

June 27, 2019

The Planning Board of the Incorporated Village of Westhampton Beach held its regular meeting on June 27, 2019, at 5:00 P.M. in the Municipal Building, 165 Mill Road, Westhampton Beach.

PRESENT: Ralph Neubauer, Acting Chairman
Michael Schermeyer
Rocco Logozzo

Ron Hill, Village Engineer

Anthony C. Pasca, Esq., Village Attorney

Maeghan Mackie, Board Secretary

Brad Hammond, Building & Zoning Administrator

Kyle Collins, Village Planner

ABSENT: David Reilly, Chairman
Jack Lawrence Jones

DECISION:

1. 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.

HOLDOVERS:

2. 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.

3. 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 2nd floor. The property is located in the B-2 Zoning District.

Jefferson Murphree appeared on behalf of the application, together with Kieran Murphree, Esq.

Mrs. Murphree said that they received the draft conditions today, there are three issues that they need to work on. The first is the park fee; the client would like to post a bond for the park fee and the third is the option of the road not being private but being put in to the Village road and that would require a bond too.

Mr. Neubauer asked if there would be changes to the site plan?

Mrs. Murphree said the gate would go then.

June 27, 2019

Mr. Murphree said if it's a public street there's no gate.

Mr. Pasca asked if the roads are designed to Village specs, and that has to be reviewed by Mr. Hill.

Mr. Murphree said the cul-de-sac was built to the Appendix D.

Mr. Pasca said we asked you whether it was going to be private or public, you said private and there's no problem if you want it public but it has to be reviewed by Mr. Hill. There are more specs involved than the hammerhead, I am not saying it doesn't meet fire apparatus code, but it has to be reviewed by Mr. Hill.

Mr. Hill said the drainage is alright, but he has to review it, the right of way has to be sufficient and we went to that easement and I'm not sure.

Mr. Pasca said the center island is vegetated and that may be treated differently if it's a Village owned road versus private and that has to be looked at. We also have to see if the Village wants the road.

Mr. Hill said they can keep it private and then come back later.

Mr. Pasca said you do not want to possibly form an HOA; if you keep it private it has to have an HOA but if you dedicate it to the Village you don't and we have to look at it differently.

Mr. Hill said he doesn't think it's a big deal one way or the other, but the Trustees do have to be willing to accept it.

Mrs. Murphree said this is just an option.

Mr. Pasca said it's no problem, you made the choice early on not to do that but it's fine.

Mrs. Murphree said she sent a memorandum regarding the park fee and they submitted a third appraisal and I suggest to average them for two (2) lots. A park fee is to meet the new demand.

Mr. Neubauer said the bar we set was that you were going to disclose the situations of similar nature in the Village.

Mr. Murphree said we did, the resolutions do not base the number of lots it just shows a park fee for a subdivision.

Mr. Neubauer said you do not have a good clear example?

Mr. Collins asked if they reviewed the resolution or the files?

Mr. Murphree said the files, the resolution does not say the number of lots.

Mrs. Murphree said the current subdivision law was amended in July 2003, and the part with two lots was added in January 2008 so we have a 2012 subdivision, and a 2006 subdivision because there not have been that many in this Village.

June 27, 2019

Mr. Neubauer said he is confused; there was an undefined amount of subdivided lots, what did the math tell you?

Mr. Murphree said he saw no pattern.

Mr. Pasca said you have to make a decision as a Board, and there is not one being made tonight. They made their arguments. For the record, you submitted a second appraisal and my comments on that, I reviewed it carefully.

Mrs. Murphree said even though you're not a certified appraiser.

Mr. Pasca said the Village has an appraisal done by Patricia Parsons and two done by our client, neither of whom used a subdivision analysis. Your second appraisal pre-dates the first appraisal and you decided not to submit to the Board and it uses comparables that are not sub-dividable, with no adjustment for the subdivision of it and it's a critical flaw and the Board has to make a decision based on the appraisals and arguments.

Mrs. Murphree said you're picking one type of appraisal, the Code does not have a methodology to use.

Mr. Pasca said the Board has to make a decision based on what they find credible.

Mr. Neubauer asked why they saw them out of sequence, why did they submit the second appraisal.

Mrs. Murphree said her client wanted to submit the lower one, there's nothing in the Code about the methodology.

Mr. Pasca asked if there are other issues in the conditions.

Mr. Murphree said the ambiguity in the Code, numerous cases state repeatedly that the ambiguity is to be resolved in the favor of the property owner. There is case after case.

Mr. Neubauer said there's no ambiguity.

Mr. Pasca said that's the decision for this Board to make.

Mrs. Murphree said the park fee is based on generating new recreational demands and a study was done and referred to in a decision that was included as an exhibit, there is existing number of houses and we anticipate 900 more new and this is why we need the park fee for the new houses and there was a 2002 study, and the land was vacant and has been for 50 years, but it was accounted for and was for an existing house.

Mr. Pasca asked if they want to argue, they want to bond the park fee? There's no provision in the Code for that.

Mrs. Murphree said they do not want to bond the park fee. So, we are left with the option of the road being public versus private and the determination of the park fee. I know you also want covenants, typically I've seen them before.

June 27, 2019

Mr. Pasca said they are included. What you received today lists specifically what covenants will be required; if there is a problem you should say so, so we can make the adjustments.

Mrs. Murphree said we are only left with the park fee and the road.

Mr. Pasca said to be clear, the Conditions 8-19 are the ones that are in the covenants virtually verbatim but we can work them out.

Mrs. Murphree said they are fine with them.

Mr. Murphree said condition number 1, he thought it would be a separate resolution.

Mr. Pasca said this Board has to make a determination on that, and it has to be paid before the map is filed and it can be paid under protest if you deem advisable.

Mr. Hammond asked him to forward the subdivisions to review he may be able to see if there is anything that Mr. Murphree.

Mr. Neubauer said we will hold this over to July 11, 2019.

Motion was made by Mr. Schermeyer to holdover the application of **Avidor Group, LLC., and Jonmor Group, LLC., (905-5-2-4-,5, and 38) and Avidor Group, LLC., 133 Montauk Highway, (905-5-2-4, 5, and 38)** to July 11, 2019; seconded by Mr. Logozzo and unanimously carried 3 ayes, 0 nays, 2 absent.

4. 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.

Britton Bistran requested to hold the application over to July 11, 2019.

Motion was made by Mr. Logozzo to holdover the application of **Anthony J. Cassano, Jr., and Louis Commisso, (905-5-1-21) 30 Lilac Road** seconded by Mr. Schermeyer and unanimously carried 3 ayes, 0 nays, 2 absent.

5. 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.

Mr. Musnicki submitted the Department of Health approval to the Board. The application was deemed complete.

Motion was made by Mr. Schermeyer to close the application of **Ocean Spray Pools, Inc., 97 Old Riverhead Road, (905-2-1-6.3 and 6.4) Westhampton Beach**, for a determination; seconded by Mr. Logozzo and unanimously carried 3 ayes, 0 nays, 2 absent.

June 27, 2019

6. **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.

7. **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.

8. **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.

Heather A. Wright, Esq., appeared on behalf of the application. She submitted the drainage and driveway plan, and did not receive any comments.

Mr. Hill said the drainage for the driveway looks okay and adequate but he'd like to see the grades for the driveway slope toward the road.

Mr. Neubauer said we don't want to be put in the same position as we are in a different application. This is a driveway and not a road, and will not wind up in the Village's lap.

Mr. Hill said the design would have to be entirely different, this can't be a public road. We have the SWPPP once we put the drainage around, and I'm okay with that, but I want to see the two (2) plans married so we can address them both. You want to raise the grade by 1' or 2'.

Ms. Wright said they had access to fill, but she did not think they needed the SWPPP.

Mr. Neubauer said this is the only access to the four lots by covenant?

Ms. Wright said yes.

Mr. Neubauer asked if the driveway on the Oneck side will remain or close?

Ms. Wright said that will be closed and they can add that note.

Mr. Hill asked where they should go in the process, you can wait on raising the grade, once it's subdivided then you have to rely on the 10' from the lot line and they want to raise it so they don't have to do that. It makes sense to grade the site out first.

Ms. Wright said okay, she asked if they are tying the SWPPP to the subdivision.

Mr. Hammond said the SWPPP should be done as part of the whole subdivision.

Mr. Hill said he'd like to see more detail on the elevation of the driveway. The cross section and the drainage are fine.

Ms. Wright said she communicated Mr. Hill's SWPPP comments to Doug Adams and he's trying to add the common driveway elements.

June 27, 2019

Mr. Hill said he'd like to see them all done as one decision so they do not have to worry about the lot line with the raising of the grade.

Mr. Pasca asked if it's all tied to the drainage plan.

Mr. Hill said the drainage plan will take care of it all.

Mr. Pasca asked if the drainage plan should contemplate the final grading. Is he working on that?

Ms. Wright said yes. She said the SWPPP is taking time, but if you prefer to see them combined, we will.

Mr. Pasca asked where they are in the process.

Ms. Wright said she's waiting on the covenant from the Board of Health. She asked what their next steps are?

Mr. Hill asked where they stand in the review, all he wants to see is more detail on the driveway and I am fine with the subdivision.

Mr. Pasca said if you have a final drainage plan, and subdivision map once the Board of Health approves it then the resolution. SEQRA is done, we did the referral to the County.

Ms. Wright said okay.

Mr. Pasca asked if they plan on doing the driveway, or bonding it?

Ms. Wright said they plan to do it she thinks.

Mr. Pasca said if that changes then let us know we will need to do a performance bond estimate.

Motion was made by Mr. Logozzo to holdover the application of **285 Oneck Lane, LLC., 285 Oneck Lane (905-9-2-35)** to July 25, 2019; seconded by Mr. Schermeyer and unanimously carried 3 ayes, 0 nays, 2 absent.

9. 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.

Rocco Lettieri submitted a request to holdover the application to July 11, 2019.

Motion was made by Mr. Schermeyer to holdover the application of **22 Old Riverhead Road, LLC., 22 Old Riverhead Road, Westhampton Beach (905-4-2-10)** to July 11, 2019; seconded by Mr. Logozzo and unanimously carried 3 ayes, 0 nays, 2 absent.

10. Metro Storage, LLC., 105 Old Riverhead Road, Westhampton Beach (905-2-1-19.6) Applicant requests a Modification of Subdivision / Lot Line on a property located in the I-1 and B-3 Zoning District.

June 27, 2019

Status: **HELDOVER UNTIL July 11, 2019**

11. **112 WHB, LLC., 112 Old Riverhead Road, Westhampton Beach (905-2-2-4.4)** Applicant requests a Site Plan to install a small cell public utility wireless communications facility on an existing two story commercial building. The property is located in the B-2 Zoning District.

Status: **HELDOVER UNTIL July 11, 2019**
REFERRED TO BOARD OF TRUSTEES

REQUEST FOR CHANGE OF ZONE REFERALL FROM THE BOARD OF TRUSTEES

12. **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.

FILL APPLICATIONS / DECISIONS

13. **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.

14. **285 Oneck Lane, LLC., 285 Oneck Lane, Westhampton Beach (905-9-2-35)** Applicant requests a site plan review to install fill in the Floodplain in conjunction with the development of a four-lot residential subdivision and in accordance with a required Storm Water Pollution Prevention Plan (SWPPP). The 45,309 acre property is located at the South West corner of Oneck Lane and Fiske Avenue in the R-1 Zoning District.

15. **Etty & Sol Levy, 41 Griffing Ave, (905-013-01-021.01).** Applicant requests a site plan review to install fill in the floodplain in conjunction with the construction of additions and alterations to a single-family dwelling and the associated required upgrade of the sanitary system. The 1-acre property is located at the Northwest corner of Griffing Avenue & Howell Lane, in the R-2 zoning district.

16. **Pine West LLC, 272 Oneck Lane (905-010-01-009).** Applicant requests a site plan review to install fill in the floodplain in conjunction with the construction of a single-family dwelling and the associated required upgrade of the sanitary system. The 42,284 sf property is located at the east side of Oneck Lane, in the R-1 zoning district.

17. **85 & 105 Montauk LLC, 85, 105 Montauk Hwy & 105 Oak St, (905-005-01-012, -053.01 & -052.02).** Applicant requests Site Plan review to construct a two-story restaurant building with associated site improvements including improvements on lots to the West & South, consideration of a change of Zoning District for the Southerly lot with demolition of the dwelling and site build-out for parking with buffer, and site improvements on the Westerly lot including curbing, buffer & access reorientation.

Status: **HELDOVER UNTIL July 11, 2019**

June 27, 2019

ZBA: *NEEDED*
ARB: *NEEDED*

SEQRA: *NEEDED*
SCDHS: *NEEDED*

SCDPW: *NEEDED*
SCPC: *NEEDED*

OTHER: *Zone Change Approval Needed from Village Board of Trustees*

TRUSTEE REFERRAL

18. BMB Enterprises, LLC., 145 Main Street (905-11-2-29) Special Exception Application for Outdoor Music.

NEW APPLICATION:

19. SKL Realty Holdings LLC, 115 Main St, (905-011-02-022). Applicant requests site plan review to construct a two-story mixed-used commercial building (4,153 sf) with partially covered front patio for two retail suites and a restaurant on the first story and a single-family apartment and restaurant accessory office/storage room on the second story, with associated site improvements. The 6,840 sf property is located on the south side of Main Street in the B-1 zoning district.

Nicholas A. Vero, Architect appeared on behalf of Jason Ormond, Architect. They have a site plan to demolish an existing building and they are looking to construct a new building with a restaurant, retail and office and apartment on the second floor. They had a hearing with the Board of Review at the BOH and that was closed, and they had an approval prior to which was void and it requires a new system, and the Board of Review is going to grant the variances for the retaining walls and septic system and it changed slightly and he received it from John Condon yesterday and he will show the change to the retaining wall which creates more green space on the rear of the building abutting the parking lot. They have determined there was no off site parking, therefore none is required and they have to give the required calculation. He received Mr. Hammond's memo, dated June 4, 2019 and they started addressing the items on that. They are still waiting on Mr. Hill and Mr. Collins comments, and they know the site is tight but they are hoping to move the drainage forward with Mr. Hill.

Mr. Hill said the 6' deep rings will not work because you only have 1' to groundwater.

Mr. Vero said yes, he knows they will address that.

Mr. Collins asked the height of the retaining wall for the septic system facing the parking lot?

Mr. Logozzo said it is about 5'.

Mr. Vero said it is 5'.

June 27, 2019

Mr. Logozzo asked if there is any proposed use of the area where the drainage is, it will be grass?

Mr. Vero said it will be green space.

Mr. Logozzo said there's no access but the top of wall is 10'4".

Mr. Vero said they are making adjustments with the BOH.

Mr. Collins asked them to discuss the concept of the dumpster enclosures, it seems like the wall is parallel to the rear property line, can you move it over to set the dumpster back in line with the retaining wall?

Mr. Vero said okay, he will make a note of that to landscape the area.

Mr. Collins said it looks like one of the dumpsters can fit between the retaining wall on the property line, why not put them both there?

Mr. Vero said okay. He thinks they do one dumpster.

Mr. Collins said he has no problem with that.

Mr. Hill asked if this is a one for one replacement regarding space and use?

Mr. Vero said no, it is not a one to one.

Mr. Hill said that affects the parking.

Mr. Vero said we started to address that; there are 76 seats in the original approval, so there are 46 proposed now so if we do the one to one parking it will be similar to 82 Main Street; we were grandfathered at 10 and provided 10 and the net was 0 but I believe this will be negative. We will give the calculation.

Mr. Collins said he needs to see a parking calculation.

Mr. Hill said to provide the old CO's. How are you going to do this, the first floor will be up pretty high.

Mr. Vero said they need handicapped accessibility in the alleyway.

David Asalti, 103 Main Street said he's met with PSEG and they are going to feed the electrical lines from the back with the new upgrades, I have agreed to go underground and I'm saying I think it should be required that they put theirs underground.

Mr. Vero said yes, that's fine.

Mr. Hill asked if the patio in front will be raised?

Mr. Vero said yes, the only access will be from inside, but they do want an outdoor component. He spoke with Mr. Collins and he is showing steps in front of the building but they will set them back.