

The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Thursday, October 4, 2012 at 7 p.m. in the Municipal Building, 165 Mill Road, Westhampton Beach

**PRESENT: Mayor Conrad Teller
Trustee Patricia DiBenedetto
Trustee Charles Palmer
Deputy Mayor Hank Tucker
Trustee Ralph Urban**

**Clerk-Treasurer Rebecca Molinaro
Village Attorney Richard Haefeli**

PUBLIC HEARINGS

Rolling Pin, Inc. (Beach Bakery) Special Exception Application

Mayor Teller made a motion to open the public hearing on the Special Exception Application from Rolling Pin, Inc. Seconded by Deputy Mayor Tucker.

Mayor Teller asked if anyone would like to be heard.

Brad Kenealy, 553 Broadway, Massapequa, spoke as attorney for Beach Bakery, Rolling Pin. He said we have been working with the Planning Board on this application for restaurant and apartment approval with the demolition of a house with a parking lot and certain agreements with the neighbors, like a party wall agreement. The plans are so detailed and everything has been approved by the Planning Board and we are working on filing some agreements with complete descriptions, on the party wall itself. We have spent a year and a half getting to this point. It is a very good application, it has taken a lot of time. We make a request to this Board to approve this application for the use as a restaurant.

Trustee DiBenedetto said she has one question and she asked how long from start to finish...

Mr. Kenealy said we hope to start sometime next week because they still have certain things to file for the Planning Board approval. He said the Building Permit to be issued, not approval. Hope to start next week and end the project by Memorial Day of next year.

Trustee DiBenedetto asked if they would be starting with the rear of the building.

Mr. Kenealy said they will starting with the...

Simon Jorna said they will be starting with the side of the building, then we will be working on a whole new septic system and have a temporary line set up to the new system. No area will be blocked.

Mr. Kenealy said they have been working on this 2 years, to get the approvals. Department of Health approval takes a long time, it all takes a long time.

Mayor Teller asked if anyone else wished to be heard. There being no further response, he made a motion to close the public hearing and was seconded by Deputy Mayor Tucker.

Motion by Deputy Mayor Tucker:

WHEREAS, the applicant is the owner of real property located at 112 Main Street in the B-1 Zoning District. A standard restaurant is permitted in the B-1 Zoning District by way of Special Exception issued by this Board, and;

WHEREAS, the property is improved by a two story building containing a luncheonette and bakery on the first floor and an apartment on the second floor. The applicant proposes to expand the existing luncheonette thereby increasing the total seating capacity and parking for the restaurant. This proposal requires site plan approval from the Planning Board and a special exception approval from this Board, and;

WHEREAS, the applicant has applied to this Board for a special exception permit pursuant to the provisions of §197-17 and Article VIII of the Zoning Code of the Village of Westhampton Beach to permit the area of the first floor which is designated on the site plan approved by the Planning Board in a resolution dated September 13, 2012 as a standard restaurant, and;

WHEREAS, pursuant to the provisions of Article VIII of the Zoning Code, the application was referred to the Planning Board for its recommendation and the Planning Board submitted an approval recommendation to this Board regarding the proposed special exception use, and;

WHEREAS, the applicant has filed a site plan with the Planning Board including a floor plan for the standard restaurant. The site plan which is last dated July 16, 2012 and date stamped received by the Village on July 17, 2012, with additions last dated August 28, 2012, prepared by Designed Studio Architect PC, Donald Jewell AIA LEED AP Architect which provides for 17 parking spaces. The applicant has also filed a seating plan for the area set forth in the site plan to be used as a standard restaurant, which is date stamped received by the Planning Board on April 17, 2012 and provides for a total of 14 tables and 32 seats, and;

WHEREAS, the applicant has also filed with the Village an approval from the Suffolk County Department of Health Services for the restaurant waste water disposal system.

NOW THEREFORE BE IT RESOLVED: The Board of Trustees hereby grants the applicant a special exception permit to permit the area of the first floor designated on the site plan approved by the Planning Board on September 13, 2012 as a standard restaurant, subject to the following terms and conditions:

1. The area of the first floor which is designated on the site plan as a standard restaurant shall only be used and occupied as a standard restaurant as that term is defined in the Zoning Code.
2. All of the conditions set forth in Section 197.80.1 of the Zoning Code shall be complied with.
3. The applicant has obtained site plan approval from the Planning Board on September 13, 2012 with respect to the site plan last dated July 16, 2012 and date stamped received by the Village on July 17, 2012, with additions last dated August 28, 2012, prepared by Designed Studio Architect PC, Donald Jewell AIA LEED AP Architect and the applicant shall comply with all of the conditions set forth in said site plan approval and the declarations, agreements and easements recorded as a condition of the site plan approval. In the event that the condition of the site plan approval or recorded agreements are not complied with or if there are any subsequent changes to the site plan or recorded agreements which requires Planning Board approval and such approval is not been receiver or if received said approval is not complied with then this special exception permit shall terminate.
4. This special exception permit shall terminate if the use of the area of the first floor which is designated on the site plan as a standard restaurant shall be changed to any of the other restaurant uses set forth in the Zoning Code or if any of the area of the first floor that is not designated as a standard restaurant is used as a standard restaurant.
5. If, at any time, the Suffolk County Department of Health Services shall revoke any of the approvals or permits it has issued as of the date hereof, then this Special Exception approval shall cease and the use of the property as a standard restaurant shall terminate. In the event that there is any modification to the waste water or food service approvals or permits issued by the Suffolk County Department of Health Services as of the date hereof, reducing the waste water capacity or the food service capacity, this special exception permit shall terminate.
6. A copy of this special exception approval and declaration shall be attached to any future lease of the business part of the property.
7. In the event that legal proceedings are commenced by the Village of

Westhampton Beach in order to enforce the provisions of this special exception approval in any court or to obtain injunctive relief in the Supreme Court against the owner, occupant or tenant of the owner or heirs, successors or assigns of the owner, the legal fees, court costs and other associated expenses incurred by the Village of Westhampton Beach shall become a lien against the real property.

8. A covenant shall be filed by the applicant and the applicant's sole cost and expense setting forth the provisions of paragraph 1-7 and a copy of the recorded covenant shall be filed with the Village prior to the use of the property as a standard restaurant.

Village Attorney Richard Haefeli asked to make an amendment to the resolution to eliminate the language in the last sentence of "prior to the use of property" and insert "prior to the issuance of a building permit."

Mr. Kenealy asked if Paragraph 1 could be read again. He asked about the wording if it could be "standard restaurant and bakery."

Mr. Haefeli said no, there are two areas. You have one area on the site plan designated as a restaurant and another area is the bakery. This Special Exception says one area is to be used as a restaurant and you cannot move the restaurant area into the bakery.

Motion by Mayor Teller to make the amendment to the resolution.

Seconded by Trustee Urban and unanimously approved. 4 Aye, 0 Nay.

RESOLUTIONS

Accept Departmental Reports

Motion by Deputy Mayor Tucker:

RESOLVED, that the minutes of the Board of Trustees Meeting of September 6, 2012 and Special Meeting of September 19, 2012 are hereby accepted.

Seconded by Trustee Urban and unanimously approved. 4 Aye, 0 Nay

Accept minutes of Board of Trustees Meetings

Motion by Trustee Urban:

RESOLVED, that the Justice Court, Police Department and Building Inspector's reports for September 2012 and Treasurer's Reports for July 2012 and August 2012 are hereby accepted.

Seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay

Schedule Public Hearing-2013 Community Development Block Grant Funding

Motion by Trustee DiBenedetto:

RESOLVED, that the Clerk-Treasurer is hereby directed to publish and post a Notice of Public Hearing to be held on Thursday, November 1, 2012 at 7:00 p.m. at the Village Hall on 2013 Community Development Block Grant funding.

Seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay

Approve 2011-12 Fiscal Year Budget Transfers

Motion by Trustee DiBenedetto to holdover.

Seconded by Deputy Mayor Tucker and voted on as follows:

Trustee DiBenedetto
Trustee Palmer

Aye
Aye

Mayor Teller
Trustee Tucker
Trustee Urban

No
Aye
No

Authorize Unreserved Fund Balance Transfer

Motion by Deputy Mayor Tucker:

RESOLVED, that the Board of Trustees hereby approved the transfer of \$100,000 from the 2011–12 unreserved fund balance to the Compensated Absences Fund.

Seconded by Trustee Urban and unanimously approved. 4 Aye, 0 Nay

Authorize Use of Village Property-Buoy Owners Corporation

Motion by Trustee Urban:

RESOLVED, that the Buoy Owners Corporation is hereby authorized to use the Village Hall Board Meeting Room on Saturday, October 6, 2012 from 2:00 p.m. to 4:00 p.m. for the Annual Shareholders Meeting.

Seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay

Authorize Use of Village Property-Greater Westhampton Chamber of Commerce

Mayor Teller wanted to thank the Chamber of Commerce for bringing back the parade to Main Street. He also thanked the PTA and Stacy Rubio for their help with this event.

Motion by Trustee DiBenedetto:

RESOLVED, that the Greater Westhampton Chamber of Commerce is hereby authorized to conduct a Halloween Parade on Wednesday, October 31, 2012 from 3:00 p.m. to 5:30 p.m. from Mill Road to Main Street.

Seconded by Trustee Urban and unanimously approved. 4 Aye, 0 Nay

Authorize Renewal of HVAC Annual Service Contract

Motion by Deputy Mayor Tucker:

RESOLVED, that the annual service and maintenance contract with Dynaire Service Corp. for the Village Hall HVAC system at a cost of \$7,680.00 is hereby renewed.

Seconded by Trustee DiBenedetto and unanimously approved. 4 Aye, 0 Nay

Accept Proposal for Storm Water Management Program Report Assessment

Motion by Trustee Urban:

RESOLVED, that the Board of Trustees hereby accept the proposal from D&B Engineers for a 2012 MS4 Storm Water Management Program Municipal Operations and Facilities Self-Assessment Demonstration at a cost of \$1,200.00.

Seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye and 0 Nay

Authorize Payment of 2009/10, 2010/11 and 2011/12 Certiorari Property Tax Reductions

Motion by Trustee DiBenedetto:

RESOLVED, that the Board of Trustees hereby authorize the payment of 2010/11, 2011/12 and 2012/13 tax year property tax reductions in the amount of \$18,282.55 to the property owners specified on the attached list as a settlement of certioraris as ordered by the NYS Supreme Court.

Seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay

Approve Warrant for October 2012

Motion by Trustee Palmer:

RESOLVED, that the warrant for October 2012 in the amount of \$ 267,862.59 for the General Fund is hereby approved.

Seconded by Trustee DiBenedetto and unanimously approved. 4 Aye, 0 Nay

PUBLIC DISCUSSION

Mayor Teller asked if anyone else would like to be heard. There being no further response, he made a motion at 7:20 p.m. to commence an Executive Session for the purposes of discussing litigation. The motion was seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay.

Respectfully submitted,

Rebecca Molinaro
Clerk-Treasurer