

6/5/97

8.

Ayes: Gaita, Knoebel, Cucinella,
Neufeld

Nays: None

The application of Leonard and Joyce Greene to vary or modify the provisions of Section 342-21B(3) (One-Family Residence Districts - Permitted Accessory Uses) and Section 342-27 (Notes 4 and 11) (Schedule of Minimum Requirements for Residential Districts) of the Zoning Code, with respect to premises known as 720 The Crescent (R-15 District), by permitting the reconstruction, remodelling and alteration of existing accessory building (cottage) located in the front yard (#11A-1997) was called for a hearing.

Leonard and Joyce Greene of 6 Hickory Lane, Scarsdale, appeared with their architect, Mr. Mark W. Fritz of 170 East Post Road, White Plains.

Mr. Neufeld stated that this application indicated that it was for a use variance and he noted that certain criteria must be established for a use variance. However, he pointed out that the applicants did not address their reasons for a use variance.

Mrs. Greene indicated that they were told by the Building Inspector that they had to apply. She stated that they had purchased the property at 720 The Crescent and that they had a building permit to renovate the main house. She added that they also wanted to renovate the cottage in front of the premises, which was built in 1927, and that they wanted to use it as a children's cottage rather than having the raccoons live in it.

Mr. Neufeld asked if they intended to rebuild the cottage. Mrs. Greene replied that it was in poor condition and she added that they had a very large family and they wanted to use it as a playroom for the children. She noted that it currently had electricity, a kitchen and a bathroom, kerosene heat and a fireplace. She also noted that the previous owner had used it as a workshop for woodworking.

Mr. Neufeld again asked if this cottage would be entirely rebuilt. Mrs. Greene stated that the foundation, walls and chimney would be maintained. She then displayed a model of the main house and noted that its roof was flat. She then noted that the cottage had a pitched roof and that they wanted to change the roof line so that it would be more conforming to the main house.

Mr. Neufeld asked if the cottage would be used overnight, and Mrs. Greene replied that the teenagers could possibly fall asleep

there. She further indicated that the cottage would have a refrigerator and a microwave.

Mr. Neufeld asked if anyone resided in the main house, and it was noted by Mrs. Greene that they had purchased the property this past January and they were renovating it. She added that they planned to reside in the main house once the renovations were completed.

Mr. Neufeld asked if they were treating this as an accessory to the main house. Mrs. Greene stated that the footprint would be the same. Mr. Fritz added that the walls would remain, but they would be taking the roof off and making it a flat roof. It was pointed out by Mrs. Greene that they would not be changing the use. Nevertheless, Mr. Neufeld stated that the question was whether or not this could be an accessory use and he noted that other issues were not addressed and that the application perhaps should be for an area variance instead.

Mrs. Greene stated that, if they did not repair the building, it would "fall down around its ears".

Mr. Fritz noted that, in order to made the cottage habitable for their use, it would have to have heat and he also noted that he felt it was within the setbacks because the property predated back to 1927 and it was subdivided and this was left over from the original estate.

Mr. Neufeld noted that a nonconforming use would be lost if it was not continued for a certain period of time. Mrs. Greene pointed out that this use had not been abandoned and she again noted that it did have a kerosene heater and a kitchen and bathroom.

Mr. Knoebel noted that approximately 80 percent of the building would be staying.

Mr. Neufeld stated that the question was whether or not you could have an accessory use like that and also if any variances were needed. He added that, when he read the application, it was not clear as to what they wanted to do. However, he noted that he now understood that they were changing the interior and the roof.

Mrs. Greene stated that the previous owner had occupied this building as a woodworking shop and that he had used the kitchen and the bathroom. She further stated that the renovations of the main house were practically finished and they planned to occupy it some time this summer, and that they wanted to use the cottage as a playroom for the main house. She then noted that they would have a ping pong table, toys, games, videos, etc. for their grandchildren to use when they came to visit.

Mr. Fritz pointed out that the main house had no basement because of its proximity to the water and that there was no real recreational area in the house.

Mr. Neufeld asked how many people would be living in the house. Mrs. Greene responded that only two adults would live there, but that their children and grandchildren would come to visit, and she again noted that they had a very large family.

Mr. Neufeld asked if the cottage would have a kitchen, and it was noted by Mrs. Greene that there would not be a kitchen, but that there would be a refrigerator and a microwave.

Mr. Neufeld noted that a communication in opposition had been received from Mr. and Mrs. C. Bonanno. He then asked if anyone else had comments regarding this application.

Ms. Bonnie Rimawi of 714 The Crescent, Mamaroneck, appeared and indicated that she was the adjacent property owner and that her parking lot backed up to the cottage, which she noted had been in disrepair for many years. She stated that she had no objections and that she would be happy to see the area cleaned up.

Mrs. Greene stated that four or five of the neighbors had offered to write letters in support of the application, which she had thought would not be necessary.

Mr. Neufeld stated that, if an area variance was required in this instance rather than a use variance, the Board could not consider an area variance unless it was applied for and renoticed. He suggested that this application be adjourned and the application could be amended by the applicants, if necessary, and renoticed before the next meeting.

Mr. Messina requested that the applicants have their attorney contact him to discuss this matter.

On motion of Mr. Knoebel, and seconded by Mr. Cucinella, the application was adjourned to July 17, 1997.

Ayes: Gaita, Knoebel, Cucinella,
Neufeld

Nays: None

The application of Stephen and Kim Corrigan to vary or modify the provisions of Section 342-27 (Schedule of Minimum Requirements for Residential Districts) of the Zoning Code, with respect to premises known as 1006 Grove Street (R-5 District), by permitting

Greene

19A-1997

MINUTES OF A MEETING OF THE BOARD OF APPEALS OF THE VILLAGE OF
MAMARONECK, NEW YORK, HELD ON THURSDAY, NOVEMBER 6, 1997, AT 8:00
P.M.

PRESENT: Mr. David S. J. Neufeld, Chairman (arrived at
8:35 p.m.)

Mr. Dennis P. Cucinella

Mr. Todd Knoebel

Mr. James Gaita

Mr. Joseph C. Messina, Counsel

ABSENT: Ms. Pat Viapiano (illness in family)
Mr. Ernest Poccia, Building Inspector

John Werner, 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. Cucinella, Vice Chairman, and he noted that the Chairman would be arriving a little late. Mr. Gaita was appointed Acting Secretary due to the absence of Ms. Viapiano.

Mr. Cucinella stated that the application of CCC Mamaroneck Cinema Corporation (#14SP-1997) would be adjourned to the December meeting and that the applicant had just submitted additional information.

On motion of Mr. Knoebel, and seconded by Mr. Cucinella, Application #14SP-1997 was adjourned to December 4, 1997.

Ayes: Gaita, Knoebel, Cucinella

Nays: None

It was then noted by Mr. Cucinella that the application of Richard Cimaglia (690 Mamaroneck Avenue Corporation) (#15SP-1997) had been withdrawn and that a completely new application would be submitted for the December meeting.

On motion of Mr. Knoebel, and seconded by Mr. Cucinella, the Board accepted the withdrawal of Application #15SP-1997 and waived the fee for the new application to be made.

Ayes: Gaita, Knoebel, Cucinella

Nays: None

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NEW YORK

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Mr. Noto pointed out that three letters had been submitted from neighbors in favor.

There were no further questions regarding this application.

On motion of Mr. Knoebel, and seconded by Mr. Gaita, the hearing was closed.

Ayes: Gaita, Knoebel, Cucinella

Nays: None

The application of Leonard and Joyce Greene to vary or modify the provisions of Section 342-21B(3) (One-Family Residence Districts - Permitted Accessory Uses) and Section 342-27 - Notes 4 and 11 (Schedule of Minimum Requirements for Residential Districts) of the Zoning Code, with respect to premises known as 720 The Crescent (R-15 District), by permitting the reconstruction, remodelling and alteration of an existing accessory building located in the front yard (#19A-1997) was called for a hearing.

Leonard and Joyce Greene of 6 Hickory Lane, Scarsdale, owners of the subject premises, appeared with their attorney, Jeffrey Grant of 900 East Boston Post Road, Mamaroneck, and with their architect, Mark W. Fritz of 170 East Post Road, White Plains.

Mr. Grant stated that they were looking for a clarification of the Zoning Code and that it was their premise that they were entitled to an as-of-right permit to remodel the existing cottage on the premises. He further stated that the cottage had been in existence since 1929 and it had been taxed by the Village of Mamaroneck as a cottage since that time. He added that the cottage had a kitchen and a bathroom and it had been in consistent use and occupancy and habitable as a cottage since 1929.

Mr. Grant then noted that a larger structure had since been built on the premises, but the cottage had remained and that there was nothing that would have prevented the continuous use of the cottage as habitable premises.

It was then pointed out by Mr. Grant that an error had been made on an application to this Board a few months ago when a use variance had been requested. He noted that this was clearly not a use variance application and he added that, as a fall-back to the clarification request, they had asked for an area variance in the event the Board felt a variance was appropriate.

Mr. Grant stated that he had submitted copies of letters written from his office to both Mr. Nolletti, Village Attorney, and Mr. Messina, counsel to this Board, along with the property tax assessment records, which he felt clearly indicated that this structure had been taxed as a cottage. He added that they were not looking to change the use or location, but they were only looking to remodel the cottage and made no changes whatsoever in its style or effect.

It was then noted by Mr. Grant that no objections had come forward and he stated that they wanted permission to remodel the cottage or direction from this Board back to the Building Department to issue a permit.

Mr. Cucinella stated that there were no cooking facilities indicated other than a microwave and refrigerator and he asked if there were any plans for a stove. Mr. Grant replied that there were no plans to make it a real working kitchen. He added that they would not have full scale cooking facilities.

Mr. Gaita stated that the Village records did not indicate that there was a kitchen. Mr. Grant replied that they submitted an affidavit of the prior owner. Mr. Gaita asked if a building permit had been issued for it, and Mr. Grant responded that his clients had just purchased the property in January. Mr. Gaita then commented that he did not think an affidavit from the prior owner would make it legal.

Mr. Grant then stated that there would just be a refrigerator and a microwave and Mrs. Greene added that it would just be a playhouse for the grandchildren. Mr. Cucinella asked if the applicants would have a problem with the Board imposing a condition that there be no cooking facilities, and Mrs. Greene indicated that it would not be a problem.

Mr. Gaita commented that it was a great looking cottage and that it seemed that they were making a huge complete change. He then asked if they were tearing down to the foundation and then constructing a new building. Mr. Fritz replied that the outside walls would remain unless they found any damage, which would then be replaced. He noted that they would raise up the spring point, but otherwise the outside walls would remain in its existing character.

Mr. Gaita stated that he was trying to understand why this application had been submitted. Mr. Messina explained that they had originally requested a use variance and that the Board had recommended that they withdraw, seek counsel, and resubmit with a correct application and provide notice to the neighbors. He further explained that he had conferences with Mr. Grant, the Village Attorney and the Building Inspector, and that an issue

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had been raised as to whether this was really a guest house, a playhouse or a workshop, and the Building Inspector had also been concerned as to whether it had lost its status as a cottage since, according to another affidavit, it had most recently been used as a workshop.

Mr. Gaita asked if anyone would live in the cottage, and it was indicated by Mr. Grant that no one would live there. Mrs. Greene added that it would just be a playroom. Mr. Gaita then asked if the owners would agree to a covenant to that effect, and it was noted by Mrs. Greene that they would agree. Mr. Gaita expressed concern that a new owner might want to have someone live there, but Mr. Grant assured that they would be willing to stipulate in the record that no one would live in the cottage. Mr. Messina stated that a condition could be imposed on the variance. He added, since there was concern about it being a second house on this property, that there would have to be a covenant that would run with the land that no one would live in the cottage on a permanent basis and that there would not be a permanent kitchen. Mr. Grant stated that he would undertake to draft a covenant for Mr. Messina's review.

Mr. Cucinella asked if anyone had comments regarding this application and no one appeared.

There were no further questions regarding this application.

On motion of Mr. Knoebel, and seconded by Mr. Gaita, the hearing was closed.

Ayes: Gaita, Knoebel, Cucinella

Nays: None

(Mr. Neufeld arrived at this time.)

Pending Applications - Closed -

Application of Westchester Day School - #10SP-1997

On motion of Mr. Cucinella, and seconded by Mr. Gaita, the application was granted and the formal resolution prepared by counsel, as amended, was certified.

LAW OFFICES
JEFFREY D. GRANT & ASSOCIATES

900 EAST BOSTON POST ROAD
MAMARONECK, NEW YORK 10543

(914) 381-5100
FAX (914) 381-0752

December 31, 1997

Joseph Messina, Esq.
Counsel to Board of Appeals
Village Hall
P.O. Box 369
Mamaroneck, NY 10543-0369


Re: Application #19A-1997
Leonard and Joyce Greene
720 The Crescent, Mamaroneck, NY 10543
Section 9, Block 85, Lots 28 and 29
Our File #20928.0100

Dear Mr. Messina:

With reference to the above-captioned matter, enclosed please a copy of the Restrictive Covenant stamped as filed by the Westchester County Clerk's office said receipt bearing the date of December 30, 1997.

Very truly yours,

JEFFREY D. GRANT & ASSOCIATES


Rosalie Tocman
Paralegal

Enc.

cc.: Joyce & Leonard Greene
(lrs12)

Copy

RESTRICTIVE COVENANT

**RECORD & RETURN TO;
Marie Cesarini, Esq.
Jeffrey D. Grant & Associates
900 East Boston Post Road
Mamaroneck NY 10543
(914) 381-5100**

**State of New York
County Of Westchester
Town of Mamaroneck
Section 9
Block 85
Lot 28 & 29**

97 DEC 30 PM 4: 06
CLERK

RESTRICTIVE COVENANT

On the 4th day of December, 1997, Leonard Greene and Joyce Greene being the owners of the property located at 720 The Crescent, Mamaroneck New York (the "Owners") also known as Section 9, Block 85, Lots 28 & 29 on the tax assessment roll of the Village of Mamaroneck (the "Premises") more fully described on Exhibit A annexed hereto and made a part hereof, in compliance with the conditions of a resolution of the Board of Appeals of the Village of Mamaroneck and in consideration of the issuance of a building permit in conjunction with our application, hereby covenant and agree :

1. That neither they nor their heirs, successors or assigns, shall at any time hereafter erect, maintain or permit a full service kitchen to be installed at the existing accessory building/cottage at the Premises.
2. That neither they nor their heirs, successors or assigns shall at any time hereafter maintain or permit any part of the existing accessory building/cottage at the Premises to be used as a residence.

The parties hereto mutually covenant that the covenants, terms and provisions of clauses 1 and 2 herein and each and every such covenant, term and provision shall survive this grant of Restrictive Covenant and shall remain in full force and effect and run with the land described herein.

IN WITNESS WHEREOF the Owners of the Premises have signed and sealed this indenture the day and year first above written.

In the presence of:

Mary Blount

Joyce Greene
Joyce Greene
Leonard Greene
Leonard Greene

State of New York
County of Westchester

On the 12th day of December, 1997 before me personally came Joyce Greene and Leonard Greene, to me known and known to be the persons described in and who executed the foregoing instrument, and acknowledged to and before me that they executed the said instrument.

Elizabeth Peyton
Notary Public

ELIZABETH PEYTON
NOTARY PUBLIC, State of New York
No. 4687398
Qualified in Putnam County
Commission Expires May 31, 1999