

February 14, 2019

The Planning Board of the Incorporated Village of Westhampton Beach held its regular meeting on February 14, 2019, at 5:00 P.M. in the Municipal Building, 165 Mill Road, Westhampton Beach.

PRESENT: David Reilly, Chairman  
Ralph Neubauer  
Jack Lawrence Jones  
Rocco Logozzo

Paul Houlihan, Building & Zoning Administrator

Ron Hill, Village Engineer  
Kyle Collins, Village Planner

Maeghan Mackie, Board Secretary

Anthony C. Pasca, Esq., Village Attorney

ABSENT: Michael Schermeyer

**DECISIONS:**

**1. Baycroft Condominium, 27 Mitchell Road (905-11-1-10.1)** Applicant requests a Modification of Site Plan to modify the originally approved landscape plan on the North and South property lines. The property is located in the MF-20 Zoning District.

No one appeared on behalf of the application.

The Board Secretary said that the applicant did not submit the revised plan and this should be held over to February 28, 2019.

Motion was made by Mr. Neubauer to hold over the application of **Baycroft Condominium, 27 Mitchell Road (905-11-1-10.1)** to February 28, 2019; seconded by Mr. Jones and unanimously carried 4 ayes, 0 nays, 1 absent.

**HOLDOVERS:**

**2. Robert Elonowitz and Anna Gerzon, 55 and 59 Riverhead Road (905-4-7 ,9.2 and 9.3)** Applicant requests a site Plan review referred to the Planning Board by the Village Trustees for the construction of 11 residential Condominium units on three lots totaling 123,226 Sq. Ft. of lot area. The property is located in the HD Zoning District. **HELDOVER TO FEBRUARY 28, 2019.**

**3. 160 Montauk Highway, 160 Montauk Highway, (905-6-1-19) Westhampton Beach.** Applicant requests a Site Plan review to construct an addition to an existing Permitted Retail Beverage Store. The property is located in the B-2 Zoning District. **HELDOVER TO FEBRUARY 28, 2019.**

**4. Avidor Group LLC, 133 Montauk Highway (905-5-2-4 and lot 5 and lot 38)** Applicant requests a site Plan Review to construct a new two story 11,000 sq. ft. mixed use building consisting of retail/office use on first floor and office and two apartments on 2<sup>nd</sup> floor. The property is located in the B-2 Zoning District.

**5. Avidor Group LLC, and Jonmor Group LLC (905-5-2-4,5 and 38) Westhampton Beach.** Applicant requests a subdivision of property to create four lots consisting of three residential lots in the R-4 Zoning District and one commercial lot in the B-2 Zoning District.

Jefferson Murphree appeared on behalf of the application, together with Kieran Pape Murphree. Application #4 and Application #5 were discussed together, and are printed in the minutes the same. At the last meeting the staff identified changes to the plans, and they believe they've made all of the changes and Mr. Hill is out of town so they do not have his comments yet.

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Mr. Reilly said he believes that Mr. Hill has comments, but has not had a chance to prepare the memorandum.

Mr. Murphree said he'd like to go over the changes. The Site Plan and subdivision have been separated and they are shown on the first sheet of the packet; the 6' fence is behind the plantings and there are two (2) 3' gates for landscaping and maintenance purposes only, this will avoid traffic on Humphrey Street.

Mr. Neubauer asked they are part of the lots and not public access?

Mr. Murphree said correct, they are not public access they are for maintenance purpose only. The trucks cannot use it, it's pedestrian access only.

Mr. Neubauer asked if that can be covenanted, they don't want trucks using it.

Mr. Pasca said it can be made that its accessible from the inside only. It's a simple solution.

Mr. Murphree said okay.

Mr. Houlihan confirmed it is pedestrian only.

Mr. Murphree said yes, and they will covenant that its self-latching on the inside. They wanted the plans 1" to 20' and there is 1" to 10' for readability. The irrigation line has been updated along Oak Street; they've added the radius along Montauk Highway; the ADA ramps on Oak Street are now parallel to the sidewalk which is what the Board asked for, but the radius has been decreased substantially. They corrected the front yard parking dimensions so they are consistent and they added one more street tree in front of the building on Montauk Highway, it was moved to the Northern part of the site if that is okay.

Mr. Collins asked why they did that?

Mr. Murphree said they did not want a big tree blocking the building.

Mr. Collins said it's a street tree, I would like to see it moved. The buildings big enough it won't be blocked by a tree.

Mr. Murphree said okay. All of the curb stops are now consistent with one another. Mr. Hill had concerns about the roads of the subdivision and they are shown on the David Fox Survey.

Mr. Mapes said they revised the drainage plan on the map and the road is pitched so it's all pitched from the inside of the circle to the outside, and he thinks that takes care of Mr. Hill's concerns, and there were two catch basins at the entrance of Humphrey Street added.

Mr. Reilly said they are waiting on Mr. Hill to review that and comment.

Mr. Murphree said he had a question about the SWALW on the commercial lot.

Mr. Mapes said the site needed a SWPPP plan and can contain a 100-year storm, it's a 9" rainfall in 24 hours and that exceeds the Code, we are asking to approve it based on the SWPPP and not the Village Code.

Mr. Houlihan said Mr. Hill had a few questions, and he thought we needed the 2" capacity without infiltration, but I think they agreed on 1.5" without infiltration and I think Mr. Hill will be okay with that, but we need him to look at it. I relayed everything to him and I think he will be okay.

Mr. Mapes said the SWPPP is based on infiltration, not storage.

Mr. Houlihan said our Code does not include the infiltration, but I think it will be okay.

Mr. Collins said on Montauk Highway, there is a 20' radius at the entrance, do you know what that is, did Mr. Hill ask for that? It's sheet A-101.

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Mr. Murphree said Mr. Hill wanted a 20' radius, I don't know why it was drawn that way.

Mr. Collins said he doesn't think that's what Mr. Hill meant, he may have wanted a 20' radius on the curbs.

Mr. Murphree said okay, he will have that corrected.

Mr. Houlihan said you may want Mr. Hill to look at it first. He thought they were talking about the curbs on the outside by the road.

Mr. Murphree said okay. The last thing requested at the last meeting was the proposal for the performance bond for the subdivision. We will make these changes, and hopefully Mr. Hill is agreeable to the drainage calculations and one thing I'd like to ask is the covenants prepared and resolution for the next meeting.

Mr. Pasca said we don't have the appraisal yet, do we?

Mrs. Murphree asked for the park fee? They should have it in the next day or so, it's vacant land and some appraisers have had a hard time with what to compare it with. The highest and best use, does that mean what the cost of a subdivision added to it, and I think it's vacant land.

Mr. Pasca said if its sub-dividable they can do an analysis and they back out the cost of improvements. If they can find comps but that's up to them. They will have to do the subdivision approach.

Mrs. Murphree said okay, they want the cost of the performance bond, and the time period which was four (4) years and we have to give them the performance for a park fee. It's for three (3) lots, and we should have it shortly. That can be a condition of the approval, if I don't have it within the next couple of days.

Mr. Pasca said we have to set the park fee, and we need that to do so.

Mr. Murphree asked if Mr. Pasca can work on the easements and covenants.

Mr. Pasca said they don't have to be done before the resolution, and then it will direct you which ones have to be recorded that's a second step.

Mr. Murphree asked if there's anything to preclude them from obtaining an approval at the next meeting.

Mr. Collins said there are still comments from Mr. Hill that need to be addressed, and the 20' radius.

Mr. Pasca said we have to see what Mr. Hill says; we don't promise decisions before a final plan that's signed off on.

Mr. Reilly said he would prefer to have everything submitted before they close it for a determination.

Mr. Pasca said there are a few outstanding items, the performance bond has to be reviewed as well.

Mrs. Murphree asked who accepts the performance bond?

Mr. Pasca said it gets referred to the Trustees and its part of the final approval process; the form of the bond but the actual bond estimate a part of the Planning Board purview, and the park fee has to be set. And you pay that during the second period of time as part of the conditions.

Mrs. Murphree said okay.

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Mr. Houlihan said I think we can all sit down to review the plan and get his comments back to you.

Mr. Murphree said okay.

Motion was made by Mr. Neubauer to hold over the applications of **Avidor Group LLC, 133 Montauk Highway (905-5-2-4 and lot 5 and lot 38) and Avidor Group LLC, and Jonmor Group LLC (905-5-2-4,5 and 38) Westhampton Beach.** to February 28, 2019; seconded by Mr. Logozzo and unanimously carried 4 ayes, 0 nays, 1 absent.

**6. Anthony J. Cassano, Jr., and Louis Commisso, (905-5-1-21) 30 Lilac Road** Applicant Requests a minor subdivision review to create two (2) lots on a parcel of land located in the R-2 Zoning District.

No one appeared on behalf of the application. Brittan Bistran submitted a request to hold the application over to February 28, 2019.

Motion was made by Mr. Neubauer to holdover the application of **Anthony J. Cassano, Jr., and Louis Commisso, (905-5-1-21) 30 Lilac Road** to February 28, 2019; seconded by Mr. Jones and unanimously carried 4 ayes, 0 nays, 1 absent.

**7. Ocean Spray Pools, Inc., 97 Old Riverhead Road, (905-2-1-6.3 and 6.4) Westhampton Beach.** Applicant requests a Site Plan review Combine two lots and expand an existing one-story Commercial Building with a 5,233 sq. ft. addition and parking lot. The property is located in the B-3 Zoning District.

No one appeared on behalf of the application. Joseph C. Musnicki submitted a request to hold the application over to February 28, 2019.

Motion was made by Mr. Neubauer to holdover the application of **Ocean Spray Pools, Inc., 97 Old Riverhead Road, (905-2-1-6.3 and 6.4) Westhampton Beach,** to February 28, 2019; seconded by Mr. Jones and unanimously carried 4 ayes, 0 nays, 1 absent.

**8. Rock Hill Partners, 159 Mill Road (905-12-1-33.1) Westhampton Beach.** Applicant requests a Site Plan review to construct a new two-story building for a professional office and apartment above and a detached garage with parking lot. The property is located in the HC Hamlet Commercial District.

No one appeared on behalf of the application. Nicholas A. Vero, Architect submitted a request to hold the application over to February 28, 2019.

Motion was made by Mr. Neubauer to holdover the application of **Rock Hill Partners, 159 Mill Road (905-12-1-33.1) Westhampton Beach.** to February 28, 2019; seconded by Mr. Jones and unanimously carried 4 ayes, 0 nays, 1 absent.

**9. Marios Nikolaides, 36 Hazelwood Avenue (905-6-1-11.1)** Applicant requests a minor Subdivision review to create a three-lot subdivision on a lot located in the R-4 Zoning district.

Richard T. Haefeli, Esq., appeared on behalf of the application. He submitted revised plans that show the 15' access area and he spoke with Mr. Hill and he wanted drainage put in and we received approval from the Board of Zoning Appeals; we are before the BOH and that's all that is outstanding, and I do not know if there are any comments from Mr. Hill.

Mr. Reilly said this is what we reviewed before you went to the Board of Zoning Appeals?

Mr. Haefeli said yes.

Mr. Pasca said they still need a SEQRA and this Board has to take lead agency. I have to look at the plan, and the Board of Zoning Appeals wanted a buffer on the South side of the driveway, is that included?

Mr. Haefeli said it reflects some buffer, there is a 5' landscape buffer on the South side and shown on the new plan.

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Mr. Pasca said okay, that's something for Mr. Collins to review, and it was raised at the Board of Zoning Appeals by the neighbor to the South.

Mr. Collins asked if the SEQRA will be coordinated?

Mr. Pasca said no. There was one condition on the buffer. We are going to do an uncoordinated review.

Mr. Collins asked if the BOH will do their own?

Mr. Pasca said they generally rely on ours. You can probably give them the Board of Zoning Appeals SEQRA and they will accept that, but I don't represent the BOH.

Mr. Reilly asked if they can do SEQRA at the next meeting.

Mr. Collins said yes.

Mr. Pasca said it is an Unlisted Action.

Mark Coles, 6 Guldi Street, we received this plan on Monday, and myself and Gail Rosante, 40 Hazelwood Avenue and John Flores and Ken Stoller. We notice the buffer is being brought up, and we'd like to see the buffer all the way down on both boundary lines with Green Giant Trees that grow 20' to shield the house. I have pictures, I am at 6 Guldi Street and there were trees on the South of my lot that were cut down. Most new developments have the green giant trees.

Mr. Reilly said we generally require buffering, and how robust it will be will be a discussion.

Mr. Coles said if they are not of this size they will not buffer the houses they are all very close to one another. It will be 60' from the back of my house and we think this is more than reasonable. If we can have that buffer we would be in agreement.

Mr. Haefeli said there was a prior approval when Chester Morris had it with a 15' access and there would be a flaglot at that point. I don't understand what this is about, this gentleman lives at the end and he was using his clients' property and he was told to leave, and the three lots meet all of the requirements, we agree to the South side and that was the neighbor impacted to the greatest extent and the 10' flag goes to the rear of the property line, the road will be on the other side and it was moved from the property line as much as we can.

Mr. Pasca said the Board of Zoning Appeals put in that condition because it was the focus of the variance, the driveway is more intensive because it's a common driveway and it was brought up by the neighbor and the applicant agreed to it, and you can argue a condition but you have to draw a connection between the application before the Board and the need for something like that. It's not a typical residential requirement to mandate a row of screening, you have to draw a connection to a nexus between what's being asked for which is a subdivision of lots that are conforming, to what it is you are asking the Board to impose with the condition of screening, if he's not willing to do it.

Mr. Cole said the two will be built in a rear yard. 4 Morris Court was still required to be developed with the lot line to the road, on that plan we would have had a 40' rear yard and now we will be at 20' or 15' for a pool. When my house was built it had screening, and now half has been cut down by the applicant. The houses will be in a rear yard and it will have a great effect on the neighbors and this has been placed before and similar developments have it as well.

Mr. Pasca said before they can impose a condition I wanted to point out the standard.

Mr. Neubauer asked if they removed the buffer?

Mr. Haefeli said there was no buffer, there were trees. His property had a variance which included a rear yard. We acknowledge we are creating two lots back there with two families coming back and forth and that impacts the lot to the South and we will buffer that lot to minimize the impact and we've shifted the access to the driving area to the North. These neighbors are not being

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impacted. On the Rosante property there were trees and they were on my client's property and we cut them down. It's not reasonable to impose buffers that would not be required if we only built one house.

Mr. Cole said there was a buffer and it was removed and we put a stockade fence.

Mr. Haefeli said we were entitled to it. We are willing to impose a restriction with reference to the lots being impacted by the subdivision.

Mr. Reilly said we will look at the plan, and review it at the next meeting.

Mr. Logozzo asked where the pictures were from, the North or South side of the lot?

Mr. Cole said the North and South.

Mr. Reilly said we are going to hold it over to February 28, 2019 and we can review it then and you can tighten up your argument.

Mr. Reilly asked if there were any other questions or comments.

Motion was made by Mr. Neubauer to holdover the application of **Marios Nikolaidis, 36 Hazelwood Avenue (905-6-1-11.1)** to February 28, 2019; seconded by Mr. Logozzo and unanimously carried 4 ayes, 0 nays, 1 absent.

**10. Best Market, 70 Sunset Avenue (905-12-4-20.1)** Applicant requests a Modification of Site Plan to modify the previously approved May 12, 2016 Site Plan. The property is located in the B-1 Zoning District.

Kristin DeLuca, Bohler Engineering appeared on behalf of the application. We think we made pretty good progress there were a few minor items, and one was the drainage in the back which needed inlets added and connected to the existing taking two solutions in to account. We landscaped the islands that we had added back in by the Exit on to Sunset Avenue and the most discussion was the lighting and we submitted a letter outlining our proposal and our request to get some waivers from the Village Code. We did meet the kelvin of 3,000 for the site lights we are proposing. It was 5,000 and we have reduced it to 3,000 but we are requesting the existing wall packs remain at 5k and the mounting height of 16'.

Mr. Reilly said the discussion he thinks what are the legal ramifications with regard to the application. I think it's reasonably clear there is no Grandfathering of existing lighting; I think there are issues whether we can decide if it applies or not, and if we do we can vary and allow modifications.

Mr. Pasca said minor adjustments that are consistent with the purpose and intent of the Code. If you considered it nuisance lighting and that's prohibited by the Code clearly but that's for you to decide.

Ms. DeLuca said the lighting at the rear of the property has been adjusted and we have not heard any complaints since it was adjusted.

Mr. Neubauer said that is not true.

Mr. Houlihan said he would agree with Mr. Neubauer; the complaints never went away, we told them it would be addressed but I think that's why they have not come in more. It is bright and it's hard to not look at it and say it doesn't fit the definition of nuisance lighting, it's very bright and it's more than the 5k it's the white wall and the Planning Board members have commented on the white wall from the get go, them asking to address that has been consistent with their comments for the last two or three years.

Mr. Logozzo asked if she has seen it? I think it has to be remedied, it's very bright. It's an eyesore.

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Mr. Neubauer said we have latitude with the front of the property but frankly I don't think there's an opportunity to walk away from the Code on the rear of the property.

Ms. DeLuca said okay. All of the lights we are asking to remain in their location at 16' and 5k. The proposed site lighting, around the site, the lights that are within close proximity of the property line we are reducing to 10' mounting height in conformance with the Code. The ones within the main parking lot in the front which is the biggest concern for the lighting and space we are requesting 16' and we did run a photometric plan at 12' and we're less compliant with the averages.

Mr. Neubauer asked if they have a copy?

Ms. DeLuca said no, she summarized it in her letter and the average went up and the maximum gets higher under the pole. By using the 16' mounting height we are complying with the average, whereas the 12' would not. There is not a requirement in the Code for maximum / minimum ratio but the 12' poles provided 14 maximum and the 16' poles provided a 4. The parking lot lighting was more uniform at 16' poles and more advantageous and safer.

Mr. Reilly asked if the 16' poles in the front, is that inclusive of the base?

Ms. DeLuca said yes, the pole is mounted on a base.

Mr. Neubauer asked if the poles are in place?

Ms. DeLuca said no.

Mr. Reilly said they are more symmetrical than in the past. I am more comfortable on giving more latitude on the height versus the kelvin.

Ms. DeLuca said it appears brighter to the eye.

Mr. Reilly said the wall mounts have to be addressed and he thinks they need to come down to 3K and the wall stark white should be addressed; the other stuff I am okay with I don't think they are major departures.

Mr. Collins said a question about the lighting plan with the 12' heights, were they in the same location they are in now?

Ms. DeLuca said we needed additional poles in order to make it work with the 12'.

Mr. Collins said its hard to analyze without a plan. What I want to make clear, you could do a compliant plan with 12' poles on the site and your argument would question whether you could comply at all with the 12' and I would surmise that's not correct. I want it to be clear, an alternative plan means that the Lighting Code could not work on this site.

Ms. DeLuca said I would have to go to a much lower output and put the poles much closer together, it makes it almost impossible coupled with the drainage.

Mr. Collins said he agrees with the Board with reference to the wall packs, if you look at the lighting table on the plan it's in 3 areas, in area B and C they are 12 times what the required Code is. A is in the range of the Code requirement. All across the Board for average you are double, on max it is 6 times and the minimum is 13 times required. The area B of C needs to be corrected and that should come in the wall pack.

Mr. Neubauer said and moved down to 12'.

Ms. DeLuca said the Kelvin will not decrease the foot candle output the impact is minimal but it's what appears to the eye; it's the color of the lights. And the height, once you lower them you get hot spots and it cannot project as far out. It makes it more difficult to get uniform lighting.

Mr. Neubauer said now we do, and it's spilling in to the residential homes on Glovers Lane.

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Ms. DeLuca said if we adjust the kelvin and output levels and remain at the mounting height I believe we can achieve what the Board is looking for. It is also the work that's involved in lowering the height. If we can switch the fixture it's easier, and it's the cost associated with it they are installed and existing and part of the prior approval. I understand that the Code says there is a site plan approval that modifies it.

Mr. Pasca asked if they are willing to paint the wall?

Ms. DeLuca said she can speak with her client.

Mr. Jones asked if you can reduce the number of lights, or do we want 3K at 12'.

Mr. Neubauer said we should come to the Code. The opportunity to get this Site to Code in the future is now. The intent of the Code, the way I read it, is that we are to get every site in the Village to that Code expeditiously. That's the intent of the lighting code.

Mr. Collins said yes, that's correct. Over time, yes that is correct.

Mr. Neubauer said this applicant has had every opportunity to have a compliant site and has an approval, if he chose to withdraw this application now and wanted to go with the approved site plan we would have to address the lighting.

Mr. Pasca said the only thing they may want to come back with, is if you lower the lights you could create hot spots but if you want to make that argument it is counter veiling to lowering the lights.

Mr. Logozzo said if you lower the lights, you need more poles. It will look like the neighboring property that is now CVS. Lowering the lights to get rid of the hot spots you need more lights.

Mr. Pasca said for everyone's benefit, we aren't ending this conversation today.

Mr. Reilly said we want the site Code compliant which is what we'd like to see and the burden shifts to you by a certain level of evidence to prove it's not practical or reasonable.

Ms. DeLuca said not taking cost in to account, trying to achieve the uniformity ratio.

Mr. Reilly said as Mr. Collins said we won't know. Show us whether or not it can be done in a Code compliant way, and if it can what would it look like

Mr. Collins said if you don't want to lower it, install the 3,000K; what needs to be done to install them?

Ms. DeLuca asked if he means from an electrical standpoint, the entire fixture has to be changed out and if the location and height stays the same you don't need to rewire it. If we can keep the location and height the same we may be able to do that.

Mr. Collins said let everyone see it installed at 3,000K at this height and location.

Ms. DeLuca said no one will want to do the work without knowing it's going to be approved or not. I can show it on a plan what the output would be.

Mr. Collins said the Board is trying to push you to 12' and I'm trying to give you the option to 16' and show it.

Ms. DeLuca said I may not be able to use the fixtures. The output may have to be changed.

Mr. Collins said you may have to install more poles like Mr. Logozzo said. You may not project across the parking lot so then you'd install poles on the North side.

Ms. DeLuca said the poles are 10' on that side.

Mr. Pasca said you received feedback and you can go to your client and rework the plans.



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Mr. Reilly said the closer you get to our Code the less of a modification we have to entertain. I appreciate the fixtures are there, and there may be reasons not to leave them or switch them out. Does anyone have issues with the height of the poles in the front?

Mr. Neubauer said we are more pliable on the poles in the front.

Mr. Logozzo said the 5K lighting on the white walls doesn't work for any of us. There's nothing brighter than that.

Mr. Reilly said maybe if you change the color of the wall, and change the lights from 5K to 3K it may work.

Mr. Neubauer said that fits the Code of nuisance lighting.

Mr. Logozzo said they should look in to a grill that may stop the reflection.

Ms. DeLuca said she knows for pole mounted fixtures there are things you can install, but she's never explored that on a wall. The problem is the white wall at 16' and if you get the light off of the wall it may go away.

Mr. Jones said I suggested painting the wall, but some of the light is shooting straight out it doesn't bounce off of the wall.

Ms. DeLuca said she has not looked in to it in a wall light.

Mr. Logozzo said he thought about the light itself, dimensionally I don't know if the grill will do the job.

Mr. Jones said may be a sheet metal form around it will work. It could be a shade that focuses the light in one direction.

Ms. DeLuca said they will look in to it.

Mr. Logozzo said if you knock the lights down to 12' you are going to have to install a lot more poles.

Ms. DeLuca agreed, and there is not a lot of space to install more lights. It made it next to impossible to comply with the Code. I am much closer meeting it with the 16' I cannot get any closer in the parking lot, I can't install poles in drive aisles or stalls. I have a sanitary and drainage system and they are throughout the parking lot, there's no room for poles. They will not be uniformly spaced.

Mr. Reilly said the nature of the use of the site is a food store, the lighting set up is not un common.

Mr. Logozzo said the amount of work is substantial to make a 12' light work with the islands.

Mr. Reilly said the parking we just reworked will be lost as well. The heavier lift is the back of the building, let's see what you can come up with there. What do you want to see Mr. Collins?

Mr. Collins said it's hard to tell the comparison on a table versus not having a plan, but the rear of the building needs to be addressed.

Mr. Reilly agreed with Mr. Collins. I think our practice going forward, and if we just take an applicant's word we are going down a slippery slope. To do it Code compliant this is what we would have to do to make it work and that's what we need to see.

Ms. DeLuca said okay. We will submit the plan we prepared.

Mr. Reilly said show the locations of the poles and what you would lose.

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Ms. DeLuca said we will show the additional poles and lower the output and whether we can accomplish it or not.

Mr. Reilly said this is our first time dealing with the Code and to not have that sets a precedent.

Motion was made by Mr. Neubauer to holdover the application of **Best Market, 70 Sunset Avenue (905-12-4-20.1)** to February 28, 2019; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 1 absent.

**11. 285 Oneck Lane, LLC., 285 Oneck Lane (905-9-2-35)** Applicant requests a Subdivision of a parcel of property to create a four-lot subdivision. The property is located in the R-1 Zoning District. **HELDOVER TO FEBRUARY 28, 2019**

**12. 22 Old Riverhead Road, LLC., 22 Old Riverhead Road, Westhampton Beach (905-4-2-10)** Applicant requests a Site Plan review to demolish an existing building and construct a new 3,500 square foot medical office / dry office building. The property is located in the B-2 Zoning District.

No one appeared on behalf of the application, Mr. Lettieri requested to hold over the application **22 Old Riverhead Road, LLC., 22 Old Riverhead Road, Westhampton Beach (905-4-2-10)**.

Motion was made by Mr. Neubauer to holdover the application of **22 Old Riverhead Road, LLC., 22 Old Riverhead Road, Westhampton Beach (905-4-2-10)** to February 28, 2019; seconded by Mr. Jones and unanimously carried 4 ayes, 0 nays, 1 absent.

**SPECIAL EXCEPTION APPLICATION REFERRAL FROM THE BOARD OF TRUSTEES**

**13. Robert Elenowitz and Anna Gerzon, 55 Old Riverhead Road (905-17-1-7, 9 and 9.2)** Special Exception Referral for the construction of residential condominium units pursuant to Chapter 197-16

**14. 112 WHB LLC., 112 Old Riverhead Road (905-2-2-4.4)** Special Exception Referral to construct, operate and maintain a small cell public utility wireless communication facility.

**REQUEST FOR CHANGE OF ZONE REFERALL FROM THE BOARD OF TRUSTEES**

**15. Mark Tech Corp., 85-105 Montauk Highway (905-5-1-12, 53.1)** The Corner Restaurant. Referral from the Board of Trustees for report and recommendation for the Change of Zone from residential to commercial.

**REFERRAL FROM THE ZONING BOARD OF APPEALS:**

**16. Alyssa Andersen-Kuntz, 97 Hazelwood Avenue, (905-2-2-20.2 and 6.4)** This Property is located in the MF-20 Zoning district. On January 19, 2017 the Board of Zoning Appeals (BZA) issued a determination and interpretation that the subject property had only one lawful Pre-existing nonconforming use. The applicant then filed for an application with the (BZA) for a 2<sup>nd</sup> use which is prohibited in the MF-20 Zoning district and therefore a use variance application. To assist the (BZA) the Board has referred this application to the Planning Board so they could look at the property with respect to Planning issues and make comments and recommendations.

James N. Hulme, Esq., said the last time he appeared they discussed the site plan he submitted and they were still unsure about the SEQRA concept and a short EAF was submitted with the application to the Board of Zoning Appeals, so I think counsel believes we need to act on SEQRA.

Mr. Pasca said there is one question, is it coordinate or uncoordinated and that's optional. You have to go back to the Board of Zoning Appeals, do you want to do a coordinated review between the two Boards, do you have a preference?

Mr. Hulme said we are here, and we have to go back to the Board of Zoning Appeals and if we're successful well come back to this Board for the Site Plan.

Mr. Pasca said I don't know what the minimum of is. If there's one coordinated review it's binding on everyone, if you do uncoordinated its binding on everyone and the Board of Zoning Appeals is not equipped to do SEQRA reviews. A coordinated review adds time, it would make most sense to me to have the Planning Board do the SEQRA.

Mr. Hulme agreed with Mr. Pasca.

Mr. Pasca said if you are willing to entertain coordinated review, you can notify the Board of Zoning Appeals that you are willing to do it and see whether they agree to it or not, and if they say yes we can move in to it at the next meeting.

Mr. Hulme asked if they want a long or short form EAF?

Mr. Collins said the one submitted with the application should be fine.

Motion was made by Mr. Neubauer to holdover the application of **Alyssa Andersen-Kuntz, 97 Hazelwood Avenue (905-2-2-20.2 and 6.4)** to February 28, 2019; seconded by Mr. Logozzo and unanimously carried 4 ayes, 0 nays, 1 absent.

### **NEW FILL APPLICATIONS / DECISIONS**

**17. Donna A. McDonough, 24 Point Road, Westhampton Beach (905-17-3-25)** Applicant requests a Site Plan to bring in fill in conjunction with a new dwelling and septic system. The property is located in the R-5 Zoning District and the Flood Zone Area.

No one appeared on behalf of the application. The application was held over to the Board's February 28, 2019 meeting.

Motion was made by Mr. Neubauer to holdover the application of **Donna A. McDonough, 24 Point Road, Westhampton Beach (905-17-3-25)** to February 28, 2019; seconded by Mr. Jones and unanimously carried 4 ayes, 0 nays, 1 absent.

**18. Strauss, 1 Short Path, Westhampton Beach (905-10-5-5)** Applicant requests a Modification of Site Plan to modify a previously approved Fill Site Plan that was approved on May 11, 2017. The property is located in the R1 Zoning District and the Flood Zone Area.

Susan Wilcenski, Spaces Landscape Architecture appeared on behalf of the application. I modified David Fox's survey with drainage, and we have leaching fields and French Drains along the property lines and they are working very well, and they are exposed gravel French Drains, but in the front I wanted to capture the water in a different way and I wanted more natural approach and knowing the elevations are low, I captured the stormwater runoff on the higher elevation at the edge of the lawn up top before the planting beds which graded it out and I had the benefit of seeing more high event level rain storms. Another way to contain the water was the driveway runoff and there is a cattle grate the width of the driveway and I excavated down enough to create a void and capture the water and it captures more than a 2" rainfall. The owner being concerned with their location and the issues of the rain events, I continuously monitored the site with each rainfall to make sure I captured the rain falls. I met with Mr. Houlihan and Mr. Hill and they are in agreement with me, they acknowledge that there is containment on the site.

Mr. Reilly asked if Mr. Houlihan and Mr. Hill looked it over.

Mr. Houlihan said yes, he is happy with it.

Mr. Nobiletti said the North East corner is at Elevation 8 and drops to the road and there's no containment in those areas.

Ms. Wilcenski said that water is contained above, and then we have the shrub layer and I've been watching that. I have not seen water go down to that drain, mainly during a high storm event its road run off if you look inside the drain you can see the ground water and it acts as a filter.

Mr. Nobiletti said the storm drain is full and coming above the road level.

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Ms. Wilcenski said that's not from the site that's because of the capacity and eventually it leaches down through. It's a good filtration and cleans the roadway runoff before it enters the Bay, it works very well.

Mr. Neubauer said you aren't going to eliminate the water down there completely.

Mr. Nobiletti said anything will be helpful.

Mr. Houlihan asked Mr. Nobiletti said it did not look during a rain event was from the property, the puddle was coming off the road.

Mr. Nobiletti said it's a combination, and the contours show that.

Mr. Houlihan said there is a swale with the sand area that's holding everything on the property.

Ms. Wilcenski said on the corner, there is an existing street tree that is surrounded by Gravel and acts as a leaching field. I would meet you during a storm event to see where the waters coming from.

Mr. Nobiletti said you can't not say it's coming down the slope that has no containment.

Ms. Wilcenski said there is containment up above, there is a big low swale that collects the water.

Mr. Nobiletti said okay.

Ms. Wilcenski said she was very particular.

Mr. Nobiletti said okay, it was his observation. It could be from street run off and from this new construction contributing to it.

Ms. Wilcenski said if it's coming from the property I will make sure it's contained.

Mr. Nobiletti said okay.

Mr. Neubauer said he has no further questions.

Ms. Wilcenski asked if Mr. Houlihan has gone to the site several times.

Mr. Houlihan said yes, it looks like it's completely containing it on the property and the part Mr. Nobiletti is talking about is from the street run off, and it's on the side.

Ms. Wilcenski agreed. The ground water is about 2' down and when there is more than 2" rainfalls it is full.

Mr. Houlihan asked Mr. Nobiletti asked if that's really contributing from the slope or is it street water. I agree some slope creates it, but do you really think it's anything substantial.

Mr. Nobiletti said the original design would intercept anything coming down.

Ms. Wilcenski said the gravel is acting as French Drain and the runoff that you're talking about is from the street and there's no capacity for that water to go down so it puddles and slowly goes down as normal in those elevations.

Mr. Neubauer asked how long the water stands.

Mr. Houlihan said within a day it drains down.

Mr. Neubauer said you aren't going to repair that no matter what you do. I am satisfied with the modification.

Mr. Houlihan said both Mr. Hill and I looked at it, and we don't feel it's substantial but its all street water that Mr. Nobiletti is talking about.

Mr. Reilly said okay. This is only a modification, we don't need a written resolution.

Mr. Neubauer said they have a resolution that the Spaces Landscape Architecture plan dated 5.25.2018 and updated 1/2/2019 and received 1/14/2019 amended and approved.

**19. Morrell, 51 Jessup Lane, Westhampton Beach (905-10-6-16)** Applicant requests a Site Plan to bring in fill in conjunction with a new dwelling and septic system. The property is located in the R-1 Zoning District and the Flood Zone Area.

**20. Schlüsselberg Family Limited Partnership, 24 E. Division Street, Westhampton Beach (905-10-7-30)** Applicant requests a Site Plan to bring fill in conjunction with a new dwelling and septic system. The property is located in the R-1 Zoning District and the Flood Zone Area.

James N. Hulme, Esq., appeared on behalf of the application. They are proposing fill for the new dwelling and septic system as proposed. In doing the calculations it appears they need to contain 576 cubic feet based on a 2" rainfall, and we are containing that in a few features, a French Drain along the Northern property line, and there is a drain field and some additional dry wells proposed to contain the 2" rain, and we are providing 610 cubic feet of storage space.

Mr. Houlihan said Mr. Hill and I went to the site and we fill it's adequate.

Ginger Propper, 16 East Division Street and she's the neighbor to the North. I have concerns about the drainage map and she engaged Floyd Carrington to review it. I thought it was interesting to look at papers in the File, there is a sign up in the Village Office and the translation for Moneybogue is a place that fills with water and living there 16 years I am aware of the water. That property from all of the rains it always flooded; someone else bought the property and they installed French Drains that did not work, the water table is very high there. One of the things in the Code is that the Village has to protect the neighbors and that's what I'm asking. When we were at the Board of Zoning Appeals Mr. Hulme stated there is an ordinance that the property owners will comply and protect the property and he does note there was an impact on the neighbor which is me. When the property was purchased it was known the property sat on wetlands. I then received from Mr. Hulme the application, and I have questions because some of it does not make sense. He sent the survey with the drainage map, it said Michael Rosen.

Mr. Reilly said it's not an error, it's an accurate survey to the property.

Mr. Pasca asked if they have the drainage plan?

Ms. Propper said yes.

Mr. Pasca said that's what is before this Board. The key is that you have the new drainage plan.

Ms. Propper said yes, that's correct. One thing on the application, page 6 says the depth to the water table is 27' which is not correct. I don't know how accurate these are supposed to be.

Mr. Reilly said ideally they should be very accurate.

Mr. Logozzo said he thinks it should be 2.7' it is probably a typographical error.

Ms. Propper said he checks off that the site is not a scenic view or vista known to the community and that's not true.

Mr. Pasca asked if she's reading the EAF. That's a SEQRA form that everyone has to fill out, but this is exempt from SEQRA. Everyone is required to fill it out, you are reading off of a form for this application is not necessary.

Ms. Propper said I should know that.

Mr. Pasca said I'm trying to tell you that.

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Mr. Reilly said we are here to review the drainage plan. A standard portion of our fill decisions require the site contains its own water and the property owner has to address.

Ms. Propper said she wants to address it before that happens.

Mr. Reilly said even if it does not quite work the way we expect they have to comply.

Ms. Propper said okay.

Mr. Logozzo said I would like to substantiate, do you think this will work or not?

Ms. Propper said Floyd Carrington will speak to that.

Mr. Logozzo said you are stipulating the proposal will not work?

Ms. Propper said yes. Floyd said it is bad and I would not want you to waste your money or time.

Mr. Logozzo said drainage works provided that the soil percolates and lets the water pass through. Ms. Propper said okay. Since I live next door, Mr. Lettieri took down the house and the water has sat since December 25, 2018 to December 27, 2018; they put a hose and pump to drain the water in to the wetlands; on January 2, 2019 the water is still sitting; January 25, 2019 the water is still sitting; February 4, 2019 the water is still sitting; and they ran another drain to go over the dirt pile to the wetlands and this past Friday it's still sitting, the water has not left. It's a big issue.

Mr. Logozzo said it looks like, without a soil sample it looks like it does not drain.

Mr. Houlihan said the applicant will sit there because the drainage is not done yet, the survey says the property sits from 2.5' elevation to the natural grade to 4.5'.

Mr. Neubauer said this sitting water is from the demolition it won't stay that way

Mr. Houlihan said there is no question without removing the improper soils the water will sit; one item they have is to create a big area where they pull out the bog and put in clean fill. You make a good point, the water does sit there nothings been done to remove it and it's so low even when it's done the High Tides will still flush over this property because it's DEC regulated, and there will be times when the property floods as it always has.

Ms. Propper said he's saying the property does flood, and Mr. Carrington will speak to the drainage system affecting her property worse.

Floyd Carrington, Raynor Marcks and Carrington. The plan proposed is in adequate; the French Drain on the North property line, when you size it you use the inside diameter, they used the outside for the pipes. Instead of having on a French Drain 169 cubic feet you have 155 cubic feet; for the drain fields instead of 188 cubic feet you have 173 cubic feet because the diameter pipe is smaller.

Mr. Logozzo asked if the drainage field has filter fabric or not. There is a 50% void space in the stone.

Mr. Carrington said I am addressing the design of it. There are three drywells and they used the inside diameter, and there is a problem with them, you get down to 581 cubic feet and you are close.

Mr. Logozzo asked if they use the gravel bay.

Mr. Carrington said it's 30%.

Mr. Logozzo said we aren't going to argue percentages, if they use the gravel bay and do a volume calculation is it possible you pick up all the water?

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Mr. Carrington said maybe. There is a French Drain going across the driveway and there is a 215' pipe that goes from the front of the property to the back and the water comes down the road from the Crown of the road that wasn't accounted for.

Mr. Hulme said road water is not their obligation; they are only obliged to pick up and contain the site water.

Mr. Carrington said if they did that but that's not the design they've given to you. Also in this situation, per their test hole there is clay sand that needs to be filled back up with course sand and that should be on the plan or it will not work. When you start looking at the plan, the edge of the French Drain is 1' off of the property line, the center is 2' and if you get a 2" rain and that pipe capacity, you will have Moon and Fall Tides that certain parts of that the pipe will be full.

Mr. Houlihan asked if a French Drain and removing the unsuitable soils will do harm as opposed to keeping the status quo. If we get a Moon Tide it will fill with water, but where will it go before you do that? We have a consistent policy when we remove unsuitable bog, clay, loam and its replaced with gravel and sand at the same height you can do no harm. If there's a moon tide and there's bog it will flow on the surface. You and I both know, if there's a moon tide none of the drainage structures are there to hold the Bay. They will dissipate the water after the storm event and we base our storm water on that. There's a concept that we need to raise the grades and install the solid structures and have drainage and do that. There are areas where elevation is not over 2.5' and we don't want to raise the grade, it's to keep it as low as possible and we acknowledge there will be flooding events.

Mr. Carrington said I am going to address this plan.

Mr. Neubauer said there are a few missing details.

Mr. Logozzo said a moon tide, everything floods the question is how fast can it dissipate.

Mr. Neubauer said leaving it as is, is not a solution.

Mr. Logozzo asked if the proper details are put on the plan, will the water drain?

Mr. Carrington said yes. But there's more that I have not gotten to yet. The next area I'd like to address is the parking and the driveway and the gravel, in the long run the gravel paving will not work.

Mr. Reilly asked what we should do?

Mr. Carrington said permeable pavers with a proper base. If you put permeable pavers with details on the plan, with the base and their materials you won't have ruts or problems with gravel and it drains and will take care of 2" or more. The dry wells, when you look at this looking down, the dry wells look great, but there is a problem; Section 70-13 the site shall be designed with current and approved Engineering standards is a 2' separation from groundwater to the bottom of the drainage structure.

Mr. Hulme said it's for the BOH. They have a plan that contains what they are obligated to, and even if we take the small adjustments, we still have the containment as required by the Code.

Mr. Carrington said the BOH does get involve, the Town has a 2' separation and other Towns do as well. I talked to Christine Fetten the Town Engineer for Southampton and formerly Riverhead and asked her where these standards come from and they have been around for 12 years and the DEC; it is not just for SWPPP plans. The 2' separation is standard. With a 2' separation it is 2.5' and then it is 3.5' and the ground elevation is 4' which means there's ½' of the dry well in the ground, the rest is in the air and water is all over the place so they cannot contain all of the water.

Mr. Logozzo asked the street grade.

Mr. Carrington said about 3 something.

Mr. Logozzo said if you raise the property and put this in, its not realistic.

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Mr. Neubauer said that will do more damage than good.

Mr. Carrington said this will not work.

Mr. Houlihan said there are a few things the permeable pavers are used often and they do work; and that's a good point because there is room for the base of the pavers and the holding capacity is tremendous. That is something that I can discuss with Mr. Hill. A lot of times, we do actually tell the architects or designers to pull out the hard structures and go with the French Drains and piping because it's easier to get rid of that water which is not a bad idea and we can discuss getting rid of the hard structures, and it may be better to have the gravel and French Drains and piping and we can talk to the applicant about that and I'm sure he'd make those adjustments.

Mr. Reilly said the four (4) of us rely on the input from Mr. Hill.

Mr. Carrington said with the pool backwash shown, the Village does not have a set formula to size these so I used the Town's and the pool is 8' diameter with a 2' high ring, back there is elevation 3.6 and it's 3.5.

Mr. Houlihan said from talking to the architect, I believe that is a cartridge filter with a backwash on it, it's not made to empty 3" off the pool, it's not made for that its for back wash only.

Mr. Carrington said okay. These three (3) dry wells don't work.

Mr. Neubauer said okay, we will take it in to consideration.

Mr. Hulme said we will look at it.

Motion was made by Mr. Neubauer to holdover the application of **Schlusberg Family Limited Partnership, 24 E. Division Street, Westhampton Beach (905-10-7-30)** to February 28, 2019; seconded by Mr. Jones and unanimously carried 4 ayes, 0 nays, 1 absent.

Motion was made by Mr. Neubauer to adjourn the meeting at 7:00 p.m.; seconded by Mr. Jones and unanimously carried 4 ayes, 0 nays, 1 absent.