

**Village of Westhampton Beach
Board of Trustees Meeting
Wednesday, November 18, 2020 at 5 p.m.**

RESOLUTIONS:

1. Authorize Payment of 2019/2020 Assessment Roll Corrections

RESOLVED, the Board of Trustees hereby authorize payment of 2020/21 tax year property tax reduction in the amount of \$15,164.63 to the property owner specified below as a settlement of Small Claims as ordered by the NYS Supreme Court.

2. Accept Bid Proposal- Phase 1 Collection & Conveyance System-Contract G

RESOLVED, that the bid proposal submitted by Thomas Novelli Contracting Corporation for the Phase 1 Collection and Conveyance System to S.C.S.D. No. 24 Contract G in the amount of \$12,344,000.00 is hereby accepted.

3. Accept Bid Proposal- Phase 1 Collection & Conveyance System-Contract E

RESOLVED, that the bid proposal submitted by Hinck Electrical Contractor Inc. for the Phase 1 Collection and Conveyance System to S.C.S.D. No. 24 Contract E in the amount of \$656,745.00 is hereby accepted.

4. Approve 2021 Marina Rates, Rules and Regulations

RESOLVED, that the attached marina rates, rules & regulations for 2021 are hereby approved.

5. Approve Findings - Easement/condemnation

WHEREAS, in connection with acquiring easements over certain parcels of private property which are necessary to construct the collection system for the Phase 1 area of the Incorporated Village of Westhampton Beach Sewer System (the "Sewer System"), a public hearing was held, after due notice, on November 5, 2020 at 5:00 p.m. at Village Hall; and

WHEREAS, after due deliberation, the Board of Trustees has caused a Determination and Findings Pursuant to Section 204 of the Eminent Domain Procedure Law ("EDPL") to be prepared.

NOW, THEREFORE, be it Resolved that

The Board of Trustees hereby adopts the Determination and Findings Pursuant to Section 204 of the Eminent Domain Procedure Law (the "Determination and Findings") relating to the Sewer System and the acquisition of easements over the private property required thereby.

The Village attorney is hereby directed, pursuant to EDPL Section 204(C):

1. to prepare a synopsis of such Determination and Findings; and
2. to prepare a notice to be served upon each assessment record billing owner or his or her attorney of records whose property may be acquired.

The Village Clerk is hereby directed, pursuant to EDPL Section 204(A) and (C):

1. to publish the aforesaid synopsis in the official newspaper of the Village in at least two successive issues; and
2. serve such notice and synopsis upon each assessment record billing owner or his or her attorney of record whose property may be acquired.

6. Approve Special Exception Application - Convenience Store, 112 Montauk Highway

WHEREAS, by Special Exception Permit Application dated April 8, 2020, and filed on April 9, 2020, 804F Realty Corp (hereinafter, the “applicant”) requested a Special Exception Permit from the Board of Trustees to expand the accessory convenience store (within the existing building) to the automotive service station located on the property located at 112 Montauk Highway, Westhampton Beach, New York, SCTM 905-4-2-14.1; and

WHEREAS, the property is located in the Village’s B-2 zoning district; and

WHEREAS, in the Village’s B-2 zoning district, an automotive service station is permitted as a special exception permit use; and

WHEREAS, the existing accessory convenience store was permitted by variance granted by the Village’s Zoning Board of Appeals on March 17, 2005, but the variance limited the square footage of the sales area to 160 square feet; and

WHEREAS, under Local Law No. 8, adopted on November 7, 2019, the Board amended the definition of automotive service station to include the following: “An accessory mini-market or convenience store or expansion thereof may be permitted by special exception with a gross floor area no greater than 350 square feet per fueling station up to a maximum of 3,000 square feet, and in accordance with the dimensional requirements of the zoning district”; and

WHEREAS, based on this amended code definition, applicant has applied to the Board of Trustees for a special exception to allow the expansion of the existing convenience store within the existing building (with a 1,936 sf footprint), including a proposed sales area of 1,085 square feet and 646 square feet of space for a utility room, cooler, restroom and attendant area; and

WHEREAS, because there are six fueling stations at the station, the proposal falls within the permitted ratio of 350 square feet per fueling station; and

WHEREAS, pursuant to Village Code section 197-77, the Board of Trustees referred the application to the Village of Westhampton Beach Planning Board for a recommendation; and

WHEREAS, the Planning Board, in response to the referral, provided individual statements from each of its members, by memorandum dated November 2, 2020; and

WHEREAS, the application is a “Type II” action under the State Environmental Quality Review Act (SEQRA), and no further review is required; and

WHEREAS, the application was referred to the County of Suffolk department of public works, which has preliminarily endorsed a three curb cut plan, with two one-lane curb cuts (one right turn in and one right turn out) on Montauk Highway and one two-lane curb cut on Old Riverhead Road; and

WHEREAS, pursuant to Village Code section 197-76, following a public hearing, the Board of Trustees has the power to approve, disapprove, or approve with conditions an application for a Special Exception Permit for uses that are specifically provided for in Chapter 197; and

WHEREAS, a Public Hearing was duly noticed and held on November 5, 2020; and

WHEREAS, at the public hearing, one of the issues discussed by the applicant's engineer, Chris Tartaglia, the Village's engineering consultant, Ron Hill, and the Village's planning consultant, Kyle Collins, was the preferred site layout of the fueling stations in relation to the building; and

WHEREAS, with respect to the layout, Mr. Tartaglia, discussed the safety and circulation issues that he claimed justified the applicant's proposed fueling station layout (which places three pumps in parallel with Montauk Highway with vehicles having a north/south orientation when fueling, in the southern area of the property) as compared to the Village planning consultant's proposed layout (which would place the three pumps in a more diagonal orientation, with two pumps in line and a third placed to the side of those two); and

WHEREAS, the Village's engineering consultant generally agreed with the applicant's proposed layout of the pumps with respect to safety and circulation; and

WHEREAS, additional issues raised at the public hearing include questions as to whether the proposed canopy over the fueling stations would have an adverse impact on the character of the community and whether the size of the proposed convenience store should be reduced; and

WHEREAS, the Board of Trustees, having deliberated on the application and the testimony presented at the public hearing, finds as follows:

1. The site plan is generally proposed in such a manner that the Board is convinced that the two uses (the primary service station and accessory convenience store) can safely and reasonably be accommodated on this property, in the general configuration proposed by the applicant, with the proposed curb cut plan endorsed by Suffolk County. In connection with the proposed layout, the Board acknowledges the Village planning consultant's concerns over the aesthetics of a longer canopy that is parallel to Montauk Highway as compared to a shorter but wider canopy that is at an angle to Montauk Highway, but the Board credits the testimony of the applicant's engineer, as supported by the Village's engineering consultant, and finds that the applicant's proposed pump configuration is the more appropriate configuration for accommodating both the primary and accessory uses on this property, giving due regard to issues of public safety and welfare. The Board is not persuaded that the angled alternative configuration would provide such a material improvement from an aesthetics view to justify use of that configuration

over the applicant's proposed configuration, which is more appropriate with respect to public safety and circulation. The Board notes that the applicant's representatives made clear that they would accommodate any design preferences expressed by the Village relating to the canopy, as well as specific site improvements that can be accommodated within the general pump configuration, such as relocating the proposed air and vacuum stations away from the southeastern area of the site to avoid conflicts with vehicle circulation.

2. The proposed convenience store, in terms of size and use, is a reasonable accessory use for this site. The size of the store is less than the maximum permitted under the ratio adopted by the Village in Local Law No. 8 of 2019. Although the sales area is an increase over the size of the sales area permitted under the 2005 variance, the applicant is not proposing an increase in the total gross floor area of the building but is only proposing to expand the convenience store use while simultaneously decreasing the existing office and storage space. And while the primary use (the service station) is not increasing in scope, it is being reconfigured in a manner that will make it more compatible with the proposed accessory use, by placing the fueling stations within a more separated area at the southern portion of the site, in order to allow the accessory convenience store to be accommodated on the northern portion of the site.
3. The application, as proposed, satisfies the criteria of § 197-79 of the Village Code, in that:
 - a) the automotive service station and accessory convenience store will not prevent the orderly and reasonable use of the adjacent properties or of properties in the surrounding area or impair the value thereof;
 - b) the automotive service station and accessory convenience store will not prevent the orderly and reasonable use of permitted or legally established uses in the district wherein the proposed special exception use is to be located or of permitted or legally established uses in adjacent districts;
 - c) the safety, health, welfare, comfort, convenience or the order of the Village will not be adversely affected by the automotive service station and accessory convenience store and their location; and
 - d) the automotive service station and accessory convenience store will preserve and protect the environment and be in harmony with and promote the general purposes and intent of the zoning code; and
 - e) The Board has given consideration to the matters set forth in § 197-80 of the Village Code, and finds that the applicant's proposal does not raise any concerns with respect to such matters.

Now, therefore, be it RESOLVED that, the applicant's request for a Special Exception Permit to expand the accessory convenience store (within the existing building) to the automotive service station located on the property located at 112 Montauk Highway, is hereby approved, subject to the following:

1. The applicant shall be required to apply to the Village's Zoning Board of Appeals for such variances as may be deemed necessary by the Village's Building Inspector, and nothing herein shall be deemed to pre-empt the Zoning Board of Appeals from performing its review of such variances;
2. The application shall be subject to site plan review by the Planning Board, and nothing herein shall be deemed to pre-empt the Planning Board from reviewing the site plan and imposing such conditions as may be reasonable and appropriate, including relocation of the air and vacuum stations, provided such conditions do not materially alter the basic configuration of the two uses proposed by the applicant and approved by this Board;
3. The applicant's use of the convenience store (a) shall be limited to the retail sale of goods allowed in a mini-market or convenience store, as defined in the Village Code, for off premises consumption only, but shall not include the sale of food prepared on site or other use that would qualify as a restaurant, as defined in the Village Code and (b) shall be operated by a single operator, as a single business, with no separate counters for the sale of select, designated foods or drinks.
4. The applicant's use of the site as an accessory convenience store and automotive service station shall be subject to recorded covenants and restrictions, which shall supersede the prior covenants and restrictions imposed as a result of the 2005 variance. The specific terms of the covenants and restrictions shall be those required by the Planning Board and/or Zoning Board as part of their further review and shall include, at a minimum, and conditions expressed in this resolution.

7. Authorize Notice to Bidders-Lease of Property

Whereas, the Village of Westhampton Beach (the "Village") is soliciting written proposals for the long-term lease of approximately 13.17 acres of unused real property owned by the Village (formerly used as Village garage) located at 172 South Country Road, Quogue, New York, SCTM No. 0900-359.00-03.00-047.001 (the "Property").

Now, be it; RESOLVED, that the Village Clerk-Treasurer is hereby authorized to post a Request for Proposals for the Village of Westhampton Beach Long Term Lease of Property.

8. Authorize Use of Village Property-East End Hospice

RESOLVED, that East End Hospice is hereby authorized to use the Village Green on Sunday, December 6, 2020 for the annual Tree of Lights Memorial Service from 2:30 p.m. until 3:30 p.m.