

December 14, 2023

Incorporated Village of Westhampton Beach held its Planning Board meeting on Thursday, December 14, 2023, at 5:00 p.m. in the Municipal Building, located at 165 Mill Road, Westhampton Beach, New York.

PRESENT:           Ralph Neubauer, Acting Chairman  
                  Larry Jones  
                  Rocco Logozzo  
  
                  Britton Bistran, Village Planner  
  
                  Ron Hill, Village Engineer  
  
                  Brad Hammond, Building & Zoning Administrator  
  
                  Anthony C. Pasca, Esq., Village Attorney  
  
                  Maeghan Mackie, Board Secretary

ABSENT:           David Reilly, Chairman  
                  Michael Schermeyer

**DECISIONS:**

1. BMB ENTERPRISES INC. 145 MAIN STREET SCTM#905-11-2-29

Motion was made by Mr. Neubauer to adopt the resolution of BMB Enterprises, Inc., 145 Main Street (905-11-2-29) as written; seconded by Mr. Logozzo and unanimously carried 3 ayes, 0 nays, 2 absent.

2. WHBH REAL ESTATE LLC 7 BEACH LANE SCTM#905-11-3-10

Motion was made by Mr. Neubauer to adopt the resolution of WHBH Real Estate, LLC., 7 Beach Lane (905-11-3-10) as written; seconded by Mr. Logozzo and unanimously carried 3 ayes, 0 nays, 2 absent.

**PUBLIC HEARING AGENDA:**

**SITE PLAN REVIEW:**

1. THE GABLES OF WESTHAMPTON, LTD (FORMERLY WH EQUITY GROUP, LLC) 12,22,80 MONTAUK HWY & OLD RIVERHEAD ROAD
  - o Continued work session on Site Plan application to review phasing and site details

James N. Hulme, Esq., appeared on behalf of the application. Over the last few weeks they submitted a number of things in response to the last meeting, and one is that we received a temporary approval for the sanitary. It is temporary that it is not the full system, it is one component of the entire system. This authorizes 8 units to be constructed. We submitted an updated site plan and provided detail on the walking path, and it included a modified phasing plan which divides the phasing in to four components. Phase I is step 1 and step 1A and step 1 is the first 8 units and step1A is the balance of the first phase after the full sanitary system is approved and installed. We are expecting a month on the full system approval. We talked about the calculation of the park fee and the valuation we based it on and like items.

Mr. Neubauer asked if the payment of the park fee was worked out.

Mr. Hulme said we did not; a portion can be paid with the onset of each phase and there are four phases so by the time the fourth phase is commenced it will be paid in full.

Mr. Neubauer asked how CO's are issued?

Mr. Hammond said its part of the resolution.

Mr. Neubauer asked what their request is for the CO's and the park fee.

Mr. Hulme said it's independent but if you want to tie it you can.

Mr. Pasca said if you don't mind four payments and just prior to each phase that is not a bad solution.

Mr. Hulme said before the fourth phase starts the park fee will be paid in full.

December 14, 2023

Mr. Pasca said the CO's and the thought, we did with Beechwood before the CO's are issued at least everything is safe for the CO's so I will have to talk to Mr. Hammond about that phasing and give rights to start pulling CO's provided certain conditions are met for the units.

Mr. Hulme said we don't want to wait, but we want unit 1 to be safe from the construction.

Mr. Pasca said we will need that plan to put as a condition of the decision it has to provide safety for the occupants and the units.

Mr. Hulme said yes, phase 1 is the west end of the project. So the first occupants will come in off of Depot Road. We can work on conditions for safety.

Mr. Pasca said you can look at Beechwood and you may want to modify it for multi units but it may work.

Mr. Logozzo said with respect to the landscape plan, you may want to look at it from a construction side; the deer are destroying the arborvitae and are the plantings resistant to the deer? They have done major damage to my house so you should look into that.

Ryan Jantzen said we will look at the variety and the Dunes have a similar landscape and we will do something like that so we'll see what plantings they used.

Mr. Hulme said okay.

Mr. Neubauer asked if there were any other questions.

Mr. Hill said they added detail for the wood chip walk and I wanted to see information on the benches, and I want to see that called out. On the second page of the landscape plan there are blow ups and I'd like to see the path and how it will look. I think the Board has a good idea of what you're proposing and if that's what we're doing I want to make sure it's on the plan. I haven't looked at the estimate yet but that'll be keyed into the phasing plan and I'll look it over. You're phase 1 puts a sanitary line to the sewer plant so I want to see asphalt covering that and that completed enough not a top coat but a first coat.

Mr. Hulme said okay. That being the case, we are hoping to get to work so what do we need to do to obtain a building permit.

Mr. Neubauer said you've been allowed to start, but you want more?

Mr. Hill said the SWPPP requirement has earth cleared and is in a pile and you only have a few weeks to seed it so it doesn't blow around all Winter. The point is that it's part of the SWPPP requirement and it has not been done yet.

Mr. Hulme said they'll do that.

Mr. Neubauer asked about foundations.

Mr. Hammond said they have to be part of an approval.

Mr. Pasca said we can't justify it without an approval. We can justify site work but building units that haven't been approved yet and the problem is there are conditions and if the applicants start building before the conditions are considered and if they don't like the conditions it's a problem. There is a reason we have steps to follow.

Ryan Jantzen asked if we can start site work? Drainage?

Mr. Hammond said we want to go to resolution so what is left.

Mr. Hulme said very little.

Mr. Hill said the park fee.

Mr. Pasca said that's part of the final decision and we got there a month or so ago, but I don't know whether the plan was satisfactory.

12-8-23v3

December 14, 2023

Mr. Hill said I asked for a few minor things and as long as the plan is delivered before we make a decision it is alright. The changes are minor. We discussed the vegetation that should be changed before the decision and that should be okay.

Mr. Neubauer said we need a few things before we issue a decision. And hopefully you can resolve the issues between now and the January 11 meeting.

Mr. Hulme said the benches, the trees, the walkway.

Mr. Pasca said I wouldn't rule out the decision for January. In the past you have taken an oral resolution to allow preliminary work before a written resolution is done and I am not taking a position, but buildings and foundations have never been done before and going too far.

Mr. Hammond said I feel like we have spent time and we're close enough to work on a resolution of approval and it's safe to go there to put the conditions in, get the park fee and get the permits.

Mr. Neubauer said cooperating with Mr. Hammond and Mr. Pacca you may have a resolution for January 11.

Anne Smalley are the first 8 units the ones that back up to Patio Villas.

Ryan Janzen said no, they are further South. Some will be Montauk Highway and going North.

Ms. Smalley asked if its South of the access road? Will there be construction from Old Riverhead Road?

Mr. Jantzen said it will be Montauk Highway.

John Stanek, 250 Mill Road said there are good plants to keep the deer at bay and it's a good comment and you should take a good look at it and you want the site to look nice and if the deer hammer it it's visual pollution and it's a great point and that should be in the resolution.

Mr. Hammond said there are C&Rs and there is buffering and trees are not surviving the property is not in compliance with their site plan. We had to watch another site for the Metro Storage, and they had to replace their trees that died so that is still something that we have in enforcement.

Mr. Pasca said the issue of bonding needs to be included in the resolution too. If Mr. Hill gets comments and you turn everything around for January 11, 2024.

Motion was made by Mr. Logozzo to holdover the application of **THE GABLES OF WESTHAMPTON, LTD (FORMERLY WH EQUITY GROUP, LLC) 12,22,80 MONTAUK HWY & OLD RIVERHEAD ROAD** to January 11, 2024; seconded by Mr. Jones and unanimously carried 3 ayes, 0 nays, 2 absent.

2. 32 MILL LLC-32 MILL ROAD SCTM#905-12-4-50

- Continued work session on Modification of Site Plan approval to convert a second floor office to luncheonette seating.

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Erin Finley appeared on behalf of the application, together with Andrew Perel, Esq. Mr. Perel said he's enthusiastic to get this off of the agenda. Over the last 10 weeks we have satisfied all of the open requirements, and cured the open violations and closed down the operation and we got Food control, waste water and we are just seeking to close this out for a resolution.

Mr. Pasca said we don't have a resolution. When it has not been before us for a few months, we go over the status and make sure its ready for resolution and the Board directs us to prepare a resolution. He asked if there are any open items or issues.

Mr. Hill said no there are not. Ms. Bistran said no there are not.

Mr. Pasca said other than public comment it is ready for a resolution.

3. LANDMARK MILL, LLC (STARBUCKS)- 193 & 195 MILL ROAD SCTM#905-8-2-23&24

- Continued work session to discuss new Site Plan application for a 16-seat coffee shop

December 14, 2023

Anthony Guardino, Esq., appeared on behalf of the application. They are seeking to redevelop the property with a 16 seat coffee shop with associated site improvements, together with the architect and Zach Chaplin Engineer. Mr. Guardino said they started this in September when this was introduced at a work session and received feedback from the Board and Village Engineer and Village Planner and there was another session in October and this Board was more favorable to the site; the applicant made further modifications and then there was a public hearing on November 9 and they shifted the building to eliminate the variance and modified the architect and the front faces Mill Road and we added a side entrance on School Street and improved the back facing the parking lot and there were other changes and landscaping improvements to the south side facing School Street and landscaping added. The applicant went to the ARB and they received a favorable memo that they are okay with the materials and landscaping and recently we received a memo from Mr. Hammond who noted the SEQRA status is Type II and some conditions of approval, all of which are acceptable to my client. And we received a memo from Mr. Hill and he asked for technical information and my client is fine with Mr. Hill's comments. We would request to close this for a determination if there are no other further questions or comments.

Mr. Neubauer asked if they only need to make Ron's changes?

Mr. Hill said they are very minor and I can look at them.

Mr. Hammond said the one thing, there is a survey with two rights of way that need to be extinguished but they were for joint access and I was thinking the sidewalk should be extended what is effectively school street and give more protection for pedestrians. And we just need approvals from the other agencies.

Ms. Bistran said the architectural and lighting comments were addressed.

Mr. Logozzo said he did not see the back of the building, and he wanted to see it.

Charles Architect said they have a rendering of the front and supplied the Board with the same.

Mr. Jones asked about the seating on the South side?

Charles said it was removed and they'll look for seasonal seating later on.

Mr. Jones said it looks good.

Mr. Neubauer asked if there is any public comment or questions.

Shelley Schwartz, 221 Mill Road said she's concerned about the traffic, how is it being approved. Can you explain it to me? It sounds like you are going ahead with it.

Mr. Neubauer said they did a traffic study and it was examined and our Engineer agrees with it.

Ms. Schwartz said they have not been here in the Summer.

Mr. Neubauer said this Board has made it clear, and you could not have picked a worse spot. But they have rights and have followed the traditional traffic study requirements and they have satisfied our Engineer.

Ms. Schwartz asked if the Village did a traffic study?

Mr. Neubauer said no it's from the applicant.

Mr. Hill said I reviewed it as the traffic engineer.

Mr. Guarino said there are 16 seats and 16 parking spaces.

Martha Wickline, 221 Mill Road asked the hours of operation?

Mr. Guarino said it is 5:30 a.m. to 10:00 p.m.

Ms. Wickline asked about the lights and shining in to the dark sky.

Mr. Neubauer said we have the dark sky law, and this is fully dark sky compliant. And the night time lighting will be minimal.

12-8-23v3

December 14, 2023

Mr. Guarino said it's for security reasons only.

Ms. Wickline said you can't get on to Mill Road during the Summer, I can't see around the cars parked where they are not supposed to and it will add a lot of traffic.

Mr. Hill said you can only make a right turn into the circle to leave the site. When they come out they can only turn right and the entrance is just east they have to go through the traffic circle, or down Mill Road and it is bypass traffic that's on the road already and they stop by that they drive by which is half of the traffic.

Ms. Wickline said we have plenty of coffee in town and I'm sorry it is happening in this town.

Susan Pazera, 255 Mill Road said this has been residential and it's hard to get out of my driveway and the traffic study was not done here and it was done in Southampton is that correct?

Mr. Hill said when you do a study you find out how much it will generate and that study was done by the ITE a nationally accepted reference and we had them key in with the Southampton store based on the seats to see how it will compare and we looked at the generate traffic and the bypass and how much traffic is already there or new trip generation and it gave us the numbers we can expect.

Ms. Pazera said it was not done during the Summer or a school zone?

Mr. Hill said until it's built you can't do a traffic study on a building that's not constructed.

Ms. Pazera asked the plan to address the traffic.

Mr. Neubauer said we did everything we can to mitigate the traffic; we have made it one way in and out and they wanted both but we told them no; there is no drive through and no more than 16 seats and that's part of the mitigation for the traffic to keep it at bay.

Ms. Pazera asked about foot traffic with kids and them crossing the street? How will that work, the kids will cross the street. It's a very heavily trafficked road.

Anne Smalley Patio Gardens said things happen without residents realizing; the Hampton Arts movie theater is being renovated and has that traffic been considered along with this traffic study?

Mr. Neubauer said the renovation of the movie theater isn't going to generate more traffic than it had in the past, so there is no circumstance that creates an additional load.

Ms. Smalley said it has not been used in 15 years.

Mr. Neubauer said the traffic will increase we can't do that; we do everything we can to mitigate it our hands our tied. There is expansion happening and I have to be frank when I first joined the Planning Board my goal was to stop development and that's not reality we have construction that we will see and there will be increasing traffic and the Village is more attractive more traffic will come and we encourage the businesses not discourage.

Ms. Smalley said if you are going West on Mill how do you get in to Starbucks?

Mr. Neubauer said there are double yellow lines and there are police enforcement on that road so I have faith they won't be making illegal U Turns and I think the traffic is the best possible outcome for egress and exiting. It is on School Street off the traffic circle.

Motion was made by Mr. Logozzo to close the public hearing of **Landmark Mill, LLC (Starbucks) 193 – 195 Mill Road (905-8-2-23 & 24)** seconded by Mr. Jones and unanimously carried 3 ayes, 0 nays, 2 absent.

**FILL APPLICATION REVIEW:**

3. IRA MITZNER 127 JESSUP LANE SCTM#905-10-5-42

5. LEE DUBB, 9 STACY DRIVE SCTM # 905-10-5-30

December 14, 2023

Paulina Giampietro, Esq., appeared on behalf of the application. Mr. Neubauer asked Mr. Hill and Mr. Hammond if they have reviewed the application? They both said yes and they do not have any comments and Ms. Mackie said that she has a resolution prepared.

Motion was made by Mr. Logozzo to adopt the resolution of **Lee Dubb, 9 Stacy Drive (905-10-5-30)**; seconded by Mr. Jones and unanimously carried 3 ayes, 0 nays, 0 absent.

**WORK SESSION AGENDA:**

**Work session discussions were held on pending applications.**

**SITE PLAN REVIEW:**

5. HAMPTONS SYNAGOGUE PARRISH HOUSE- 161 SUNSET AVENUE SCTM#905-12-1-43.2
  - o Modification of Site Plan approval (Phase 2) to remove the parish house and to shift the mikveh building

**SUBDIVISION REVIEW:**

6. ASJM LLC 20 & 28 SEAFIELD LANE SCTM#905-14-2-8.2 & 8.8
  - o Lot line Modification to convey 41, 710sf from 20 to 28 Seafield to create two conforming parcels

**BOARD DISCUSSION:**

7. PROPOSED LETTER TO DORMANT APPLICATIONS

**TRUSTEE REFERRAL: NONE**

**MINUTES:**

1. OCTOBER 26, 2023
2. NOVEMBER 9, 2023

**HOLDOVERS (last Board review):**

1. 85 & 105 MONTAUK LLC- 85 &105 MONTAUK HWY SCTM#905-5-1-12, 53.1 &52.2
2. ROGER'S AVENUE ASSOCIATES- ROGER'S AVENUE SCTM#905-3-1-7.1-7.7)
3. PRIME STORAGE- 98 DEPOT ROAD SCTM#905-2-1-19.1
4. FIRST DUNES DEVELOPMENT 496 LLC- 496 DUNE ROAD SCTM#905-16-1-19 (4/13/2023)
5. 10 MITCHELL OWNER LLC- 10 MITCHELL ROAD SCTM#905-11-2-3
6. ROBERT SCHOENTHAL- 22 BAYFIELD LANE SCTM#905-10-6-2
7. WESTHAMPTON INN, LLC, 43 MAIN STREET SCTM#905-11-1-15 (6/8/2023)
8. RICHARD OLIVO-72 SOUTH ROAD SCTM#905-8-1-27 (6/22/2023)
9. WESTHAMPTON PROPERTY MANAGEMENT LLC-141 MONTAUK HWY SCTM#905-5-2-6.1 (7/13/2023)
10. SUNSET WEST LLC, 87 SUNSET AVENUE SCTM#905-12-1-49.1(9/28/2023)
11. 55-59 OLD RIVERHEAD ROAD LLC-55&59 OLD RIVERHEAD ROAD SCTM#905-4-1-7, 9.2, 9.3(10/12/2023)
12. 161 MONTAUK HIGHWAY LLC, 161 Montauk Highway SCTM#905-5-2-12.1(10/12/2023)
13. SKL REALTY HOLDINGS, INC. (DAPHNE'S) 115 MAIN STREET SCTM#905-11-2-22 (11/9/2023)

**FUTURE MEETINGS:**

1. THURSDAY, JANUARY 11, 2024
2. THURSDAY, JANUARY 25, 2024