

## **Minutes - Board Meeting 09/10/08**

Minutes of the meeting of the Board of Trustees of the Incorporated Village of Mineola held Wednesday, September 10, 2008 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 Spellman  
Village Clerk Joseph R. Scalero  
Village Treasurer Giacomo A. Ciccone  
Superintendent of Buildings Daniel B. Whalen  
Superintendent of Public Works Thomas J. Rini

**Sunshine Observers:**

Approximately 13 Observers

### **Resolution No. 219-08**

Resolved to approve bills and payroll.

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

**Vote:**

**Yes**

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

**No**

**Abstain**

### **Resolution No. 220-08**

Resolved to approve JRS Architects Application.

**NAME OF APPLICANT:**

JRS Architect, PC

**SUBJECT PROPERTY:**

Section 9, Block 391, Lots 120, 122

**STREET LOCATION:**

285 Jericho Turnpike  
Mineola, New York 11501

**ZONING DISTRICT:**

B-1 and R-1 District

RELIEF REQUESTED: Application For a Special Use Permit pursuant to Section 30.31(B)(5) of the Village Code for the erection of a two-story commercial building with a drive-up window

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

DATE OF HEARING: June 18, 2008

APPEARANCES: Thomas Wassel, Esq.

IN SUPPORT: John Sorrento, President of JRS Architect;

**DECISION:**

JRS Architect, PC (hereinafter, "Applicant") is before this Board pursuant to Chapter 30, Section 30.31(B)(5) of the Municipal Code of the Incorporated Village of Mineola (the "Code") for a special permit for the erection of a two-story commercial building with a drive-up window upon the property known as 285 Jericho Turnpike, Mineola, New York (known and designated on the Nassau County Land and Tax Map as Section 9, Block 391, Lot 120, 122) (hereinafter, the "Property").

By Notice of Disapproval, dated April 23, 2008, Applicant's building permit was denied. The Building Inspector determined that the proposed application requires a special use permit from the Board of Trustees pursuant to Chapter 30, Section 30.31(B)(5). As a result, Applicant applied to the Board of Trustees for a special use permit.

During the public hearing, the following representations were made by Applicant: The property was previously described as Section 9, Block 391, Lots 120, 122. Lot 120 is in the B-1 Zoning District, while Lot 122 is in the R-1 Zoning District.

The subject property is presently improved with an Aamco Transmission Repair Shop.

\* \* \* \*

The property has been in continuous commercial use, including the lot to the south (which is zoned residential) for decades. The Aamco has been there since 1962.

\* \* \* \*

Applicant is seeking one variance from the Board of Zoning Appeals, and that is for the height of the building.

\* \* \* \*

The building, as it is proposed, will be approximately 120 feet from the Braster's property. We're actually creating an additional 40 to 50 feet separation between the back of the building and the nearest residential neighbor. It will certainly be higher than the existing building.

\* \* \* \*

The entrance to the property will be on Marcellus Road (southernmost). We will propose two (2) curb cuts. Right now there is only one curb cut, which is more or less where this curb cut is here now. We're proposing two (2) curb cuts, which we'll need in order to have proper traffic flow.

\* \* \* \*

There will not be an entrance on Jericho Turnpike for traffic control reasons. The exit on Jericho Turnpike will be marked "Right Turn Only".

\* \* \* \*

There will be a drive-through window on the east side of the building. There are two lanes here. One is a bypass, so that a car can actually exit without waiting on line.

\* \* \* \*

There will be an ATM on the building, at the rear of the building. It will be a 24-hour ATM that will require an ATM card. There will be fencing along the entire building, electronic fence, which will be closed after hours. You can get in through the fence by swiping your ATM card.

\* \* \* \*

Applicant will be planting trees. The trees will become mature trees and will help provide further shielding of the bank from the property to the south.

\* \* \* \*

The bank hours will be 9AM to 3PM Monday to Friday and 9AM to 12PM Saturday. The bank will have approximately five (5) employees.

\* \* \* \*

Applicant is proposing a six-foot white fence that separates the property along the south and east side and the planting will not be higher than the fence.

\* \* \* \*

The building will be fully sprinkled and alarmed. Applicant has no problem providing a knox box.

\* \* \* \*

Applicant is willing to install brick pavers around the perimeter of the building to match those installed along Jericho Turnpike. Also, Applicant will be replacing the utility strip with grass.

\* \* \* \*

Applicant will have a dumpster on premises and it will be picked up only during business hours.

\* \* \* \*

The Applicant is proposing to redo the asphalt, sidewalks and landscaping.

\* \* \* \*

The Applicant is flexible with the hours of operation, especially on weekends.

\* \* \* \*

A referral of the application was made to the Nassau County Planning Commission on July 7, 2008. 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:

The Applicant is seeking a special permit for the erection of a two-story commercial bank building with a drive-up window upon the property known as 285 Jericho Turnpike, Mineola, New York;

The property is known and designated on the Nassau County Land and Tax Map as Section 9, Block 391, Lots 120, 122. Lot 120 is in the B-1 District and Lot 122 is in the R-1 District;

The Board finds that the proposed use is of such character, size, location, design and site layout as to be appropriate to and in harmony with the surrounding properties.

Based upon the above findings, it is hereby determined that the proposed use, subject to the conditions stated below, is harmonious to and, will conform with 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.

**IT IS THEREFORE RESOLVED**, that the Special Use Permit is **GRANTED** subject to the following conditions: The premises shall be maintained in a clean condition at all times;

Installation of a six (6) foot white fence along the south and east perimeters accompanied with natural plantings. The western twenty (20) feet of the south perimeter fence and plantings shall only be four (4) feet in height;

The hours of operation for the bank shall be 9:00AM to 3:00PM Monday through Friday, 9:00AM to 12:00PM on Saturday and closed on Sunday;

All lighting shall be designed such that it shall shine upon the premises only and shall be shielded from neighboring residences;

Installation of anti-glare glass on building façade;

The Jericho Turnpike exit shall be right turn only. Applicant will install the necessary signage including a stop sign accompanying the exit;

Installation of brick pavers (same are as being installed throughout the Village) along the entire frontage of Jericho Turnpike and wrapped around the corner of Marcellus Road;

Regular patrols of the parking area to ensure parking compliance and security;

Installation of a Knox Box on premises;

The Village shall not require the installation of the sliding parking gate at this time. However, the Village reserves the right to require its installation in the future;

The Village shall maintain jurisdiction over the site. In the event that Applicant requires modification, the Applicant shall make further application before the Board of Trustees for an amendment of this approval or the Board of Trustees shall direct such modification;

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;

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 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 Paul S. Cusato

**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. 221-08

Resolution approving the annual request by the American Association of Retired Persons (AARP) – Mineola Chapter 4202 for the use of the Village Hall Community Center auditorium and one room to hold monthly meetings from 8:30 am until 1:00 pm, and the use of one room for its Arts & Crafts Committee from 9:30 am – 12:00 pm, on the following dates:

General Membership:	Wednesday-	9/24/08, 10/29, 11/19, 1/28/09, 2/25, 3/25, 4/22, 5/27
Board of Directors	Wednesday-	9/24/08, 11/19, 1/21/09, 3/25, 5/27, 6/10
Arts & Crafts:	Tuesday-	9/16/08, 10/7, 10/21, 11/4, 11/18, 12/2, 12/16, 1/6/09, 1/20, 2/3, 2/17, 3/3, 3/17, 4/7, 4/21, 5/5, 5/19

Motioned by Trustee Lawrence A. Werther  
Seconded by Trustee Thomas F. Kennedy

**Vote:**

Yes

No

Abstain

Trustee Paul A. Pereira

Trustee Thomas F. Kennedy

Trustee Lawrence A. Werther

Trustee Paul S. Cusato

Mayor Jack M. Martins

Superintendent of Public Works Thomas J. Rini presented a letter and petition from residents of Emory Road requesting changes in parking restrictions.

### Resolution No. 222-08

Resolved to authorize a request for proposals for pool repairs.

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

**Vote:**

Yes

No

Abstain

Trustee Paul A. Pereira

Trustee Thomas F. Kennedy

Trustee Lawrence A. Werther

Trustee Paul S. Cusato

Mayor Jack M. Martins

Superintendent Thomas J. Rini discussed needed repairs at the Wilson Park Hockey Rink.

### Resolution No. 223-08

Resolved to declare an emergency and award repair contract without public bidding for the Wilson Park Hockey Rink.

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

**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. 224-08**

Resolved to approve a contract with Standard Valuation Services to provide annual updates to assessment roll valuation data to preserve Homestead status and prevent tax *certioraris*.

Motioned by Trustee Lawrence A. Werther

Seconded by Trustee Paul A. Pereira

**Vote:**

**Yes**

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

**No**

**Abstain**

**Resolution No. 225-08**

Resolved to approve the Winthrop University Hospital Parking Garage Application.

NAME OF APPLICANT:	Winthrop University Hospital
SUBJECT PROPERTY:	Section 9, Block 433, Lots 28A, 35A, 28B, 35B, 36-61.
STREET LOCATION:	268 Old Country Road 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 HEARING:	August 13, 2008
APPEARANCES:	John Broder, Winthrop University Hospital
IN SUPPORT:	Daniel Abbruzzesse, Vice President Martin Taub, Traffic Engineer

**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 for the three-deck expansion of an existing parking garage upon the property known as 268 Old Country Road, Mineola, New York (known and designated on the Nassau County Land and Tax Map as Section 9, Block 28A, 35A, 28B, 35B, 35-61) (hereinafter, the "Property"). By Notice of Disapproval, dated June 24, 2008, Applicant's building permit was denied. The Building Inspector determined that the proposed application is contrary to the Village's zoning regulations, specifically: expansion of a parking lot or garage requires a special permit and building height exceeds that permitted in the zoning district. As a result of the application's noncompliance with zoning code regulations with respect to building height, Applicant was

entitled to seek relief before the Zoning Board of Appeals for a height variance. In the alternative, Applicant could obtain the same relief from the Board of Trustees pursuant to Chapter 30, Section 30.5 under the Village's 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 9, August 13 and September 10, 2008.

During the public hearing, the following representations were made by Applicant: Applicant is proposing a parking garage expansion at the northwest corner of Old Country Road and Fourth Avenue upon the property known as 268 Old Country Road.

\* \* \* \*

The application is for the addition of 712 parking spaces to the existing 632 spaces at 268 Old Country Road. These spaces will be filled by the 220 spaces that are no longer available at the satellite garage located on First Street. That would include a shifting of about 100 parking spaces from the 120 Mineola Boulevard location.

\* \* \* \*

Applicant completed a parking study with inventories on Tuesday, July 15, between the hours of 8AM to 7PM. Occupancy peaked overall from 10AM through 2PM. Several facilities were 100 percent filled, or more than completely filled.

\* \* \* \*

Traffic moving west on Old Country Road will now be accepted at the 268 Old Country Road parking facility because of the additional spaces. This will reduce movement through the critical intersection of Old Country Road and Mineola Boulevard/Franklin Avenue. Traffic moving east on Old Country will continue through the Mineola Boulevard/Franklin Avenue intersection to the 268 Old Country Road parking facility.

\* \* \* \*

The 268 Old Country Road parking facility is essentially filled by 8AM. The arrivals are early in the morning and the departure hour is 3PM. It peaks earlier than the Mineola Intermodal Center.

\* \* \* \*

The Applicant has adequate facilities to address the parking needs during construction. Applicant is renting spaces at the BookSpan facility on Franklin Avenue in Garden City.

\* \* \* \*

Applicant anticipates an 18 month period for construction. Applicant does not anticipate any overnight construction. Applicant will be displacing approximately 300 cars at a time. But will be relocating them to other locations and busing people back and forth.

\* \* \* \*

Applicant has no intention of installing cell phone towers or other telecommunication antennas on the site.

\* \* \* \*

The following amenities were proposed by Applicant in exchange for the relief requested:

\* \* \* \*

The applicant shall surrender any and all property rights pertaining to the property known and designated on the Nassau County Land and Tax Map as Section 9, Block 414, Lot 320 and described in the Amended and Restated Air Rights Lease, dated April 27, 2007.

Applicant will remove the existing parking structure located upon the property known and designated as Section 9, Block 414, Lot 320 and described in the Amended and Restated Air Rights Lease, dated April 27, 2007.

The Board of Trustees determined that the proposed expansion of the parking garage was an Unlisted Action under the State Environmental Quality Review Act with no significant negative impact upon the environment. Thereafter, 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:

Applicant intends to expand the existing parking facility located at 268 Old Country Road with three additional decks;

The development will add 712 new parking spaces to the existing 632 spaces at 268 Old Country Road;

The site is situated in the B-3 District;

The proposed development is ancillary to and accessory to the existing Hospital operation and its construction will not itself generate any additional parking requirements;

There will be no significant impact upon public utilities;

The application does not involve a change of use of the underlying property;

A parking study was prepared by the Applicant and demonstrates that the expansion of the parking garage will accommodate vehicles which are currently impacting the Village's downtown business district and neighboring residential communities;

A traffic study was also prepared by the Applicant and indicates that favorable traffic pattern changes would occur in the Village's downtown business district as a result of diverting parking trips to the expanded facility;

The height of the proposed building will not alter the character of the neighborhood.

The public amenities to be provided by the Applicant constitutes an appropriate qualification for the incentive bonus sought.

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 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**, that the Special Permit is **GRANTED** subject to the following conditions: The premises shall be maintained in a clean condition at all times;



Applicant shall surrender any and all property rights pertaining to the property known and designated on the Nassau County Land and Tax Map as Section 9, Block 414, Lot 320 and described in the Amended and Restated Air Rights Lease, dated April 27, 2007;

Applicant shall remove the existing parking structure located on the property known and designated on the Nassau County Land and Tax Map as Section 9, Block 414, Lot 320 and described in the Amended and Restated Air Rights Lease, dated April 27, 2007 down to raw grade at the Applicant's own cost and expense;

A Knox Box shall be installed on the site;

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.

The representations made by the 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 a part of the conditions of this special permit; and

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

This special permit also constitutes site plan approval and architectural approval of the application subject to approval of final architectural features.

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

**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. 226-08**

BE IT RESOLVED that the Board of Trustees joins with the Fire Council of the Mineola Volunteer Fire Department in stating that it has not engaged in any acts of discrimination, whether with reference to age, religion, gender, race, disability or otherwise, and that the the Board of Trustees will not admit to any such discrimination in settlement of any legal actions or proceedings brought by or on behalf of any of members of the Mineola Volunteer Fire Department.

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

**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. 227-08**

Be it resolved that the Board of Trustees directs the Village's Special Counsel not to settle an age discrimination action brought by the EEOC on behalf of nine members of the Mineola Volunteer Fire Department upon the terms proposed by the EEOC and that Special Counsel is directed to continue in its defense of the Board of Trustees and the Mineola Volunteer Fire Department. Additionally, the Board of Trustees shall await the outcome of a pending lawsuit in the United States District Court, Eastern District, involving the EEOC and the Incorporated Village of Valley Stream prior to formulating a course of action with respect to the Village's Length of Service Award Program (LOSAP) since the issues in that case are comparable to those raised against Mineola.

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

**Vote:**

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Trustee Paul A. Pereira		
Trustee Thomas F. Kennedy		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Mayor Jack M. Martins		

**Mayor Martins requested a motion to go into Executive Session at 8:35 PM.**

Motioned by Trustee Thomas F. Kennedy  
Seconded by Trustee Lawrence A. Werther

**Vote:**

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Trustee Paul A. Pereira		
Trustee Thomas F. Kennedy		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Mayor Jack M. Martins		

**Mayor Martins requested a motion to come out of Executive Session at 10:20 PM.**

Motioned by Trustee Lawrence A. Werther  
Seconded by Trustee Thomas F. Kennedy

**Vote:**

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Trustee Paul A. Pereira		
Trustee Thomas F. Kennedy		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Mayor Jack M. Martins		

**Mayor Martins requested a motion to close the meeting at 10:35 PM.**

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

**Vote:**

**Yes**

**No**

**Abstain**

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

Respectfully submitted,

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Joseph R. Scalero  
Village Clerk