

September 26, 2019

The Planning Board of the Incorporated Village of Westhampton Beach held its regular meeting on September 26, 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. 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.
- 2. 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.
- 3. 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.

**HOLDOVERS:**

- 4. 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.
- 5. 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.
- 6. 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.

Richard T. Haefeli, Esq., appeared on behalf of the application.

- 7. 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.
- 8. 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.

**9. 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, Architect appeared on behalf of the application.

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

**10. 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**

**11. 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.

Don Moore appeared on behalf of the application.

**12. 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.

Bailey Larken, Esq., appeared on behalf of the application. When they last appeared they requested a SEQRA determination.

Mr. Collins said okay, they will do a resolution and issue an Negative Declaration.

James P. Going, Esq., appeared in opposition to the application. He represents Mr. and Mrs. Rhodie and said he went back to 1950 with the PB and checked their files, and the only thing he can come up with is the meeting of 1973 where the Head of the Board said that Joseph Rhodie submitted a letter stipulating the granting of the waiver, he will not reapply for further division of the remaining property more than 3 lots. We take the position that the 3 lots are what as known as 167, that's what we call the Main House, Lot 19 is one of them; 20 was the carriage house is another; and what looks like a grant where this came from is the granting of a third lot over to number 5 which enabled them, at that time, the zoning was 1 acre; they were able to build a house and we contend that parcel, the main house and the carriage house are the 3 that they can subdivide, and I went through every record, but as far as I can find out the records don't exist. I checked everything on the PB and ZBA but I could not find anything. All I could find was minutes. Was a covenant filed?

Mr. Reilly said did you check with the County Clerk's office?

Mr. Going said we did.

Mr. Reilly said that's a legal determination.

Mr. Going said they granted the ability to subdivide the property to create Lot 5 as a conforming lot.

Mr. Reilly said the question remains, where is the document that makes that agreement binding?

Mr. Going said there is nothing to be found in our records. The Building Inspector, Kerry and Maeghan searched.

Mr. Neubauer asked if we have the letter?

Mr. Going said no. I would request that the Board due their due diligence and see what you can come up with.

September 26, 2019

Mr. Reilly said that's not our obligation to do that research. You are capable and you did as much as you can and hired title company's, and I am sure if the staff could not, I am not sure there is much more we can or we are obligated to do.

Mr. Going said there's nothing to refute my argument.

Mr. Reilly asked if those are meeting minutes?

Mr. Going said yes.

Mr. Reilly said it is just a representation and I'll refer to our Attorney in that regard.

Mr. Pasca said what I'm gathering, in order to have a bunding condition, you need a resolution with that condition or a covenant. Is there either of those two things?

Mr. Going said there is nothing in the file.

Mr. Pasca asked how the current owner be held to something that does not exist of record. You're making an argument that someone should be bound to something in a record that doesn't exist.

Mr. Going said that's the problem.

Mr. Pasca said you're trying to hold an owner to a condition that does not exist.

Mr. Going said it does exist, there was a prohibition that it would not be divided beyond 3 lots.

Mr. Pasca asked where this is codified and binding on future owners?

Mr. Going said it should be in the PB file, but it doesn't exist. I went and looked through every file.

Mr. Reilly said you are saying, it must exist because you can't find? If it can't be found, all we have is minutes that there was representation at a meeting. We can't presume it existed because you can't find it.

Mr. Going said if you make an application there has to be a record.

Mr. Reilly said if it can't be found, I'm not sure what we can do.

Mr. Pasca said there are things that are lost in History and that's just a fact, but you can't bind, and we can't bind as a Board a current owner that doesn't exist of record because current owners have rights too, and unless they are limited by a condition that's codified to a condition, how can this Board hold them to that condition.

Mr. Going agreed with Mr. Pasca. But what does this mean, it can't be ignored, it has some substance and credibility to it.

Mr. Reilly said since you are just presenting it, I request you submit it with a written argument for our Village Attorney to review. And the sooner you do so, the better.

Mr. Going asked until October 24, 2019 to do so.

Mr. Reilly said we are doing the SEQRA on October 10, 2019.

Mr. Going asked to hold it over to the November meeting.

Mr. Pasca said we need a time period for the applicant and their attorney to review and respond.

Mr. Reilly said we require submissions one week prior to the meeting.

Mr. Pasca said November is a long time away and it's not your application, and your imposing because you're not ready, you're asking them to hold off for a month so you can get it together. I think you should get it to them two (2) weeks.

Mr. Reilly said you need to submit everything by November 1, 2019.

**NEW APPLICATIONS:**

**13. Rogers Associates LLC, North Side of Rogers Ave (905-003-01-007.01 through 007.07).** Applicant seeks site plan approval to construct 52 dwelling units in 13 Buildings (11 townhouse groupings, 2 two-family dwellings) with private community center, pool & tennis court for multifamily development with on-site sewage treatment plant in two development phases.

Frank A. Isler, Esq., appeared on behalf of the application. He said that very briefly they have applied for a Site Plan application for a property in the MF District, and they are proposing 13 buildings, 11 townhouses, two family dwellings, and a community center, a pool, tennis court and sewer treatment plant. We have submitted a narrative and we are proposing two phases; the first is the construction of the community center and one town house with 4 units. And the community center will be used temporarily as a sales office and the town houses would be models; and the second phase would be the rest of the project and the sewer treatment plant. As you can tell there are several representatives of the project.

Jim Behringer, Project Manager appeared on behalf of the application. They are proposing two phases as stated by FAI. The first phase will take 7 months, and once we can proceed with the second phase we will proceed with the sewage treatment plant and the rest of the development.

Brian Grobman, PW Grosser, they are the Civil Engineers; we have prepared Phase I and Phase II designs. Included in the designs are water supplies, sewage treatment, and we've received preliminary comments from the Village and Engineer. We have tried to design the layout such to accommodate the Village Code to the extent we could do so with respect to landscaping and parking and we are over parked and the intention is to provide adequate guest parking. The landscaping is shown with evergreen screening around the perimeter, there will be foundation plantings on the buildings themselves. The treatment plant is one that has been used and approved by the BOH and that's pending before the BOH. It is a pure stream not the chromoglass system and that's going to be in the NE corner of the property, tucked closer to the railroad tracks and permits a reduced separation due to the proximity of the RR.

Mr. Collins asked the capacity.

Mr. Grobman said just under 15,000 and it's the maximum. Its below grade and screened and no real visual impact.

Jerry Rumplick, Architect. He said they 52 townhouses, there will be 8 affordable units; 8 3 bedroom, and 36, 2 bedroom units. That meets the average of 2 bedrooms. The affordable are 1,200 square feet and the 2 bedrooms are 2,000 square feet and the 3 bedroom are roughly 2,300 square feet. All of the units are two story and we are planning full basements. The community building is 2,850 square feet and includes an exercise room, common area, and billiard room. There's outdoor recreation, pickle ball, bocce ball and horseshoe courts.

Mr. Reilly asked if the units will be uniform?

Mr. Rumplick said there is a two unit, and the affordable are 6, 4 affordable and 2 market rate.

Mr. Reilly asked their exterior will be the same.

Mr. Rumplick said yes.

Mr. Neubauer asked if they will all be attached?

Mr. Rumplick said it's 13 total buildings, there are two, 2-unit buildings; the remainder are 4 unit; and there are 6 unit buildings which include 2 affordable units in each building. It is a townhouse unit, so it's ground up unit.

Mr. Neubauer asked if they reviewed the Building Department and Village Engineers comments?

September 26, 2019

Mr. Rumplick said yes.

Mr. Collins said we have to start the SEQRA process.

Mr. Neubauer said when we talk about Phasing, you're not getting an approval for Phase I and a separate approval for Phase II and it's handled as one, that's phased. And we're not anticipating a lack of success that leaves an incomplete site.

FAI said that's our understanding, you have the entire site plan; the first units will be models and we're not phasing a site plan basis at all.

Mr. Neubauer said those will not require a full sanitation facility during that phase.

Mr. Pasca asked if you're phasing the construction or approvals?

FAI said no, we are asking for one approval, it's a one-step; we are phasing the construction.

Mr. Reilly said that's similar to what we did with Timber Ridge.

Mr. Neubauer said their letter said they were seeking a Phase I approval and a Phase II approval.

Mr. Pasca said for purposes of the review, the best thing to do is focus on the final and if you get to the point to the approval time, then we talk about construction phasing and bonding but we should review it as one final project.

Mr. Isler said we are coming with one site plan, seeking one approval. The comments from Mr. Hill were for the entire site plan, not the first phase.

Mr. Reilly said the construction will be phased.

FAI said with respect to the ARB, that's a referral?

Mr. Reilly said yes, when you get through SEQRA we will do so.

Mr. Collins said we have only seen one elevation; we want to see them all before we submit that to the ARB. It is a SE and that's handled by the Trustees, and those standards are site plan related.

FAI said they filed with the Trustees and they referred it to this Board. We understand they will address the SE.

Mr. Collins asked if you went through those standards?

FAI said yes.

Mr. Neubauer asked if the Trustees get it back until we make a determination?

Mr. Pasca said yes, but they are involved for SEQRA. We have to determine who is Lead Agent, most likely it will be this Board.

Mr. Collins said the only involved agencies are the Trustees, PB, BOH, SCPC. Did they submit a Long EAF?

Ms. Mackie said they only submitted the Short Form.

Mr. Pasca said before we can do the coordination, we need the long form. Before we can send the letters out, we need the Long Form.

Mr. Reilly said we need the long form before we can act.

Mr. Collins said prior to commencement we need the Long Form, at the next meeting upon receipt of the long form you can pass a resolution to commence coordination.

September 26, 2019

James Czachur, 92 Rogers Avenue and he is right next to this development. I want to review a few things, when the Master Plan revision was the division of the Village and quaint seaside community, not mass development. This is mass development. This was rezoned as MF 20 and when this was concluded it should have been rezoned as single family and that was not done. We need to create affordable housing, and I heard 8 units are affordable and are they affordable for this community. I have prepared copies of the area of the surrounding homes, and when looking at this development so you can see the impact of a clubhouse pool and tennis court on the street. I object to the site plan, row houses, only designed to maximize the structures on the property and does not fit with the surround residential properties. Having a clubhouse, pool, and will generate potential noise and when we as residents most enjoy our homes and this should be on the NE side of the property. Rogers Avenue and the Extension are two land narrow streets, but there is additional traffic by those avoiding the traffic light and we get a lot of the cut through traffic, and we have cars parked on the street and makes the road impassable reducing it to one lane. As such, the Plan calls for 2.6 cars per unit, and there's 52 units, there is not enough parking in this design, where would the over flow be? This most certainly will adverse the property values of the single-family residences in the surrounding area. This is a SE application and should require traffic studies and the pollutants left by the asphalt plant. There is no benefit to this community with this plan.

Ronni Shapiro, 71 Rogers Avenue and I live across from the entrance / exit of this planned community. I did have a question, I wanted to know whether or not and this is important, will the basements have egress windows?

Mr. Reilly said if we get that far, they will be required.

Mr. Hammond said all basements, finished or not will require egress.

Ms. Shapiro said she moved here four years ago, and this is the biggest investment in her life. I moved to Westhampton Beach and Rogers Avenue and I drove around town to find the block with the most lights on and I was moving here and I wanted a quiet neighborhood with year round residents. I live in an neighborhood of people who are invested int his community. There are shop owners, and people who still shop on Main Street; we use the restaurants and this is our Town. People who are members of the Police Department, and Ambulance and Volunteer Fire Department Members are committed and not just seasonal people and there is a huge difference. I am an event planner, and having made dinners for 3,000 people and any place with a community center can host an event. If you have a birthday party, wedding, the cars will flow out on to this street. We have no sidewalks, and I live on a blind curve if people are parked on either side of the street near that curve a fire truck will not fit through and I ask the Board to make sure that is a possibility and we do not want to lose anyone in a fire because there are too many cars parked on the street. I could not do a traffic study, so I did a voluntary one and I sat outside on Sunday from 7am to 12pm and I counted 59 cars, and some were the same coming and going; 1 taxi, 12 bicycles and 10 people walking dogs. That's a lot of people walking a street with no stop sign, red light or speed bumps and you're proposing all of these extra cars. Again I moved here for the quaint community that Westhampton Beach has a reputation for; this is a community and you are going to take my investment and flush it down the toilet. I don't know what to say except to beg you to think of us where this is our nest egg and our home and where we want to retire.

Lou Sussan, 54 Rogers Avenue. He said that he lives there with his wife which was a Summer home, but now they are there more frequently. I appreciate the comments and concur with what they said. I'm glad there's no asphalt plant, and when I bought the home I did so under the knowledge that someone would take it and would develop it and they would put condos on it. But as others, I selected the block because of the sense of community and most are on shy 1/2acre properties and there is a traffic problem and it will hit it like a nuclear bomb. My other home is in a Townhouse Community, and there are 72 units, and we all have garages and they can hold two to three cars; we have 50 to 60 guest parking spaces and I will tell you that they are filled every night after using the driveway and garages. Without garages and 52 units, there is no way they can fit the cars. My suggestion is to ask you as the PB to review the project and the impact of the traffic on the street and I think the project is too large. I am for them developing the property, but it should not be 52 units. It should be brought down to 42 or 32 whatever is reasonable, but we have to consider the lives of everyone that lives on the block.

Jeffrey, 46 Rogers Avenue. I was one of the residents who was one of the first ones when a car hit a parked car, and the resident came out and I told her because of the people walking on the street, sidewalks will not help with little kids, or people walking dogs because the speeds along Rogers

September 26, 2019

Avenue exceed 25 mph. People are easily doing 60 mph's up Rogers Avenue and I will estimate 104 vehicles, plus some maintenance vehicles and no one in human nature, will have a lot more people. There are 104 more cars speeding down the street than we have.

Ken Flood, 59 Rogers Avenue. I have resided on Rogers Avenue for 38 years and we did not get notices.

Mr. Reilly said we can't obligate the applicant to send the notices.

Mr. Flood asked if the PB goes to let the residents know.

Ms. Mackie said that the applicant is only required to notify people within 200' and she provides the list to the applicant; because the property is so large, the list was not that long. But no applicant is every required to notice every resident on the street, and they did send their notices to everyone on their list.

Marc DeMartino, 43 Rogers Avenue. Residents brought up a lot of points of traffic and speeding vehicles. I don't know how long it will be a construction site and vehicles going up and down the block; will these be rental units, 90% of the block has year round residents and a lot are not rentals and I don't want to see that happen. I am about the community growth, and I compare this to Gettysburg, and there are 60 to 100 cars parked in there and they are rented out and half are not in this community year round.

Chris Clapp, 51 Rogers Avenue. To echo everyone's concerns, there are probably well over 1 dozen children on this road under the age of 10 and it's a busy elementary school pick up, but also makes the neighborhood special again, it is a rebirth of the neighborhood and young families like myself have come in and this is a year round community on this block and we want to keep it that way. A few other questions about the trajectory of the Village in general and I would like you to think of this as the Whole of the Village as well; you are likely to see the redevelopment of the North Mall at some point in time. If you get the sewer up and down Old Riverhead Road and the density will be increased and it will change that quaint character of the Village if we don't update the Master Plan.

Mr. Reilly said those comments are appreciated, but they are for the Board of Trustees. We can only work within the confines of the Code as it's zoned.

Mr. Clapp said he understands that.

Mr. Neubauer said that's an important message. A lot of the comments should be directed to the Trustees.

Mr. Clapp said this falls within the Aspatuck creek watershed, and to bring that creek back to health you're taking the wastewater from Main Street and bringing it up to the sewage treatment plant, even though you're treating it, you're still bringing the mass loading; there are four people on this road to upgrade their sanitary systems and consider what this will do on top of that, and I work with PW Grosser often, and they can Engineer something, but it is additional mass loading. The parcel has 6 parcels and a road on the tax map and there's nothing wrong with developing it that way and you can make more money that way. They claim the size is 2,300 square feet; the average home on Rogers Avenue is 1,000 square feet and the size of the units is out of character with the community.

Mr. Hammond said the Special Exception, with many uses that are permitted and a SE Use there is extra criteria for the vast majority of the SE uses you go to the Trustees first and get their approval, but before they do that, they refer to the PB. The Code says the Trustees should not refer this to the PB for input or recommendation, it is Planning heavy and the PB must approve a plan before the Trustees can act. At some point, they will bring a plan that this Board is okay with back to the Trustees and they can impose conditions just as well as the PB can but it cannot be granted by the Trustees until they receive an approval from the PB.

Mr. Neubauer said there is no doubt that they will get an approval, and we will work through this process and we take all considerations in to account.

Mr. Reilly said some may not feel comfortable to speak publicly, and you may not be able to attend, we welcome and we do read all written submissions and just because you do not speak, does not

September 26, 2019

mean you do not have an opportunity to be heard. We welcome public input and we spent a long time on Timber Ridge and it's driven by Public Comment and we welcome that and encourage it.

Joe Pagac, 86 Rogers Avenue. Everything that was going through my mind was said by Mr. Czachur, and it's out of character, it's a single family community, and this project makes sense on Old Riverhead Road, but at the end of Rogers Avenue on a blind corner there are so many problems and I don't think it's in character with the Village improvement. We hope you do a lot to vet the application, and the suggestions are great. There is a lack of sidewalks, lighting and speeding. This Town has a ton of transient residents that come in and swell up during the Summer and we need more full-time residents and the application should be geared towards that.

Cynthia Schunk, 72 Rogers Avenue. As you can see between myself and my family, we have donated to the community over 110 years of service and in the course of being on Rogers I have watched it evolve and go through cycles and right now it's one of the most marvelous neighbors and you see the neighbors walking their kids and dogs, and everyone of us are worried about the speed of the cars. When I come home, I come off of Riverhead Road I go down the Extension and take the blind corner and there are trucks and vehicles that force me in to oncoming traffic. The parking and traffic has become really bad over 10 years. This application leaves me speechless for its intensity. I know, I have had a number of near misses and that's in the Middle of the Summer and the cars are going 50 to 60 mph on the street and they won't slow down. You can't get the cars to slow down and there are a lot of families moving in with little kids and every day there are kids walking their dogs and it's become a community that its wonderful and this gets presented, but the intensity alone is overwhelming. I did serve on the PB in the late 1960's and the Town PB in the 1970's and I always felt we planned for the community health and safety and I see a major safety issue and the issue with the recharge and sewage is the health part but really give consideration to the intensity and we can't deal with it in the way of safety and this is only going to make it worse.

Betsy, 24 Pine Street. She is on the corner of Rogers Avenue and Pine Street. No one has brought up the scariness of the entrance to Montauk Highway. The people during the Summer turn in to Dunkin Donuts and you're trying to get home, there are several near misses. Pine Street is small, and people have found and discovered it can get you out the other side. That can't hold the traffic from this. This belongs on Dune Road, not on Rogers Avenue.