

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF
MAMARONECK, NEW YORK, HELD ON THURSDAY, MAY 1, 2008, AT 7:00 P.M.

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

ABSENT: Gregory Sullivan

JoAnne DiDonato, 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. 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 **Michael Smith, of 411 Beach Avenue, was called for a hearing- #16A-2008**

Mr. Jackson stated that he served with the adjacent neighbor of 211 Beach Avenue on the Boy Scouts and believes he could act in a fair manner. Ms. Sarah Smith appeared and advised that the existing, dilapidated fence is in very poor condition and would like to replace it. The proposal is for six feet high fencing around the pool and along side the driveway and prefers it for safety and security reasons. Mr. Jackson inquired if the six foot fence will be replacing the current chain link fence, in which she replied "yes." Mr. Neuringer inquired if she would consider a pool enclosure instead of all the proposed linear footage.

Mr. Neuringer also indicated that a letter in opposition was submitted into the record. Mr. Mgrditchian stated that the visibility is important but suggest that a five foot fence with a one foot lattice top should be considered. Mr. Neuringer inquired if the applicant would consider modify the application in which the Smith's agreed that they would.

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

Ayes: Neuringer, Kramer, Jackson, Mgrditchian

Nays: None

Absent: Sullivan

The application of **RBRC** will be adjourned until June 1, 2008.

The application of **Hector Vasquez, d/b/a The Village Luncheonette** was called for a hearing #9SP-2008,

Mr. Neuringer advised that this application is a modification of a Special Permit for a new ownership. Mr. Vasquez indicated that there are no changes proposed to the pre existing restaurant and it intends to have the same hours of operation. Mr. Vasquez further indicated that there are no intentions to serve alcohol or seek a liquor license. Mr. Neuringer inquired if this can be a condition on the special permi, in which the applicant agreed that it could. The hours of operation are between 6:00 A.M. and 4:00 P.M. Monday through Sunday. Mr. Mgrditchian inquired if the Board of Health certificates are up to date in which the applicant confirmed that everything is compliance with the requirements.

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

Ayes: Neuringer, Kramer, Jackson, Mgrditchian

Nays: None

Absent: Sullivan

The application of **Ivy Rentz #8SP-2008**, was called for a hearing.

Ms. Rentz, applicant of 705 N. Barry Avenue, appeared. Ms. Rentz indicated that she is seeking a special permit for a pre school as Mamaroneck Avenue School is looking to expand their universal program. She currently owns a day care center directly across the street and would like to utilize the commercial space to accommodate 22-24 children. Ms. Rentz further advised that with three additional spaces on site, six old spaces and permission to park at the church across the street for 10 additional spaces.

Ms. Kramer inquired if the applicant's establishment meets all New York standards, in which Ms. Rentz confirmed it did.

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

Ayes: Neuringer, Kramer, Jackson, Mgrditchian

Nays: None

Absent: Sullivan

The application of **Juarez Mexican Restaurant, #7SP-2008**, was called for a hearing.

Mario Juarez, owner of the restaurant located at 628 Mamaroneck Avenue, appeared. He indicated that he took over an existing restaurant known as "Home Plate". He further indicated that he will not be change the structure in any way. The hours of operation are:

Monday through Friday 6:00 a.m. to 9:00 p.m.,

Friday through Saturday 6:00 a.m. through 11:00 p.m., and

Sunday 8:00 a.m. through 9:00 p.m.

Mr. Mgrditchian inquired if all inspections have been made, in which Mr. Juarez indicated that it has. Mr. Juarez further advised that Board that there are no intentions to provide any alcohol now or in the future.

Mr. Neuringer inquired if the applicant had any objections to a condition being added indicating that no alcohol will be served; Mr. Juarez advised it would not be a problem.

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

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

The application of **Mamaroneck Variety Corp., #10SP-2004**, was called to order.

Mr. Donald Mazin, attorney for the applicant, appeared. He advised the Board that they are seeking a renewal of the special permit. The hours of operation remain to be open twenty-four hours per day and they have not experienced any problems.

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

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

The application of **Debra Collins, d/b/a Duck Inn, #5SP-1999**, was called to order.

Ms. Collins, owner of establishment located at 128 W. Boston Post Road, appeared. She advised the Board that no changes have been made and the hours of operation are as follows:

Monday through Saturday 11:00 a.m. – 4:00 a.m.

Sundays 12:00 p.m. to 2:00 a.m.

Mr. Mgrditchian inquired if any issues or complaints have been made, in which Ms. Collins confirmed that there were not.

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

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

The adjourned application of **Joel Jacks, #3A-2008**, was called to order.

Mr. Neuringer reminded the Board that this application currently has two to be heard; one for a variance and another for an interpretation. He indicated that the interpretation will be heard first.

Ms. Mullins, of 2001 Palmer Avenue, appeared. She advised the Board that she has recently been hired by the applicant to represent his case. She proceeded to advise that the original permit was filed in 2006 for the addition of a third floor attic by Mr. Green, the architect for the project. Mr. Carroll, the former Building Inspector, approved the alterations of the attic pursuant to Section 342-27, Schedule of Minimum Requirements. She further advised that that the applicant was then found to be in violation of those sections by the new inspector, Mr. Winter. She added that drawings of the floor plan were presented that include various calculations. She proceeded to read the definition of a half story into the record.

Mr. Neuringer inquired if the addition constitutes a half story. Ms. Mullins confirmed that it did. Mr. William Green, architect for the applicant, appeared. He advised the Board that he sectioned off the attic and noted the different areas. 1166 square footage was added, with 506 of it being over 7 feet 6 inches. He further indicated that this was presented to Mr. Carroll at the time.

Ms. Kramer indicated that the plans that were filed are different than the current plans submitted tonight. Ms. Mullins replied that the smaller plans submitted were for the record. Mr. Neuringer indicated that it is extremely difficult to understand the information that has been submitted as it appears there are discrepancies. Mr. Green advised the Board that everything was built according to the approved plans. He added that he brought an enlargement of the February 27, 2007 plan that was submitted to Mr. Carroll.

Mr. Neuringer advised that the plans dated 12/13/005 with revisions dated 2/27/06 are identical to the prior drawing. Although Mr. Green advised that it was built with different dimensions, it is not noted on the plans. Mr. Neuringer indicated that that is very deceiving. Mr. Green reminded the Board that the standard is that dimension governs. Mr. Mgrditchian inquired on how a builder could decipher between the difference in "dimensions" that are not noted on a plan. Mr. Green indicated that he would gladly provide a statement of what was built. Mr. Neuringer then asked Mr. Winter if New York State requires a sprinkler, in which he confirmed it does. Mr. Mgrditchian inquired if the drawings can be changed to reflect the look of what they really are. Mr. Neuringer agreed and required that the applicant return with the cross sections of higher and lower level with as built numbers indicated, the front elevations listed and approval from the Board of Architectural Review. Mr. Neuringer further added that until that information is received by the Zoning Board, they will not be able to proceed. Mr. Neuringer asked Ms. Garcia to prepare a memo to the BAR that comments should be forwarded to the ZBA. Mr. Silverberg, counsel to the Zoning Board, suggested that the applicant present the area variance tonight to the Board. Mr. Silverberg asked if the Board could break for procedural matters,

On a motion of Ms. Kramer to begin executive session was seconded by Mr. Jackson.

Ayes: Neuringer, Kramer, Jackson, Mgrditchian

Nays: None

Absent: Sullivan

Upon return, Ms. Mullins introduced Mr. Wexler, attendant of the Town Planning Board. He advised the half story is 50 % less than 7 feet 6 inches high and the code does not address a dormer. Mr. Wexler proceeded to read the only definition of a dormer he could find from the Webster Dictionary into the record. He added that according to that definition this is defined as a dormer. Mr. Neuringer then advised Mr. Wexler that according to our code once that space is "finished" it is considered a story.

Mr. Mullins added that based on her experience, she feels the dormer does not create an undesirable change, that the requested variance is not substantial, there are no adverse effects and it was not self created as the applicant relied on the building inspector. She added that this does not impose a big impact as the foot print has remained the same. Ms. Mullins further added that many homes in the area have a third story. Ms. Kramer indicated that there is no support that this addition does not create an impact. Ms. Kramer questioned on how this home compares to the rest of the homes and character of the neighborhood. Numerous neighbors appeared to advise the Board that the home is not a n eye sore or out of style for the neighborhood and support the addition as they believe it an improvement to the neighborhood. One neighbor appeared and indicated that the row of windows that face her home result in a feeling of no privacy.

A motion was made from Mr. Mgrditchian that both hearings be adjourned, was seconded by Mr. Jackson.

Ayes: Neuringer, Kramer, Jackson, Mgrditchian

Nays: None

Absent: Sullivan

The adjourned application of **Charles Guadagnolo, #11A-2008** was called for a hearing.

Mr. Guadagnolo, applicant and property owner of 74 Old Post Lane, appeared. He submitted letters of support from numerous neighbors. He also submitted an alternative conforming design as requested by the Board at the last meeting. It provided photos designated on the plot plan. Mr. Guadagnolo advised that the conforming design will change character of the neighborhood and result in the road to appear as an ally. He also stated that it would clock the views of the golf course. Mr. Neuringer commended Mr. Guadagnolo on a terrific job and overlay of the alternative plans.

Mr. Ralph Petrillo, owner of 37 Old Post Lane, appeared. He indicated that he supports the applicant in his proposal.

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

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

The application of **John and Mary Leitner, #17A-2008** was called for a hearing.

Mr. Mostacado, architect for the applicant, appeared. He stated that the proposed addition will not have an impact on the neighborhood. His plans to redesign the garage with the proposed addition to match the existing home. Mr. Neuringer inquired why the addition to the east side of the garage is planned. Mr. Mostacado advised that it is adjacent to the pool area. Mr. Mgrditchian questioned why it is a hardship for a three car garage. Mr. Smith replied that with two children and two cars they simply need more room. Mr. Mostacado reminded the Board that they are only seeking a variance for the side yard setback and not the rear. No further questions or comments were made.

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

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

The application of **Sarah Neuman Center, (Randall Bennet) #9A-2008** was called for a hearing.

Mr. Bennet, architect for the application, appeared. He advised that the current nursing home located at 845 Palmer Avenue proposes re allocating of the space as the law allows nursing homes to have 25 % of building coverage and 2 ½ stories. Mr. Bennet indicated that the addition is well planned out and the addition and planned renovations are to improve the standard of care for the patients by connecting the buildings. He therefore is seeking two variances, one for the lot coverage as the proposal calls for 26.9% of lot coverage; and a variance for a 3rd floor as the code only permits 2 ½ floors. Mr. Bennett advised the Board that they will not be adding more parking or more employees. The number of residents will still remain at 300 employees. Mr. Bennet further advised that they have had one meeting with the Planning Board and they are waiting for storm calculations from the Village engineer, Keith Furey. He also added that the property already has a preexisting storm water retention system pipe in place that is seized properly.

Mr. Silverberg advised the Board that the Planning Board has to be lead agency before the Zoning Board can make SEQRA determination. Ms. Kramer stated that she did not believe that the addition will be visible from the adjacent properties therefore not having an impact. Mr. Jackson claimed that sufficient information was provided aside from the drainage stand point and does not foresee a negative impact either. The remaining Board members concurred. The Board unanimously agreed to await the results of the Village engineer.

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

Mr. and Mrs. Flynn, property owners and applicants, appeared. They requested a variance for a six foot cedar stockade fence to cover their neighbor's dilapidated fence. Mr. Mgrditchian inquired if they have spoken to the adjoining neighbor to have one fence instead of two in which the applicants confirmed they did not. Mr. Jackson suggested that this hearing be adjourned to see if the neighbor will cooperate to avoid having two fences up on the property border.

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

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

Absent: Sullivan

PENDING APPLICATIONS-CLOSED

Application of Peter Chen #5SP-2008

On a motion of Mr. Mgrditchian, and seconded by Mr. Jackson the application was granted.

Ayes: Neuringer, Kramer, Jackson, Mgrditchian

Nays: None

Absent: Sullivan

(See copy of resolution as attached as "A")

Application of Gino Cheiffalo #10A-2008

On a motion of Mr. Mgrditchian, and seconded by Mr. Jackson the application was granted.

Ayes: Neuringer, Kramer, Jackson, Mgrditchian

Nays: None

Absent: Sullivan

(See copy of resolution as attached as "B")

Application of Ulysses Davis #6SP-2008

On a motion of Mr. Mgrditchian, and seconded by Mr. Jackson the application was granted.

Ayes: Neuringer, Kramer, Jackson, Mgrditchian

Nays: None

Absent: Sullivan

(See copy of resolution as attached as "C")

Application of William Ciraco, # 12A-2008

Mr. Neuringer indicated that he has recused himself from this entire hearing, he has asked Mr. Jackson to act as Chairman.

On a motion of Ms. Kramer and seconded by Mr. Mgrditchian the application was granted.

Ayes: Kramer, Jackson, Mgrditchian

Nays: None

Absent: Sullivan

Abstained: Neuringer

(See copy of resolution as attached as "D")

Application of 211 Mamaroneck Avenue LLC #13A-2008

Ms. Kramer noted her concern with the parking as the applicant is seeking a variance because they do not need it for the evening hours; however, the provision is in the code. Mr. Neuringer stated that the question of why they relieved is good one. Mr. Silverberg suggested that the Board make a condition on the resolution that states a certain number of parking spaces will be provided. He requested that Ms. Garcia recover similar parking issues from another hearing and provide the Board with same.

A motion was made to adjourn the hearing at 11:55 p.m. by Mr. Mgrditchian and seconded by Mr. Jackson.

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

GEORGE MGRDITCHIAN
Secretary

Minutes taken and prepared by:
Laura Garcia