

April 22, 2021

The Planning Board of the Incorporated Village of Westhampton Beach held its regular meeting on April 22, 2021, 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

Maeghan Mackie, Board Secretary

Brad Hammond, Building & Zoning Administrator

Kyle Collins, Village Planner  
Ron Hill, Village Engineer

Anthony C. Pasca, Esq., Village Attorney

**HOLDOVERS:**

1. **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.

Motion was made by Mr. Neubauer to holdover the application of **160 Montauk Highway, 160 Montauk Highway, (905-6-1-19) Westhampton Beach** to May 13, 2021; seconded by Mr. Schermeyer and unanimously carried 5 ayes, 0 nays, 0 absent.

2. **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.

*Status: **HELDOVER UNTIL May 13, 2021**  
Applicant is awaiting a determination from the Suffolk County Dept. of Health Services Board of Review.*

ZBA: N/A  
ARB: N/A

SEQRA: **COORDINATED REVIEW; DETERMINATION ISSUED: 6/25/2015**  
SCDHS: **NEEDED**

SCDPW: N/A  
SCPC: **NEEDED**

3. **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.

*Status: **HELDOVER UNTIL May 13, 2021***

ZBA: **GRANTED, 12/20/2018**  
ARB: N/A

SEQRA: **UNLISTED ACTION, GRANTED FEBRUARY 28, 2019**  
SCDHS: **NEEDED**

SCDPW: N/A  
SCPC: **NEEDED**

4. **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

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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 May 13, 2021**

**ZBA:** **NEEDED**

**ARB:** **NEEDED**

**SEQRA:** *1/23/2020 – Deemed Complete; Unlisted Action Coordinated review commenced on 1/27/2020*

**SCDHS:** **NEEDED**

**SCDPW:** *Received SCDPW – No objection;*

**SCPC:** *Received SCPC – No objection;*

**OTHER:** *Zone Change Approved by Board of Trustees*

**5. 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.

Mr. Reilly stated that they closed the public portion of the application, they received the written submissions and they will be part of the record.

Mr. Pasca said we are going to do the FEIS process at this point, and there's no public comment at this point, the ball is in the Boards court to prepare an FEIS. It could take anywhere from 30 days to 60 days and the period could be extended by mutual consent.

Mr. Reilly said the difference between the FESI and the DEIS.

Mr. Pasca said the FEIS includes responses that were made, and it has to include responses to substantive comments.

Mr. Collins said the FEIS incorporates the DEIS and includes all of the comments and agency comments and comments from this Board, and addresses them and the FEIS will be utilized in preparation in the finding statements.

Mr. Reilly said this is no small undertaking its a lot of work and will take time. It won't be a few emails, it's a lengthy document that has to be drafted and prepared and will take time.

Mr. Pasca said it's a document that gets relied upon with the other agencies, including the Board of Trustees, they will make a more discretionary decision. But their decision on the special permit has heavier factors that they have to weigh and they as far as an involved agency is concerned, they rely on the FEIS to make that determination and they have to make their own findings, but it's the FEIS that they rely upon. So, it's very important it's done correct.

Mr. Reilly asked Mr. Isler if he had anything to add.

Mr. Isler said no.

Mr. Pasca said the public will be able to continue to participate on the public comment and its only closed on the DEIS and the remainder of the application remains open for public comment and the Trustees did not open the public hearing on their portion. There will be plenty of opportunity to discuss the issues with both Boards.

Motion was made by Mr. Neubauer to holdover the application of **Rogers Associates, LLC., North Side of Rogers Avenue (905-3-1-7.1 through 7.7)** to June 10, 2021; seconded by Mr. Jones and unanimously carried 5 ayes, 0 nays, 0 absent.

6. **Westhampton Inn LLC., 43 Main Street (905-11-1-15)** Applicant requests a Site Plan approval to construct a two-story ten-room hotel building with a covered front entry, rear porte-cochere and associated site improvements upon a 0.93 acre parcel located at the South West corner of Main Street and Mitchell Road in the B-1 Zoning District.

*Status:* **HELDOVER UNTIL May 13, 2021**

*ZBA:* **NEEDED**

*ARB:* **Referred to ARB at January 23, 2020 Meeting;**

*SEQRA:* **Planning Board Deemed Lead Agent;**

*SCDHS:* **NEEDED**

*SCDPW:* **N/A**

*SCPC:* **Received SCPC, 2/14/2020 – No objection**

7. **Prime Storage, 98 Depot Road (905-002-01-019.10).** Applicant requests a site plan review to construct a two-story mini-/self-storage building (10,428 SF) on slab with accessory office as an expansion of an existing storage facility operation. The 3.657-acre property is located on the east side of Depot Road, in the I-1 zoning district.

*Status:* **HELDOVER UNTIL April 22, 2021**

*ZBA:* **N/A**

*ARB:* **Referred to ARB at January 23, 2020 Meeting;**

*SEQRA:* **Coordinated Review Commenced January 27, 2020;**

**Accept Lead Agency Status**

**SEQRA Determination Adopted, August 27, 2020**

*SCDHS:* **NEEDED**

*SCDPW:* **N/A**

*SCPC:* **Received SCPC No objection;**

8. **James Traynor, 91 Old Riverhead Rd (905-002-01-007.02)** Applicant requests site plan approval to construct a one-story General & Special Trade (G/ST) Contractors’ Office building (9,744 sf) on slab, a two-story G/ST Contractors’ Administrative Office building (1,776 sf) over unfinished basement, & convert dwelling to G/ST Contractors’ Administrative Office (1,888 sf), with associated site improvements, upon a 63,770 square-foot parcel located in the HD zoning district.

No one appeared on behalf of the application.

Motion was made by Mr. Neubauer to close the application of **James Traynor, 91 Old Riverhead Rd (905-002-01-007.02)** for a determination; seconded by Mr. Jones and unanimously carried 5 ayes, 0 nays, 0 absent.

9. **55 Old Riverhead Road LLC, 55 & 59 Old Riverhead Rd (905-004-01-007, -009.02 & -009.03)** Applicant requests site plan approval to construct a multifamily development consisting of 16 (sixteen) senior dwelling units in four two-story townhouse buildings with attached garages, pickleball court, and associated site improvements, upon an assemblage of three parcels totaling 122,001 square feet on the west side of Old Riverhead Road in the HD zoning district.

Heather Wright, Esq., appeared n behalf of the application, together with Allon Avgi.

Mr. Reilly said they discussed the cross access more, and the general consensus seems to be having a faux connection,

Mr. Collins said the way it is designed there’s a possible connection, if they want it as emergency access it’s their prerogative.

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Mr. Neubauer said they agree emergency is something they are in favor of.

Ms. Wright said her client is amendable to that.

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

Motion was made by Mr. Neubauer to holdover the application of 55 Old Riverhead Road, LLC., 55 and 59 Old Riverhead Road (905-4-1-7, 905-4-1-9.2, and 9.3) to May 13, 2021; seconded by Mr. Jones and unanimously carried 5 ayes, 0 nays, 0 absent.

**10. Beechwood Westhampton LLC, 44 & 60 Depot Rd (905-004-01-014.06 & -013.01)**  
Applicant requests preliminary subdivision approval to subdivide 13.06-acre assemblage of parcels, into twenty-two (22) single-family lots with associated road, drainage and utility improvements in the R-2 zoning district.

**Status:** **HELDOVER UNTIL April 22, 2021**

**ARB:** **NEEDED**  
**ZBA:** **N/A**  
**BOT:** **N/A**

**SEQRA:** **LEAD AGENCY LETTERS SENT OUT, 2/12/2021 – COORDINATED REVIEW COMMENCED**

**SCDHS:** **NEEDED**

**SCDPW:** **N/A**  
**SCPC:** **NEEDED**

**REFERRAL FROM BOARD OF TRUSTEES**

**11. Rogers Associates LLC, North Side of Rogers Ave (905-003-01-007.01 through 007.07)** A joint Work Session of the Board of Trustees and the Planning Board will be held to discuss the application of Rogers Avenue Associates, LLC., starting immediately after the Planning Board’s regularly scheduled meeting at 5:00 p.m.

**12. 804F Realty, 112 Montauk Highway (905-004-02-014.01)** Renovate One-Story Building for Accessory Convenience Store & Construct Canopy for Relocated Gas Service Pumps w/ Associated Site Improvements for Valero Service Station, upon a 0.44-acre Parcel in the B-2 Zoning District.

Barbara Rasmussen, Esq., appeared on behalf of the application, together with Chris Tartaglia, High Point Engineering and Robert Chase. Ms. Rasmussen said they submitted the modified lighting and landscaping plan and they lessened the corner sign and changed the colors of the sign. They made modifications to the canopy and building, the coloring was changed from sand to light gray with black windows and they changed the roof line of the canopy as suggested by the Board and I know other alternatives were suggested however this is the best rendering submitted and the one they’d like to go with as far as the canopy and the building.

Mr. Reilly said he received elevations and streetscapes on March 22, 2021 and April 14, 2021, are they the same?

Ms. Rasmussen said they should be the same, and the latest plans were submitted by the Engineer not her and she thinks they are the same, but Mr. Tartaglia should speak to that. I know there is something about the vents but I would like to know what the Board thinks of the lighting and landscaping and building.

Mr. Reilly said he will defer to Mr. Collins.

Mr. Collins asked why they are not submitting alternatives as requested.

Ms. Rasmussen said the reason they aren’t is because it costs a lot of money to keep redoing the renderings, and that’s the plan he wants to go with and that’s the plan they want on a vote on.

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Mr. Collins said if the Board is happy with the plan, we can move forward with; but the plan that the Board requested in the past the applicant is refusing to submit, I don't have any other comment.

Mr. Neubauer said they didn't refuse to submit anything until now, in December they had no problem; in August last year there was no problem and they were willing to look at different options and now they are refusing to submit anything now.

Mr. Collins said I believe Mr. Pasca said the applicant said to both the Trustees and the Zoning Board they were willing to work with the Board on the design and all we've asked them to do is submit a plan, and now they are refusing to do that.

Mr. Tartaglia asked what they are looking for.

Mr. Reilly said so we're clear, and I know we know what you're asking for, but I want it to be clear what comparable are you referring to, what specifically are you looking for.

Mr. Collins said it was a gabled roof; there's a gas station on County Road 39 in Southampton.

Mr. Neubauer said you gave us a few examples.

Mr. Collins said I gave you half a dozen, and they are similar in nature and approved on the East End of Long Island.

Ms. Rasmussen said they did not submit a huge peaked roof rendering which are similar to their 2007 submission which was rejected by this Board as being too large on the site, and we believe it will be too large on the site and we need to minimize the canopy not enlarge it.

Mr. Reilly said your client's position is this is the plan we want to go with and they do not want to submit an alternative?

Ms. Rasmussen said that's correct.

Mr. Reilly said as far as the landscaping and lighting is everything okay?

Mr. Hill said he gave them small comments yesterday, and they are easy to deal with. The only outstanding issue is the vent issue and their location, and I pointed it out and found out what I could and I think it's a decision for the Board to make. They suggested better landscaping that might help it, but I don't know if I've seen the latest landscape plan.

Ms. Rasmussen said they were emailed around March 25, 2021 and two or three sets were sent to the Village, and another set was sent via Federal Express to the Village. I looked at the plans yesterday but landscaping isn't really my issue.

Mr. Hill said he looked at the lighting, but he doesn't remember seeing the landscaping.

Mr. Reilly asked if Mr. Tartaglia received Mr. Hill's comments.

Mr. Tartaglia said he and I had a discussion relative to the vents but he didn't want to jump into it until the rest was resolved.

Mr. Reilly said he wants to narrow the scope of discussion.

Mr. Hill asked if he received the comments that he gave to Ms. Mackie?

Mr. Tartaglia said yes, they were minor and I didn't come prepared to speak to them and there's nothing too big.

Mr. Reilly asked Mr. Collins if he's reviewed the landscaping?

Mr. Collins said we are okay with the landscaping.

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Mr. Reilly said that leads us to discuss the vents.

Mr. Neubauer said we received information late this afternoon that had to do with the County as an agency involved, and I don't think there's relevance and we asked for validation about a modification of site plan or some indication you can move them from the initial site plan that was approved, and I haven't seen that and I was hoping you'd bring that with you tonight and I didn't have a chance to comment to that, but we're desirous of having is a confirmation that you had permission to deviate from the site plan and my position is that I don't like the vents in the location that they are in and I haven't heard anything from an engineering standpoint and we involved Mr. Hill and he feels the same way, there seems to be no valid reason for not moving them to where they belong. The fact of the matter is we'll never see another site plan for this corner so the opportunity to correct things is now, and it's my position that they need to move the vents.

Ms. Rasmussen said she hasn't spoken to the neighbor, she has tried; do we want them next to the neighboring property?

Mr. Neubauer said yes, we did when we gave a site plan approval.

Ms. Rasmussen said in 2009 that building was not there, but I'm asking do we want them there now. It'll put fumes into the air with a wall of windows at that new building.

Mr. Logozzo said you will only get vapors when the tanks are being filled. The vents allow the air to go back in tank.

Mr. Reilly said most of the deliveries tend to be off normal business hours.

Mr. Collins said the representation that the vents are going to be adjacent with a row of windows is inaccurate, it's adjacent to the parking lot in the front yard, and it's adjacent to the front yard not the bank of windows.

Ms. Rasmussen said then it's a front yard issue for the neighbors. The neighbors may have an issue with the vents in the front yard, their property is beautifully landscaped.

Mr. Reilly said we're getting a little off topic, we as a Board want to know how we got here, there was an approved plan and there was indication that the client was guessing that it was due to a conflict with underground lines and someone has to know why, and there's no memorandum in the file and my concern is that this was done without the Village's approval and that's now how we do things.

Ms. Rasmussen said it would not have gone as a violation, and he would not have noticed it or commented. Mr. Tartaglia has information to share, and what was emailed today, my client was able to find the permits when it was done in 2009 and 2010 to show the validity and the indication that they were relocated from the North yard to the West yard. It was approved by the Town, Village and Health Department.

Mr. Tartaglia said a few points, we provided today is a Suffolk County Health Department Permit to Operate which reads tank vent risers were moved to the West side, and the Health Department has approved the location.

Mr. Neubauer said that's not what that indicates.

Mr. Tartaglia said I have been in the gas station business for many years, with regard to my experience and exactly what happens with tanks and vents and lines I am an expert with 30 years of experience. The first fact, which is the most important to me I wasn't the engineer of record who located the vents and based on our evidence there was no building as close to the lot line as there is today.

Mr. Reilly said there was an auto repair shop.

Mr. Tartaglia said it is not an office building. When I design plans, I try not to put the vents near any other buildings including the building on the subject property, and as Mr. Logozzo indicated the only time you see vapors is when they are filled, you get a decent wind when they are being filled I'm going to tell you if you're down wind of the vents or next to them, you smell a substantial amount of vapors it's not flammable or hazardous, but it is obnoxious. My concern is fixing what's not broken with the location of

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the vents, we're creating a new problem and if you mandate, we move them and the vapors go into the building and the Fire Department is called because they don't know what's going on we point the finger at the Village saying we needed to put them there. You've seen the vents; do you really look at them and say what an eyesore? I think it makes no sense to create a potential problem with the neighbor, to fix something that's not broken. I wasn't around in 2010 for this job, and I don't know why it was approved and the Board of Health approved it and there's no evidence of it being open with the Building Department and I can conclude that it was signed off on. Can we move them physically, yes? If we throw enough money at it.

Mr. Reilly said that's another issue, and I'm fairly confident Mr. Hill did too if it's a cost issue, again we haven't seen what is the cost of moving this, why, what's involved.

Mr. Tartaglia is the reason I brought cost up, can we move them, is it obtrusive, no. But I don't want to use cost quite honestly as why we can't move them.

Mr. Reilly said it's not that, cost figures into it.

Ms. Rasmussen said more importantly you need to think about this neighbor, and I haven't been able to get a hold of them but they may object that, they may not want them there.

Mr. Collins said you may want to give more information about the venting, if the impact is that large you should tell us what the potential for the release of vapors.

Ms. Rasmussen said there's no reason to beat the vent issue to death, we have a permit, we have a Health Department permit, and a Village approval and they would never allow us to go ahead with a violation this long. They've offered to paint it green so it doesn't stand out, and I don't think the answer is to put it next to the neighbor, perhaps that's why it was left where it was. There was a pay phone booth at the site at the time, and they decided to move it. There's no reason, 10 months later that the venting is an issue. I would like you to refer this to the ARB we will look at the venting and get comments from the ARB. We will look at the venting, talk to the neighbor, find out the cost, find out more about the fume aspects and we will return to this Board and what's the harm in referring it to the ARB?

Mr. Reilly said if this is the plan you want to go with, and if there's nothing to compare it to, I don't see why we can't send this to the ARB for them to review it. If that's your plan, what are we doing?

Ms. Rasmussen said the ARB won't comment on the venting, so this Board could reconsider post ARB.

Mr. Reilly said the ARB is advisory only, and the Planning Board retains ultimate authority. We can accept, reject, or modify it.

Ms. Rasmussen said if they have issues with rendering and colorings or the peak or non-peak, and those things.

Mr. Reilly said no one has an objection to the ARB with your submission thus far.

Ms. Rasmussen said then you will have opportunity to discuss the vents again.

Mr. Reilly said yes, I need to know why you can't move the vents.

Ms. Rasmussen said I agree with you, and my client is not flat out saying no, we're saying there are more issues with relocating it.

Mr. Reilly said let's knock out the issues, explain them, give us rationale so it's not just we said so.

Mr. Neubauer said this is the first time the neighbors been mentioned, it's the first time you became concerned about the neighbors.

Ms. Rasmussen said it's the first time it became an issue in March when Mr. Hill sent the information about them supposed to be placing on the North.

Mr. Neubauer said I disagree.

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Mr. Reilly said that is not true, we talked about moving them.

Mr. Hill said we talked about moving them before, that's why I investigated the file to see what I could find. The biggest issue is the venting with the neighbor and I don't know enough about it, or potential effects it may have. Whether we create another problem by moving the vents.

Mr. Pasca said to try to move this forward, this is the first time the neighbor came up, and maybe you do the ARB referral and we're asking Mr. Tartaglia to build an explanation about it with facts and maybe there's other gas stations or a design guideline to suggest their location, and maybe you can build a more scientific explanation about the concern.

Mr. Tartaglia said the lack of science helps, and if you are passing by a gas station having a delivery and you have the time, stop and get out of your car and stand near the vent and see if you'd want to be subjected to that 4 to 5 times a week, it's an obnoxious fume.

Mr. Hammond said he has administered several permits with swapping out of tanks and most are within the health department jurisdiction and I would have seen the site and as long as I got the BOH sign I would have issued a CO and I would not have caught vents being moved and I would have assumed. I don't want to speak for Paul but I can see not making a big deal of it with the permit.

Mr. Schermeyer said this is a different layout is there any interference with the pump being closer to the vents, is there a law or rule how far they have to be?

Mr. Hill said he did not know.

Mr. Schermeyer said but these pumps are laid out in a different location.

Ms. Rasmussen said the tanks are staying in the same place.

Mr. Schermeyer said is there a regulation for how far the vents have to be from the pumps?

Mr. Tartaglia said there is no issue.

Ms. Rasmussen said he means the pumps, is there a danger issue?

Mr. Tartaglia said the pumps will be closer in the new layout and there will be no issue.

Mr. Reilly asked if there was anyone else who wished to comment.

Motion was made by Mr. Neubauer to refer the application of 804F Realty Corp., **112 Montauk Highway (905-004-02-014.01)** to the ARB; seconded by Mr. Jones and unanimously carried 5 ayes, 0 nays, 0 absent.

Motion was made by Mr. Neubauer to holdover the application of 804F Realty, Corp., **112 Montauk Highway (905-004-02-014.01)** to May 13, 2021; seconded by

**13. PGJG Holding Corp, 214 & 238 Montauk Highway (905-006-02-031 & -032.01)**

Applicant requests modification of site plan to convert a portion of site parking and access way for a seasonal dining area (40 seats) with façade changes to install accordion doors at the existing standard restaurant "Baby Moon," upon property totaling 44,650 square feet in the B-2 zoning district.

**Status:** **HELDOVER UNTIL May 13, 2021**

**ARB:** **NEEDED**  
**BOT:** **N/A**

**SEQRA:** **N/A**  
**SCDHS:** **N/A**

**SCDPW:** **N/A**  
**SCPC:** **N/A**



**14. Firestar Holdings LLC, 14 Rogers Avenue (905-006-02-017)** Applicant requests minor subdivision approval to subdivide a 35,250 square feet lot, improved with a single-family dwelling, into two lots of 18,090 & 17,157 square feet in the R-4 zoning district.

**15. SKL Realty Holdings LLC, 115 Main Street (905-011-02-022)** Applicant seeks modification of site plan to convert attic space for office use & convert approved dry retail space for wet store market use, reducing restaurant seating to accommodate sanitary design flow and parking requirements with no proposed changes to the site.

**16. WHB Kitchen LLC for J & C Realty Corp, 161 Main Street (905-011-03-003.01)** Applicant seeks modification of site plan to install an outdoor patio & fences for restaurant seating, consisting of six (6) tables with four (4) chairs each for a total of 24 seats, upon a leased portion of a 29,111 SF parcel in the B-1 zoning district and as accessory to the 16-seat restaurant located on the adjacent parcel at 149 Main Street (905-011-03-001).

Motion was made by Mr. Neubauer to adjourn the public hearing at **5:41 p.m.**; seconded by Mr. Jones and unanimously carried 5 ayes, 0 nays, 0 absent.