

**AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF
MAMARONECK, HELD ON APRIL 1, 2021, THE FOLLOWING RESOLUTION WAS
ADOPTED:**

APPLICATION NO. 1SP 2021

Name: Chop't Creative Salad Company LLC
Premises: 1043 West Boston Post Road
District: C-1
Tax I.D.: Section 9, Block 56, Lot 4B

WHEREAS, Chop't Creative Salad Company LLC ("Applicant") applied to this Board on December 10, 2020 for an interpretation of the Village of Mamaroneck Zoning Code (Zoning Code") and a special use permit to operate a restaurant (the "Application") at 1043 West Boston Post Road ("Premises") within the C-1 District pursuant to Article X Chapter 342 (Zoning) of the Code of the Village of Mamaroneck; and

WHEREAS, pursuant to Zoning Code 342-3(B)[Terms Defined, Restaurant], a restaurant is defined as:

A business engaged in the preparation and sale of food and beverages selected by patrons seated at a table or counter, served by a waiter or waitress and consumed on the premises. The term "restaurant" does not include a business whose principal operation is as a bar, cabaret, carry-out restaurant, delicatessen or fast-food restaurant. No drive-up car service shall be permitted. Car service shall be permitted by special use permit only.

WHEREAS, pursuant to Zoning Code 342-3(B)[Terms Defined, Food Establishment], a restaurant is a food establishment and requires a special use permit pursuant to Zoning Code § 342-45; and

WHEREAS, the Premises is currently improved with an existing structure and related off-street parking and drive thru window for an existing bank; and

WHEREAS, the Application sought an interpretation of Zoning Code § 342-45 that a drive up/ window was permitted on the Premises as a result of the modern window pick up operation proposed; and

WHEREAS, on January 7, 2021, the Board held a duly noticed public hearing and determined to first hear the interpretation request by the Applicant; and

WHEREAS, on February 4, 2021, the Board held another duly noticed public hearing and heard arguments related to the Applicant's interpretation request that the modern window pick up operation was permitted on the Premises; and

WHEREAS, on February 11, 2021, by letter from Applicant's attorney, the Applicant abandoned the initial interpretation request and sought to "amend the existing Application to include the use of 'Car Service', as provided by the Mamaroneck Village Code Section 342-3(B)(12)" (the "Amended Application"); and

WHEREAS, pursuant to Zoning Code 342-3(B)[Terms Defined, Car Service], car service is defined as, "[s]ervice from a restaurant provided to customers remaining in their vehicles and parked in a designated parking area of the restaurant parking lot."

WHEREAS, on March 4, 2021, the Board held a duly noticed public hearing on the Amended Application and discussed the abandonment of the interpretation request and the contents of the Amended Application; and

WHEREAS, on March 4, 2021, the Board closed the public hearing for the Application and the Amended Application; and

WHEREAS, the Board recognizes that "car service" is permitted by special use permit pursuant to Zoning Code 342-3(B)[Terms Defined, Restaurant] and as set forth in Article X Chapter 342 of the Zoning Code; and

WHEREAS, the Amended Application included site plans prepared by Provident Design Engineering dated, revised, February 10, 2021, which included a "Striping & Signage Plan" for customer parking (collectively, the "Site Plans"); and

WHEREAS, the Striping & Signage Plan indicates the "car service" designated pick up area; and

WHEREAS, the Site Plan indicates that 17 of the proposed off-street customer parking spaces measure less than 19' in length, where 9' x 19' is required by Zoning Code 342-3(B)[Terms Defined, Parking Space], and thus the majority of the proposed parking spaces are smaller than the Zoning Code requires; and

WHEREAS, a restaurant with 32 seats and 12 employees is required by Zoning Code 342-56 to provide at least a minimum of 17 code compliant off-street parking spaces and the site plan indicates less than that amount. Further, the Board reserves the right to require additional off-street parking as needed; and

WHEREAS, the proposed action is a Type II pursuant to the New York State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, pursuant to Zoning Code 342-71(D), prior to approving a special use permit, the Board is required to make a finding that “the parking areas to be provided will be of adequate capacity for the particular use, properly located and suitably screened from adjoining residential uses and that the entrance and exit drives shall be laid out so as to achieve maximum safety.”

NOW, THEREFORE BE IT RESOLVED, that, after duly reviewing the Amended Application, and considering the same, the Board hereby **DENIES** the Amended Application’s special use permit request to operate a restaurant with car service because it fails to meet the requirements in the Zoning Code 342-71(D).

BE IT FURTHER RESOLVED, that the proposed off-street parking spaces do not comply with the minimum parking requirements set forth in the Zoning Code.

BE IT FURTHER RESOLVED, that, the Applicant may resubmit a new application to this Board, based on different facts from the Amended Application and Site Plans, which would include additional Zoning-compliant off-street parking spaces. Such future application may be for the following special use permits: (1) operation of a restaurant; and (2) operation of a car service as defined by the Zoning Code, in connection with the proposed restaurant, or such other application as the Applicant may propose.

BE IT FURTHER RESOLVED, that the Board directs that a complete copy of this resolution be filed with the Village Clerk in compliance with New York State Village Law.

On the motion of ZBA member **NEUFELD**, seconded by ZBA member **YERGIN** the foregoing resolution was adopted with the ZBA members voting as follows:

Robin Kramer, Chair	YES
Meg Yergin	YES
David Neufeld	YES
Abby Roberts	Absent
Gretta Heaney	Absent

Robin Kramer, Chair, Zoning Board of Appeals

Meg Yergin, Secretary, Zoning Board of Appeals

DATED: Mamaroneck, New York
April ____, 2021