

March 9, 2023

RESENT: David Reilly, Chairman
Ralph Neubauer
Rocco LogoZZo
Michael Schermeyer

Ron Hill, Village Engineer
Britton Bistran, Village Planner

Anthony C. Pasca, Esq., Village Attorney

Maeghan Mackie, Board Secretary

Brad Hammond, Building & Zoning Administrator

ABSENT: Larry Jones

DETERMINATIONS:

Westhampton Landings, 30 Mitchell Road (905-011-04-051) Applicant seeks modification of the site plan approval for upgrades to the landscaping, hardscaping & exterior lighting for the existing multi-family development upon the 4.26-acre parcel in the MF-20 zoning district.

Antonio Martins, appeared on behalf of the application. Mr. Reilly stated that there was a determination and asked if he would waive the reading?

Mr. Martins said yes.

DECISION OF THE PLANNING BOARD
VILLAGE OF WESTHAMPTON BEACH
DATED: March 9, 2023

IN RE:
WESTHAMPTON LANDINGS
30 Mitchell Road, Westhampton Beach, New York 11978
Suffolk County Tax Map Number 905-11-4-51

I. The Application for Modification of Site Plan Approval

The applicant, Westhampton Landings (hereinafter, the “applicant”), is the owner of real property located at 10 Mitchell Road, Westhampton Beach, New York 11978, which is designated on the Suffolk County Tax Map as 905-11-4-51 and known as the Westhampton Landings Condominium. The applicant has submitted an application to the Planning Board of the Village of Westhampton Beach (hereinafter the “Board”), for modification of site plan approval to construct upgrades to the landscaping, hardscaping and exterior lighting at the existing property. The 4.26 acres parcel is improved with eight multi-family buildings, and a community accessory structure.

The application was properly noticed and advertised for a public hearing at the Planning Board, which opened on October 13, 2022. The Board thereafter reviewed the application, site plan, and supporting materials. The Village’s engineer and planner also reviewed the application and site plan and provided comments focused on the landscaping and lighting plans.

March 9, 2023

The applicant appeared by Anthony D. Russo, as President of the Westhampton Landings Condominium Board, who represented that he had the authority to act on behalf of the applicant. During the course of the Planning Board review the applicant was also represented by its engineering firm, H2M Architects & Engineers.

The modification of site plan project is proposed to be implemented in conjunction with the requirements associated with the newly completed sewer system serving the downtown area of Westhampton Beach. Under §141-7 of the Village Code, the applicant is required to connect to the new sewer system, and a separate sewer site plan process is processed administratively under §141-6 and §195-63.S of the Village Code, through which the Building and Zoning Administrator may approve certain site changes associated with the sewer connection, including improvements designed to maximize stormwater retention on each parcel (hereinafter, the “sewer/drainage improvements”). While those specific sewer/drainage improvements do not require Planning Board approval, the applicant has deemed it to be in its best interests to coordinate those sewer/drainage improvements with other site changes (e.g., hardscaping, landscaping, and lighting) so that all improvements can be implemented at the same time and minimize the time of disturbance to the residents and neighbors.

The scope of this application thus involves only the latter category of site improvements (hardscaping, landscaping, and lighting), though the Board reviewed those proposed improvements with the sewer/drainage improvements in mind.

During the course of the Planning Board review, some residents of Westhampton Landings appeared in opposition to the application. To the extent some of those residents raised concerns that the applicant’s representatives did not have the full backing of the entire condominium or that the project would be too costly for residents, the Board made clear that the Board does not have the jurisdiction to intervene in the internal politics and operation of the condominium, and that any dispute between residents and the applicant’s leadership was a civil matter that could not be addressed by the Board as part of its site plan review.

Nonetheless, to the extent the residents raised some concerns relating to the actual site plan elements that are before the Board (i.e., landscaping, hardscaping, and lighting improvements), the Board has entertained and considered those comments. In addition, comments were received from the Village Engineer relating to the lighting and hardscaping as well as comments from the Village Planner relating to the integration of salt-tolerant

March 9, 2023

landscaping/vegetated buffer at the bulkhead area, and the applicant integrated site plan changes in response to those comments into the final project documents.

The final version of the site plan for which applicant seeks approval is the survey prepared by Fox Land Surveying, dated January 13, 2020 and updated on August 23, 2022, landscape architecture plans prepared by Michael D'Angelo Landscape Architecture, titled L0 through L37, last revised February 10, 2023 (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 Village Planner prepared a Short Environmental Assessment Form Part 2 & 3, which was adopted and signed by the Planning Board Chairman on December 8, 2022, in which it was determined that no significant impacts would result from the site plan alterations and that a Negative Declaration of significance was warranted.

The hearing was closed at the February 23, 2023, meeting for a determination at the March 9, 2023, meeting.

II. Findings and Conclusions

A. As of the Board's February 23, 2023 meeting, the modification of site plan application was deemed 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 was closed on the same date.

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.

D. 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 (survey prepared by Fox Land Surveying, dated January 13, 2020 and updated on August 23, 2022, landscape architecture plans prepared by Michael D'Angelo Landscape Architecture titled L0 through L37 last revised February 10, 2023) which Final Site Plan documents are hereinafter collectively referred to as the "Approved Plans".

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.

March 9, 2023

2. 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.
3. 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.
4. All conditions of existing site plan approval(s), are incorporated herein by reference and shall continue in full force and effect except to the extent that the Approved Plans herein shall supersede any prior determination.

Dated: March 9, 2023

Village of Westhampton Beach
Planning Board

Motion was made by Mr. Neubauer to adopt the determination of **Westhampton Landings, 30 Mitchell Road (905-11-4-51)** as written; seconded by Mr. Logozzo and unanimously carried 4 ayes, 0 nays, 1 absent.

HOLDOVERS:

1. 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. Nicholas A. Vero, Architect requested to hold the application over to March 23, 2023.

Motion was made by Mr. Neubauer to hold over the application of **85 & 105 Montauk LLC, 85, 105 Montauk Hwy & 105 Oak St, (905-005-01-012, -053.01 & -052.02).** to March 23, 2023; seconded by Mr. Logozzo and unanimously carried 4 ayes,

2. 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 March 23, 2023**

ZBA: **NEEDED**

ARB: *Referred to ARB at January 23, 2020 Meeting;
Referred for revisions at March 10, 2022 Meeting;*

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

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

3. 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. Nicole Blanda, Esq., submitted a written request to holdover the application.

Motion was made by Mr. Neubauer to holdover the application of **Prime Storage, 98 Depot Road (905-2-1-19.10)** to April 26, 2023; seconded by Mr. Logozzo and unanimously carried 4 ayes, 0 nays, 1 absent.

4. 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.

Status: **HELDOVER UNTIL March 23, 2023**

ZBA: **N/A**
ARB: **NEEDED**
BOT: **SPECIAL EXCEPTION PERMIT, NEEDED**

SEQRA: *August 13, 2020 – Planning Board Accepted Lead Agency Status*
SCDHS: **NEEDED**

SCDPW: *Received March 21, 2022*

SCPC: *Received March 22, 2022*

5. 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.

No one appeared on behalf of the application. Richard Haefeli, Esq., submitted a written request to holdover the application to March 23, 2023.

Motion was made by Mr. Neubauer to holdover the application of **Firestar Holdings, LLC., 14 Rogers Avenue (905-6-2-17)** to March 23, 2023; seconded by Mr. Logozzo and unanimously carried 4 ayes, 0 nays, 1 absent.

6. George Vickers, 25 & 27 Hazelwood Ave (905-004-02-020 & -019) Applicant seeks lot line modification between adjoining parcels that total 26,897 SF (Existing: 19,773 SF & 7,124 SF) resulting in one lot of 13,304 SF and one lot of 13,593 SF.

Status: **HELDOVER UNTIL March 23, 2023**

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

SEQRA: *Needed*
SCDHS: *Needed*

SCDPW: *Needed*

March 9, 2023

SCPC: Local Determination Received

7. Robert Schoenthal, 22 Bayfield Lane (905-010-06-002) Applicant seeks minor subdivision approval to subdivide an improved 97,769 SF parcel in the R-1 zoning district into two lots; 57,768 SF & 40,001 SF.

No one appeared on behalf of the application. Richard Haefeli, Esq., submitted a written request to hold the application over to May 18, 2023.

Motion was made by Mr. Neubauer to holdover the application of **Robert Schoenthal, 22 Bayfield Lane (905-10-6-2)** to May 18, 2023; seconded by Mr. Logozzo and unanimously carried 4 ayes, 0 nays, 1 absent.

8. First Dunes Development 496 LLC, 496 Dune Road (905-016-01-019) Applicant seeks approval to subdivide a 28,234 SF parcel in the R-3 zoning district into two lots for single-family dwelling use of 13,211 & 15,022 SF, thereby abandoning the preexisting nonconforming use of eight seasonal cottages for rent.

Status: HELDOVER UNTIL March 23, 2023

ARB: Needed
BOT: Needed
ZBA: Received, November 17, 2022

SEQRA: Needed
SCDHS: Needed

SCDPW: Needed
SCPC: Needed

9. 10 Mitchell Owner LLC, 10 Mitchell Road (905-011-02-003) Applicant seeks site plan approval to construct a full second-story addition for two two-bedroom apartments & convert first floor to a forty-four (44) seat restaurant with exterior walk-in & associated site improvements upon a 5,290 SF parcel in the B-1 zoning district.

Status: HELDOVER UNTIL March 23, 2023

ARB: Needed
BOT: Needed
ZBA: Needed

SEQRA: Needed
SCDHS: Needed

SCDPW: Needed
SCPC: Needed

10. Rogers Ave Associates, North Side of Rogers Ave (905-003-01-007.01 through -007.07) Applicant seeks final site plan approval to construct 48 dwelling units in 12 buildings (11 townhouse groupings & 1 two-family dwelling) with private community center, pool & pickleball courts for multifamily development with on-site sewage treatment plant upon a 9.355-acre assemblage of parcels in the MF-20 zoning district.

Frank A. Isler, Esq., appeared on behalf of the application. He said that they are here to update the Board on their application and they submitted their park fee information and that calculation. They are before the Department of Health and they are closer to that approval; we have submitted an appraisal report on the value of the property currently and we also have submitted the workout of the math for the park fee in compliance with the Village Code and we have followed the Code and done the math for you and there is a spreadsheet that lays it out, we think the math is correct and we have 50% on site recreational square footage and we calculated the 50% credit on that. We would request when there is an approval that the park fee be paid upon building permit application.

Mr. Reilly said I think we did that with Timber Ridge, I don't remember if it was paid upfront.

March 9, 2023

Mr. Pasca said it was paid up front. The last subdivision was that they had to pay before the map filing.

Mr. Hammond said Timber Ridge was after the approval, and prior to the permit.

Mr. Pasca said as long as the Code supports it I don't have a problem with it. To pay a fee before there is any residential units and if they don't do the construction there is no fee.

Mr. Isler said my reading of the Code is that it is up to This board and we are asking that we don't put it up front and wait for construction.

Mr. Reilly said we need a guarantee that it doesn't get it.

Mr. Pasca said he's not asking for it to be deferred, they are saying they do not want to pay it until the first permit is issued.

Mr. Isler said we want it predicated on the timing of the permit. I would like to run by the Board, the street names and I have a map that I can give to the Board. There are three roads, the main entrance road is "Ketchaponak Lane" and there are two others, the street is "West Loop Drive" and the Eastern is "East Loop Drive" and if this Board has any comments we'd like to know that. A long time ago I submitted draft C&R's and I want to ask if we can review them as we get closer to the conclusion of this and tie up the loose ends, I can email Mr. Pasca another copy. Has the park fee been reviewed?

Mr. Reilly said I looked at the appraisal, and it seems like the purchase price was on there and the market increase was done and we called it a day. I understand there are no comps it seems light, and it wasn't clear when the valuation took place. I don't know that is in the Code and is there any guidance in the Code?

Mr. Pasca said its as of now, right before approval and we're close enough. We've discussed this that it can't be approved without that fee and we thought we were close enough. And they did adjust it to bring the value present.

Mr. Isler said why this is not as detailed is that the sale is recent and that's an indicator as long as its arms length and they have tracked it based on market experience.

Mr. Reilly said it seemed light.

Mr. Pasca said I wouldn't normally endorse that, but its different that they have provided a contract to the Village and it was contingent valued based on its ability to be used as a MF Residence and it was assumed in that the highest and best use was MF. And it made it more reliable. I don't think it would be appropriate a sole measure of value, and it was contingent on approval and its reliable.

Mr. Isler thanked the Board.

Motion was made by Mr. Neubauer to holdover the application of **Rogers Ave Associates, North Side of Rogers Avenue (905-3-1-7.1 through 7.7)** to April 13, 2023; seconded by Mr. Logozzo and unanimously carried 4 ayes, 0 nays, 1 absent.

11. DRL Irrevocable Trust & Carol Schecter, 12 Potunk Lane & 42 Stevens Lane (905-011-01-003.02 & -007) Applicants seek to modify the lot line between adjoining parcels by conveying a 1,125 SF "triangle" of land from 12 Potunk Lane to 42 Stevens Lane.

Status: **HELDOVER UNTIL March 23, 2023**

ARB: N/A

BOT: N/A

ZBA: N/A

SEQRA: *Needed*

SCDHS: *Needed*

SCDPW: N/A

SCPC: N/A

March 9, 2023

12. Michael Brunetti, 65 Main Street Unit 5 (905-011.02-02-005) Applicant seeks waiver of site plan to maintain outdoor storage of firewood for the existing 16-seat pizza takeout restaurant upon a 0.59-acre parcel located at the southwest corner of Main Street & Mitchell Road in the B-1 zoning District.

No one appeared on behalf of the application. Nicholas A. Vero, Architect requested to hold this over to March 23, 2023.

Motion was made by Mr. Neubauer to holdover the application of **Michael Brunetti, 65 Main Street Unit 5 (905-011.02-02-005)** to March 23, 2023; seconded by Mr. Logozzo and unanimously carried 4 ayes, 0 nays, 1 absent.

13. 105-109 Main St LLC, 109 Main Street (905-011-02-021) Applicant seeks waiver of site plan to perform alterations to the façade, including encroachment into the Village-owned right-of-way, for the existing mixed-use building upon the 3,732 SF parcel in the B-1 zoning district.

Gaby Tchilinguirian, Architect appeared on behalf of the application together with Liz Epstein. He said he's continuing the conversations from the last meeting, and they reviewed the ARB comments and there were questions from this Board and they were going to get additional comments from the ARB and that's where we left off at that presentation.

Mr. Reilly said he is trying to figure out what we're talking about, I have a few pictures. Which pictures went to the ARB? Originally the grills were in the upstairs, and they are removed.

Gaby said the ARB recommended we maintain the grills. The only comment that the ARB made was the top portion, they felt that they liked the black banner to break out the color scheme and that's where we hit a speed bump and their comments were not specific about that.

Mr. Schermeyer said the gray was lighter right?

Mr. Tchilinguirian said yes.

Mr. Schermeyer said it's much lighter than the picture.

Mr. Reilly asked if Ms. Bistran had comments.

Ms. Bistran said is the color new? Is it the same as the roof and band at the top? The band will be black or gray?

Mr. Tchilinguirian said the Gray is the building color, and the black is solid black and the trim.

Ms. Bistran said the drawing Mr. Reilly has is not accurate?

Mr. Neubauer said it is not accurate.

Mr. Pasca said that's what went to the ARB and they recommended that the black be put back.

Mr. Reilly asked the color name.

Mr. Tchilinguirian said it is Coventry Gray. The building is a dark gray as shown, but they are proposing Coventry Gray.

Mr. Reilly asked if the January 2023 rendering depicts the gray? That's what the ARB was saying they are okay with?

Mr. Tchilinguirian said yes.

Mr. Reilly said the original plan is what we're reviewing?

Mr. Tchilinguirian said yes.

March 9, 2023

Mr. Schermeyer said we were saying, that we liked it without the black and that's why we're here today and Mr. Reilly wasn't here and ARB liked the black and I think its too much.

Mr. Pasca said you need a super majority to over rule the ARB.

Mr. Logozzo said he does not like the black, and I want to know about the color is it lighter or darker or the same?

Mr. Tchilinguirian said the TOLA building is a drop lighter than what we're proposing.

Mr. Logozzo said I don't want it darker than the TOLA building.

Mr. Neubauer said I don't like the black, and that's my opinion.

Mr. Logozzo said I agree with Mr. Neubauer and Mr. Schermeyer.

Mr. Tchilinguirian said his client and himself did a lot of research and we walked Main Street and we tried to find a neutral and all of the in between. We felt the Burner Building was dark and TOLA was a shade too light and my opinion and if we do all Gray then it's a normal typical building. I felt with the improvements in this Village it would be a nice change and that's what the ARB recommends as well.

Mr. Reilly said I'm having trouble with the TOLA building is shingled and textured and break it up and this is stucco and looks much more flat, and you won't get a sense of depth, it's not really a good comparison it's a different style structure. Its closer to the Burner Building. I'm not crazy about the color scheme.

Mr. Logozzo asked if he's adding the band?

Mr. Reilly asked if the client prefers the black band?

Ms. Epstein said yes, I do. It's very blah.

Mr. Logozzo said I have a problem with the size of it, maybe a band of trim but this large black band doesn't look good.

Mr. Tchilinguirian said we're doing horizontal breaks with trim work.

Mr. Reilly said we're losing more traditional elements and I don't want to see that keep happening on Main Street.

Mr. Neubauer said I will withdraw my insistence on the black. I don't think this is unreasonable.

Mr. Reilly can we condition, if they want a sign they have to get a building permit?

Ms. Epstein said its an apartment. I don't think I'm allowed a sign.

Mr. Reilly said I want to retain control over signage if we're allowing the black. If we move the sign on the awning up, and I like what the ARB has in mind.

Mr. Neubauer said I will go with the Chairmans opinion.

Ms. Epstein said some of the stuff was constructed without approval.

Mr. Neubauer asked if we can allow a waiver?

Mr. Reilly said we need a resolution so we will hold it over for a resolution on March 23, 2023.

Mr. Pasca said we are making it clear, the Board was polled and you're not over ruling the recommendation of the ARB.

Mr. Reilly said two were in favor, and two were opposed so the ARB recommendation prevails.

Mr. Pasca asked how easy is it to label the plans with a new date?

Mr. Tchilinguirian said its simple.

Motion was made by Mr. Neubauer to holdover the application of **105-109 Main St., LLC., 109 Main Street (905-11-2-21)** for a determination at the March 23, 2023 meeting; seconded by Mr. Logozzo and unanimously carried 4 ayes, 0 nays, 1 absent.

14. Westhampton Property Management LLC, 141 Montauk Highway (905-005-02-006.01, -006.02, -007 & -009.01) Applicant seeks site plan approval Convert & Renovate Restaurant Building for Grocery Store (5,000 SF) w/ Roofed-Over Entry, One-Story Addition & Associated Site Improvements upon an 34,223 SF assemblage of parcels in the B-2 zoning district.

Status: **HELDOVER UNTIL March 23, 2023**

ARB: ***Needed***

BOT: ***TBD***

ZBA: ***Needed***

SEQRA: ***Needed***

SCDHS: ***Needed***

SCDPW: ***N/A***

SCPC: ***N/A***

15. 104 Main Street LLC, 104 Main Street (905-012-04-032) Applicant seeks modification of site plan to convert second story of “Building B” for a studio apartment upon the 7,729 SF parcel in the B-1 zoning district.

James N. Hulme, Esq., appeared on behalf o the application, he said that this property was a subdivision that was recently approved and Building “B” were looking to convert back to an apartment and you requested a survey showing the one lot and we have that for this Board. We have a site plan showing the existing septic and the calculations and the retiring system will handle the drainage, and the other question I think that came up was whether the conversion would affect the parking requirement for the site and I went through it and the existing conditions require 18 spaces and the new condition requires 18 spaces and that comes from the change the second floor was storage space is being eliminated and replaed with an apartment. Its not clear to me, but if the second floor is 555 square feet and half is storage and half is office it only requires 2 spaces and an apartment is 2 spots so the net is zero. There are two spots on the site now, but we should not have to add any additional spots.

Mr. Reilly said I will defer to the Planner and Engineer and Building INspecotr.

Mr. Hill said it’s fine for parking and drainage we’ll do what we can.

Mr. Hammond said its an increase in sanitary design flow, the whole sewer connection if its straight with no design flow it’s handled in the Building Department and this is an increase so they have to go WWM and its truncated on their part and they know they are seeking it.

Mr. Hulme asked who do we wait for?

Mr. Hammond said they usually wait for an approval, unless they want to condition it.

Mr. Neubauer asked what impact it would have?

Mr. Hulme said we can’t get a permit, but it would advance the ball.

Mr. Hammond said lets say they get a conditional approval and then WWM the following day they can get a permit, instead of waiting for two weeks for a meeting And we’re going to utilize the drainage and I have seen the plans and I’m happy with them, there is nothing really that the approval will do to change the site.

Mr. Pasca aid there won’t be moving of rings, they’ll either get approved or they won’t.

March 9, 2023

Mr. Reilly said getting BOH a condition or requirement and we know why, and we discussed may change the Code.

Mr. Pasca said in this one case because nothing can change the site conditions it may be appropriate to waive that its an unusual circumstance and we can waive the requirement and proceed to a conditional approval.

Mr. Hulme said we can't change the circumstance that exists now.

Mr. Neubauer said it is what it is.

Mr. Pasca what it was advertised as?

Mr. Hammond said modification; and before the subdivision they hanged the first floor to a hair salon and abandon the second floor apartment and made it an office but nothing is changing on the site.

Mr. Schermeyer said it is there, and when it was switched to a salon it was an office.

Mr. Reilly said I'm concerned that it opens the door for future applicants.

Mr. Pasca said its an unusual circumstance and the BOH can't change the site conditions based on the approval or the denial and it goes forward with the sewers.

16. New York Cancer & Blood Specialists, 40 Main Street (905-012-03-015) Applicant seeks modification of site plan approval to convert the "Beinecke Building" for medical offices upon the 4.2-acre St Marks Church parcel within the R-2 zoning district.

James N. Hulme, Esq., appeared on behalf of the application. He said they introduced this a few weeks ago and we are pending before the ZBA and one of the items of interest was the parking and how we calculated it and other relief may be needed for that. To recap, as indicated we are looking to convert the building to a women's Breath Health Facility, Mammography, Ultrasound and MRI and a small office component. They are all out patient services, and the applicant wanted me to make sure it was chosen at this location, and site and size because they were looking for something smaller. The proposed facility incorporates the existing main floor and basement. There are 9 rooms, office space, nursing station, office, waiting area and staff lounge. The equipment, the MRI, Ultrasound and a waiting area dressing room and bathroom, almost 50% will be dedicated to basement use. That may affect the parking requirements for the building. Staffing impact was a question, they anticipate 8 employees for the clinic and 4 for the foundation work; the hours are Monday – Friday from 8am to 5pm and a patient load of 40-50 patients per day and 5 or 6 per hour. Earlier this week we submitted a current site plan which reflects the current proposal, 135 parking spaces and 53 landbanked and required 198 and there is a shortfall. I indicated that won't get bigger maybe smaller. The required 198 includes 56 for the Church and 59 for the Hall and the use we're proposing only requires 48 spots. There was a discussion that when it was built in the Church as to the timing of use and much of the Church use is weekends and evenings and our use is weekdays.

Mr. Reilly asked if the hours are locked in stone and in the lease?

Mr. Hulme said I don't know, but I suspect it will be a condition of approval.

Mr. Reilly said you're right.

Mr. Hulme said I provided the 2002 Site Plan which showed a 220 parking space requirement for the then use and things have changed and some of the things were converted and changed. Interestingly enough the 2002 site plan took credit for 40 off site parking spaces and that seems to be on Main Street.

Mr. Schermeyer didn't they own the property across the street?

Mr. Hulme said yes, and that's sterilized.

Mr. Reilly asked how this works in conjunction with the pre-school and they are similar hours.

March 9, 2023

Mr. Hulme said yes the hours are I think if you add the parking requirements you come up with one less than 135 spaces so that plays into the idea that the times won't meet.

Mr. Reilly said the trip traffic is confined.

Mr. Hulme said other than the staff parking, the people who use the service drop off and leave. And one of the questions I had, had to do with the road installed from the front parking lot to the back and we're removing that. It was suggested that it go there during the Main Street reconstruction project, but its just an RCA base.

Mr. Reilly said closing it off would cement separate use and it is a barrier too.

Mr. Hulme said I want to do a history of what occurred and the changes made over time. The Church was built in 1946, and in 1986 is when this was built by donation for the use of Family Counseling and it is in a lot of ways similar to this use as we are proposing. In 1993 there was a permit for additional parking there ere 23 or 24 stalls installed and that's the parking lot on the South East corner. In 1995 and 1996 there was a 24' x 26' extension to this building made and at that time in that determination there was a finding that the parking was adequate and the features were comparable to the proposed features. In 2002 that's when the big annex was added to the Church and the parking issue addressed there was addressed in two ways, there was 25 spots added to the site and that surrounds the back and there were 52 spots landbanked in the North end of the property. In 2008 and 2009 there was thrift store which I believed occupied a portion of the basement and that was converted to classrooms for the daycare use. And so, even though we're proposing a significant use of the basement it wasn't always a basement it was a thrift store and classrooms. In 2008 – 2013 that was the cell tower installation, and it was approved and it was changed in 2013 and some replacements took place. The findings form that, in 2002 the uses and the proposed use have not changed and if the concept of alternative parking uses applied then, it applies now and the parking could be deemed adequate. At that time a church, a religious use was a special exception permit and prior to that it was not permitted in Residential zones and if you look at the Code today, a Church and related religious uses are permitted in all of the zones regardless of whether its residential or not. It was considered special exception so that permit went to the Board of Trustees and they approved the concept of landbanking and parking. Some of the minutes leading to that are interesting and at the time Mr. Hafeli was the Village Attorney and he opined about the permitted use and that is not so important for you, but it may be for the ZBA and it may be accessory as proposed to expanding or a use variance. It was explored that the idea the family counseling use was a non religious use and not accessory to the Church use and I think if you read this, you will conclude that the PB disagreed with that and it was in the scope. Its in support of the religious use not because it's religious in nature it's a community service. I know its a lot to digest but that's what I have discovered based on Mr. Hill's request.

Mr. Hill asked if you could tell us the size of the day care that's now operating and what it was then, I was around in 2002 and it has operated well and they didn't increase the parking because we knew it was compatible with the Church and a lot of the classrooms were in the buildings used by Church school and not used by the day care, and the Church operation has parking and as far as the 40 spaces they were deemed they had the rights to them and that's why they were provided.

Mr. Hulme said it was concluded it was permitted, not pre existing non conforming.

Mr. Hill said now its two day time uses and we have to make sure they are compatible and I think the school is much more active than it was in 2002 and the schools parking is an issue but not with kids, but tit is with drop off and pick up and we have to make sure it will work. What goes on now, seems to work but counseling center isn't there.

Mr. Neubauer said the school pick up and drop off is the Western side.

Mr. Hill said that's where it was and approved.

Mr. Hulme said that's why we want to remove that road.

Ms. Bistran said the parking is definitely an issue the landbanked parking doesn't exist and I was at the site at pick up time, and I couldn't find parking in the lot off of Main Street to even take photos. The only way it could be to isolate the day care parking to that lot on their side. They are solely using the Church parking and there are two locked gates preventing you from accessing those spaces and the

March 9, 2023

landbanked spaces are a playground. There are only 8 spaces on that side of the building so we may need to use some of the landbanked parking. I think the uses will need to be isolated.

Mr. Reilly said the bottom line, the proposed use is commercial. Family Counseling is more adjunct to a Church and I know they are projecting patients, it will attract more and they will want to max out.

Mr. Hulme said it's a niche use.

Mr. Reilly said I am concerned that as time goes on it may be more intense than as it was anticipated. It's a commercial establishment as opposed to family counseling.

Mr. Hulme said if you look at the regulations, the parking is the same and the classification is the same. The daycare parking is 27 and the medical office is 48 so if you accept the concept that these are day operations and the Church is weekend then there is adequate parking for both uses. There may be a flow issue, but in the context of the Code there is enough parking.

Mr. Reilly asked if this triggers any sanitary issues?

Mr. Hammond said yes, they need an approval without a doubt.

Mr. Pasca said its fair, because you require a significant variance it's important to demonstrate there won't be any adverse impacts and just saying the Code requires it you have to do as much as you can that there won't be adverse impacts relating to parking and its an easy area.

Mr. Hammond said the concept of the landbank parking is that we can use it, the daycare has expanded and if we pull that card and say you have to pull this is the day care viable?

Mr. Reilly asked if there are trip generation issues?

Mr. Hill said I can run the numbers, but I need to know how many number of students are in the day care and I think they need to be separated. It has worked so far, but I think the daycare has worked because nothing is going on.

Mr. Hammond said and they are utilizing the connection.

Mr. Hill said frankly the thing that scares me is the pick up and drop off and especially with younger kids you have to put them in a seat, buckle them in it takes a few minutes it's not a real pick up and drop off.

Mr. Hammond said the hours are important as well too.

Mr. Hill said the daycare won't be on the weekends, and the Church is weekends. I am most concerned with the pick up and drop off. Ms. Bistran suggests they are parking and walking up to get the kids and bringing them to the car and that can't exist with this use.

Mr. Reilly said we have to isolate the uses as best you can.

Mr. Hulme said he will look at that and see what they can come up with. I agree that the daycare use has changed.

Mr. Hill said the drive aisle was going to help the daycare, but it seems to have grown.

Mr. Reilly said we have to think about the Summer too, because the Country Club has camp all Summer.

Mr. Hill asked if they are open in the Summer?

Mr. Hulme said they are not.

Ms. Mackie interjected and said yes, they offer a camp and it may only be half day but they do offer a day camp component.

March 9, 2023

Mr. Hulme said he had to discuss everything with the church and he'd return with the information the Board is requesting.

Motion was made to hold the application over.