



Village of Mamaroneck Zoning Board of Appeals

Department of Planning and Development
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Robin A. Kramer, Esq.
Chair

June 9, 2025

Mayor Sharon Torres and Board of Trustees
Village of Mamaroneck
123 Mamaroneck Avenue
Mamaroneck, NY 10543

RE: Proposed Local Law M of 2025 (the “Proposed Law”).

Dear Mayor and Board of Trustees (“Mayor and Trustees”):

Thank you for giving the Village of Mamaroneck Zoning Board of Appeals (the “ZBA”) an opportunity to comment on the Proposed Law, which would allow renewal of special permits to be automatically issued by the Village Manager unless there had been an adjudicated violation. At its meeting on June 5, 2025, the members of the ZBA in attendance expressed their opposition to the Proposed Law.

As recognized by the courts in New York, special permits are used for a use or structure that is permitted pursuant to the local zoning ordinance but only after consideration of the specific location proposed by an applicant to ensure that the proposed location is appropriate for the proposed development and that such proposed use will not harm the public health, safety, or general welfare. This is an administrative determination that can only be made after consideration of the use and its impact on its future neighbors. “In assessing a special permit application, zoning officials are to review the effect of the proposed [use] on the public’s health, safety, welfare or morals, concerns grounded in the exercise of police power, ‘with primary consideration given to the over-all impact on the public welfare’(internal citations omitted).” Pine Knolls Alliance Church v. Zoning Bd. of Appeals, 5 N.Y.3d 407, 413 (Ct. App. 2005).

Village Code, Section 342-71 provides, in relevant part, that in reviewing uses which are subject to a special permit, the Board of Appeals shall “ascertain that the proposed use will not adversely affect the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the neighborhood in particular.” Clause A of Section 342-71 further provides in reviewing a special permit “[t]hat the location and size of the use, the

nature and intensity of the operations and traffic involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to the type, arrangement and capacity of streets giving access to it and the hours of operation are such that the proposed use will be in harmony with the appropriate and orderly development of the district in which it is located.”

When the ZBA considers an application for a special permit, it considers the specific location and the neighboring uses and how the proposed use will affect such neighboring uses, including, in many cases, residential use. The purpose of the ZBA’s custom of issuing preliminary special permits for a short, generally 3-year, term is to give the neighbors and the ZBA the opportunity to assess the impact of a new use or the new location of a use once it is in operation and not simply the expected impact. This includes assessing whether the use at this location has had an adverse impact on Village residents (e.g., noise or safety concern). It also gives the ZBA the opportunity to make adjustments in the conditions of the special permit if the use’s operations at that location have had an adverse impact on the Village. The Proposed Law would do neither.

The Proposed Law says to the Village and its residents that the Village doesn’t care about the impact of a new use on the neighbors unless there has been an adjudicated violation. In the many years of reviewing and approving special permits, members of the ZBA could not recall any situation where there had been an adjudicated violation; issuance of violations themselves are extremely rare. Given that fact, the unintended impact of the Proposed Law is that special permits will almost always be automatically reviewed without an assessment of their impact. This essentially gives priority to a business over Village residents.

The lack of an adjudicated violation does not mean that a new use has had no adverse impact on nearby residents. For example, when the restaurant Molly Spillane’s was first opened, it received a three year preliminary special permit. When it came for renewal, numerous residents of nearby properties appeared both in person at the public hearing and by written notice to complain about the impact of Molly Spillane’s on them. No violations had been issued, because the problem wasn’t that Molly Spillane’s violated its special permit or any provision of the Village Code; rather, the problem was that the nature and operation of the use at its location were inconsistent with and having a negative impact on the business’ neighbors. There was no way to assess such impact until the restaurant had been in operation. The ZBA imposed additional conditions on the use, including hours and operation of the terrace, and neighbors continued to be adversely affected. Had the Proposed Law been in effect, Molly Spillane’s would have been allowed to continue its operations without modification, significantly adversely affecting its neighbors and the Village as a whole.

When residents of the Village have problems with a business’ impacts, they can call the Building Department. If that impact is at night, when there are no building inspectors, the Building Department has no ability to issue a violation, even if the use is violating the special permit. But many times, as was the case with Molly Spillane’s, there was no violation of the special permit. While residents can call the police, many may be reluctant to do so for a variety of reasons.

By allowing for essentially automatic renewals by the Village Manager, the Proposed Law eliminates the public hearing and the right and ability of Village residents to express their opinion on a use. This is a reduction in transparency and an increase in the non-public actions of the Village.

If the Mayor and Trustees are concerned about the cost of filing renewals, they can simply eliminate all fees related thereto, and not require escrows to pay for the Village's attorney fees but rather pay for attorney fees itself. An applicant is not required to have an attorney or incur related costs, and can appear themselves at the ZBA. If the Mayor and Trustees are concerned about the time for review, we point out that a business with a special permit continues to operate during the pendency of the renewal, even if the application for renewal filing is late. Thus there is virtually no actual impact on the business, except the filing of an application and the appearance at a ZBA meeting. This Proposed Law will allow a business that is not in an appropriate location or not operating as a good neighbor to adversely impact nearby residents and other businesses. The Proposed Law gives a preference to a business over a resident.

The ZBA is happy to address concerns of the Mayor and Trustees in the Special Permit process. The ZBA requests that prior to adopting the Proposed Law the Mayor and Trustees advise the ZBA of examples of Special Permit applications they have found problematic which this Proposed Law would address. In its present form, the ZBA believes that the Proposed Law is not in the best interests of the Village or its residents and hopes that the Mayor and Trustees will not approve the Proposed Law.

Thank you.

Respectfully,

Robin A. Kramer, Chair
Zoning Board of Appeals

Cc: Village Manager