 5 spaces required)(C-1 District)**

Martha McCarty, Esq. appeared for the applicants.

Vincent Caldarola appeared in support of the application and gave a brief history of the site.

A motion to close the public hearing was made by Peter Jackson, seconded by Gregory Sullivan.

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

**10. Application #50A-2008, Remo Ferraro, 129 New Street, for a variance from Article IX, Section 342-66 to permit restoration of damaged non- conforming multi-family apartment within 12 months of damage and destruction (R-2F District)**

Joseph Messina, Esq. appeared for the applicant and made a presentation.

Ms. Varra, owner of property next store, appeared in favor of the application.

A motion to close the public hearing was made by Peter Jackson, seconded by Robin Kramer.

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

**11. Application #44A-2008, Mr. & Mrs. Stoeckhert, 1520 Henry Avenue, for a variance from Article V Section 342-21 (B) (9) to increase the height of fence from 5 feet (permitted) to 6 feet (proposed) (R-5 District)**

Malte Stoeckhert appeared on his own behalf and made a presentation.

A motion to close the public hearing was made by Gregory Sullivan, seconded by Peter Jackson.

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

**PENDING CLOSED HEARINGS**

1. Application of DCH Mamaroneck (27A-2008 and 11 SP-2008)

The Board discussed the merits of the application and the need to condition the variance on the continued availability of the proposed parking given the potential lease of 613 Waverly Avenue. The Board discussed the various options (covenants, recorded licenses, etc.) to inform future property owners of the restriction. They also discussed the need to make a notation in building department records documenting the dedication of 56 parking spaces at 613 Waverly Avenue.

A motion was made by Robin Kramer, seconded by Gregory Sullivan to approve the special permit subject to the conditions that (1) an appropriate license agreement or covenant be required to ensure the continued availability of the subject parking in a form approved by counsel, and (2) that an appropriate notation be placed on the building permit and file.

Steve Silverberg stated that he would review the license agreement to ensure that the applicant provides an appropriate license agreement.

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

## **2. Application of Chris Sallibello (23A-2008)**

A motion to deny the application was made by Chairman Neuringer for the reasons stated on the record and recorded in the verbatim transcript, seconded by Peter Jackson.

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

## **3. Application of Jeffrey and Jennifer Rubin (37A-2008)**

The Board discussed the merits of the application including the degree of non-conformity and the potential creation of a two story alley way between the two properties, and the modification made to the original plan. The Board distinguished this matter from the prior application.

A motion to deny the application was made by Peter Jackson for the reasons stated on the record and recorded in the verbatim transcript, seconded by Gregory Sullivan.

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

The application was denied by default.

A motion to approve the application was made by Chairman Neuringer, seconded by Robin Kramer.

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

The application was denied.

**4. Application of Colman McCarthy d/b/a The Barnacle (18SP-2008)**

The Board discussed conditions of approval and the hours of operation. They agreed that the restaurant may remain open until 4:00 A.M.

A motion to approve a special permit with an initial 3 year renewal was made by Robin Kramer for the reasons stated on the record and recorded in the verbatim transcript, seconded by Peter Jackson.

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

**5. Application of Erica Cohn and John Zucker (42A-2008)**

Chairman Neuringer made a presentation and indicated that the project could be done in a way that complied with the zoning code. After a brief discussion, the Board adjourned the deliberation to its December 4<sup>th</sup> meeting.

**6. Mamaroneck Train Station – Referral from Board of Trustees**

The Board discussed the referral of the merits of the rezoning in light of the preservation of the historic building. They directed that a document memorializing the Board's recommendation be drafted and sent to the Board of Trustees.

**7. Application of Victor Caceres & Casiano Dominguez d/b/a Vera Cruz (47A-2008)**

The Board discussed change in use and noted that the property had always been used for commercial purposes.

A motion to approve the variances was made by Chairman Neuringer for the reasons stated on the record and recorded in the verbatim transcript, seconded by Gregory Sullivan

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

**8. Application of Remo Ferraro (50A-2008)**

The Board discussed the merits of the application.

A motion to approve the application was made by Gregory Sullivan for the reasons stated on the record and recorded in the verbatim transcript, seconded by Robin Kramer.

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

**MINUTES**

A motion to approve the minutes of September 4, 2008 was made by Peter Jackson, seconded by Gregory Sullivan.

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

A motion to approve the minutes of October 2, 2008 was made by Peter Jackson, seconded by Gregory Sullivan.

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

**ADJOURN**

A motion to adjourn the meeting was made by Peter Jackson, seconded by Gregory Sullivan.

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

On motion duly made and carried, the meeting was adjourned at 11:40 P.M.

GEORGE MGRDITCHIAN  
Secretary

Prepared by:  
Patricia A. Vileno