

MINUTES OF A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, NEW YORK, HELD ON THURSDAY, SEPTEMBER 4, 2008, AT 7:00 P.M.

PRESENT: Clark Neuringer, Chairman
 George Mgrditchian
 Gregory Sullivan
 Robin Kramer (7:15 p.m.)
 Steven Silverberg, Counsel to Board
 Peter Jackson (7:30 p.m.)
 Rob Melillo, Assistant Inspector
 John Winter, Director of Building

ABSENT: None

RECEIVED
 CLERK'S OFFICE
 2008 DEC 10 PM 12:15
 VILLAGE OF MAMARONECK
 NEW YORK

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 the order of the agenda may be out of order.

PUBLIC HEARINGS-

The application of **Derrick Dikkers, d/b/a Le Provencal Bistro, 436 Mamaroneck Avenue, #13SP-1996** was called for a hearing.

Mr. Dikkers, owner and operator of Le Provencal Bistro, appeared. Mr. Dikkers indicated that he would like to renew his special permit to continue operating his restaurant. Mr. Mgrditchian inquired if any changes were made. Mr. Dikkers indicated that although the hours of operation will remain the same, he will be adding "Sunday Brunch" in the near future. Mr. Mgrditchian recommended that the proposed brunch be included in the resolution.

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

Abstained: Jackson

Mr. Neuringer called on **application #35A-2008 AND 13SP-2008, People's Bank.**

The Chairman advised the attorney representing the applicant, Paul Noto, that the application will not be heard tonight as revised site plans were submitted on Friday and is not sufficient time for appropriate review. Mr. Neuringer also indicated that the required sign is not properly posted and would therefore be adjourned. Mr. Noto advised the Board that the posted sign complies with the requirements; he indicated that the size and lettering is all compliant with the code but he was met with the challenge of concrete. Ms. Kramer read... "Sign shall be at least thirty by twenty inches in size and at least two inches high" and she thought it was not positioned correctly in the window of the restaurant. Mr. Neuringer stated that the

notice impacts both properties and its deceiving if only one sign is posted. Mr. Noto advised the Board that he will put a sign in the window of the restaurant because he believes with the large amount of sidewalk traffic, the window sign is protected from being knocked down or removed. Mr. Mgrditchian stated that the sign must be clearly visible. Mr. Neuringer concluded that the meeting will be adjourned to next month so the applicant can add one more sign at the restaurant location.

Mr. Neuringer calls on application # **Richard Santorsola, #34A-2008**.

The Chairman inquired if the applicant had posted the required sign, in which Mr. Santorsola advised that he did not. The application was adjourned.

The application of **DCH Mamaroneck, #27A-2008, 700 Waverly Avenue**, was called for a hearing.

Mr. Paul Noto, attorney for the applicant, appeared. Mr. Noto indicated that he had had a hearing on the special permit in July and will now present the application for the parking variance of 97 spaces. Mr. Noto advised the Board that 613 Waverly Avenue lot that had been approved for 112 spaces. As the Board suggested a broader plan at the last meeting, Mr. Noto submitted a revised plan. He indicated that 700 Waverly will not be used for new cars but for employees and service vehicles. He further advised that 212 spaces are required; the site offers 115 and 56 spaces are available at 613 Waverly and therefore are seeking a variance for only 41 spaces. Ms. Kramer suggested that a written agreement between the two entities should be created to ensure that the spaces from 613 Waverly Avenue. Mr. Noto advised the Board that this application and request for a variance is different because this location will not provide services such as painting or typical body shop operation. It will be a more sophisticated and will run by appointment only.

A motion was made by Mr. Jackson to close the hearing for application number 27A-2008, seconded by Sullivan.

Ayes: Neuringer, Jackson, Sullivan, Kramer, Mgrditchian

Nays: None

Mr. Neuringer indicated, for the record, that the application for the variance is closed and the Board can continue the hearing on the special permit portion and therefore application for **DCH Mamaroneck # 11SP-2008** was called for a hearing.

Mr. Noto indicated that the location of 700 Waverly is for service center only. Mr. Noto indicated that they have already received Planning Board approval. The hours of operation will be Monday through Friday between 7:00 a.m. and 8:00 p.m. and Saturdays from 8:00 a.m. to 4:00 p.m. The service is available through appointment only and will provide a shuttle bus or valet service to the train station. Mr. Noto further advised that 700 Waverly has sufficient parking for its employees.

Luis Manzone, site manager for the project, appeared. Mr. Manzone indicated that the location will have a change of use. Mr. Mgrditchian inquired if the existing building is sprinkled. Mr. Manzone advised that it is and the current system is code compliant. Mr. Neuringer inquired if any objections would be made if the resolution excludes service of vehicles outside of the building. Mr. Noto advised that there is no objection.

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

Ayes: Neuringer, Jackson, Sullivan, Kramer, Mgrditchian

Nays: None

Adjourned application of **Raul Silva, 1518 Park Avenue**, was called.

Mr. Neuringer noted for the record that this application was a pre existing illegal structure that should be reviewed by the Board of Architectural Review. Mr. Neuringer further advised that this Board should deal with the variance only and that compelling information was previously heard from the neighbors. Mr. Winter explained that a permit could not be issued for this enclosure since a portion of it (6 inches) is located on the adjacent property. Ms. Kramer suggested that the Department of Public Works advise if garbage pick up can be made on another street. Mr. Neuringer agreed that additional information from DPW is crucial and therefore a request was made to obtain such information via a memo to be sent by Ms. Garcia.

A motion to adjourn until further information is received was made by Mr. Jackson, seconded by Mr. Sullivan.

Ayes: Neuringer, Jackson, Sullivan, Kramer, Mgrditchian

Nays: None

The **adjourned application of Chris Sallibello, 1412 Park Avenue, 24A-2008**, was called.

Mr. Michael Piccerillo, architect for the applicant, appeared. Mr. Neuringer reminded the Board that the front stairs are the issue of concern as the front yard setback is 18 feet and 25 feet are required. Ms. Kramer inquired why they are moving the stairs forward. Ms. Sallibello indicated that they wanted to maximize the space and use the entire foot print of the home. Mr. Neuringer inquired if they explored all options w/out a side yard encroachment. Mr. Piccerillo indicated that the side of the house is off set and he could not find another place that made sense.

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

Ayes: Neuringer, Jackson, Sullivan, Kramer, Mgrditchian

Nays: None

The application of **Victor Caceres and Casiano Dominguez d/b/a Vera Cruz, 639 Mamaroneck Avenue** was called.

Ms. McCarty, attorney for applicants, appeared. She advised the Board that the application includes an increase onto the adjacent property located next door. She further stated that the size of the kitchen will not be increasing but merely the amount of seats. Although the code allows 48 seats, Ms. McCarty advised that they will only provide 35 seats. Mr. Neuringer inquired if the resolution limits the seating to 35 whereas Ms. McCarty and the applicants all agreed that it would be acceptable. Mr. Neuringer also inquired if the sale of beer or wine is anticipated in which Ms. McCarty indicated that it was not.

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

Ayes: Neuringer, Sullivan, Mgrditchian, Kramer, Jackson

Nays: None

The application of **Gregory Colica, d/b/a Bar Vivace, 213 Halstead Avenue**, was called.

Mr. Colica, new owner of an existing restaurant located at 213 Halstead Avenue, appeared. The applicant indicated that he would like to continue the special permit under new management and will not be making additional changes. He indicated that the hours of operation will be between 11:30 a.m. and 10:00 p.m. Tuesday through Thursday, and 11:30 a.m. to 11:00 p.m. Friday and Saturday; closed on Monday. Mr. Neuringer questioned the applicant if he had any objections to the same conditions of the original special permit with only a name change; Mr. Colica indicated he would be fine with those conditions.

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

Ayes: Neuringer, Jackson, Sullivan, Kramer, Mgrditchian

Nays: None

The application of the **French American School, 159 New Street**, was called.

Mr. Michael Zarin, attorney for the applicant, appeared. He indicated that the school was granted a permit in 2007 to increase the student population to 300 within the 21 classrooms. The application is now seeking the addition of two classrooms that are located at 826 Monsignor Goodwine Avenue, that will accommodate 330 students. Mr. Zarin indicated that a variance would then be required for the additional parking. He further indicated that the code requires 120 spaces for total use of school and they currently use 66 spaces. Now, with the additional two classrooms, they will most likely be using 68 spaces. The school currently has 23 seniors and only 10 are allowed to park. Parking passes are issued and monitored. Mr. Mgrditchian expressed his concern with juniors parking on the streets and the potential for the rest of the seniors (without passes) to also park on the street, which will be problematic for the neighborhood. Mr. Zarin indicated that they will accommodate the concerns of the neighborhood and maintain good relations. Mr. Mgrditchian suggested that either one or two year surveillance be done to monitor the many concerns. The Board unanimously agree that more than likely, a special permit might be granted for one (1) year with the direction that the applicant apply for an extension of the special permit in June, 2009. At that time applicant shall provide an analysis of the parking on the site based upon actual utilization so that the Board can evaluate whether the parking on site is adequate to accommodate the additional student population resulting from the use of three additional classrooms and the increase in enrollment to 330. It was also agreed that since the applicant has consented to the one year term of this special permit modification and has further agreed that until the Board is satisfied that the full effects of increased enrollment and expansion of the school through grade 12, with the addition of more potential drivers, has been evaluated the Board shall more than likely only consider one year renewals.

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

Ayes: Neuringer, Jackson, Sullivan, Kramer, Mgrditchian

Nays: None

The application of **Generosa Protano, 907 Lester Avenue**, was called.

Mr. Paul Noto, attorney for the applicant, appeared. He advised the board that the applicant's father acquired the property in 1952 and in 1961 he got a permit but it was voided out in 1963. In 1972, a variance was granted to legalize a garage and upon inheriting the property, Ms. Protano realized that the permit is still open. Both parents have since deceased and therefore Ms. Protano is seeking a variance for 1.9 foot setback to legalize the garage. Ms. Kramer inquired if the house is still being used as a three family house in which the applicant indicated that it was. No further questions or comments were made.

A motion to close was made by Mr. Sullivan, seconded by Ms. Kramer.

Ayes: Neuringer, Jackson, Sullivan, Kramer, Mgrditchian

Nays: None

The application of **Jeffrey and Jennifer Rubin, 400 Wagner Avenue**, was called.

Mr. Pelligrino Corsini, architect for the applicant, appeared. He expressed his proposal of renovating the existing house by widening the side yard of 1.8 feet and creating an addition of a second floor above the garage. The proposed addition has a lesser side yard of 5.3 feet and the combined side yards are 11.4 feet. Mr. Rubin, owner of the property indicated that they love their neighborhood and are simply running out of room with his enlarging family. Mr. Neuringer inquired if the main scheme was a master bedroom or a garage. Mr. Corsini replied that the main reason is for a garage since there is only one plumbing stock and a certain width is required for upstairs. Mr. Neuringer expressed his concern with the 3.2 feet off the property line to the adjacent house. Jim Millard of 404 Wagner Avenue appeared. He advised the

Board that his entrance is 3 feet from the property line and would like to keep the distance as they are. He further indicated that he believes the granting of this variance will affect the value of his home.

Ms. Eileen McSweeney, neighbor residing at 348 Wagner Avenue appeared. She inquired if any impact was evaluated relative to the excess drainage? Mr. Corsini advised the Board that a drywell is proposed. He also indicated that due to the comments and concerns of the neighbors, they are willing to sacrifice 8 inches to bring into compliance. Mr. Mgrditchian indicated that they are still out of compliance for the combined two side yards and would still require a variance.

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

Ayes: Neuringer, Jackson, Sullivan, Kramer, Mgrditchian

Nays: None

The application of **Mathew and Marie Lewis, 608 Harold Avenue**, was called.

Mr. Howard, architect for the applicant, appeared. He indicated that a variance was granted and then on May 15, the FAR was changed. He indicated that they want to use the attic space which is framed out and unfinished. Ms. Kramer advised that they are not increasing the FAR. Mr. Neuringer inquired if any knee walls were being removed or any changes were being made to the contours or configuration, in which the architect indicated that there is not. Mr. Neuringer advised that for .91 a variance is not required and therefore this application should be withdrawn.

CLOSED APPLICATIONS-

The closed application of Mamaroneck Farmers Market, 12SP-2008

A motion was made by Mr. Mgrditchian to approve the market with an initial three (3) year renewal was seconded by Mr. Sullivan.

Ayes: Neuringer, Jackson, Sullivan, Kramer, Mgrditchian

Nays: None

See exhibit A

The closed application of Guanwoo Yoon, 13SP-2008

A motion was made by Mr. Mgrditchian to approve the restaurant with an initial three (3) year renewal was seconded by Mr. Jackson.

Ayes: Neuringer, Jackson, Sullivan, Kramer, Mgrditchian

Nays: None

See exhibit B

The closed application of Adam Spright, 30A-2008

A motion was made by Mr. Neuringer to approve the six foot fence providing the top 1 foot is of lattice material, was seconded by Mr. Jackson.

Ayes: Neuringer, Jackson, Sullivan, Kramer, Mgrditchian

Nays: None

See exhibit C

The closed application of Lois Herzberg, 24A-2008

A motion was made by Mr. Mgrditchian to approve the deck, seconded by Ms. Kramer.

Ayes: Neuringer, Jackson, Sullivan, Kramer, Mgrditchian

Nays: None

Mr. Neuringer indicated that the proposed deck is minimal and a review indicated that no other location is feasible. He further advised that the rear pre existing structure already extends into the setback is minimal.

See exhibit D

The closed application of Beach Point Club, 29A-2008

A motion was made by Mr. Neuringer to approve the variance for the paddle court and warming hut, seconded by Mr. Jackson.

Ayes: Jackson, Sullivan, Mgrditchian, Neuringer

Nays: Kramer

Ms. Kramer indicated that the proposal is significant and it would make the most sense to leave it in its current location. Mr. Neuringer indicated that upon evaluating the five factors, the approval does not create an undesirable area and will not have an impact on the neighborhood.

See exhibit E

The closed application of Stephen Kearney, 26A-2008

A motion was made by Mr. Mgrditchian to deny the variance, seconded by Ms. Kramer.

Ayes: Jackson, Mgrditchian, Neuringer, Kramer

Nays: Sullivan

Mr. Neuringer stated that the property in a pre existing non conforming use of three family in a two family zone. The addition will increase the inconformity and the intent of the Zoning Board is to eliminate the non conformities, not increase them. Ms. Kramer expressed her concern with cars being parked in the front yard. Mr. Mgrditchian believes that other means can be achieved without increasing the non conformities, in which Mr. Jackson concurred.

See exhibit F

The closed application of Doug Street, 22A-2008

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

Ayes: Jackson, Mgrditchian, Neuringer, Kramer, Sullivan

Nays: None

See exhibit G

The closed application of Sarah Newman Center,

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

Ayes: Jackson, Mgrditchian, Neuringer, Kramer, Sullivan

Nays: None

Ms. Kramer indicated that the height is not increased and the planning Board determined that drainage will not be an issue.

See exhibit H

The closed application of Michael Dugan, #31A-2008

A motion was made by Mr. Jackson to deny the application, seconded by Ms. Kramer.

Ayes: Jackson, Mgrditchian, Kramer, Neuringer

Nays: Sullivan

Ms. Kramer expressed her concerns with the extension of the non conforming use. She indicated that the Board denied the application of Stephen Kearney for the same reasons. Mr. Neuringer added that other methods could have achieved a similar goal. The property is 90% larger than what is required and there should be other solutions. His main concern is how the applicant proposed to enlarge; the side elevation was the largest and by adding the build on the side closed the adjacent property would impact the neighbor.

See exhibit I

The closed application of The French American School, 36A-2008 and 14SP-2008

A motion was made to approve the special permit and grant the variance for one year that will require analysis of any and all traffic and parking reports and studies and that any further expansions will be subjected to the Planning Board for full site plan review, seconded by Mr. Jackson.

Ayes: Jackson, Mgrditchian, Kramer, Neuringer, Sullivan

Nays: None

See exhibit J

A motion was made to adjourn the hearing at 11:40 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