

Minutes - Board Meeting – 05/06/09

Minutes of the meeting of the Board of Trustees of the Incorporated Village of Mineola held Wednesday, May 6, 2009 at Village Hall, 155 Washington Avenue, Mineola, New York 11501.

PRESENT: Mayor Jack M. Martins
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Thomas F. Kennedy
Trustee Paul A. Pereira

ALSO PRESENT: Village Attorney John M. Spellman
Village Clerk Joseph R. Scalero
Deputy Village Clerk Cora T. Kelly
Village Treasurer Giacomo A. Ciccone
Superintendent of Public Works Thomas J. Rini
Superintendent of Buildings Daniel B. Whalen
Water Department Supervisor Frederick Booher

Sunshine Observers: 19 Observers

Mayor Martins called the Work Session to order at 6:35 PM

Resolution No. 107-09

Resolved to approve the special use permit application of Joserui Restaurant, Inc. known as 100 Herricks Road.

BOARD OF TRUSTEES
INCORPORATED VILLAGE OF MINEOLA

-----X
In the Matter of the Application of

JOSERUI RESTAURANT, INC.

For a Special Use Permit pursuant to Chapter 30, Section 30.31(B) of the Code of the Incorporated Village of Mineola, at premises known as 100 Herricks Road, Mineola, New York, known and designated on the Nassau County Land and Tax Map as Section 9, Block 672, Lots 1 and 2.

DECISION-----X

NAME OF APPLICANT: Joserui Restaurant, Inc.

SUBJECT PROPERTY: Section 9, Block 672, Lots 1 and 2

STREET LOCATION: 100 Herricks Road
Mineola, New York 11501

ZONING DISTRICT: Business "B-1" District

RELIEF REQUESTED: Application For a Special Use Permit pursuant to Chapter 30, Section 30.31(B) for restaurant use

PUBLICATION & POSTING: All in accordance with applicable laws, rules and regulations.

DATE OF HEARING: February 11, 2009

APPEARANCES: Lawrence J. Goldstein, Esq.
Applicant's Attorney

IN SUPPORT: Barry Nelson, Licensed Real Estate Appraiser
Salvatore Ferrara, Architect

DECISION:

Joserui Restaurant, Inc. (hereinafter, "Applicant") is before this Board pursuant to Chapter 30, Section 30.31 of the Municipal Code of the Incorporated Village of Mineola for a special use permit to prepare, sell and store food and beverages upon the property known as 100 Herricks Road, Mineola, New York (known and designated on the Nassau County Land and Tax Map as Section 9, Block 672, Lots 1 and 2) (hereinafter, the "Property").

By Notice of Disapproval, dated December 4, 2008, 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 operation of a restaurant use upon the Property requires a special use permit. As a result of the application's noncompliance with zoning code regulations, Applicant was entitled to seek relief before the Board of Trustees for a special use permit.

A review of Applicant's application which was sworn to by Applicant on January 5, 2009, as submitted to this Board, indicates that the application is to perform interior alterations and modifications of the Property to facilitate a restaurant use.

During the public hearing, the following representations were made by Applicant:

The Property was previously utilized and operated as a restaurant for approximately 30 years and has been vacant 1½ years.

* * * *

The New York State Liquor Authority has approved Applicant's application for a liquor license at the Property.

* * * *

Applicant does not intend to expand the restaurant use.

* * * *

The parking lot across the street containing approximately 20 parking spaces will be available for Applicant's use.

* * * *

Applicant is reducing the restaurant's seating from 90 seats to approximately 80-81 seats. While they have never owned a restaurant, the principals of Applicant have been in the restaurant business for many years.

* * * *

The existing four means of ingress and egress from the building will remain in place.

* * * *

Applicant intends to utilize a closed gas fired unit for cooking purposes

upon the Property.

* * * *

Applicant intends to utilize a private carter for disposal of it trash.

* * * *

There is an existing anseil system over the existing stove which is connected to the fire alarm system. The existing anseil system does not have a filter on it.

* * * *

Applicant's application is for an eat-in style restaurant.

* * * *

A referral of the application was made to the Nassau County Planning Commission. The Nassau County Planning Commission has recommended that this Board take whatever action it deems appropriate. 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) The applicant is seeking a special use permit to prepare, sell and store food and beverages in conjunction with a restaurant use upon the property known as 100 Herricks Road;
- 2) The proposed use will provide a desirable service and convenience to the Village;
- 3) The subject property will provide adequate parking to accommodate patrons of the proposed restaurant;
- 4) Refuse will be carted by a private company at the expense of the applicant;
- 5) Deliveries will not be conducted during the peak hours of traffic activity;

Based upon the above findings, it is hereby determined that the proposed use, subject to the conditions stated below, is harmonious to the "B-1" 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 putrescible waste shall be refrigerated indoors until pick-up;
- 2) All lighting shall be designed such that it shall shine upon the premises only and shall not be directed towards any neighboring residences;
- 3) The site shall be served by a private sanitation carter at the expense of the

applicant;

- 4) Applicant shall install and maintain a Smog Hog air cleaning/air pollution control system. All exhaust shall be directed toward the commercial district on Herricks Road;
- 5) Approval is conditioned upon the renewal of Declaration of Restricted Covenant filed in Deed Liber 9096, Page 821, providing for off-street parking for the restaurant in the lot across the street;
- 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.

Dated: Mineola, New York
May 6, 2009

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

Village Clerk Joseph R. Scalero polled the Board:

Vote:

Yes

No

Abstain

Trustee Paul A. Pereira
Trustee Thomas F. Kennedy
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Mayor Jack M. Martins

Resolution No. 108-09

Resolved to approve the special use permit application of Kenneth B. Berry d/b/a Aamco Transmission known as 35 Arlington Street.

BOARD OF TRUSTEES
INCORPORATED VILLAGE OF MINEOLA

-----X
in the Matter of the Application of

KENNETH B. BERRY D/B/A
AAMCO TRANSMISSION

For a Special Use Permit pursuant to Chapter 30, Section 30.31(B) of the Code of the Incorporated Village of Mineola, at premises known as 35 Arlington Street, Mineola, New York, known and designated on the Nassau County Land and Tax Map as Section 9, Block 366, Lot 170.

DECISION-----X

NAME OF APPLICANT: Kenneth B. Berry d/b/a AAMCO Transmission

SUBJECT PROPERTY: Section 9, Block 366, Lot 170

STREET LOCATION: 35 Arlington Street
Mineola, New York 11501

ZONING DISTRICT: Business "B-1" District

RELIEF REQUESTED: Application For a Special Use Permit pursuant to Chapter 30, Section 30.31(B) for operation of an AAMCO Transmission Shop

PUBLICATION & POSTING: All in accordance with applicable laws, rules and regulations.

DATE OF HEARING: April 8, 2009

APPEARANCES: Anthony Iovino, Esq., Applicant's Attorney
Bondi & Iovino

DECISION:

Kenneth B. Berry d/b/a AAMCO Transmission (hereinafter, "Applicant") is before this Board pursuant to Chapter 30, Section 30.31 of the Municipal Code of the Incorporated Village of Mineola for a special use permit to operate an AAMCO Transmission shop with ancillary parking lot upon the property known as 35 Arlington Street, Mineola, New York (known and designated on the Nassau County Land and Tax Map as Section 9, Block 366, Lot 170 (hereinafter, the "Property")).

By Notice of Disapproval, dated February 18, 2009, 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 operation of an auto repair shop upon the Property requires a special use permit. As a result of the application's noncompliance with zoning code regulations, Applicant was entitled to seek relief before the Board of Trustees for a special use permit.

A review of Applicant's application which was sworn to by Applicant on February 24, 2009, as submitted to this Board, indicates that the application is to maintain and operate an "auto repair use (no body shop work)" upon the Property.

During the public hearing, the following representations were made by Applicant:

The Property, and specifically, the rear portion within which Applicant seeks to operate the proposed auto repair use, previously housed a auto body shop and car dealership.

* * * *

There are existing bays for car repairs upon the Property.

* * * *

Applicant has operated an AAMCO Transmission shop for over 20 years

at another location within the Village and is seeking to relocate same upon the Property.

* * * *

Applicant has been a good business neighbor within the Village for 20 years.

* * * *

No repair work will be performed upon the exterior of the Property.

* * * *

The proposed hours of operation are as follows: Monday through Friday – 8:00 a.m. to 5:30 p.m., Saturday – 8:00 a.m. to 1:00 p.m., Sunday – Closed.

* * * *

Applicant intends to have four to five employees at the Property.

* * * *

Applicant will not allow vehicles to idle upon the exterior/interior of the Property.

* * * *

Applicant will not test drive any vehicles upon any residential streets.

* * * *

There will be no extraneous exhaust emanating from the Property.

* * * *

Exterior lighting will be limited to the lighting of the sign on the front of the building and in the ancillary parking lot. All lighting will cease at approximately 7:00 p.m. In any event, lighting will not spill out beyond property line.

* * * *

Applicant intends to repair the rear fence upon the Property and remove the existing graffiti.

* * * *

There will be no painting of any kind whatsoever or auto body work performed upon the Property.

* * * *

There will be no hazardous chemicals or materials stored or used upon the Property.

* * * *

Oil based fluids and water will be removed by a company contracted for such purpose. There will be no discharge of these fluids into the ground or sewage of the Village.

* * * *

Transmission fluids will be stored in accordance with Nassau County Department of Health regulations.

* * * *

Applicant intends to repair/upgrade the exterior of the existing building.

* * * *

Applicant will not park any cars on the surrounding residential streets.

* * * *

There will be no exterior storage of any fluids upon the Property.

* * * *

A majority of the work performed upon the Property will be by appointment.

* * * *

Applicant meets the off-street parking requirements of the Village.

* * * *

A private carter will be utilized for the disposal of scrap transmission materials.

* * * *

A referral of the application was made to the Nassau County Planning Commission. The Nassau County Planning Commission has recommended that this Board take whatever action it deems appropriate. 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:

- 6) The applicant is seeking a special use permit to operate an AAMCO Transmission Shop with ancillary parking lot;
- 7) The proposed use will provide a desirable service and convenience to the Village; and
- 8) The subject property will provide adequate parking to accommodate patrons of the proposed AAMCO Transmission Shop; and
- 9) Oil based fluids and scrap transmission materials will be removed and disposed of by a private carter at the expense of the Applicant.

Based upon the above findings, it is hereby determined that the proposed use, subject to the conditions stated below, is harmonious to the "B-1" 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. Finally, based upon Applicant's representations, it does not appear that Applicant's operation will cause a disturbance to the abutting residential district.

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

- 9) No repair work shall be performed upon the exterior premises of the Property;
- 10) Vehicles shall not be permitted to idle upon the Property;
- 11) Applicant shall not test drive any vehicles upon any residential streets;
- 12) In as much as the owner of the Property has represented to the Village that a new fence will be installed along Arlington Street, the granting of this application is conditioned upon the owner of the Property installing a new fence acceptable to the Village along the entire length of owner's property which abuts Arlington Street;
- 13) There shall be no painting or auto body work performed upon the Property;
- 14) Oil based fluids and scrap transmission materials shall be removed and

disposed of by a private carter at Applicant's expense;

- 15) Applicant will not park any vehicles associated with its business upon any of the surrounding residential streets;
- 16) There shall be no exterior storage of any fluids upon the Property;
- 17) The property shall be maintained in a clean and broom-swept condition at all times;
- 18) All lighting shall be designed such that it shall shine upon the premises only and shall not be directed towards any neighboring residences;
- 19) 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;
- 20) 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
- 21) 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.

Dated: Mineola, New York
May 6, 2009

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

Village Clerk Joseph R. Scalero polled the Board:

Vote:

Yes

No

Abstain

Trustee Paul A. Pereira
Trustee Thomas F. Kennedy
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Mayor Jack M. Martins

Resolution No. 109-09

Resolved to approve bills and payroll.

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

Vote:

Yes

No

Abstain

Mayor Jack M. Martins
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Thomas F. Kennedy
Trustee Paul A. Pereira

Resolution No. 110-09

Resolved to approve the minutes from meetings of the Board of Trustees of April 8, 2009 and April 15, 2009, as amended.

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Thomas F. Kennedy

Vote:

Yes

No

Abstain

Mayor Jack M. Martins
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Thomas F. Kennedy
Trustee Paul A. Pereira, (04/08/09 only)*

*Trustee Paul A. Pereira abstained from voting on the Minutes of April 15, 2009 as he was not present at this meeting.

Resolution No. 111-09

Resolved to approve a request by the Evening Star Quilters for use of a Community Center general purpose room on the following dates from 7:00 PM– 8:30 PM for monthly board meetings:

June 18, 2009	October 15, 2009	February 18, 2010
July 16, 2009	November 19, 2009	March 18, 2010
August 20, 2009	December 17, 2009	April 15, 2010
September 17, 2009	January 21, 2010	May 20, 2010

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

Vote:

Yes

No

Abstain

Mayor Jack M. Martins
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Thomas F. Kennedy
Trustee Paul A. Pereira

Resolution No. 112-09

Resolved to approve a request by the Evening Star Quilters for use of a Community Center general purpose room on the following dates from 7:00 PM– 9:00 PM for monthly meetings:

June 4, 2009	October 1, 2009	February 4, 2010
July 2, 2009	November 5, 2009	March 4, 2010
August 6, 2009	December 3, 2009	April 1, 2010
September 3, 2009	January 7, 2010	May 6, 2010

Motioned by Thomas F. Kennedy
Seconded by Trustee Paul S. Cusato

Vote:

Yes

No

Abstain

Mayor Jack M. Martins
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Thomas F. Kennedy
Trustee Paul A. Pereira

Resolution No. 113-09

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

Jack Wolf Company No. 2

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

Vote:

Yes

No

Abstain

Mayor Jack M. Martins
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Thomas F. Kennedy
Trustee Paul A. Pereira

Resolution No. 114-09

Resolved to approve a request by Robert Hinck, Community Development Coordinator, to purchase fixtures including benches, bollards, and receptacles for the Station Plaza North project from Community Development Grant funding.

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

Vote:

Yes

No

Abstain

Mayor Jack M. Martins
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Thomas F. Kennedy
Trustee Paul A. Pereira

Village Clerk Mr. Joseph R. Scalero presented the Justice Court Final March 2009 monthly report and a Preliminary April 2009 monthly report. Mr. Scalero reported that the Neighborhood Network Action inc., a Non-for-Profit organization, will be conducting a door-to-door outreach program during the months of June and July and that the United States Census Bureau has begun sending out address canvassers that will be conducting address verification within the community in preparation *for the 2010 Census*.

Trustee Paul S. Cusato reminded everyone that the Mineola Fire Department will be going door-to-door to make their final fund drive request.

Resolution No. 115-09

Resolved to approve a request by the Mineola Fire Department for budget line transfers in the amount of \$3,000.00 from the Medical Line to the following lines:

\$2,000.00 to Dues and Conferences
\$1,000.00 to Rental Equipment

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Thomas F. Kennedy

Vote:

Yes

No

Abstain

Mayor Jack M. Martins
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Thomas F. Kennedy
Trustee Paul A. Pereira

Superintendent of Public Works Thomas J. Rini reported that due to the rainy weather the Horton Highway resurfacing project had been delayed by a week and the Harrison Avenue (Field #5) parking lot construction has begun. Mr. Rini gave an update on the lighting of the parking lot, reported on the replacement of a collapsed catch basin, discussed preparing Memorial Park for the Mineola Fair, and gave an update on the Roslyn Road lot repaving. Mr. Rini also presented an update on pool repairs, leisure passes, summer recreation programs, and tree trimmings.

Water Department Supervisor Frederick Booher presented a report on the monthly activities of the Water Department and explained a "Technical Violation" related to Well #1 which is required by the Nassau County Department of Health to be included in the annual water quality report.

Superintendent of Buildings Daniel B. Whalen presented a report on the monthly activities of the Building Department.

Resolution No. 116-09

Resolved to approve a request by the Mineola Fire Department to release for donation Engine 162 to the Brierfield, Alabama Volunteer Fire Department.

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

Vote:

Yes

No

Abstain

Mayor Jack M. Martins
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Thomas F. Kennedy
Trustee Paul A. Pereira

Mayor Martins requested a motion to closed the Work Session at 7:30 PM

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Thomas F. Kennedy

Vote:

Yes

No

Abstain

Mayor Jack M. Martins
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Thomas F. Kennedy
Trustee Paul A. Pereira

Mayor Martins opened the Public Meeting at 7:30 pm.

PRESENT:

Mayor Jack M. Martins
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Thomas F. Kennedy
Trustee Paul A. Pereira

ALSO PRESENT:

Village Attorney John M. Spellman
Village Clerk Joseph R. Scalero
Deputy Village Clerk Cora T. Kelly
Village Treasurer Giacomo A. Ciccone
Superintendent of Public Works Thomas J. Rini
Superintendent of Buildings Daniel B. Whalen
Water Department Supervisor Frederick Booher

Sunshine Observers: 29 Observers

Mayor Jack M. Martins congratulated the Mineola Athletic Association on their Opening Day parade with a special thanks to John Strine, congratulated the Mineola Volunteer Ambulance Corps on their 30th Anniversary, and reminded everyone that both the Mineola Fair and the Mineola School Fair will occur simultaneously on May 16, 2009. Mayor Martins also wished Dr. Licopoli well in his retirement and wished Dr. Nagler good luck.

Trustee Lawrence A. Werther reiterated that the Mineola Fair should be a great time and encouraged residents to come out and take part in it, and discussed the Metropolitan Transit Authority bail out plan and its impact on Village of Mineola taxes.

Trustee Paul S. Cusato commented on the Nassau County Fire Association Annual Memorial Service which was hosted this year by the Oceanside Fire Department and recognized three Mineola Firefighters, Ex-Chief Walter Langer, Honorary Chief William Porkney, and Honorary Chief John Kessler. Trustee Cusato also reported that he attended the Mineola Junior Fire Department installation dinner naming Tyler Wolf as new Captain and Junior Firefighter of the Year. Trustee Cusato also reported that he attended the Mineola Volunteer Ambulance Corps dinner dance and congratulated the Mineola Volunteer Ambulance Corps on its 30th Anniversary. Trustee Cusato also spoke about the Mineola Historical Society and complimented its President Neil Young on a great job, reported on the last Neighborhood Watch meeting. Trustee Cusato extended his condolence to the Faller family on the passing of Debbie Faller and wished Trustee Pereira a Happy Birthday.

Trustee Thomas F. Kennedy mentioned the Mineola Athletic Association Opening Day was terrific and complimented Superintendent of Public Works Tom Rini and his department on the excellent conditions of the fields. Trustee Kennedy discussed a comparison of different fields used by the travel teams and stated that Mineola's fields continue to be the envy of visiting teams, and wished an early Happy Mothers Day to all mothers.

Trustee Paul A. Pereira commented on the Mineola Junior Fire Department installation dinner; the Mineola Volunteer Ambulance Corps' 30th Anniversary dinner, and reported that he and Trustee Cusato planted a tree on Mineola Boulevard to commemorate Arbor Day. Trustee Pereira also commented on his trip to Portugal with 14 foreign exchange students and Dr. Licopoli and congratulated Dr. Licopoli on his retirement.

9 Speakers addressed the Board

Mayor Jack M. Martins requested a motion to close the Public Meeting at 9:07 PM

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Thomas F. Kennedy

Vote:

Yes

No

Abstain

Mayor Jack M. Martins
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Thomas F. Kennedy
Trustee Paul A Pereira

Respectfully submitted,

Joseph R. Scalero