

Minutes - Board Meeting – 09/21/2011

Minutes of the meeting of the Board of Trustees of the Incorporated Village of Mineola held Wednesday, September 21, 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
Benjamin Truncale, Esq. for Village Attorney
Deputy Village Clerk Cora T. Kelly

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

Sunshine Observers: 25 Observers

Mayor Scott P. Strauss called the Public Hearing to order at 6:30 PM.

Village Attorney John M. Spellman presented the following resolution on the application of Winthrop University Hospital for a special permit /development incentive bonus at the property located at the northwest quadrant of the intersection of Mineola Boulevard and Second Street.

Resolution No. 223-11

BOARD OF TRUSTEES
INCORPORATED VILLAGE OF MINEOLA

-----X

In the Matter of the Application of

WINTHROP UNIVERSITY HOSPITAL

DECISION

For a Special Permit pursuant to Chapter 30, Section 30.5 of the Code of the Incorporated Village of Mineola for the construction of a four (4) story research center office building, for the relaxation of height and parking regulations, a waiver of preliminary site plan approval and architectural approval, upon the property located at the northwest quadrant of the intersection of Mineola Boulevard and Second Street, with street addresses of 101, 107 and 109 Mineola Boulevard, Mineola, New York, known and designated on the Nassau County Land and Tax Map as Section 9, Block 418, Lots 71, 73, 128, 129, 130, 156 and 160.

NAME OF APPLICANT: Winthrop University Hospital

SUBJECT PROPERTY: Section 9, Block 418, Lots 71, 73, 128, 129, 130, 156 and 160

STREET LOCATION: Northwest quadrant of the intersection of Mineola Boulevard and Second Street, with street addresses of 101, 107 and 109 Mineola Boulevard, Mineola, New York 11501

ZONING DISTRICT: Business "B-2" 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: July 13, 2011

APPEARANCES: Rachel Scelfo, Esq., Applicant's Attorney

IN SUPPORT: John Broder, Winthrop Vice President of External Affairs and Development; Evan Weremeychik, Architect; Kim Gennaro, VHB Engineering; Harold T. Lutz, PE, Traffic Engineer; Bill Allan, Project Executive and Vice President from Lend Lease; Marek Rief, Winthrop Associate Director of Project Management.

DECISION:

Winthrop University Hospital (hereinafter, "Applicant") is before this Board pursuant to Chapter 30, Section 30.5 of the Municipal Code of the Incorporated Village of Mineola for a special permit/development incentive bonus to construct a four (4) story research center office building with a total building height of 78 feet (with an additional 10.6 feet on a portion of the roof for utility and circulation towers), for the allowance of food service at the site, for the location of required parking at an off-site location beyond 300 feet from the premises, for site plan approval and for architectural approval at the property located at the northwest quadrant of the intersection of Mineola Boulevard and Second Street, with street addresses of 101, 107 and 109 Mineola Boulevard, Mineola, New York (known and designated on the Nassau County Land and Tax Map as Section 9, Block 418, Lots 71, 73, 128, 129, 130, 156 and 160) (hereinafter, the "Property").

By Notice of Disapproval, dated June 13, 2011, Applicant's building permit was denied. The Building Inspector determined that the proposed application is contrary to the Village's zoning regulations, specifically: building height, off-street parking and service of food. As a result of the application's noncompliance with zoning code regulations,

Applicant was entitled to seek relief before the Zoning Board of Appeals for height and parking variances and a special permit for food use before this Board. In the alternative, Applicant could obtain the same relief from the Board of Trustees pursuant to Chapter 30, Section 30.5 under the development incentive bonus law.

Applicant made an application to the Board of Trustees for the required relief sought pursuant to the Village's development incentive bonus law and presented its application on July 13, 2011. The Board of Trustees declared itself lead agency pursuant to SEQRA and determined that the application was an unlisted action. An expanded Environmental Assessment Form was prepared by the Applicant. The expanded Environmental Assessment Form contained the following: site and surrounding area photographs; excerpts from the Village of Mineola Comprehensive Master Plan; Fire Protection; Sewage Disposal; Water Supply; Demolition and Construction; Landscape Plan, Basement Parking Plan and Building Elevations; Notice of Disapproval; correspondence from the Village Superintendent, Public Works; and Traffic Impact Analysis Report. The Board of Trustees, after careful review, issued a Negative Declaration under SEQRA.

The 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. Applicant seeks final site plan approval and architectural approval before this Board.

Thereafter, a referral of the application was made to the Nassau County Planning Commission. The Nassau County Planning Commission by Resolution No. 9792-11, dated August 11, 2011, has recommended that this Board take whatever action it deems appropriate. Applicant submitted an offer letter to the Village outlining its proposed public amenities to be given in exchange for a development incentive bonus. Based upon the evidence adduced at the public hearing and the documentation submitted to the Board in support of the application, the Board makes the following findings of fact:

- 1) Applicant intends to erect a four (4) story research center office building;
- 2) The research center will focus on programs related to cardiopulmonary disease; Lou Gehrig's disease; neurological research and clinical trials relating to causes of diabetes and combating childhood obesity;
- 3) Applicant will not be studying any pathogens or infectious diseases;

- 4) Applicant anticipates the addition of forty-five (45) employees working typical work hours (8am to 5pm);
- 5) The traffic circulation and access aspect of the project will function in an adequate and reasonable manner;
- 6) The height of the proposed building will not alter the character of the neighborhood.
- 7) The Applicant has sufficient off-site parking available to service the proposed building.
- 8) The public amenities to be provided by the Applicant (particularly the elimination of overhead electrical, communications and related wire services on the west side of Mineola Boulevard) when combined with the payment in lieu of further amenities, constitutes an appropriate qualification for the incentive bonuses sought.
- 9) The proposed research center office building will promote the goals of the Village's Master Plan in that, inter alia it will enhance the gateway to the Village's downtown, it will visually upgrade the Mineola Boulevard corridor, it will add further support to the business community, it will improve the pedestrian experience and it will provide an esthetically pleasing structure with enhanced landscaping.

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 or payment in lieu thereof in exchange for the Board of Trustees granting of 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, that the Special Permit is **GRANTED** subject to the following conditions:

- 1) Pursuant to its offer letter, Winthrop shall install streetscape improvements along the south, west and east sides of the subject property, including, but not limited to, sidewalk pavers, trees and benches, all to match the Village's downtown design characteristics;
- 2) Pursuant to its offer letter, Winthrop shall eliminate the overhead electrical, communications and related wire services on the west side of Mineola Boulevard from the southwest corner of First Street to the northwest corner of Second Street and, across Second Street to the southwest corner of Second Street and Station Road, continuing on the south side of Second Street westerly to the driveway west of 211 Second Street;

- 3) Pursuant to its offer letter, Winthrop shall enter into a formal agreement with the Village according to which Winthrop shall consent to pay Village real estate taxes for all properties owned by Winthrop and/or its affiliates which are or shall be located outside the Hospital Zone as same appears on the current Village Zoning Map and, in the event that Winthrop shall be relieved by a court of competent jurisdiction of its obligation to pay such real estate taxes to the Village for such properties, Winthrop shall agree that it will, in the alternative, deliver each year to the Village as a payment in lieu of taxes (PILOT) a sum equivalent to the amount such taxes would have been had Winthrop been obligated to pay same, which agreement is set forth in Exhibit A attached hereto. A list of currently owned properties located outside the Hospital Zone is attached hereto as Exhibit B;
- 4) Winthrop shall not engage in Biosafety level 3 and Biosafety level 4 research, as defined in the publication “Biosafety and Microbiological and Biomedical Laboratories” (5th Edition) published by the U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Institutes for Health-HHS Publication No. 21-1112, revised December 2009;
- 5) Winthrop shall not utilize primates for research and shall adhere to all standards established by the Association for Assessment and Accreditation of Laboratory Animal Care International (AAALAC) for the care and treatment of research animals;
- 6) Additionally, Winthrop shall conduct all research at its facility in accordance with the rules, regulations, policies and protocols of the National Institutes for Health (NIH), the United States Food and Drug Administration (USFDA), the New York State Department of Health (NYSDOH), the American Association for Laboratory Animal Science (AALAS), the Occupational Safety and Health Administration (OSHA) and any other agency having jurisdiction;
- 7) Winthrop shall develop and submit to the Village’s Building Department a parking management plan according to which Winthrop will utilize its best efforts to direct employees of the facility to park in the satellite garage on Old Country Road between Fourth Avenue and Fifth Avenue and shall limit employee access to the on-site parking lot. Winthrop shall monitor compliance with the parking management plan on a regular basis and shall submit monitoring reports to the Village upon request;
- 8) Pursuant to its offer letter, Winthrop shall contribute to the Village the sum of \$1,000,000.00 to be used by the Village to make provision for or improvements to public amenities, to be paid in the following manner: \$250,000.00 upon issuance of the construction permit for the Research Center Office Building; \$250,000.00 three (3) months after the issuance of the construction permit; \$250,000.00 six (6) months after the issuance of the construction permit; and \$250,000.00 nine (9) months after the issuance of the construction permit;
- 9) In response the Winthrop’s offer letter, and in further consideration for the provision of public amenities as set forth herein, the Village formally accepts and recognizes the Parking Inventory for all of Winthrop’s properties in the Village dated June 10, 2011 and attached hereto as Exhibit C;
- 10) The representations made by Winthrop on the record in this proceeding (at the hearing on the original Application and in writing following the hearing) have been deemed material to this Application and have been relied upon by the Board of Trustees in its deliberations and decisions. The implementation of said representations (such as confirm or promise actions or policies) are deemed to be part of the conditions of this Special Permit;

- 11) 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; and
- 12) Compliance with the conditions set forth herein shall be a predicate to the issuance of a Certificate of Occupancy for the Winthrop Research Office Building to the extent that such conditions require fulfillment prior to the completion of the building.

Final Site Plan approval is **GRANTED**. Architectural approval is **GRANTED**.

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

EXHIBIT A

AGREEMENT

AGREEMENT made as of September 14, 2011 by and between Winthrop University Hospital, with offices located at 259 First Street, Mineola, New York 11501, hereinafter referred to as “Winthrop,” and the Incorporated Village of Mineola, with offices located at 155 Washington Avenue, Mineola, New York 11501, hereinafter referred to as the “Village.”

WHEREAS, Winthrop has made application to the Village for a special permit pursuant to the Village’s development incentive bonus law for the construction of a four-story Research Center Office Building (the “Office Building”) pursuant to which it seeks the relaxation of certain sections of the Village’s zoning regulations with respect to building height, parking location and food use at the premises; and

WHEREAS, Winthrop has additionally requested that the Village waive the requirement that it appear before the Village’s Planning Board for preliminary site plan review and architectural review and approval for the Office Building; and

WHEREAS, Winthrop (and/or its affiliates) owns certain real property within the Village’s borders but outside the Village’s Hospital Zone (the “Off-campus Properties”); and

WHEREAS, Winthrop has in the past made and continues to make voluntary annual payments of real estate taxes for such Off-Campus Properties; and

WHEREAS, in order to induce the Village to grant the special permit sought pursuant to the Village’s development incentive bonus law along with final site plan approval and architectural approval of the proposed Office Building, Winthrop has offered to pay in perpetuity the Village real estate taxes for the Off-campus Properties and to memorialize in writing its obligation to pay such taxes in a written agreement between Winthrop and the Village; and

WHEREAS, the Village is desirous of accepting the offer of Winthrop to voluntarily pay Village real estate taxes for the Off-campus Properties and of memorializing the obligation of Winthrop to make said payments.

NOW, THEREFORE, in consideration of the granting of a development incentive bonus special permit by the Village to Winthrop for the construction of the proposed Office Building and in further consideration of the granting to Winthrop of waivers of appearances before the Village’s Planning Board, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, it is agreed by and between Winthrop and the Village as follows:

1. The Village hereby grants to Winthrop a development incentive bonus special permit for the construction of the Office Building, subject to the conditions set forth in its formal Decision dated September 14, 2011 (the "Decision") and also grants final site plan approval and architectural approval for the Building.
2. Winthrop hereby accepts the conditions set forth in the Decision as appropriate and reasonable.
3. Winthrop hereby consents and agrees to pay in perpetuity the annual Village real estate taxes for the Off-campus Properties for so long as such properties are owned by Winthrop.
4. In addition to the currently owned Off-campus Properties (the identities of which are set forth in Appendix I annexed hereto), Winthrop agrees to pay in perpetuity the annual Village real estate taxes for any additional Off-campus Properties to which it shall take title in the future.
5. For purposes of this Agreement, Off-campus Properties shall be defined as any properties located outside the Village's Hospital Zone as same appears on the official Zoning Map of the Village as of the date of this Agreement.
6. In the event that Winthrop shall be relieved by a court of competent jurisdiction of its obligation to pay real estate taxes for the Off-campus Properties in accordance with this Agreement, then, and in that event, Winthrop agrees to pay to the Village, in the alternative, a payment in lieu of taxes ("PILOT") in a sum equivalent to the amount such taxes for the Off-campus Properties would have been had Winthrop been obligated to pay same.
7. Nothing contained herein shall preclude or prevent Winthrop from challenging the amount of assessed value assigned to any Off-campus Property by the Village's Assessor.
8. This Agreement shall be governed by the laws of the State of New York.
9. Invalidity or unenforceability of one or more provisions of this Agreement shall not affect any other provision of this Agreement.
10. This Agreement may only be amended by further written agreement signed by both Winthrop and the Village.
11. This Agreement shall be binding upon Winthrop, its affiliates, its successors and its assigns.

IN WITNESS WHEREOF, Winthrop and the Village have executed this Agreement on the dates set forth below.

INCORPORATED VILLAGE
OF MINEOLA
HOSPITAL

WINTHROP UNIVERSITY

By: _____
Scott P. Strauss, Mayor

By: _____
John F. Collins, President & CEO

[illegible]

NOTARY PUBLIC

[illegible]

NOTARY PUBLIC

WINTHROP UNIVERSITY HOSPITAL PROPERTIES LOCATED OUTSIDE HOSPITAL ZONE

SECTION/BLOCK/LOT	PROPERTY ADDRESS
09/434/74	286 Old Country Road, Mineola, NY
09/671/110	10 Station Road, Mineola, NY
09/419/119A	120 Mineola Blvd., Mineola, NY
09/419/4170	120 Mineola Blvd., Mineola, NY
09/422/120	222 Front Street, Mineola, NY
09/422/3110	Front Street – Parking Field, Mineola, NY
09/434/760	288 Old Country Road, Mineola, NY
09/434/780	290 Old Country Road, Mineola, NY
09/434/800	290 Old Country Road, Mineola, NY
09/434/820	290 Old Country Road, Mineola, NY
09/448/40	295 First Street, Mineola, NY
09/671/120	9 Station Road, Mineola, NY

SECTION/BLOCK/LOT	PROPERTY ADDRESS
09/415/119	194 First Street, Mineola, NY
09/673/100	259 First Street, Mineola, NY
09/390/1140	131 Marcellus Road, Mineola, NY
09/393/1110	286 First Street, Mineola, NY
09/396/1080	260 First Street, Mineola, NY
09/418/1280	107 Mineola Blvd., Mineola, NY
09/418/1290	101 Mineola Blvd., Mineola, NY

09/433/280	286 Old Country Road, Mineola, NY
09/434/660	65 Fifth Avenue, Mineola, NY
09/434/700	57 Fifth Avenue, Mineola, NY
09/434/840	58 Sixth Avenue, Mineola, NY
09/434/860	64 Sixth Avenue, Mineola, NY
09/434/880	68 Sixth Avenue, Mineola, NY
09/434/930	61 Fifth Avenue, Mineola, NY
09/448/30	303 First Street, Mineola, NY
09/448/50	109 Fleet Place, Mineola, NY

EXHIBIT B (cont’d)

OWNER OF RECORD: WINTHROP UNIVERSITY HOSPITAL

SECTION/BLOCK/LOT	PROPERTY ADDRESS
09/448/60	105 Fleet Place, Mineola, NY
09/448/70	101 Fleet Place, Mineola, NY
09/448/80	97 Fleet Street, Mineola, NY
09/448/90	93 Fleet Place, Mineola, NY
09/448/1100	89 Fleet Street, Mineola, NY
09/448/1110	302 DeMott Street, Mineola, NY
09/671/130	8 Station Road, Mineola, NY
09/671/140	7 Station Road, Mineola, NY
09/671/150	6 Station Road, Mineola, NY
09/671/160	5 Station Road, Mineola, NY
09/671/170	280 Station Road, Mineola, NY
09/673/70	313 DeMott Street, Mineola, NY
09/673/80	309 DeMott Street, Mineola, NY
09/673/90	307 DeMott Street, Mineola, NY
09/673/110	Fleet Place Parking, Mineola, NY
09/673/13	90 Fleet Street, Mineola, NY

OWNER OF RECORD: WINTHROP UNIVERSITY HOSPITAL

SECTION/BLOCK/LOT	PROPERTY ADDRESS
09/673/140	110 Fleet Place, Mineola, NY
09/673/160	Fleet Place Parking Lot, Mineola, NY
09/673/1010	293 First Street, Mineola, NY
09/673/1130	301 DeMott Street, Mineola, NY
09/673/1140	305 DeMott Street, Mineola, NY
09/673/2040	104 Fleet Place, Mineola, NY
09/673/2050	100 Fleet Place, Mineola, NY
09/673/2060	96 Fleet Place, Mineola, NY
09/673/2070	92 Fleet Place, Mineola, NY
09/675/10	264 Old Country Road, Mineola, NY
09/418/710	109 Mineola Blvd., Mineola, NY
09/591/9650	303 Saville Road, Mineola, NY
09/007/410	340 Beebe Road, Mineola, NY
09/385/10	322 First Street, Mineola, NY
09/268/360	215 Frank Avenue, Mineola, NY

**PARKING INVENTORY
WINTHROP-UNIVERSITY HOSPITAL**

<u>Location</u>	<u>Spaces-Included in Inventory</u>	<u>Spaces During New Garage Construction</u>	<u>Spaces — Post Garage Construction</u>
Ambulatory Surgery/MRE	37	37	36
Emergency/Visitor (2 nd Street)	123	30	68

Emergency Room	13	0	0
Administration & Chiefs	23	23	0
231 Building (Life Star)	7	7	0
Laundry Building & ER	23	23	0
Handicapped (19 + 4)			
Radiation & Oncology (Main Campus)	10	10	10
Main Garage	534	534	472
3-11 Physician Parking	174	174	188
De Mott Extension	80*	80	80
Gravel Lot (West Drive)	12	12	12
Southern Lot	225*	0	640
Sub Total	1,261	930	1,506
222 Building Garage	159	159	140
Alpha Lot	48	48	48
Satellite Garage	222	222	225
Sub total	429	429	413
Garden City — 7 th Street		150**	
Keyspan/LIPA	0	50**	0
200 Old Country Road	0	180**	0
120 Mineola Boulevard	0	21**	0
Sub Total	0	401	0
TOTALS	1,690	1,760	1,919

*Surplus spaces for future square foot allocation for new construction equal 305 as per agreement with Village of Mineola when De Mott extension & southern on grade parking built.

** Leased spaces during construction of new parking garage

II.
ALLOCATION OF SURPLUS SPACES AGAINST NEW CONSTRUCTION REQUIREMENT

CONSTRUCTION PROJECTS	(TOTAL SPACES 1,261) 956 ALLOCATED! 305 SURPLUS (1)	191,200 SQ. Fr. ALLOCATED/ 61,000 SURPLUS (2)
Ambulatory Surgery/MRI (Loss)	(1)	(200)
Main Campus Garage (Loss) (Gates & Exit Reconfigured & Does Lot)	(62)	(12,400)
3/11 Physician Parking (Addl.)	14	2,800
New Life Center (New)	(75)	(15,000)
ASU Addition (New)	(20)	(4,000)
Emergency/Visitor 2 nd St. (Loss)	(55)	(11,000)
ASU/ED Spaces (Loss)	(13)	(2,600)
Conference Center (New)	(43)	(8,600)
231 Building Demo (Loss)	(7)	(1,400)

Roadway/Handicapped (Loss)	(23)	(4,600)
Chiefs lot (Loss)	(23)	(4,600)
Radiation Oncology Center — Old Country Rd. (26-7) (New)	(19) net	(3,800)
Radiation Oncology Center Old Country Rd. (New)	7	1,400
Emergency Dept. Waiting Room Addition (New)	(16)	(3,112)
Potter Pavilion	(⁹)	(1,760)
Lobby & Elevator Additions 5 th Floors x 352 sq. ft. (New)		
North Pavilion		
5 th Floor North & Potter (New)	(116)	(23,265)
4 th Floor North (New)	(83)	(16,503)
Hoag Pavilion	(25)	(5,040)
Infill thru 5 th floors — OR; Cath lab; etc. 4 x 1,260 sq. ft. (New)		
Main Pavilion	(22)	(4,352)
Infill 1 st Floor — EP Lab extension (New)		
SUBTOTAL BANKED SURPLUS	(286) spaces	(57,032) sq. ft.
PARKING GARAGE SOUTH	<u>415 net new spaces</u>	<u>83,000 sq. ft.</u>
TOTAL SURPLUS SPACES 12/03	129 surplus spaces	25,800 surplus sq. ft.

- (1) Surplus spaces for future construction as per village of Mineola.
- (2) Village code requires one (1) parking space for every 200 sq. ft.

**ELL REALLOCATION OF SURPLUS PARKING SPACES SINCE
DECEMBER 2003**

CONSTRUCTION & DEMO PROJECTS	SURPLUS SPACES AS OF 12/03 = 129	SURPLUS BUILDABLE SQ. FT. = 25,800
Demolition of Satellite Garage (Loss)	(225)	(45,000)
Construction of Cyber Knife Vault (New)	(2.93)	(586)
Linear Accelerator Vault (New)	(.75)	(150)
Purchase of former Astoria Bank lot (Ada	9	1,800
TOTAL BANKED SURPLUS		
(DEFICIT) PARKING SPACES 12/10	(90.68)	(18,136)

**IV. ADDITION TO SOUTH CAMPUS PARKENG GARAGE & PLANNED
CONSTRUCTION OF RESEARCH BLDG. (PROJECTED)**

CONSTRUCTION & DEMO PROJECTS	SURPLUS (DEFICIT) SPACES AS OF 12/10= (90.68)	SURPLUS (DEFICIT) BUILDABLE SQ. FT=(18,136)
Elimination of "Alpha" lot on-grade parking	(48)	(9,600)
For Research Building site(Loss)		
Demolition of Community Outreach Center (Add'l.)	50	10,000
Planned Research Building (New)	(426.23)	(85,245)

Research Building on-site parking (Addl.)	65	13,000
• 50 below grade spaces		
• 15 on gradespaces		
Construction of three (3) story addition to south campus garage (Add'l.)	712	142,400
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TOTAL BANKED SURPLUS SPACES & BUILDABLE SQ. FT. (PROJECTED)	262.09	52,419
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Motioned by Lawrence A. Werther
Seconded by Trustee Paul A. Pereira

Deputy Village Clerk Cora T. Kelly polled the Board:

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

[Trustee Paul A. Pereira departed from the Hearing at 6:55 PM due to a work related commitment]

Village Attorney John M. Spellman presented a brief overview on the Ground Lease Agreement between the Village of Mineola and HUB Properties Trust as the assignee of Mineola Plaza Development Association regarding the parking structure located at 200 Old Country Road, Mineola, NY 11501 and recommended the following resolution:

Resolution No. 224-11

RESOLVED, to consent to the Assignment and Assumption of Lessee’s Interest in Ground Lease Agreement between HUB PROPERTIES TRUST and SNH MEDICAL OFFICE PROPERTIES TRUST with respect to the Indenture of Lease, dated as of September 24, 1985, by and between The Incorporated Village of Mineola, as landlord, and Mineola Plaza Development Associates, Inc., as tenant, covering Lots 134, 137 and 138 in Section 9, Block 74 of the Tax Map of the County of Nassau, State of New York, which Ground Lease has been further assigned. The subject property contains the parking garage servicing 200 Old Country Road.

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

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

[Mayor Scott P. Strauss announced that Village Attorney John M. Spellman was departing because of a previous commitment and that Ben Truncale, Esq. would act as counsel for the duration of the Hearing]

A Public Hearing was held at 7:00 PM at the Village Hall, 155 Washington Avenue, Mineola, New York, 11501 in order to receive public comment upon the following:

APPLICATION OF AMISTAD CULINARY TEAM, LLC FOR A SPECIAL 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"
AND SECTION 30.32 ENTITLED "B-2 DISTRICTS" FOR THE
PREPARATION AND SALE OF FOOD (RESTAURANT USE)
UPON THE PROPERTY KNOWN AS 95 MINEOLA
BOULEVARD, MINEOLA, NEW YORK, KNOWN AND
DESIGNATED ON THE NASSAU COUNTY LAND AND TAX
MAP AS SECTION 9, BLOCK 422, LOT 1.**

2 Speakers addressed the Board

Mayor Scott P. Strauss requested a motion to go into Executive Session at 7:35 PM

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

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

Mayor Scott P. Strauss requested a motion to come out of Executive Session at 7:55 PM.

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

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

Resolution No. 225-11

Resolved to approve the application of Amistad Culinary Team, LLC for a special use permit at the property known as 95 Mineola Boulevard, Mineola, NY 11501

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

AMISTAD CULINARY TEAM

DECISION

For a Special Use Permit pursuant to Chapter 30, Sections 30.31(B) and 30.32 of the Code of the Incorporated Village of Mineola, at premises known as 95 Mineola Boulevard, Mineola, New York, known and designated on the Nassau County Land and Tax Map as Section 9, Block 422, Lot 1.
-----X

NAME OF APPLICANTS:	Amistad Culinary Team
SUBJECT PROPERTY:	Section 9, Block 422, Lot 1

STREET LOCATION:	95 Mineola Boulevard Mineola, New York 11501
ZONING DISTRICT:	Business "B-2" District
RELIEF REQUESTED:	Application For a Special Use Permit pursuant to Chapter 30, Sections 30.31(B) and 30.32 for the preparation and sale of food (sit down restaurant with waiter service) upon the property
PUBLICATION & POSTING:	All in accordance with applicable laws, rules and regulations.
DATE OF HEARING:	September 21, 2011
APPEARANCES:	Rex Whitehorn, Esq.
IN SUPPORT	Mary Ellen Villalta

DECISION:

Amistad Culinary Team (hereinafter, “Applicant”) is before this Board pursuant to Chapter 30, Sections 30.31 and 30.32 of the Municipal Code of the Incorporated Village of Mineola for a special use permit for the preparation and sale of food (sit down restaurant with waiter service) upon the property known as 95 Mineola Boulevard, Mineola, New York (known and designated on the Nassau County Land and Tax Map as Section 9, Block 422, Lot 1) (hereinafter, the “Property”).

By Notice of Disapproval, Applicant’s building permit was denied. The Building Inspector determined that the proposed application is contrary to the Village’s zoning regulations in that the preparation and sale of food upon the Property requires a special use permit. Applicant was thus required to seek relief before the Board of Trustees for a special use permit.

Based upon the evidence adduced at the public hearing, and the documentation submitted to the Board in support of the application, the Board makes the following findings of fact:

- 10) Applicant is seeking a special permit to prepare and sell food upon the Property;
- 11) The Property is approximately 1,430 square feet in size, excluding the cellar;
- 12) Applicant’s proposed occupancy is equal to approximately 59 people;
- 13) Applicant proposes to have approximately 10-12 tables;

- 14) Applicant intends to store refuse in the cellar of the Property prior to collection;
- 15) Applicant has represented that 60% of the business will be of a sit-down nature with waiter service and 40% will be take-out;
- 16) Applicant's intended hours of operation are 7:00 A.M. to 7:00 P.M.;
- 17) Applicant intends to have simulated outdoor seating;
- 18) Applicant intends to have 4-6 employees upon the premises at any given time;
- 19) Applicant proposes to receive approximately 3-4 deliveries a week. Deliveries will be scheduled for non-peak hours; and
- 20) Applicant will continue the use of open flames/gas on the first floor and will have an electric oven for the purposes of baking only;

Based upon the above findings, it is hereby determined that the proposed restaurant use is harmonious to the "B-2" District, will conform to the general character of the neighborhood and that the public health, morals, safety and general welfare of such neighborhood will be secured by the granting of the requested Special Use Permit. Further, it is hereby determined that the Special Use Permit will provide a desirable facility to the area and will not be incongruous to the neighborhood by reason of excessive traffic.

IT IS THEREFORE RESOLVED, that the Special Use Permit is **GRANTED** subject to the following conditions:

- 1) All deliveries shall be made to the Property during non-peak hours, to wit, between the hours of 9:00 a.m. and 4:00 p.m., and after 8:00 p.m.;
- 2) All putrescible waste shall be stored within the premises inside a refrigerated unit and all waste and refuse shall be removed by a private carting company;
- 3) Applicant's operation shall be comprised of at least 60% sit-down restaurant with waiter service and no more than 40% take-out business;
- 4) Applicant shall not have live entertainment;
- 5) All ventilation/exhaust shall be vented through the building up to the roof and shall be directed away from residential properties. The ventilation/exhaust shall be filtered to prevent the dissemination of cooking odors and shall be in compliance with the New York State Fire Prevention and Building Code, the Regulations of the Nassau County Fire Marshal and the Rules of all agencies having jurisdiction;
- 6) Each of these conditions is material to the approval granted by the Board of Trustees. Violations of any of them shall subject the applicant or its successors to enforcement pursuant to the Village's Municipal Code, including possible revocation of this special permit;

- 7) 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; and
- 8) 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.

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

Deputy Village Clerk Cora T. Kelly polled the Board:

Vote:

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

Mayor Scott P. Strauss requested a motion to close the Public Hearing at 8:00 P.M.

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 George R. Durham		

Mayor Scott P. Strauss called the Work Session to order at 8:00 PM.

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

ALSO PRESENT: Benjamin Truncale, Esq. for Village Attorney
 Deputy Village Clerk Cora T. Kelly

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

Sunshine Observers: 9 Observers

Resolution No. 226-11

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 George R. Durham		

Resolution No. 227-11

Resolved to approve the request of The Irish American Society of Nassau, Suffolk & Queens, Inc. to allow a St. Patrick's Day Parade on Sunday March 4, 2012 at 1:00 PM through the streets of the Village of Mineola.

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 George R. Durham

Mayor Scott P. Strauss requested a motion to close the Work Session at 8:05 PM.

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

Vote:

Yes

No

Abstain

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