

VILLAGE OF



MAMARONECK

OFFICE OF
THE
BUILDING
INSPECTOR

*Village Hall
Mamaroneck, N.Y. 10543*

TELEPHONE
(914) 777-7731

*Address Reply to:
Building Department
169 Mt. Pleasant Avenue*

ZONING BOARD

APPLICATION

PART 1



**Village of Mamaroneck, New York
Zoning Board of Appeals
APPLICATION PACKET**

INCLUDED IN THIS ZONING BOARD OF APPEALS APPLICATION PACKET ARE THE FOLLOWING:

- Rules of the Zoning Board of Appeals of the Village of Mamaroneck and Instructions for Filing an Appeal
- Checklist for Initial ZBA Submission, which must be completed and submitted with Applicant's initial submission
- Zoning Board of Appeals Application, including the following additional forms that also need to be submitted by the Applicant:
 - 1) Certification Form
 - 2) Short Form Environmental Assessment Form ("EAF")
(See below for DEC website information)
- **Post Application forms including:**
 - a) Sample Notice Letter to neighboring property owners
 - b) Proof of Service Affidavit
 - c) List of Property Owners Notified sheet
 - d) Affidavit Verifying Placement of Required Notice Sign

NOTE:

- A fillable PDF version of the Zoning Board of Appeals Application is available at:
www.village.mamaroneck.ny.us
- A fillable PDF version Short Form EAF is available at:
www.dec.ny.gov/docs/permits_ej_operations_pdf/seafpartone.pdf
- If a long form EAF is required a fillable Long Form EAF is available at:
www.dec.ny.gov/docs/permits_ej_operations_pdf/feafpart1.pdf

**RULES OF THE ZONING BOARD OF APPEALS
OF THE VILLAGE OF MAMARONECK
AND INSTRUCTIONS FOR BRINGING AN APPEAL
(EFFECTIVE 2007)**

I. Time to Take Appeal

Appeals to the Zoning Board of Appeals ("ZBA") must be taken within sixty (60) days after any order, requirement, decision, interpretation, or determination of the administrative official charged with the enforcement of the local law that is being appealed.

II. Applications

1. The Applicant can pick up a ZBA Application Packet ("Application Packet") at the Building Department. (Note: There are separate instructions and application for a Special Permit renewal only. IF there is a change in ownership, the Applicant cannot submit a Special Permit Renewal Application
2. All applications to the ZBA shall be made on the forms provided in the Application Packet. Chapter 342 of the Code of the Village of Mamaroneck requires that the original plus sixteen (16) copies each of the Village of Mamaroneck Zoning Board of Appeals Application ("Application"), supporting plans, surveys, and other required documents shall be filed with the Building Inspector, along with all prescribed fees, which shall be paid at the same time.
3. The Application shall be signed and notarized by the person(s) or entity making the application who must either: (1) have a possessory interest in the property (tenant, lessee, purchaser or owner); or (2) be aggrieved by an order, requirement, decision, interpretation or determination of order, requirement, decision, interpretation, or determination of an administrative official. If a corporation or other business entity is the Applicant, certain other disclosures are required as detailed in the Application.
4. It is the Applicant's responsibility to complete all portions of the Application, including the "Checklist for Initial Zoning Board of Appeals Submission", carefully and to provide, together with the Application, all necessary information. Careful attention must be given to answer all questions on the forms and to provide all documentation. Failure to submit the required documents and information will delay the Applicants application or result in its denial, since the ZBA cannot review or grant relief based upon incomplete applications.

5. Notwithstanding the foregoing, the ZBA, in its discretion, may waive the furnishing of any part of such information in any specific case.
6. Although employees of the Village may provide you with assistance, it is the Applicant's responsibility to be familiar and comply with all applicable laws and to submit all necessary plans, documents and information. Copies of the Village Code are available for the applicant's review at the Village Clerk's Office. The applicant may be represented at the ZBA hearing
7. A survey duly certified by a licensed surveyor within the past twelve months of the application date, which accurately depicts the current status of the property shall be submitted with each application.
8. All documents must be submitted 22 days prior to the scheduled meeting.
9. Every application shall be accompanied by an escrow fee as follows:

New Variance	\$750.00
Special Permit Application	<u>\$750.00</u>
Special Permit Renewal Application	\$350.00
Appeal or Interpretation Application	\$ TBD by Building Inspector

10. Every application shall be accompanied by a filing fee as follows:

Notice of Appeal, Interpretation or Variance	
1 or 2 family house	\$ 150.00
3 to 5 family house	\$ 150.00
All other residential and commercial	\$ 425.00
Fence permit	\$ 150.00
Boat and boat trailer storage	\$ 150.00
Sign variance and appeal	\$ 225.00
Special Permit (residential)	\$ 179.00
Special Permit (commercial)	\$ 425.00
Special Permit renewal	\$ 150.00

III. AGENDA

1. Each application for a new matter will be assigned a number- one (1) through six (6) for each ZBA agenda.
2. Applicants should be aware of the deadline to get on the next Agenda- Applications must be submitted (3) weeks prior to the meeting.
3. There will be no more than six (6) new matter matters addressed at each meeting.

****Therefore, even if an Applicant submitted the application in time to meet the submission deadline, there is no guarantee the matter will be placed on the agenda for the next meeting**

CHECKLIST FOR INITIAL ZONING BOARD OF APPEALS SUBMISSION

- ☒ Applicable fee
- ☒ 1 Electronic Copy of All documents submitted

Applicant must submit sixteen (16) copies of the following:

- ☒ Completed Application
- ☒ All Certificates of Occupancy or Temporary Certificate of Occupancy for the property, or Letter from the Building Department in lieu thereof
- ☒ Violations on the property and proof that they have been corrected
- ☒ *Photographs* of the property (3" X 5" or larger) that depict the location and potential impacts of your application
- ☒ *Accurate survey*** of the current status of the property which has been prepared and certified by a licensed surveyor *within the past twelve (12) months* of the application date, shall be submitted with each application.

****ALL SURVEYS SUBMITTED FOR A VARIANCE REQUEST *MUST SHOW THE SETBACKS FOR ALL STRUCTURES ON THE LOT TO THE PROPERTY LINE***

Please Note: Where a survey certified within the past 12 months is not available and the application does not involve any change to the exterior of the property, the ZBA will accept a certification by the owner that to his/her knowledge the existing survey accurately depicts the current status of the property

- ☒ *Certified drawings*, prepared by a registered architect or professional engineer, and other supporting documents
- ☒ *Written consent of the owner*, if you are not the owner of the property
- ☒ *Certification*, as required by NYS General Municipal Law
- ☒ State Environmental Quality Review (SEQRA) *Short or Long Environmental Assessment Form*
- ☒ *Copy of the Determination* being Appealed
- ☐ NOTE: See Instructions regarding submittal of Supplemental Materials or New Plans (Item VII in the Rules of the Zoning Board of Appeals of the Village of Mamaroneck and Instructions for Bringing an Appeal


 Applicant's Signature

DEC. 15, 2021
 Date

**Village of Mamaroneck, New York
Zoning Board of Appeals
(Effective _ 2007)**

- | | |
|-------------------------------------------------------------------------|-----------------------|
| <input type="checkbox"/> 16 Copies | Application # _____ |
| <input type="checkbox"/> Completed Application | Agenda DATE: _____ |
| <input type="checkbox"/> COs or Letter | SP: _____ |
| <input type="checkbox"/> Violations, if any | AV: _____ |
| <input type="checkbox"/> Photographs | UV: _____ |
| <input type="checkbox"/> Survey | Fence: _____ |
| <input type="checkbox"/> Certified Drawings | Sign: _____ |
| <input type="checkbox"/> Consent | Interpretation: _____ |
| <input type="checkbox"/> Certification/Affidavit | |
| <input type="checkbox"/> EAF | |
| <input type="checkbox"/> Copy of Determination being appealed | |
| <input type="checkbox"/> Riders if Application is Corp./Business Entity | |
- For Official Use Only

**Village of Mamaroneck, New York
Zoning Board of Appeals
APPLICATION**

Date December 15, 2021

TO: ZONING BOARD OF APPEALS-VILLAGE OF MAMARONECK
123 Mamaroneck Avenue
Mamaroneck., New York 10543

I (We) XIANG SHEN for RICHN, INC.

(Name of Applicant)

Of 223-05 69th Ave., Oakland Gardens NY Zip: 11364

(Insert Complete Mailing Address)

Daytime Phone # 646-592-2232 Daytime Fax # _____ EMAIL: mikhee0099@gmail.com

Apply to the Board of Appeals regarding property located at _____

397 PALMER AVENUE - Lower Level 1, Mamaroneck, NY 10543

(Insert Location of Premises)

Bearing Village of Mamaroneck Tax Map Number. 9 16 15
(Section) (Block) (Lot)

Village of Mamaroneck,
New York Zoning Board of Appeals (Effective 2007)

1. This is an Application for the following: check one (1) or more as applicable

☐ **Area Variance** - This is to use land in a manner not allowed because of dimensional or topographical requirements in the Zoning Code

☐ **Use Variance**- This is to allow land to be used in a manner or for a purpose which is prohibited or not allowed by the Zoning code.

☒ **Special permit**

☐ **Sign Variance**

☐ **Fence Variance**

☐ **Appeal or Interpretation (Specify Code Section)**

☐ **Other: Specify:** _____

2. The Date and Description of the determination that is being appealed (a copy of the determination must be attached)

3. What is the present zoning of the property? R-2F

4. This Application must be made in the name of the person or entity that has a *possessory interest in the property such as a tenant, purchaser or owner*. If you are the owner, on *what date did you acquire title?* _____ If you are not the owner, list the name and address of the owner and describe your relationship to the property and the date said relationship commenced: _____

Owner - Nabil Sarra, 397 Palmer Avenue Mamaroneck, NY - Landlord.

Lease entered into on June 1, 2021

If you have acquired title to the property within the past two years, provide the name of the prior owner:

NOTE:

If the Applicant or Property Owner is a:

Corporation: Attach a separate Rider listing all the corporation's officers, shareholders and their percentage of share ownership.

Partnership: attach a separate Rider listing the type of partnership and identify the partners and their partnership interests.

LLC: attach a separate Rider listing the LLCs members

**Village of Mamaroneck,
New York Zoning Board of Appeals (Effective 2007)**

5. If someone else is authorized to act as your representative or to appeal with you on your behalf before the Board, his or her name, address and telephone number must be provided:

Name: ANDREW M. SPATZ, ESQ.
 Address: 650 Halstead Avenue - Suite 105, Mamaroneck, NY 10543
 Telephone: 914-777-0593
 Email: ams@spatzlaw.com

6. Has a prior variance, special permit, or interpretation Application ever been submitted for this property?

☐

Yes

☒

No

If YES, you must attach copies of the prior variance or resolution and describe them:

A request for any previous variances, special permits or interpretations
have been requested from the Village. (See request to View a File
dated December 10, 2021)

7. List all permits you must obtain in order to complete the subject project of this Application (include all permits or approvals necessary from any federal, state, county, or local agency or department):

SPECIAL PERMIT

BAR (for exterior sign, if applicable)

**Village of Mamaroneck,
New York Zoning Board of Appeals (Effective 2007)**

8. Is the property subject to any covenants, easement, or other restrictions or encumbrances? If so, list and describe these. (You may be required to provide copies of these documents establishing same to the Board.) Please be advised that nothing herein or within board purview will alter or modify any existing contractual rights with respect to the subject property.

This building was constructed before the Zone was changed to R-2F (one-two family residential) and
was used as a professional building in 1958. Based upon the foregoing, the premises would be a
previous non conforming structure and the Applicant would be permitted to obtain a Special Use
Permit for the operation of a massage establishment as the intended use as regulated under Title 8.

9. ☒ Check here if there has been any illegal use or violations issued with respect to the property, regardless of whether it has been removed or adjudicated.

If so, describe and provide the date(s) and details, including if the violation continues:

9/14/2009- Repairs required to retaining wall

7/28/2015 - Renovations to lobby bathroom without permits

2/28/2018 - Massage establishment operating without a CofO (not Applicant seeking Special Use
Permit)

10. The following are the provisions of the Village Code from which either a variance is sought or a permit is requested (you must itemize each variance you seek, since a variance cannot be obtained unless it is expressly requested and is the subject of public notice:

Article VII	Section 9	Subsection 42.1
Article X	Section 342	Subsection 67
Article	Section	Subsection
Article	Section	Subsection

NOTE:

IF this is an application for A *USE VARIANCE*,
 COMPLETE QUESTION 11 on page 10.

IF this is an application for an *AREA VARIANCE*,
 COMPLETE QUESTION 12 on page 11

IF this is an application for ALL OTHER APPLICATIONS-
 INCLUDING A SPECIAL PERMIT
 COMPLETE QUESTION 13 on page 12.

**Village of Mamaroneck,
New York Zoning Board of Appeals (Effective 2007)**

11. A use variance may only be granted if it is determined that zonings regulations and restrictions cause the property owner unnecessary hardship. New York law provides that: "In order to prove such unnecessary hardship, the property owner shall demonstrate to the Board of Appeals that:

- 1) Under the applicable zoning regulations, the owner is deprived of a reasonable return for each and every permitted use under the zoning regulations for the particular district where the property is located This deprivation must be established by competent financial evidence;
- 2) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- 3) the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- 4) the alleged hardship has not been self-created

You must set forth the facts which support your Application request. (Attach additional sheets, schedules, or other information that you want the Board to consider):

N/A

**Village of Mamaroneck,
New York Zoning Board of Appeals (Effective 2007)**

12. Under State law, the Board of Appeals must consider the following factors in making a decision on your request for an area variance:

- 1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

N/A

- 2) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance;

N/A

- 3) whether the requested area variance is substantial;

N/A

- 4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

N/A

- 5) whether the alleged difficulty was self-created...

N/A

13. If this Application is not for an area or use variance, provide information that supports your Application. You must refer to the appropriate sections of the Village Code and to other legal requirements necessary for the board to consider your application

(Article X Special Permit) § 342-71 Action on referral.

A. That 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.

SEE ATTACHED

B. That the location, nature and height of buildings, walls and fences and the nature and extent of the landscaping and screening on the site, as existing or proposed, are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

N/A

C. That operations in connection with the proposed use will not be objectionable by reason of noise, fumes, smoke, dust, vibration, glare, intensity or flashing of lights.

N/A

D. 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.

SEE ATTACHED

E. That, where they are applicable, the standards and requirements established or approved by the Village Engineer have been satisfactorily met as evidenced by his certification and that all necessary approvals of any other governmental agency or board have been or will be obtained by the applicant.

N/A

13. A.

The Applicant has purchased an existing massage establishment in the premises. The Applicant only plans to have two (2) therapists with the potential to add one (1) additional therapist if the demand justifies. Hours of operation proposed are 10:00AM to 9:00PM seven days a week.

13 D.

The proposed use will not have an impact on current parking as ample parking is available at the professional building. No other impacts will be incurred as a result of the Applicant's use of the premises as a massage establishment.

Applicant has purchased an existing massage establishment in May of 2021.

A Certificate of Occupancy for the building reflects its use as a Professional Building (See Certificate dated December 9, 1958).

Since the Professional Building was built, the zoning for the area changed to R-2F (one-two family residential) which would make the building previous existing, non-conforming.

There are other existing professional businesses located at the premises, to wit, a dentist/oral surgeon.

The Applicant is fully licensed in the State of New York to practice massage therapy which the Applicant plans to operate.

The Office space to be rented has the required parking, exit signs, lighting and ventilation to safely operate this business and will not have a negative impact on the existing use of the building or immediate area. It should be noted that additional commercial/retail uses are located directly across the street from the Applicant's location.

As the ZBA may be aware, massage therapy is regulated as a profession under Title 8 of the Education Law (Section 7801). There is nothing in the Village Zoning Code which defines the Applicant's intended use otherwise. Based upon the foregoing, the Applicant would be entitled to the issuance of a Special Use Permit as provided for in our Village Code and in compliance by the Applicant of Section 342-42.1.

**Village of Mamaroneck,
New York Zoning Board of Appeals (Effective 2007)**

It is my responsibility as the Applicant to complete this Application completely and carefully, and to provide sixteen (16) copies of this Application, together with all necessary papers, plans, surveys, documents or other required information.

Failure to submit the required documents and information will delay my Application or result in its denial, since the ZBA cannot review or grant relief to incomplete Applications.

It is my responsibility to comply with all related requirements in presenting this Application, and the ZBA reserves the right to request additional documentation and/or drawing, and to condition any requested relief upon the filing of covenants and restrictions.


Although employees of the Village may provide me with assistance, I understand it is my responsibility to be familiar and comply with all applicable laws and to submit all necessary papers, plans, surveys, documents or other required information. I understand that copies of the Village Code are available for my review at the Village Clerks office as well as the Village Website and that I may be represented at the ZBA hearing.

I HEREBY CERTIFY THAT ALL STATEMENTS MADE ON THIS APPLICATION ARE TRUE TO THE BEST OF MY KNOWLEDGE.


(Applicant's Signature)

Sworn to before me this 15th

Day of DECEMBER, 2021


Notary Public

JOAN A. MALINOWSKI
Notary Public, State of New York
No. 4517610
Qualified in Westchester County
Commission Expires June 30, 2022

CERTIFICATION

(Required by New York State General Municipal Law)

XIANG SHEN states as follows:

(Applicant's name)

1. I am interested in this application for a variance or special use permit now pending before the Village of Mamaroneck Board of Appeals,
2. I reside at 223-05 69th Avenue, Oakland Gardens, NY 11364
3. The nature of my interest in the aforesaid application is as follows:
President of Corporation

4. If the Applicant or owner is a corporation, list the corporation's officers:

President: _____ Vice President: _____

Secretary: _____ Treasurer: _____

5. Do any of the following individuals have an interest, as defined below, in the owner or Applicant:

- a. Any New York State officers, or
- b. Any officer or employee of the Village of Mamaroneck, Town of Rye, Town of Mamaroneck, or Westchester County.

☐ Yes☒ No

For the purpose of this disclosure, an officer or employee shall be deemed to have an interest in the owner or Applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them:

- a. is the Applicant or owner, or
- b. is an officer, director, partner or employee of the Applicant or owner, or
- c. legally or beneficially owns or controls stock of corporate Applicant or owner; or
- d. Is a party to an agreement with such an Applicant or owner, express or implied, whereby he may receive any payment or other benefit, whether or not for service rendered dependent or contingent upon the favorable approval of such application.

A PERSON WHO KNOWINGLY AND INTENTIONALLY FAILS TO MAKE SUCH DISCLOSURE SHALL BE GUILTY OF A MISDEMEANOR AS PROVIDED IN GENERAL MUNICIPAL LAW, SECTION 809

If "Yes," state the name and nature and extent of the interest of such individual:

(Name & Residence)_____
(Extent of interest)


 Applicant's Signature
Sworn to before me this 15 day of DECEMBER, 2021


 NOTARY PUBLIC

JOAN A. MALINOWSKI
 Notary Public, State of New York
 No. 4517610
 Qualified in Westchester County
 Commission Expires June 30, 2022 2018 update

NAME OF CORPORATION: RICHN INC.

**State of Incorporation: State of New York
County of Queens**

Officers of the Corporation:

President	:	XIANG SHEN
Vice President		
Secretary	:	XIANG SHEN
Treasurer	:	XIANG SHEN

ADDRESS OF CORPORATION:

**The Corporation
61-35 218th Street
Oakland Gardens, New York 11364**