

The meeting was opened at 8:05 p.m. on Wednesday, February 22, 2012.

**Board Members Present:** Chairman Goodfarb, Ms. Kaboolian, Mr. Wiskind,  
Mr. Amir

**Board Member Absent:** Ms. Hoffman

**Announcements – Next Meeting**

The March meeting is scheduled for 8:00 p.m., Wednesday, March 28, 2012.  
Ms. Kaboolian will not be present at the March meeting.

**Approval of Minutes:**

A motion was made by Mr. Wiskind to approve the January minutes, seconded by  
Ms. Kaboolian and passed unanimously.

Respectfully submitted,

Lorraine McSpedon

**CRETAN PROPERTIES, INC.  
609 SAW MILL RIVER ROAD  
ARDSLEY, NEW YORK  
(CONTINUATION)  
SECTION 18, SHEET 13, BLOCK 1144, LOT 28,  
IN THE B-1 GENERAL BUSINESS DISTRICT**

For a use variance, for proposed conversion of retail/office space into two residential dwelling units on the ground floor level of the existing building (Code Subsection 200-65B(8)).

Mr. Ed Marron, Jr. presented himself to the Board and explained the required criteria for a use variance. The specific requirements are:

- 1) The applicant cannot realize a reasonable return.
- 2) The alleged hardship for the property must be unique and not apply to a substantial portion of the district.
- 3) If the use variance is granted the essential character of the neighborhood will not be altered.
- 4) The hardship was not self-created.

Mr. Marron explained that, according to the zoning ordinance, any use on the first floor, except for residential, calculates out to a non-compliant situation. Restaurants require 24 parking spaces; office 8 spaces; medical 10 spaces and banks 13 spaces.

A certificate of occupancy is in the possession of the landlord from 1963 for two stores. The existing use should allow three parking spaces with the most recent parking requirements. The property currently has five parking spaces. Therefore, there is no viable use in the B-1 district for the first floor without the necessity of a variance.

Additionally, the ability exists to improve or increase parking on or off of Fuller Avenue, however, the ordinance, Section 200-72, does not allow businesses to access premises from a residential district.

The premises also do not have access to the sidewalk system as do the other businesses in the B-1 district.

With respect to the applicant not being able to realize a reasonable return on the premises, Mr. Marron reviewed the financial situation with the Board and indicated that a shortfall would exist due to the decline in the economy since the date of purchase.

Mr. Amir agreed that a reasonable return would not be realized even if the property were converted to residential and questioned whether the property would realize a reasonable return in the future. Mr. Marron did believe that the return would be increased in the future if a residential use were permitted. He was also confident that the property would rent fairly quickly as residential units.

Mr. Wiskind suggested that the taxes on the property should be analyzed and, perhaps, a reduction could be realized since the premises have been vacant for a period of time. Mr. Wiskind suggested one side be rented to a commercial tenant since the parking was ample to accommodate such a tenant.

Mr. Marron responded that a hardship would be apparent in such a situation due to the fact that only one unit would be rented.

Mr. Amir mentioned that he had a conversation with Attorney Ponzini who felt that so long as the property is unique in and of itself and does not share the same characteristics as other properties which may suffer the same problem, then that uniqueness may allow for a variance to be granted. Additionally, Attorney Ponzini did not want any precedent to be set if this variance is granted and that each application must stand on its own merit.

Mr. Marron described the adjacent properties and the reasons why they were not similar to the property in question.

Mr. Marron stated that the property in question has a square footage average which is comparable in size to the neighboring properties and the parking is sufficient, therefore, this property will not be a detriment to the neighborhood. There will also be very minor renovations done to the front of the building.

Chairman Goodfarb made a motion to close the public hearing.

**RESOLUTION****READ BY MR. AMIR**

**Resolved**, that under authority of Section 200-97(B) of the Zoning Code of the Building Code of Ardsley, the applicant, Cretan Properties, Inc. who operates at 609 Saw Mill River Road, Ardsley, NY, has appealed to the Ardsley Zoning Board of Appeals for a variance from the requirements of Section 200-65B(8) of the Village Code, entitled "Permitted Uses" which permits in a B-1 district, residential use except on the ground floor level, and

**Whereas**, the property affected by the application is designated Section 18, Sheet 13, Block 1144, Lot 28, on the tax map of the Village of Ardsley in a designated B-1 General Business District, and

**Whereas**, on December 21, 2011, after due notice and publication, the application came to be heard before the Zoning Board of Appeals in the Municipal Building, 507 Ashford

Avenue, Ardsley, NY and that application was continued on January 25, 2012 and further continued on February 22, 2012, and

**Whereas**, at the public portion of the meeting, the application was presented by Jim Bobolakis and Ed Marron, Jr. who were heard in favor of the application and presented evidence to be described shortly in support thereof and no one appeared in opposition to the application and by a unanimous vote on February 22, 2012, the public portion of the meeting was closed with Ms. Hoffman being absent this evening, and

**Whereas**, for the purpose of the use variance, the applicant must show the property cannot yield a reasonable return if used only for the permitted purposes currently zone; that the hardship resulted from unique characteristics of the property; the proposed use would not alter the character of the neighborhood and that the alleged hardship was not self-created, and

**Whereas**, the applicant has shown such substantial evidence showing that the criteria has met first, that the property cannot yield a reasonable return and second, that the hardship results from unique characteristics of the property by showing that:

- 1) Under the Code, no viable use for commercial purpose is available for the first floor of the premises, and
- 2) That the property is not part of what is called the sidewalk system in that it is excluded from the general commercial portion of the Village, and
- 3) That the property further suffers from unique characteristics in that, among other things, it does not have rear access from residential street into the business by virtue of Section 200-72 of the Village Code, and that the proposed use would not alter the character of the neighborhood in that there is a residential property to the immediate south of the subject premises, there is a two family and commercial property adjacent to the residential property
- 4) The hardship was not self-created in that among other things, the applicant had acquired title to the property in 2008 and at that time the property was occupied by a lessee and by the grantor of the property and thereafter the grantor vacated the premises and at some point in time the lessee had vacated the premises and that the applicant had show, among other things, in a presentation by his broker, Avi Keeler, Century 21, that efforts had been made to re-let the property to commercial business and that commercial business did not find interest in re-letting the premises based upon its unique characteristics, including the parking requirements which it does not enjoy as per the Village Code. Scenarios were described and evidence was presented that the various other options for commercial uses permitted under the Code, i.e., a restaurant, a bank, a store or an office were not viable alternatives for the applicant to lease the premises since a parking variance would have been required.

**Therefore**, based upon the evidence presented, including competent financial evidence, the applicant has shown the need and has met the four-pronged criteria necessary in order to obtain a use variance, and

**Whereas**, the applicant has demonstrated a hardship by substantial competent financial evidence, the hardship is unique to this property, and that the requested variance, if granted, will not alter the essential characters of the neighborhood and that the alleged hardship was not self-created.

**Whereas**, without any other requirements, the applicant must make or go through with the Village Board, the application is accordingly thereby granted. **Seconded by Ms. Kaboolian and passed unanimously.**

**ARDSLEY MALL, INC.  
(BY ARDSLEY RESTAURANT GROUP, INC.)  
925 SAW MILL RIVER ROAD  
ARDSLEY, NY  
SECTION 16, SHEET 1, BLOCK 0000/0, LOT P13K  
(901-935 SAW MILL RIVER ROAD)  
IN THE B-3 SHOPPING CENTER BUSINESS DISTRICT  
(CONTINUATION)**

For a use variance to permit live entertainment at Pumpernickel Restaurant  
(Subsection 200-80.1A)

The application was adjourned until March, 2012.