

October 28, 2021

The Planning Board of the Incorporated Village of Westhampton Beach held its regular meeting on October 28, 2021, at 5:00 P.M. in the Municipal Building, 165 Mill Road, Westhampton Beach.

PRESENT: David Reilly, Chairman
Larry Jones
Michael Schermeyer

Brad Hammond, Building & Zoning Administrator

Kyle Collins, Village Planner
Ron Hill, Village Engineer

Anthony C. Pasca, Esq., Village Attorney

Maeghan Mackie, Board Secretary

ABSENT: Ralph Neubauer
Rocco LogoZZo

DECISION

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.

No one appeared on behalf of the application. Mr. Reilly stated there was a determination, and the reading was waived.

DECISION OF THE PLANNING BOARD

VILLAGE OF WESTHAMPTON BEACH

DATED: October 28, 2021

IN RE:

Inlet View Property Management, LLC

(a/k/a Circle M Beverage)

160 Montauk Highway, Westhampton Beach, New York 11978

Suffolk County Tax Map Number 905-6-1-19

I. The Application for Modification of Site Plan Approval

Inlet View Property Management, LLC. by George MacDonald Jr. (hereinafter, the “applicant”), is reportedly the owner of real property located at 160 Montauk Highway, Westhampton Beach, New York 11978, which is designated on the Suffolk County Tax Map as 905-6-1-19 (hereinafter, the “property”). The property is located in the B-2 Business District and is bounded by Hazelwood Avenue to the west, Pine Street to the East, Montauk Highway to the south, and residentially zoned (R-4) property to the north. The property is currently improved with a luncheonette and apartment on the northern portion of the property, a beverage store on the southern portion of the property, and a parking area in between the two buildings.

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The applicant has submitted a site plan application to the Planning Board of the Village of Westhampton Beach (hereinafter the “Board”), to construct a 4,075 square foot addition to the existing permitted retail beverage store.

The application was properly noticed and advertised for a public hearing, which opened on March 8, 2018. The Board thereafter reviewed the application, site plan, supporting materials, and multiple revisions to the site plan and supporting materials. The Village’s engineer and planner also reviewed the application and site plan and provided comments thereon during the review process.

The final version of the site plan for which applicant seeks approval are the following plans prepared by Richard Searles, Architect, originally dated March 30, 2017, last updated on August 9, 2019, and date stamped received by the Village on September 17, 2021, consisting of page SP-1 (Site Plan), SP-2 (Grading & Drainage Plan), and SP-3 (Landscape Plan), together with the “Photometrics” sheet created on 5/17/19, and the A-1 (Building Floor Plan) prepared by Searles, dated March 30, 2017 last dated September 23, 2019 (hereinafter referred to collectively as the “Final Site Plan”).

The applicant submitted an Environmental Assessment Form Part 1 pursuant to the State Environmental Quality Review Act (SEQRA). The matter was classified as an “unlisted” action under SEQRA and underwent coordinated review conducted by the Planning Board, acting as lead agency. On March 28, 2019, the Planning Board adopted a negative declaration of significance. No further SEQRA review is required.

Because the proposal is dimensionally nonconforming in several respects, the applicant applied to and appeared before the Board of Zoning Appeals on February 21, 2019, seeking variances for the dumpster location, the front yard setback, lot coverage, and parking spaces. By decision adopted on May 16, 2019, the Zoning Board granted the requested area variances, subject to several conditions, including the following:

1. Prior to the issuance of any building permit, the applicant shall pay an off-street parking space fee of \$13,000, to be paid to the Village of Westhampton Beach off street parking fund.
2. The applicant shall be required to keep the three designated indoor parking spaces open and available for parking for delivery truck and employee parking. The three spaces shall not be converted to general storage or warehouse space or any other uses other than off-street parking. The applicant shall also be prohibited from parking delivery trucks outdoors and shall only park such vehicles indoors when not in use during normal business hours. At the time of the recording of any covenants in connection with the Site Plan approval by the Planning Board, the applicant shall be required to include

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covenants, in a form suitable to the Planning Board and Village Attorneys, ensuring that the three interior parking spaces be maintained as such in perpetuity and prohibiting the parking of delivery trucks outdoors other than when they are in use during normal business hours.

The applicant appeared before the Architectural Review Board on October 1, 2019. The Architectural Review Board issued its advisory report dated October 4, 2019.

The applicant received approval from the Suffolk County Department of Health Services on September 2, 2021.

II. Findings and Conclusions

A. As of the Board's October 28, 2021 meeting, the modification of site plan application is complete and contains all of the site plan elements set forth in the Village Code. The procedures required for site plan review have been fulfilled as applicable to this application. The public hearing is hereby closed.

B. The Planning Board finds that, subject to the conditions set forth in Section III below, the proposed modification of site plan satisfies the requirements of the Village Code with respect to design, drainage, parking, lighting, landscaping, and other requirements of the Code.

C. The Planning Board approves, subject to the conditions set forth in section III below, the modification of the site plan as depicted on the Final Site Plan, which shall hereafter be referred to as the Approved Plans, and which consist of the following:

1. Site Plan, sheet SP-1, prepared by Richard Searles, Architect, originally dated March 30, 2017, last updated on August 9, 2019, and date stamped received by the Village on September 17, 2021;

2. Grading & Drainage Plan, sheet SP-2 prepared by Richard Searles, Architect, originally dated March 30, 2017, last updated on August 9, 2019, and date stamped received by the Village on September 17, 2021;

3. Landscape Plan, sheet SP-3 prepared by Richard Searles, Architect, originally dated March 30, 2017, last updated on August 9, 2019, and date stamped received by the Village on September 17, 2021;

4. Photometrics sheet, created on 5/17/19, which sheet supplements the site plan lighting plan;

5. Building Floor Plan, sheet A-1 prepared by Richard Searles, Architect, dated March 30, 2017, last dated September 23, 2019.

III. CONDITIONS

1. All improvements shall be made pursuant to the Approved Plans, including all details, specifications, notes, and conditions set forth therein. Except as provided herein, any changes shall be subject to further review and approval by the Board.

2. The dumpster shall be screened from the view of Old Riverhead Road, Montauk Highway, and adjacent properties, as depicted on the Approved Plans. Any change in the location of the dumpsters shall be subject to further review by the Board as to location and screening.

3. All roof runoff will be retained on-site by being piped to on-site catch basins.

4. The installation of all drainage, and grading and surfacing of the parking lot, aisles, driveways, curbs and sidewalks, shall be supervised by the Village Engineer and shall be installed pursuant to the Approved Plans. The Village Engineer shall be authorized to approve changes to the location or sizing of drainage structures if field conditions shall warrant such changes and the changes are approved in advance by the Village Engineer, however the total capacity of the modified system shall equal to or exceed what is shown on the Approved Plans.

5. The landscaping for the property shall be completed and maintained pursuant to the landscaping plan included in the Approved Plans. An underground sprinkler system shall be installed to water the improved areas of the site.

6. All lighting shall be installed pursuant to the lighting plan within the Approved Plans, subject to the final inspection of the Village Engineer and the Planning Board. All installed exterior lighting shall be zero cut off, and all lighting shall be contained on the premises.

7. Utility service to the building from the street shall be underground, to the extent such underground utilities are available at the front lot line.

8. The drainage structures installed as part of the Approved Plans shall be periodically inspected and cleared if necessary, to ensure that they function as designed. The Village shall be entitled to inspect the drainage structures annually to ensure compliance with this condition. In lieu of an inspection, the owner may provide the Village Building Inspector with a certification by a licensed, professional engineer confirming that the drainage structures have been inspected and are clear and are functioning as designed.

9. The construction and installation of all site improvements, including lighting and landscaping, shall be subject to the periodic inspection and approval of the Building Inspector and Village

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Engineer to ensure consistency with the Approved Plans and compliance with Chapter 149 of the Village Code.

10. The site shall be kept clean and neat at all times. Any vegetation on the property shall be mowed at least once every two weeks during the growing season, and the entire site shall conform with the New York State Property Maintenance Code.

11. All signage on the property, other than traffic and circulation arrows and signs as may be depicted on the Approved Plans, shall be subject to the requirements and regulations set forth in § 197-30 of the Village Code (“Signs”), in addition to any other regulations pertaining to signs.

12. Interior Parking: The three designated indoor parking spaces, labeled “3 Inside Spaces Dedicated for Delivery Truck and Employee Parking,” shall be kept open and available for parking for delivery truck and employee parking at all times. The three spaces shall not be converted to general storage or warehouse space or any other uses other than off-street parking.

13. Deliveries: All delivery vehicles and deliveries, to and from the site, shall be required to comply with the following regulations:

a. All delivery vehicles shall follow a one-way circulation pattern by entering the site by left-turn only at the designated location on Pine Street, entering and exiting the building where indicated on the Approved Plans, and exiting the site by left turn only at the designated location on Hazelwood Avenue.

b. No loading or unloading may occur on the property outdoors for any purpose. All delivery vehicles shall be required to unload and load only within the building as indicated on the Approved Plans.

c. No delivery trucks and vehicles may be parked outside, either on site or on any of the adjacent roads (Hazelwood Avenue, Montauk Highway, or Pine Street), other than when they are in active use during normal business hours. All delivery trucks and vehicles parked at the property when they are not in active use during normal business hours may only be parked within the building, in the three inside spaces dedicated for delivery trucks and employee parking, as indicated on the Approved Plans.

14. Retail/Public Accessibility: The only areas within the beverage center building that may be accessible by the general public for retail use are the cross-hatched areas shown on the Site Plan and labeled as “Retail Area,” “Walk In Cooler,” and “Office/Retail Space First Floor.” All other areas within the building shall be used only as non-retail warehouse space, deliveries, and employee parking, as indicated on the Site Plan, and may not be made accessible by the public for retail use.

15. Outdoor Storage: No product, beverages, crates, boxes, or supplies of any kind may be stored outside, on a temporary or permanent basis.

16. Parking Fee: Pursuant to the Zoning Board determination, no building permit may issue until applicant has paid the required off-street parking space fee of \$13,000, to be paid to the Village of Westhampton Beach off street parking fund.

17. Covenants:

i. The applicant, at its own expense, shall prepare a "Declaration of Covenants and Restrictions" (hereinafter, "Declaration") that affects all of the property subject to this resolution and that sets forth the restrictions in Conditions 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 above.

iii. The applicants shall submit the Declaration to the Planning Board for review and approval of the form and substance of the Declaration by the Planning Board and the Planning Board's attorneys.

iii. The applicant shall simultaneously submit to the Planning Board (a) a title certification by a title company licensed to do business in the State of New York identifying the owner(s) in fee of the entirety of the subject property and identifying the names of all parties that must consent to the execution and recording in the Suffolk County Clerk's Office of a declaration of covenants and restrictions setting forth the conditions required by this determination, and (b) signed and duly acknowledged consents from all the parties that must so consent.

iv. Following approval of the form and substance of the Declaration by the Planning Board and its attorneys, the applicant shall, at its own expense, execute and record the Declaration as a conveyance affecting the property, in the Office of the Suffolk County Clerk and provide the Planning Board with proof of such recording.

v. The filing of proof of recording shall be a condition precedent to the issuance of any Certificate of Occupancy.

18. The issuance of a Certificate of Occupancy shall be subject to the approval by the Board of a final "as built" survey containing all of the site plan elements set forth in the Approved Plans, together with any additions set forth in this resolution. In addition, no Certificate of Occupancy may be issued by the Building Inspector until the Building Inspector has certified the completion of all of the improvements and site work as shown on the Approved Plans.

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19. The approval set forth here and shall expire unless a building permit has been issued for the construction within six (6) months of the date hereof and construction is completed within eighteen (18) months from the date hereof. The Board shall have the right to extend the time period set forth in this paragraph by a majority vote of the members present at a regular meeting wherein such vote is taken, which extension shall not exceed a total of one hundred and eighty (180) days.

Dated: October 28, 2021

Village of Westhampton Beach
Planning Board

Motion was made by Mr. Reilly to adopt the determination of **160 Montauk Highway, 160 Montauk Highway, (905-6-1-19) Westhampton Beach** as written; seconded by Mr. Jones and unanimously carried 3 ayes, 0 nays, 2 absent.

HOLDOVERS:

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.

No one appeared on behalf of the application.

Moton was made by Mr. Schermeyer to holdover the application of **Anthony J. Cassano, Jr., and Louis Commisso, (905-5-1-21) 30 Lilac Road** to December 9, 2021; seconded by Mr. Jones and unanimously carried 3 ayes, 0 nays, 2 absent.

3. **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.

Status: **HELDOVER UNTIL December 9, 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 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.

No one appeared on behalf of the application.

Motion was made by Mr. Schermeyer to holdover the application of **85 & 105 Montauk LLC., 85 and 105 Montauk Highway and 105 Oak Street (905-5-1-12 -53.1 and 52.2)** to December 9, 2021; seconded by Mr. Jones and unanimously carried 3 ayes, 0 nays, 2 absent.

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. Collins said we have a resolution as complete and filing in the ENB

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 December 9, 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.

No one appeared on behalf of the application.

Motion was made by Mr. Schermeyer to holdover the application of Prime Storage, 98 Depot Road (905-2-1-19.10) to November 10, 2021; seconded by

8. 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.

No one appeared on behalf of the application.

Motion was made by Mr. Schermeyer to holdover the application of **55 Old Riverhead Road LLC, 55 & 59 Old Riverhead Rd (905-004-01-007, -009.02 & -009.03)** to November 10, 2021; seconded by Mr. Jones and unanimously carried 3 ayes, 0 nays, 2 absent.

9. 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.

- Status:** **HELDOVER UNTIL January 27, 2022**
- ARB:** **N/A**
- BOT:** **N/A**
- SEQRA:** *Needed*
- SCDHS:** *Needed*
- SCDPW:** **N/A**
- SCPC:** **N/A**

10. 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).

No one appeared on behalf of the application.

Motion was made by Mr. Schermeyer to holdover the application of **WHB Kitchen, LLC. for J&C Realty, Corp., 161 Main Street (905-11-3-3.1)** to December 9, 2021; seconded by Mr. Jones and unanimously carried 3 ayes, 0 nays, 2 absent.

11. WHBH Real Estate LLC, 7 Beach Lane (905-011-03-010) Applicant seeks site plan approval to renovate & construct additions to the three-story hotel/inn (16 units) with associated site improvements, including a swimming pool with patio, pergola & outdoor seating area, upon a one-acre parcel located in the HC zoning district.

Status: **HELDOVER UNTIL December 9, 2021**

ARB: *Needed*

BOT: **N/A**

ZBA: *Needed*

SEQRA: *Needed*

SCDHS: *Needed*

SCDPW: **N/A**

SCPC: **N/A**

12. WHB Development Partners LLC, 107 Old Riverhead Road (905-002-01-019.05) Applicant seeks site plan approval to construct an automotive service station (eight pumps & canopy) with accessory one-story convenience store (4,872 SF) and associated site improvements, upon a 1.6-acre parcel located in the B-3 zoning district.

James N. Hulme, Esq., appeared on behalf of the application and went back to 7-11 and they're hoping they can still work on this site plan. They are looking to its location, and the plan and architecture they are proposing for the site that they may achieve the Village's goals relative to this property and taking in to consideration his client's goals. This site plan they have seen and they did take it a step further and have reworked the renderings and they have shown the canopy for the gas pumps and if there are other embellishments that they can look at they'd be happy to consider them and the Board only received this today and we wanted to present it and we recognize it's contrary to the Planner's comments from my clients perspective this layout works better for us and we're hoping to accomplish the improvement to this lot because of its location through the architecture we've proposed for the features on the property and we wanted to present that concept and get feedback.

Mr. Reilly said the site plan has not changed at all as far as I can tell, and these renderings are different and I think we have to relook at it and we would like the full board present and we'd like to hear the Village Planner and Engineers comments.

Mr. Schermeyer said the building looks a lot better.

Mr. Jones agreed.

Irwin Krasnow said since the last meeting he went to Niagara Falls and that's what he's trying to do here, thread the needle between his corporate client and the Village's wants. We did present a modern version of the new rollout and that would be the first version of that type of store on Long Island and we went back and we kind of came up with a more Hamptons style, with board and baton and it's a smaller footprint reduced to 4,000 square feet with a different set up inside; they would make the square footage smaller and not try to fit the façade over that interior layout. We did have a chance to meet with Mr. Collins and he gave his input and suggestions and he preferred a different orientation and I took it to my client, but they said they could not change the orientation because people are used to pulling in to the pumps and the store behind them and it makes it more comfortable for people to fuel gas at different hours and the DOT has approved the northern curbcut and it works for the delivery trucks and there's extra parking which we removed some to make it more green and the orientation is not something they can change, but if the Village would like them to change the façade and elevations and style then they will be happy to do that. Since the meeting with Mr. Collins was only two weeks ago we did not have much time to take his ideas and get it to this Board within 10 days, which is why you're only receiving it today but I wanted to keep the discussion going. I wanted to have a collaborative work session to try to

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figure this out and we can at the next public meeting and I'd like input and comments about the building, the canopy and reconsider the next layout or move forward with this one because we'd like to start working as soon as possible.

Mr. Jones asked why they reduced the square footage, there's plenty of size on the site?

Mr. Krasnow said they have never had a store that large, it's really for the new concept, and they didn't think they wanted to do that in this area and they only wanted the new 2.0 design which was about 900 square feet larger, they asked us to present the 4,900 square foot design. I have been doing this for two years with the Board of Trustees and I have only had enthusiastic comments and I don't think anyone is here to oppose it. We're looking to try to move this along as expeditiously as possible, and when 7-11 did the redesign, they wanted to make this their flagship store and there are a lot of properties with contemporary architecture on that road and Dune Road they felt it would fit in and we did present it with extra features and amenities and if you liked it and felt it fit in with the Comprehensive Plan then we would change the look of the building.

Mr. Jones asked why it has a wainscoted area to the left of the entrance, why is there stone on the left of the door below the glass, and why is it not glazed like the right hand side of the store?

Mr. Krasnow said he thinks the refrigeration and coolers are there and maybe the checkout isn't near the glass. I thought stone and columns look nice.

Mr. Reilly said compared to the original plan it's a giant step in the right direction.

Mr. Krasnow said he hired an architect to do this and he was asked to show this design and get feedback and the Board's reaction was mixed, and if this is the way you want to go then we will take it and modify it.

Mr. Jones said the additional glazing on the far left, the previous version was that to accommodate a restaurant?

Mr. Krasnow said there were 7 seats in front of the glass area where the seating was. The whole store layout was different and I asked to change the façade and they did not want to roll the new store out with a different façade so they went back to the original smaller store with a different design.

Mr. Jones said the gable above the words "7-11" is light, and if you go that route could that be larger, or not have it? Not the return, but directly above the word "7-11" there's a bracketed decoration and it seems small.

Mr. Krasnow said if you want to draw on them and return them with comments, he's happy to send them to the Architect to revise, and I will try to get them to this Board as soon as possible.

Mr. Reilly said we're talking about two separate things; from your perspective are we better off hacking out the site plan before we do any of this?

Mr. Collins said yes, and you had one Board member ask not to discuss it as he'd like to actively be involved.

Mr. Reilly said we have to work on the site plan layout.

Mr. Collins said Mr. Hill said had a conversation with the County and they presented that curbcut based on where the tanks are placed. We have a lot to look at here, we don't want the tail wagging the dog.

Mr. Hill said you can move the tanks with this site plan and still get the trucks in without a problem.

Mr. Reilly said he'd like them to return on November 10, 2021 to discuss the site plan and get that conversation going.

Mr. Krasnow said you'd like to work on the site plan or the elevations?

Mr. Hulme said they want to look at everything, and they have two members out and they want to look at it as a whole.

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Mr. Krasnow said okay.

Motion was made by Mr. Schermeyer to holdover the application of **WHB Development Partners, LLC., 107 Old Riverhead Road (905-2-1-19.5)** to November 10, 2021; seconded by Mr. Jones and unanimously carried 3 ayes, 0 nays, 2 absent.

13. Hampton Synagogue Parrish House, 13/15 Brook Rd & 161 Sunset Ave (905-012-01-039, -040, & -043.01) Applicant seeks site plan approval to construct a two-story parish house with attached pool cabana & mikveh, swimming pool, basketball court, gazebo, storage shed & associated site improvements for Westhampton Synagogue (demolish existing residential structures) on an assemblage of parcels totaling 39,474 square feet in the HC zoning district.

Hermon J. Bishop, Esq., submitted a written request to holdover the application of **Hampton Synagogue Parrish House, 13/15 Brook Rd & 161 Sunset Ave (905-012-01-039, -040, & -043.01)** to November 10, 2021; seconded by Mr. Jones and unanimously carried 3 ayes, 0 nays, 2 absent.

NEW APPLICATIONS:

14. Realty Connect, 202 (204) Montauk Highway (905-006-02-030) Applicant seeks waiver of site plan to convert a suite previously used for electronics repair for a real estate office use with no proposed or required changes to the exterior of the building or site, a 0.76-acre parcel in the B-2 zoning district.

John Fitzgerald, Realty Connect. He is here to answer any questions.

Mr. Reilly asked if it's a change of use?

Mr. Hammond said yes, it's in the corner shopping plaza between Rogers Avenue and Montauk Highway; it was a tech repair store, and before that a chiropractors office and now it's an office.

Mr. Reilly confirmed there's no parking issues?

Mr. Hammond said yes, because it was a chiropractor and the tech repair was a lower parking threshold so it's office to office.

There were no questions or comments.

Motion was made by Mr. Schermeyer to close the hearing for **Realty Connect, 202 (204) Montauk Highway (905-006-02-030)**, for a decision; seconded by Mr. Jones and unanimously carried 3 ayes, 0 nays, 2 absent.

15. Eileen Baumeister McIntyre, 74 Old Riverhead Road (905-002-02-006.03), Applicant seeks waiver of site plan to convert a suite previously used for printing/publishing for an art school use with no proposed or required changes to the exterior of the building or site, a 3.1-acre parcel in the B-2 zoning district.

Eileen Baumeister-McIntyre appeared on behalf of the application. She is opening an art studio in the North Mall.

Mr. Reilly asked if she's down by the deli? And asked Mr. Hammond if there's issues with parking.

Mr. Hammond said I didn't think it was retail to retail, it was a sign shop, but parking sanitary I felt they were equal.

Mr. Reilly asked if there were any questions or anyone in the public that wished to be heard.

There were no comments or questions.

Motion was made by Mr. Schermeyer to close the application of **Eileen Baumeister-McIntyre, 74 Old Riverhead Road (905-2-2-6.3)** for a decision; seconded by Mr. Jones and unanimously carried 3 ayes, 0 nays, 2 absent.

FILL APPLICATIONS:

16. Eric & Rhonda Starr, 4 Stillwaters Lane (905-010-04-027) Applicant seeks site plan approval to install fill within the floodplain in conjunction with redevelopment of the back & side yard areas of a single-family dwelling upon a one-acre parcel in the R-1 zoning district.

Susan Wilcenski, Spaces Landscaping appeared on behalf of the application. She prepared a fill and drainage and grading plan to improve the property and it's the low point in the neighborhood and we're going to correct the elevation and issues on the site with improvements. She knows that the neighbors are concerned about conditions on the site.

Michael Nobiletti, 8 Stillwaters Lane appeared in opposition to the application. He's immediately adjacent to the North West of the project and he wants to bring the surface runoff conditions as they exist, in that the runoff on this block on the East by Bayfield Lane and the West by Stillwaters Lane and the interior collects in the middle travels to the South and you see on the 2004 aerial photographs remaining ditches were built by vector control and the smaller photos show how the water flows to the South and around the subject and appears to go around the perimeter on the North and moves to the East and enters on to Stillwater Lane and travels to the Village drain and into the Bay. I have no objection to the fill and amount of fill or landscaping, but I do request the drainage be maintained so there's no impediment or elimination of the natural surface flow around or upon the 4 Stillwaters Lane lot.

Ms. Wilcenski said this is something she's just learning about the natural interior flow but I will say that the owner is doing what he's entitled to do and of course the drainage is the most important in this area, and when I remove the heavy growth I'll understand what's happening on this property and if there's runoff from other sources I'll have to understand how to correct it. Whether it can be corrected on the adjacent lot or not, but I would let the Board know as far as my application for this property I am doing everything that's required to the Code but if there's other issues outside of this property I will look into them and try to control the run off.

Mr. Reilly asked if Mr. Nobiletti is worried about his property or the drain?

Mr. Nobiletti said he's worried about his property; he's number 8 Stillwater on the East side is the drainage ditch and that extends to number 10 and then further up and what originally these are the vector control ditches and the flow heads South and goes on to the number 4 Stillwaters property and that's the way it is and it's a natural system and was built by them and then you can see in my photos of the discharge on to Stillwaters Lane; this photo was taken yesterday with heavy rain and there's always a flow of water and that's how the interior of these lots works.

Mr. Reilly said as you know, our resolutions contain standard provisions and there is an obligation for them to remedy it.

Mr. Nobiletti said I understand that I'm just asking for consideration to help and would not diminish the objectives of the owner and consider it.

Mr. Reilly asked Mr. Hill for his comments.

Mr. Hill said I'm not sure it's a natural flow unless it's coming out of number 4 and running on to the road there is no place to go; we did the property behind number 4 around five years ago, there's a tennis court and a lot of drainage went in to it and it did a lot to dry the area out. The Village Code says you have to handle the water on your property and this plan does that and you may want to look at the flow on Stillwaters lane and see and it may go off Stillwaters Lane and on to this property, but it shouldn't. The whole concept is that each property takes care of their own water, and if water flows off a property on to another you have a right to stop that. The vector ditches were to control mosquitos not control water flow and putting in Stillwaters Lane you dammed up the flow. Now we may want to keep a swale area between number 4 and the neighboring property and keep it low so if the water flows in the ditch between the two it will come out and come out on to Stillwater Lane, that's the best we can do and put drainage in to that swale. Ms. Wilcenski put a lot of drainage in, there are no roof drains currently and they will be put into leaching pools so the water from this site won't go anyplace.

Mr. Reilly said the plan as engineered does what it's designed to do.

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Mr. Nobiletti said I don't object with that, the whole interior does naturally flow on the surface and below and it moves towards 4 Stillwaters Lane and discharges on to Stillwaters Lane and that blocking will back the interior up.

Mr. Reilly said we don't know that for sure.

Mr. Schermeyer asked if this is the old Oppenheimer house?

Mr. Nobiletti said yes.

Ms. Wilcenski said the neighbors are important on any job site and I'm happy to look into observation under high rain storms and flow and observe the property and around it, and if there's anything we can do to improve that natural flow I will do so, if I can. Once I start getting in there I'll make more observations, I can't see what's going on because of vegetation and I will work with you and figure it out.

Mr. Nobiletti said that's fine.

John Chilemmi, appeared on behalf of 71 Bayfield Lane, and they abut the subject property on the Easterly boundary line and we submitted a written response yesterday. They are not opposed to them raising the height, they are concerned about the elevation above the natural grade which will divert water off their property onto neighboring properties. They'd like a condition that they are responsible for damage from the fill, grading, and drainage adversely migrating to the surrounding properties. We also request that the application be adjourned, they only received the notice on Saturday, October 24, 2021 and its been frantic to review it and they'd like to engage an engineer to review the application and testimony and then they would like to discuss the same with the Board.

Mr. Reilly said the standard resolution in sum and substance directly addresses the conditions and the property owners are obligated to fix them; the Village Engineer and planning staff have years of experience and generally speaking when we do these systems they tend to help out the adjacent properties and subject and I think your clients concerns are well taken, but I think it will benefit them in the long run. I'm not inclined to adjourn the application.

Mr. Chilemmi asked what the language includes.

Mr. Pasca said it's an ongoing maintenance obligation, and it's a condition of approval.

Mr. Chilemmi asked if it's enforceable by the Village?

Mr. Reilly said yes.

Mr. Hammond said I inspect the drainage, they can't reduce the number of drains, they can add and there are conditions that they have to record as well. This design professional pays special attention to drainage and there were applications with the property's needing more drainage and she is able to force them to do so. I'm confident and I'm sure if your engineers look at it they will see it's very flat and everyone has filled their property and that shouldn't preclude them from doing so because they are one of the few left.

Mr. Chilemmi asked about Mr. Nobiletti's points.

Mr. Hill said the property your client owns was raised, and they have French Drains and a lot of work went into the site and the one immediately behind you did the same, and we're working on the one next to you, they all want the property raised and filled and drainage added to them too.

Ms. Wilcenski said again, I'm here to improve the property and community and if I run in to issues with neighbors, I talked to your colleague yesterday and in the rain storm I went to the site and I told your colleague I would report the conditions and the tide was high up and over the road and 4" of rain fell and I went along the common line to observe the conditions and yes this yard was wet because it's a lot lower than your clients yard, and your clients has 5' of French Drain yet I noticed there was breach and water coming from your clients property into my clients property but we should work together to fix the issues and improve the drainage and correct it for everyone. If your client wants to talk or meet I'm

happy to do so and I'm familiar with the area and how to handle the drainage, and I'm confident that even though this is the low point I can correct it.

Mr. Nobiletti asked Mr. Hill between this property and the discharge, would you continue a drain to the Village drain to the bay? That's where this is going there's a heavy flow from the property line and to have a pipe going to the Village drain.

Mr. Hill said it depends on the roads grading, at times I've been to that corner that is standing water and it's not flowing around because the road is graded to make it flow to the drain.

Mr. Nobiletti said there's a tidal affect that overwhelms the drain and floods the intersection.

Mr. Hill said we're not going to do anything about that.

Ms. Wilcenski said she understands Mr. Nobiletti, but environmentally I don't want water off this site to flow into the bay. We can talk and try to come up with a conclusion.

Motion was made by Mr. Schermeyer to close the hearing of **Eric & Rhonda Starr, 4 Stillwaters Lane (905-10-4-27)** for a determination; seconded by Mr. Jones and unanimously carried 3 ayes, 0 nays, 2 absent.

REFERRAL FROM BOARD OF TRUSTEES:

17. Eileen Baumeister McIntrye, 74 Old Riverhead Road (905-2-2-6.3) Special Exception Referral for change of use from retail T-shirt store to Art School.

This application was discussed simultaneously with application number 15 on the agenda. There was no objection to the application.

Motion was made by Mr. Schermeyer to refer the application of **Eileen Baumeister McIntrye, 74 Old Riverhead Road (905-2-2-6.3)** to the Board of Trustees with no objection; seconded by Mr. Jones and unanimously carried 3 ayes, 0 nays, 2 absent.

Motion was made by Mr. Schermeyer to adjourn the meeting at **5:45 p.m.**; seconded by Mr. Jones and unanimously carried 3 ayes, 0 nays, 0 absent.