

Minutes - Board Meeting – 10/12/2011

Minutes of the meeting of the Board of Trustees of the Incorporated Village of Mineola held Wednesday, October 12, 2011 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
Superintendent of Public Works Thomas J. Rini
Superintendent of Buildings Daniel B. Whalen
- Press Observer:**

Rich Forestano, *Mineola American*
Geoffrey Walter, *Patch .com*
Rich Tedesco, *Williston Times*
- Sunshine Observers:**

64 Observers

Mayor Scott P. Strauss called the Public Hearing to order at 6:55 PM.

Village Attorney John M. Spellman presented the following resolution on the application of Winston Polimeni International, LLC for a further amendment to a special permit at the property located at the northwest corner of the intersection of Old Country Road and Willis Avenue.

Resolution No. 235-11

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

POLIMENI INTERNATIONAL, LLC

For a Special Permit pursuant to Chapter 30, Section 30.5 of the Code of the Incorporated Village of Mineola, upon the property located at the northwest corner of the intersection of Old Country Road and Willis Avenue, Mineola, New York, known and designated on the Nassau County Land and Tax Map as Section 9, Block 430, Lots 10, 65, 212, 411, 415, 418 and 419.

**SECOND AMENDED
DECISION**

NAME OF APPLICANT: Polimeni International, LLC

SUBJECT PROPERTY: Section 9, Block 430, Lots 10, 65, 212, 411, 415, 418 and 419 (with respect to The Winston) and Section 9, Block 417, Lots 53, 54 and 55 (with respect to The Churchill)

STREET LOCATION: Northwest corner of the intersection of Old Country Road and Willis Avenue, Mineola, New York 11501 (The Winston) and North side of Front Street west of Roslyn Road (The Churchill)

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 HEARING: September 14, 2011

APPEARANCES: Andrea Tsoukalas, Esq., Applicant's Attorney

IN SUPPORT: Michael Polimeni, Polimeni International, LLC
Maria Rigopoulos, Mill Creek Residential Trust;
Louis Giacalone, Architect; Peter Elkowitz and Diana Weir, Long Island Housing Partnership; Terry Elkowitz, VHB

DECISION:

Polimeni International, LLC (hereinafter, "Applicant") appeared before this Board on November 27, 2007, January 9, 2008 and February 13, 2008 seeking to construct a residential condominium apartment building of up to 285 units upon the property located at the northwest corner of the intersection of Old Country Road and Willis Avenue, Mineola, New York (known and designated on the Nassau County Land and Tax Map as Section 9, Block 430, Lots 10, 65, 212, 411, 415, 418 and 419). The condominium project was to be known as "The Winston." The Applicant sought a relaxation of the Village's zoning regulations with respect to permissible use, front yard setback, side yard setback, building height and minimum unit size via the Village's development incentive bonus law. Applicant also sought a waiver of appearance before the Village's Planning Board with respect to preliminary site plan review and architectural review and requested that this Board grant such approvals. In exchange for the zoning relief sought, the Applicant offered to provide certain public amenities and money in lieu thereof to the Village.

By Decision dated July 2, 2008 and filed with the Village Clerk on July 3, 2008, this Board granted the development incentive bonus special permit subject to certain

conditions which are summarized as follows:

1. Provision by the Applicant of certain streetscape improvements around the perimeter of its block and along the north side of Third Street and the east side of Main Street;
2. Provision by the Applicant of a façade retrofit of the Benchmark Office Building to blend with and complement the architecture of The Winston;
3. Provision by the Applicant of a thirty-six unit affordable senior housing condominium on the north side of Front Street just west of Roslyn Road, which parcel is known and designated on the Nassau County Land and Tax Map as Section 9, Block 417, Lots 53, 54 and 55;
4. Provision by the Applicant to the Village of \$3,000,000.00 in lieu of further public amenities, which sum was to be paid at certain time intervals.

This Board also granted site plan approval and architectural approval.

Although the Applicant received condominium subdivision approval for both the Winston and the affordable housing condominium (now known as “The Churchill”) from the Village’s Planning Board and received preliminary condominium subdivision approval from the Nassau County Planning Commission, the Incorporated Village of Garden City, whose Planning Commission also held subdivision jurisdiction, blocked the project. This necessitated a return by the Applicant to this Board for an amendment of its approval. Additionally, in the approximately two-year interval between this Board’s approval of The Winston and the return by the applicant to this Board for an alternate form of apartment building ownership, the general economy of the nation and of Long Island in particular had experienced a significant downturn.

On June 9, 2010, this Board conducted a hearing on the amended application of the Applicant at which time the Applicant spread upon the record a recital of its dealings with Garden City and demonstrated the futility of its proceeding further with that village for subdivision approval. The amended application sought not an amendment of the previously approved residential use of The Winston, but rather an amendment of the *form of ownership* of the residential use from condominium ownership to rental. The Applicant also demonstrated that the market for condominium unit purchases on Long Island had significantly dropped and that construction financing for new construction condominiums had become unavailable. The Applicant further demonstrated that linkage of The Winston to the Benchmark Building’s façade replacement would jeopardize construction financing for The Winston.

As a result, this Board, by Amended and Superceding Decision granted December

12, 2010 and filed with the Village Clerk on December 15, 2010, granted the Applicant's request to change the form of ownership of The Winston from a condominium apartment building to a rental apartment building. The Board also withdrew the requirement of the façade retrofit of the Benchmark Building, but stated the following as condition number 2 in its Amended Decision:

2. Upon the completion of the Winston Building and 75% occupancy, Applicant will in good faith re-evaluate the condition of the local economy and, if feasible, retrofit the façade of the Benchmark Office Building in order to further the Village's Master Plan concept for Old Country Road. Furthermore, the Board urged the Applicant to attempt to retain the senior

affordable housing component of the project as a condominium and set a timetable for the preparation and filing of an Offering Plan with the Real Estate Finance Bureau of the Office of the Attorney General "as soon as the required underlying permits, certifications and financing commitments shall have been received." A construction schedule was set forth listing commencement within two (2) years of the date of the Amended Decision and provided that there was a 75% pre-sale of the units, which pre-sales were to be undertaken in good faith, "unless Applicant shall, prior to such date, demonstrate to this Board that construction financing for condominiums is not available." The Amended Decision went on to read: "[i]n such case, the Board of Trustees may grant an extension of time for the commencement date of construction of the condominium project or approve an alternate plan for the provision of affordable senior housing (it being understood that the provision of affordable senior housing is an integral and material element of the Special Permit granted herein and that reliance upon its provision is a primary motivating factor for the approval of the Winston building)."

On September 14, 2011, the Applicant once again appeared before this Board seeking approval of "an alternate plan for the provision of affordable senior housing" pursuant to its right as granted in the Amended Decision. The Applicant also sought a minor architectural façade modification to the proposed building.

The Applicant sought to and did in fact demonstrate that it had reasonably pursued construction financing for the affordable senior condominium portion of the project from a number of financial institutions but that such financing was not available. This Board recognizes the status of the current posture of lenders for condominium projects. In fact, it was such recognition that prompted the granting of the conversion of The Winston from a

condominium project to a rental apartment building in the Amended Decision. The Winston is a residential building which is available to an unrestricted market. Its construction as a condominium could not be financed. Logic would dictate that if construction financing is not available for an unrestricted market condominium it is certainly not more available for a condominium restricted as to both age and income.

The Applicant further demonstrated that it had taken reasonable and appropriate steps to develop an Offering Plan for its project but that its processing was limited due to the lack of underlying construction financing. The good faith effort of the Applicant was confirmed by the Village Attorney, who had been coordinating a number of components of the Offering Plan with the Applicant's representatives.

Consequently, the request by the Applicant to permit the construction of The Churchill, the senior affordable housing component of the proposed project which is provided as an amenity under the Village's development incentive bonus law, as a rental apartment building in lieu of a condominium apartment building is GRANTED. The amended architectural proposal is GRANTED.

Thus, condition number 3 in the Amended and Superceding Decision is deleted and in its place is substituted the following:

3. Applicant or its assignee or designee will construct a five story (four stories of apartments above ground level parking) senior affordable rental housing project on the north side of Front Street consisting of thirty-six units of the sizes and layouts presented to this Board. Construction shall commence within eighteen (18) months of the date of this Second Amended Decision.

All other conditions of the Amended and Superceding Decision dated December 12, 2010 remain in full force and effect and are incorporated by reference into this Second Amended Decision as if they were set forth in their entirety. This Board calls particular attention to condition number 2 contained in the Amended and Superceding Decision which requires a good faith re-evaluation of the condition of the local economy with an eye towards securing the façade retrofit of the Benchmark Building.

This constitutes the Decision of the Board of Trustees. Applicant shall, within ten (10) days hereof, consent in writing to the conditions contained or incorporated herein.

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

Village Clerk Joseph R. Scalero polled the Board:

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

A Public Hearing was held at 7:05 PM at the Village Hall, 155 Washington Avenue, Mineola, New York, 11501 in order to receive public comment upon the following:

APPLICATION OF 7-ELEVEN, INC. FOR A SPECIAL USE PERMIT, PURSUANT TO CHAPTER 30 OF THE CODE OF THE INCORPORATED VILLAGE OF MINEOLA, ENTITLED “ZONING”, SECTION 30.31 ENTITLED “B-1 DISTRICTS”, SUBSECTION (B) ENTITLED “SPECIAL USES” FOR THE SALE OF FOOD (CONVENIENCE STORE) UPON THE PROPERTY KNOWN AS 400 E. JERICHO TURNPIKE, MINEOLA, NEW YORK, KNOWN AND DESIGNATED ON THE NASSAU COUNTY LAND AND TAX MAP AS SECTION 9, BLOCK 601, LOT 18.

23 Speakers addressed the Board

Resolution No. 236-11

Resolved to declare the application of 7-Eleven, Inc. for a special use permit at 400 E. Jericho Turnpike as an unlisted action with a negative declaration under the New York State Environment Quality Review Act (SEQRA).

Motioned by Trustee Paul A. Pereira
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

Mayor Scott P. Strauss requested a motion to close the hearing, reserve decision and keep the record open for 45 days at 10:20 PM.

Motioned by Trustee Paul A. Pereira
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

Mayor Scott P. Strauss called the Work Session to order at 10:35 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
Superintendent of Public Works Thomas J. Rini
Superintendent of Buildings Daniel B. Whalen

Press Observer: Geoffrey Walter, *Patch .com*

Sunshine Observers: 2 Observers

Resolution No. 237-11

Resolved to approve bills and payroll.

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

Vote:

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

Resolution No. 238-11

Resolved to approve a request by the Veterans of Foreign Wars - Pvt. Adolph Block Post #1305 for use of a Community Center general purpose room, January – December 2012 on the following fourth Wednesday of each month from 8:00 pm – 10:00 pm.

Wednesday, January 25, 2012	Wednesday, July 25, 2012
Wednesday, February 22, 2012	Wednesday, August 22, 2012
Wednesday, March 28, 2012	Wednesday, September 26, 2012
Wednesday, April 25, 2012	Wednesday, October 24, 2012
Wednesday, May 23, 2012	Wednesday, November 28, 2012
Wednesday, June 27, 2012	Wednesday, December 19, 2012

(*3rd)

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

Vote:

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

Resolution No. 239-11

Resolved to award the public bid for the solar panel installation at the Central Garage to the lowest responsible bidder, Roland’s Electric, Inc. in the amount of \$277,123.00 based on the bids received:

Roland’s Electric Inc	\$277,123.00
Eldor Contracting Corp.	\$315,000.00
EmPower Solar	\$297,300.00

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

Resolution No. 240-11

Resolved to approve a lump-sum separation payout, effective October 31, 2011 of \$22,162.10 to Parks Department Laborer Gene Solosky for unused accumulated time in accordance with the Collective Bargaining Agreement and to request to post for a full-time Laborer position within the Highway Department to replace the vacant Parks Laborer position with a starting salary in accordance with the current Collective Bargaining Agreement.

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

Superintendent of Public Works Thomas J. Rini announced that on Thursday, October 20, 2011 a meeting is scheduled with representatives from FEMA and the New York State Office of Emergency Management regarding reimbursement of the village’s finals cost during Hurricane Irene.

A presentation to the Board was made by Superintendent of Public Works Thomas J. Rini and former Water Department Supervisor and current department consultant Fredrick Booher regarding the feasibility of a request to the Village Board by the Village of East Williston requesting that the Village of Mineola supply water to East Williston.

Mayor Scott P. Strauss requested a motion to close the Work Session at 11:20 PM.

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