Minutes - Board Meeting 12/19/2012

Minutes of the meeting of the Board of Trustees of the Incorporated Village of Mineola held Wednesday, December 19, 2012 at Village Hall, 155 Washington Avenue, Mineola, New York 11501.

PRESENT: Mayor Scott P. Strauss
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Paul A. Pereira
Trustee George R. Durham

ALSO PRESENT: Village Attorney John M. Spellman
Village Clerk Joseph R. Scalero
Deputy Village Clerk Cora T. Kelly

Press Observer: Rich Forestano, *Mineola American*
Rich Tedesco, *Williston Times*
Geoffrey Walter, *Patch .com*

Sunshine Observers: 28 Observers

Mayor Scott P. Strauss called the Work Session to order at 6:35 PM

Resolution No. 298-12

Resolved to approve bills and payroll.

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Paul A. Pereira

Vote:

Yes	No	Abstain
Mayor Scott P. Strauss		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee George R. Durham		

Resolution No. 299-12

Resolved to approve the membership of the following candidate as recommended by the Mineola Fire Department:

Michael J. Harrington Company 1

Motioned by Trustee Paul S. Cusato
Seconded by Trustee George R. Durham

Vote:

Yes	No	Abstain
Mayor Scott P. Strauss		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee George R. Durham		

Resolution No. 300-12

Resolved to authorize a $420.00 monthly benefit payout from the Fire Service Award Fund to Mineola Fire Department Volunteer Firefighter, Leonard A. Schmitt, pursuant to the Length of Service Awards Program (LOSAP) effective January 1, 2013.

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Lawrence A. Werther

Vote:

Yes	**No**	**Abstain**
Mayor Scott P. Strauss		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee George R. Durham		

Resolution No. 301-12

Resolved to approve a request by the Mineola Fire Department for budget transfers in the amount of $4,500.00 from the following lines:

From:	(Hose and Equipment)	$1,000.00
From:	(Fitness Equipment)	$ 800.00
From:	(Annual Installation Dinner)	$1,200.00
From:	(Dues & Conferences)	$1,500.00
To :	(Computers)	$4,500.00
	Total To Be Transferred	$4,500.00

Motioned by Trustee Lawrence A. Werther
Seconded by Trustee Paul S. Cusato

Vote:

Yes	**No**	**Abstain**
Mayor Scott P. Strauss		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee George R. Durham		

Mayor Scott P. Strauss requested a motion to go into Executive Session at 6:50 PM

Motioned by Trustee Paul A. Pereira
Seconded by Trustee George R. Durham

Vote:

Yes	**No**	**Abstain**
Mayor Scott P. Strauss		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee George R. Durham		

Mayor Scott P. Strauss requested a motion to come out of Executive Session at 6:55 PM.

Motioned by Trustee Paul A. Pereira
Seconded by Trustee George R. Durham

Vote:

Yes	**No**	**Abstain**
Mayor Scott P. Strauss		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee George R. Durham		

Resolution No. 302-12

Resolved to approve compensatory time to those employees who came to work during Hurricane Sandy.

Motioned by Trustee Lawrence A. Werther
Seconded by Trustee George R. Durham

Vote:

Yes	No	Abstain
Mayor Scott P. Strauss		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee George R. Durham		

Resolution No. 303-12

Resolved to sell a portion of a vacant parcel adjacent to 267 East Jericho Turnpike owned by the Village to the owner of 267 East Jericho Turnpike (as shown upon a survey prepared by Zambrano Architectural Design, LLC and dated November 17, 2011) for purposes of creating an expanded parking lot serving said property at a fair-value purchase price of $233,000.00. The Mayor is authorized to execute all documents effectuating such sale.

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Lawrence A. Werther

Vote:

Yes	No	Abstain
Mayor Scott P. Strauss		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee George R. Durham		

Resolution No. 304-12

Resolved that the property owners or residents of property located on the east side of Bruce Terrace who currently occupy Village-owned property east of their own property lines shall be obligated to do the following:

a. For residences on Bruce Terrace adjoining property required for Village use, Village-owned property shall be vacated forthwith, but in no event later than February 1, 2013; and
b. For residences on Bruce Terrace adjoining property not required for Village use, shall be vacated forthwith, but in no event later than February 1, 2013, unless said owners shall have entered into a contract with the Village for the purchase of the Village-owned land which they occupy at appraised fair market value (as determined by the Village's appraiser) by said date and shall close title thereto by April 1, 2013. Failure to close title by April 1, 2013, unless such date shall be extended by the Village, shall result in the obligation to immediately vacate the Village-owned property on that date. Purchasers shall be responsible for the costs of any surveys necessary for the preparation of deeds to the property purchased.

Any person who wishes to purchase will be required to submit a survey to the Village for the purpose of determining the square footage of the parcel purchase and the purchase price.

Motioned by Trustee Paul A. Pereira
Seconded by Trustee Paul S. Cusato

Vote:

Yes	**No**	**Abstain**
Mayor Scott P. Strauss		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee George R. Durham		

Resolution No. 305-12

BOARD OF TRUSTEES
INCORPORATED VILLAGE OF MINEOLA
----------X
In the Matter of the Application of

MINEOLA PROPERTIES LLC, as successor
in interest to 250 Old Country Road,
LLC

For a Special Permit pursuant to Chapter 30, Section 30.5 of the Code
of the Incorporated Village of Mineola, to construct a 315 unit residential rental building upon the property located at Old Country Road and Third Street and bounded on the east by Third Avenue, Mineola, New York, known and designated on the Nassau County Land and Tax Map as Section 9, Block 675,Lots 2A-2B.
----------X

DECISION

NAME OF APPLICANT:	Mineola Properties LLC, as successor in interest to 250 Old Country Road, LLC
SUBJECT PROPERTY:	Section 9, Block 675, Lots 2A-2B
STREET LOCATION:	Old Country Road and Third Street, bounded on the east by Third Avenue, Mineola, New York 11501

ZONING DISTRICT: Business "B-3" District

RELIEF REQUESTED:	Application For a Special Permit pursuant to Chapter 30, Section 30.5
PUBLICATION & POSTING:	All in accordance with applicable laws, rules and regulations.
DATE OF HEARINGS:	Original Application by 250 Old Country Road, LLC: May 20, 2009; June 17, 2009; and July 8, 2009. Amended Application by Mineola Properties LLC: May 23, 2012 and August 8, 2012
APPEARANCES:	Original Application: Kevin M. Walsh, Esq., Original Applicant's Attorney IN SUPPORT: Michael Yeroush and Robert Kahen, Principals; Mitch Newman, Architect; Terry Elkowitz, Harold Lutz and Gail Pesner, VHB Engineering; Michael Schroder, Tax Attorney Amended Application: Kevin M. Walsh, Esq., Successor Applicant's Attorney

IN SUPPORT: Frank Lalazerian and Kevin Lalazerian, Principals; Stephen Jacobs and Herbert Weber, Architects; Virginia Watral and John Canning, VHB Engineering

250 Old Country Road, LLC (hereinafter, "Original Applicant") appeared before this Board pursuant to Chapter 30, Section 30.5 of the Municipal Code of the Incorporated Village of Mineola for a special permit to construct a nine-story residential condominium building containing 257 units upon the real property located at Old Country Road and Third Street, bounded on the east by Third Avenue, Mineola, New York (known and designated on the Nassau County Land and Tax Map as Section 9, Block 675, Lots 2A-2B) hereinafter, the "Property").

By Notice of Disapproval, dated November 21, 2008, Original Applicant's building permit was denied. The Building Inspector determined that the proposed Application is contrary to the Village's zoning regulations, specifically: use, building height front yard setback, side yard setback, lot coverage percentage and minimum unit size. As a result of the Application's noncompliance with zoning code regulations, Original Applicant was entitled to seek relief before the Zoning Board of Appeals for use and area variances. In the alternative, Original Applicant was able to seek the same relief from the Board of Trustees pursuant to Chapter 30, Section 30.5 under the Village's development incentive bonus law.

Original Applicant made an Application to the Board of Trustees for the required relief pursuant to the Village's development incentive bonus law and presented its Application on May 20, 2009, June 17, 2009 and July 8, 2009. The Board of Trustees declared itself lead agency pursuant to SEQRA and following a coordinated review by all involved agencies (New York State Department of Environmental Conservation, Nassau County Planning Commission, Nassau County Department of Public Works, Village of Garden City Planning Commission, Village of Mineola Planning Board, Village of Mineola Department of Public Works and Village of Mineola Water and Sewer Department) determined that the Application was an unlisted action. An expanded Environmental Assessment Form was prepared by the Original Applicant. The expanded Environmental Assessment Form contained the following: site and surrounding area photographs; correspondence from the Superintendent of the Village's Building Department; excerpts from the Village of Mineola Comprehensive Master Plan; demographic analysis; traffic impact study; rendering of elevations; massing model; and shadow study. The Board of Trustees,

after careful review, issued a Negative Declaration under SEQRA and also issued a Findings Statement.

The Original Applicant also sought a waiver of appearance before the Village's Planning Board for preliminary site plan review and for architectural review. The waiver was granted by the Board of Trustees and the Board of Trustees assumed jurisdiction over site plan approval and architectural approval.

A referral of the Original Application was made to the Nassau County Planning Commission. The Nassau County Planning Commission by decision, dated September 3, 2009 recommended that the Village Board of Trustees take whatever action it deemed appropriate. The Commission supported the proposed project for a number of reasons, including the following: the project is supported by the goals and recommendations set forth in the Mineola Comprehensive Master Plan and the subsequent Development Incentive Bonus Overlay District; Mineola will be the recipient of public amenities from the developer in accordance with the requirements of the Development Incentive Bonus Overlay District; the location of the project provides convenient pedestrian access to downtown Mineola and is also walkable to Garden City. It provides pedestrian accessibility to Mineola's Intermodal Transportation Center; the proximity of the project to rail services would likely appeal to persons employed in Manhattan and other areas served by the LIRR and is walkable to major employers in Mineola and Garden City such as the County Government Center, Winthrop University Hospital and the financial institutions along Franklin Avenue; the project will bring new purchasing power to businesses in Mineola and Garden City; the project could serve as a model for downtown revitalization and as an impetus to revitalize underutilized properties in Mineola's Central Business District and fringe commercial areas; the project could serve as a cornerstone for pedestrian connectivity and pedestrian improvements in Mineola's downtown area and along Old Country Road.

The Board of Trustees had closed the hearing on the Original Application and had reserved decision. An open issue with respect to the Original Application was whether or not the next-generation, workforce and first responder housing would be located in the proposed building or at another site.

As a result of a subsequent change in national, regional and local economic policies and practices affecting condominium construction financing and individual unit purchase financing, condominium development became impractical at the Property. Additionally, it was reasonably

predictable that the Village of Garden City would object to the project and would exercise its veto jurisdiction under Section 1610 of the Nassau County Charter. Accordingly, by way of this Amended Application, the Applicant has requested approval of this Board to change the proposed project from a residential condominium building to a residential rental building.

Thus, before this Board is now a proposal to construct a residential rental apartment building containing 283 market rental units and 32 next-generation, workforce, first responder units.

In this connection, the Applicant seeks, under the Village's Development Incentive Bonus Law, the relaxation of the Village's zoning laws in several ways:

1. Residential use in a business zone;
2. Building height;
3. Building setbacks;
4. Lot coverage percentage;
5. Minimum unit size; and
6. Parking space configuration (tandem parking).

Applicant also seeks site plan approval for the revised site layout of the rental apartment building and architectural approval for the revised building design.

In consideration of Board approval of this special permit, the Applicant has offered the following public amenities:

1. Streetscape improvements around the perimeter of the block on which the Property is located;
2. 32 units of next-generation, workforce, first responder housing of a quality equal to that of the market rate units; and
3. Three Million One Hundred Thousand ($3,100,000.00) Dollars in lieu of further public amenities.

In support of the Amended Application, Applicant has submitted a new Environmental Assessment Form, Supplement and Negative Declaration Consistency Analysis which contained, among other things, a supplemental traffic impact study, a revised demographic report and an updated shadow study. This Board carefully reviewed the environmental materials submitted in connection with the Amended Application and by Resolution dated August 8, 2012 issued an Amended Negative Declaration under SEQRA. The Board further referred this matter to the

Nassau County Planning Commission pursuant to Section 239-m of the General Municipal Law and by Resolution No. 9849-12 the Nassau County Planning Commission recommended that the Village take action as it deems appropriate concerning the Amended Application.

The Applicant has indicated its intention to seek financing of the Project through the Nassau County Industrial Development Agency, which Agency has proposed a PILOT (payment in lieu of taxes) Program. The Applicant, on its part, has proposed a Host Community Benefit Agreement according to which it will pay the Village monies in addition to the PILOT.

FINDINGS

The type of project as is proposed was contemplated by the Village's draft Master Plan. It will contribute to the vibrancy and the economic stability of the Village's Downtown and, as a transit-oriented development it qualifies as a smart growth component of Mineola's Downtown Revitalization.

Implementation of the proposed action will not create a material conflict with the community's current plans or goals as officially approved or adopted. In fact, the overall theme of the Village of Mineola Comprehensive Master Plan, is to build upon Mineola's strong sense of community among its residents and envisions the Village as an even more desirable, safe and attractive place to live and work.

The recommendations in the Comprehensive Master Plan seek to realize the Village's full potential, and the proposed residential rental building has been designed to help to achieve these goals.

The proposed project incorporates a use that will contribute to and strengthen the Village in its downtown area.

The future population of the proposed building is expected to make use of the proximity of the Long Island Rail Road station to commute to Manhattan and other places, or to work in and around the Mineola community.

Potential residents could inject millions of dollars in spending into the local economy. This would encourage local business activity to expand.

The additional purchasing power of the Building's residents would also expect to increase local earnings and generate additional jobs in the local community.

DECISION

Based upon the above findings, it is hereby determined that the granting of the Application requesting a special permit pursuant to Section 30.5 of the Village Code for development incentive bonuses according to which the Applicant offers certain community benefits and amenities and payment in lieu thereof in exchange for the Board of Trustees granting relief from certain zoning code regulations, shall advance the Village's specific physical, cultural and social policies in accordance with the Village's comprehensive plan and in coordination with community planning mechanisms and land use techniques. Further, it is hereby determined that the Special Permit will provide a desirable facility to the area, will promote the revitalization of the Village's Downtown and will not be incongruous to the neighborhood by reason of excessive traffic.

IT IS THEREFORE RESOLVED, as follows:

1) The Application for a Special Permit to construct and maintain a rental apartment building containing 283 market rental units and 32 next-generation, workforce, first responder units at the Property is **GRANTED**.

2) The request to provide on-site parking in a tandem format is **GRANTED.**

3) The request that the Village approve a PILOT Agreement with the Nassau County Industrial Development Agency with respect to the proposed Project in accordance with the following schedule is **GRANTED:**

TAX YEAR	PILOT
2015	$ 9,137.00
2016	$ 18,822.00
2017	$ 29,081.00
2018	$ 39,937.00
2019	$ 51,419.00
2020	$ 63,556.00
2021	$ 76,375.00
2022	$ 89,902.00
2023	$104,174.00
2024	$119,221.00
2025	$122,794.00
2026	$126,476.00
2027	$130,277.00
2028	$134,179.00
2029	$138,208.00
2030	$142,357.00
2031	$146,624.00
2032	$151,019.00
2033	$155,551.00
2034	$160,220.00

4) The offer made by the Applicant to provide a Host Community Benefit Agreement to the Village is **APPROVED** as follows:

TAX YEAR	HOST COMMUNITY BENEFIT AGREEMENT
2015	$268,864.00
2016	$267,519.00
2017	$265,850.00
2018	$263,842.00
2019	$261,473.00
2020	$258,723.00
2021	$255,572.00
2022	$252,004.00
2023	$247,989.00
2024	$243,507.00
2025	$250,816.00
2026	$258,342.00
2027	$266,086.00
2028	$274,075.00
2029	$282,293.00
2030	$290,759.00
2031	$299,486.00
2032	$308,474.00
2033	$317,727.00
2034	$327,256.00

5) The offer made by the Applicant to provide development incentive payments in the amount of $3.1 Million to the Village in lieu of further public amenities is **APPROVED.**

6) Final site plan approval for the Project is hereby **GRANTED**.

7) Architectural approval for the Project is hereby **GRANTED**.

All of these enumerated grants and approvals are conditioned upon the following:

1) The payment by the Applicant to the Village as and for the development bonuses awarded herein the sum of Three Million One Hundred Thousand ($3,100,000.00) Dollars as follows:

   a) $620,000.00 upon issuance of a building permit for the building.

   b) $620,000.00 upon issuance of the Certificate of Occupancy for the building.

   c) $620,000.00 on the first anniversary date of the issuance of the Certificate of Occupancy for the building.

   d) $620,000.00 on the second anniversary date of the issuance of the Certificate of Occupancy for the building.

   d) $620,000.00 on the third anniversary date of the issuance of the Certificate of Occupancy for the building.

The failure of the Applicant to make any of the listed payments on the date due shall result in an automatic acceleration of all other outstanding payments. The failure to make a required payment shall authorize the Village, in addition to all other legal remedies, to place the outstanding accelerated payment amount on the tax bill for the Property and such shall be a lien upon the Property. The election of any remedy shall not preclude the Village from pursuing any other legal remedy.

2) The provision of 32 units of next-generation, workforce, first responder housing of a quality equal to that of the market rate units.

3) Streetscape improvements around the perimeter of the block on which the Property is located.

4) The provision of 12 indoor visitor parking spaces.

5) The representations made by Applicant on the record in this proceeding have been deemed material to this Application and have been relied upon by the Board of Trustees in its deliberations and decisions. Said representations are deemed to be part of the conditions of this special permit.

6) Violation of a condition set forth in this decision shall be deemed a violation of the Village Zoning Law and shall subject the owner or occupant of the premises to all penalties set forth in the Zoning Law.

All of the terms, conditions and obligations contained in this Decision shall be binding upon the Applicant, its heirs, successors and assigns.

This constitutes the Decision of the Board of Trustees.

Dated: Mineola, New York
December 19, 2012

Motioned by Trustee George R. Durham
Seconded by Trustee Paul A. Pereira

Village Clerk Joseph R. Scalero polled the Board:

Vote:

Yes	**No**	**Abstain**
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee George R. Durham		
Mayor Scott P. Strauss		

Mayor Scott P. Strauss requested a motion to close the Work Session at 8:00 PM.

Motioned by Trustee Lawrence A. Werther
Seconded by Trustee Paul A. Pereira

Vote:

Yes	**No**	**Abstain**
Mayor Scott P. Strauss		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee George R. Durham		

Mayor Scott P. Strauss called the Public Meeting to order at 8:15 PM.

PRESENT: Mayor Scott P. Strauss
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Paul A. Pereira
Trustee George R. Durham

ALSO PRESENT: Village Attorney John M. Spellman
Village Clerk Joseph R. Scalero
Deputy Village Clerk Cora T. Kelly

Press Observer: Rich Forestano, *Mineola American*
Rich Tedesco, *Williston Times*
Geoffrey Walter, *Patch .com*

Sunshine Observers: 18 Observers

Mayor Scott P. Strauss reported that he attended a ribbon cutting for a new business, Mama Soup, and wished them well; reported that the Mineola Junior Fire Department organized a Pancake Breakfast raising thousands of dollars for families devastated by Hurricane Sandy and thanked the Mineola Fire Department and the Mineola Ladies Auxiliary for the hundreds of toys they distributed in South Shore communities damaged by the storm. Mayor Strauss stated that they were accompanied by Town of Hempstead Supervisor Kate Murray and that she was highly complementary of the Mineola Fire Department and the Mineola community as a whole for this outreach effort. Mayor Strauss announced that "Operation Santa" is in full swing and thanked Mineola firefighters who make it possible; reminded residents of the snow ordinance requiring cars to be removed from village streets in the event of 2 inches of snow; reminded residents to sign up for the eNotices and wished residents a Merry Christmas and a Happy New Year.

Trustee Lawrence A. Werther announced he attended the Mineola Chamber of Commerce's Christmas party mentioning they are already planning next year's "Taste of Mineola" and the Mineola Street Fair, and reminded residents to support local merchants. Trustee Werther informed the residents about the "Wounded Warrior" project and encouraged its support and wished everyone a Blessed Christmas and a Happy New Year.

Trustee Paul S. Cusato thanked the residents for their support of the annual "Toys for Tots" program and announced that the village collected 14 large bags of toys. Trustee Cusato thanked the Mineola Fire Department for its efforts in conducting "Operating Santa" and extended his wishes for a Merry Christmas and Happy New Year.

Trustee Paul A. Pereira thanked everyone for the cards and well wishes on the birth of his daughter Ana and wished residents a Merry Christmas and Happy New Year.

Trustee George R. Durham thanked village staff and volunteers who worked on the Christmas tree lighting and thanked all the volunteers who work so hard on a multitude of projects and events throughout the year which make the Village of Mineola special. Trustee Durham also thanked the residents for their support of the Mineola Athletic Association (MAA) Christmas tree sale and wished all a Merry Christmas and Happy New Year.

2 Speakers addressed the Board

Mayor Scott P. Strauss requested a motion to close the Public Meeting at 8:35PM.

Motioned by Trustee Lawrence A. Werther
Seconded by Trustee George R. Durham

Vote:

Yes	**No**	**Abstain**
Mayor Scott P. Strauss		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee George R. Durham		