

September 12, 2019

The Planning Board of the Incorporated Village of Westhampton Beach held its regular meeting on September 12, 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
Michael Schermeyer

Ron Hill, Village Engineer

Maeghan Mackie, Board Secretary

Brad Hammond, Building & Zoning Administrator

Anthony C. Pasca, Esq., Village Attorney

DECISION:

1. 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 and Kieran Murphree, Esq., appeared on behalf of the application.

Mr. Pasca said there is no BOH approval, and the BOH will not approve the Site Plan until the subdivision has been filed. But part of our Code is that an application is not complete until the final BOH is received. The applicant needs to file the map as soon as possible, and I have prepared draft conditions for their review, and I can provide the Board with a copy, but the biggest condition is receiving the BOH approval.

Mr. Reilly said that is our standard, we do not condition an approval on the BOH.

Mr. Murphree said we do have BOH for the subdivision, and the site plan for the sanitary flow and we had to get Pine Barren Credits for that, the only thing they are approving in the sanitary system design and that's outside the purview of the Village.

Mr. Reilly said it is, but our Code precludes this Board from doing certain things until that approval is secured and our Code does require that approval to be obtained prior to approving a Site Plan.

Mr. Murphree said it will take an extended period of time.

Mr. Pasca said you can't obtain a Building Permit, so what's the compelling purpose for the Board to do something they have never done before.

Mr. Reilly said we do not render determinations without approval from the BOH.

Mr. Pasca provided Mr. Murphree a copy of the conditions.

Mr. Murphree said that Mr. Pasca offered that he, Ms. Mackie and him sit down and go through the file.

Mr. Pasca said yes. You have the draft conditions, and I don't mind if you want to start getting them ready to be reviewed in advance so when you do get the BOH and the Site Plan approval there is no lag.

Motion was made by to holdover the application of

2. 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.

No one appeared of behalf of the application.

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3. **Westhampton Country Club, 35 Potunk Lane, (905-009-03-023.01).** Applicant requests a site plan review to reconfigure a vehicular entrance in coordination with the Westhampton Beach Village Main Street improvement project and also to improve existing dirt road openings and parking area along the ballfield with asphalt, drainage and lighting. The 45-acre parcel is located on the West side of Potunk Lane in the R-1 zoning district.

No one appeared on behalf of the application.

4. **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.

HOLDOVERS:

5. **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.

No one appeared on behalf of the application. John J. Bennett, Esq., requested a holdover of the application to October 10, 2019.

Motion was made by _____ to holdover the application of **160 Montauk Highway, 160 Montauk Highway, (905-6-1-19) Westhampton Beach**, to October 10, 2019; seconded by _____ and unanimously carried 5 ayes, 0 nays, 0 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.

7. **Marios Nikolaidis, 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. **HELDOVER TO SEPTEMBER 26, 2019.**

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.

Mr. Reilly said we received your appraisal and it meets our approval.

Mr. Pasca said the only question was whether to look at is the referral complete with the County?

Ms. Mackie said yes.

Mr. Pasca said unless there is anything else, we can close it for a determination.

Ms. Wright said there is a fill determination, and the SWPPP addresses the drainage issue, and can it be approved with this.

Ms. Mackie said they do not have the Department of Health.

Mr. Pasca said that is required before a determination is rendered.

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 J. Lettieri appeared on behalf of the application. He provided the Department of Health, and is looking for a determination.

10. **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

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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.

Nicholas A. Vero, Architect appeared on behalf of the application. He said they needed referrals from Suffolk County from SEQRA and he believes the next step would be this Board takes the Lead Agent status and I can submit a SEQRA application.

Mr. Reilly said he would like to speak with the public prior to the SEQRA determination

Mr. Pasca said the resolution would be to accept Lead Agency Status for purpose of a Coordinated SEQRA review.

Motion was made by Mr. Neubauer to Second by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

Mr. Collins said we met with Mr. Vero to determine those impacts, and the materials that need to be submitted to assist this Board in making a SEQRA determination, but prior to receiving those materials you can't make such determination.

Mr. Pasca asked for the areas he was asked to look at.

Mr. Collins said it is traffic, and the impact to community character. He has to give us a visual assessment of the architectural style, but for SEQRA is we need to know what the mass and scale is; how it will address the street and the parking screening from the street and the residential neighbors.

Mr. Pasca said that is similar to the Avidor application. They were required to submit a conceptual plan.

Mr. Vero said yes, Mr. Hill would like to see a trip generation study; we also wanted to make sure we are addressing ingress and egress with DPW and the Lilac Road site plan screening, and if we are extending the B2 Zoning in to the Residential.

Mr. Reilly said that's an issue I want to get back to, when we first discussed this several months back I wanted to make it clear that we are doing this in a conceptual fashion for planning purposes, and Mr. Pasca said as part of SEQRA we have to include the zoning change.

Mr. Pasca said yes, you have to and it's because of what you did by accepting Lead Agency, you are more than the PB focusing on the environmental impacts that result from all of the coordinated actions.

Mr. Reilly said if we get to the point of a SEQRA resolution, it's not an endorsement of the zoning change.

Mr. Pasca said yes, but you have to give enough information for the boards to rely on. You can issue a positive declaration and you analyze a bunch of issues; if you issue a negative declaration it's binding on the other involved agencies and that's taken in to account the types of impacts that they would look at. You should be looking at the variances for purposes of environmental review, and that has to be completed.

Mr. Reilly said okay, he wants to make sure the SEQRA process and a favorable decision does not have any endorsement.

Mr. Pasca said that's correct.

Mr. Vero said yes, and we have to go through that process to get to the Zone Change.

Mr. Reilly said its dual tracking, it's conceptual and SEQRA.

Mr. Pasca said yes, you need the conceptual planning to understand the impacts.

Mr. Vero said whatever submission we make does not mean that is what the site plan will be, but we need the zone change in order to move the site plan forward.

Mr. Reilly said I raised a number of issues the first time, and my understanding is that we can proceed with the SEQRA.

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Mr. Pasca said there are members of the public who may or may not have any comment.

Thomas Gibbons, Esq ., appeared and said he did not have anything to add to the application.

Mr. Reilly said if there is anything you wish to add now is your time.

Ray Dean, 105 Oak Street, said he wants to make sure the Board is well aware, 15 years ago that corner was owned by his family and it used to be Lilac Farms but prior to the Village changing the Zone to residential it was always business, so this is not something different you are bringing it back to where it was all along. It was done across the street and goes further back but it is the same zoning.

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

Mr. Collins said under SEQRA you have 21 days to make a determination, and we need to put something on the record and that time clock is stopped because it's not complete under SEQRA.

Mr. Vero said he agrees with Mr. Collins and he asked him to bring that up.

Motion was made by Mr. Neubauer that the application is deemed incomplete for purposes of SEQRA determination; seconded by Mr. Jones and unanimously carried 5 ayes, 0 nays, 0 absent.

11. 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.

Jason Ormond appeared on behalf of the application. He received Mr. Hill's comments.

Mr. Reilly asked when they are going to ZBA?

Mr. Ormond said next week.

Mr. Reilly said they received approval from the ARB, and once they get through ZBA, from our perspective Mr. Hill's comments were what need to be addressed and you have time to work on that because you won't receive a determination from them until October.

Mr. Ormond said he started to address Mr. Hill's comments.

Mr. Reilly asked Mr. Collins and Mr. Hill if they have any questions or comments.

Mr. Collins said no, he believes it's all addressed. He has to confirm the square footage of the building. It is an unlisted action, and you can coordinate the review or not, and if you are going to coordinate it you should commence that now.

Mr. Reilly said he will not receive a determination from ZBA until October.

Mr. Pasca said the ZBA cannot act until SEQRA is determination. If you do an uncoordinated review, the ZBA can do their own, and you can do your own. I suggest we leave it uncoordinated. BOH doesn't really do SEQRA they just ask whether one was done and they rely on it. We can get the SEQRA determination started. There is no resolution.

Mr. Hammond said the gross square footage he has is just over the 4,000 square foot threshold.

Mr. Pasca said we can reconvene on SEQRA and Mr. Collins can review it and he can determine whether it's complete.

Mr. Collins said its complete, and it's a Negative Declaration.

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. **Laurence Verbeke, 167 Oneck Lane, (905-009-01-019)**. Applicant requests review to subdivide a 207,984 SF (4.77 ac) lot, improved with a single-family dwelling and accessory structures, into two flag lots of 151,621 SF (3.48 ac) and 56,363 SF (1.29 ac). The subject property is located on the west side of and with access to Oneck Lane, in the R-1 zoning district.

JJB appeared on behalf of the application. He said they submitted access maps, and there are 5 lots that gain access on this common driveway which is a separate tax map and my thought not to over burden it by putting another access point on that common driveway is there is one lot and it has the waterfront house and a circular driveway so I had David Fox who shows a realigned driveway on the pole of what will be Lot 2 the waterfront lot, and we're taking the water service off that lot and will be realigned on the flag portion of Lot 2, and realign the driveway so there is its own separate access of Oneck Lane and the resulting Lot 1 will use the common driveway so after the subdivision you'll have five lots using the common driveway. The water front lot will be relegated and the driveway will be directly from Oneck lane. My apologies if this has been spoken about before, so I did not know whether SEQRA had been spoken about and the EAF was filed with the application, I guess it's an unlisted action and wonder if the Board can take action for purposes of SEQRA. A Department of Health application was filed in June and I have never seen them do SEQRA themselves.

Mr. Pasca said they do an unofficial coordination.

Mr. Bennett said yes, he believes that to be true. He would be happy with an uncoordinated review.

Mr. Pasca asked if they are seeking variances?

Mr. Bennett said no.

Mr. Pasca said we were waiting for you to finalize the configuration. Is there any questions or comments from Mr. Collins.

Mr. Hill said Mr. Hammond raised a fire access issue.

Mr. Hammond said the question is whether the access will increase, but this says no.

Mr. Hill asked if the turn around is still required. You can do a hammerhead on the waterfront lot. The idea is for a fire truck to be able to turn around and its preexisting.

Mr. Pasca said it is.

Mr. Hammond said since 2011 the State says fire apparatus must be able to turn around.

Mr. Hill said the subdivision is where it would go.

Mr. Bennett said a hammerhead would be an esthetic nightmare, but maybe if we want to discuss a hammerhead can it be pavers or grass.

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Mr. Hill said yes, it has to support a fire truck.

Mr. Pasca said you are talking about creating a hammerhead for other parcels.

Mr. Hill said no, the waterfront lot which is undergoing subdivision but it is creating it for other lots.

Mr. Pasca said let's discuss Lot 2.

Mr. Hammond said if there are 4 houses taking access it does not change circumstances.

Mr. Pasca asked what they think about the access, is that access for the driveway sufficient for emergency access? The new driveway you are showing for Lot 2.

Mr. Hammond said you would call part of the ROW and improve it so it's not lawn or fence that would stop the turn around.

Mr. Pasca said an argument would be made that you're better off connecting the property.

Mr. Bennett said we thought the direction was taking the burden off of the common driveway.

Mr. Pasca said what about if Lot 1 has a driveway on Oneck and you still have your circular turn around for Lot 2.

Mr. Hill said that would work, and I was surprised it got cut off.

Mr. Bennett said we didn't want to add another lots use to that common driveway so that's why we're offering to take the waterfront house to take it away. You can have emergency vehicle only.

Mr. Schermeyer asked what the front yard is considered. If you bring the driveway down what is the front yard.

Mr. Pasca said having the circular would work.

Mr. Bennett said you can leave it for emergency access and it can be covenanted that it has to remain unburdened. So the area where David Fox shows the turn around and will be the result of Lot 1 it has to remain unobstructed. And if you wanted to make sure that was of a certain composition you can.

Mr. Pasca said to think about it, and it doesn't effect SEQRA.

Mr. Hammond said another point he brought up was the rights to change the right of way, can you state on the record whether you think the changing of the access is or is not otherwise prohibited.

Mr. Bennett said he submitted the Title Work and there's no prohibition against changing the access and where it would become an issue is if I'm further burdening the easement, but it's a net wash. The issue here is not further burdening the easement, if I wanted to take this and I don't see any legal prohibition whatsoever.

Mr. Pasca said he does not either, and he does not think if even the addition of one lot is there it still wouldn't. There's no exclusive easement and there's no reason why Lot 1 and Lot 2 couldn't take access of it.

Mr. Bennett said the people who own it, own fee title so there isn't even a burdening issue. They own, in effect, fee title.

Mr. Hammond said he's asking if there should be a condition that the waterfront lot does not take right of way?

Mr. Pasca said we are contemplating that, we are avoiding the addition to trigger the need to find out if it satisfies the lots, but the final covenants would have something that Lot 2 does not take direct access on to that right of way, except for emergency vehicle access.

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Mr. Bennett agreed.

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

Alexandra Rhodie asked if they can see the plans for the driveway. Mr. Reilly showed her the plan. Mr. Bennett explained the plan to her, instead of it being circular the middle lot will take access from the flag. The driveway is being shifted.

Mr. Hammond said on a flag lot they get to elect their own front yard.

16. David McBride, 45 White Oak Lane, (905-9-1-3). Applicant requests review to install fill within the floodplain in conjunction with development of a single-family dwelling. The subject property is located on the west side of White Oak Lane, in the R-1 zoning district.