

Minutes - Board Meeting – 07/14/2021

Minutes of the meeting of the Board of Trustees of the Incorporated Village of Mineola held Wednesday, July 14, 2021 at Village Hall, 155 Washington Avenue, Mineola, New York 11501.

PRESENT: Mayor Scott P. Strauss
Trustee Paul S. Cusato
Trustee Paul A. Pereira (via teleconference)
Trustee Dennis J. Walsh

ALSO PRESENT: Village Attorney John P. Gibbons, Jr.
Village Clerk Joseph R. Scalero
Deputy Village Clerk Linda Pardo
Superintendent of Public Works Thomas J. Rini

Press Observers: None

Sunshine Observers: 17 Observers

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

A Public Hearing was held at 6:30 PM at the Village Hall, 155 Washington Avenue, Mineola, New York, 11501 in order to receive public comment upon the following:

APPLICATION OF YAN WANG FOR A SPECIAL USE PERMIT PURSUANT TO CHAPTER 550 OF THE CODE OF THE INCORPORATED VILLAGE OF MINEOLA, ENTITLED “ZONING”, SECTION 550-12 ENTITLED “B-1 DISTRICTS”, SUBSECTION (B) ENTITLED “SPECIAL USES” TO ESTABLISH A DANCE STUDIO UPON THE PROPERTY KNOWN AS 106 EAST JERICHO TURNPIKE, MINEOLA, NEW YORK, KNOWN AND DESIGNATED ON THE NASSAU COUNTY LAND AND TAX MAP AS SECTION 9, BLOCK 362, LOTS 37-40, 70-71.

No speakers addressed the Board

Resolution 185-21

Resolved to declare the Special Use Application of Yan Wang for a Special Use Permit pursuant to Chapter 550 of the Code of the Incorporated Village of Mineola, entitled “Zoning”, Section 550-12 entitled “B-1 Districts”, Subsection (B) entitled “Special Uses” for the purpose of establishing a dance studio upon the property known as 106 East Jericho Turnpike, Mineola, New York, known and designated on the Nassau County Land and Tax Map as Section 9, Block 362, Lots 37-40, 70-71, as a Type II action pursuant to S.E.Q.R.A.

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Dennis J. Walsh

Vote:

Yes

No

Abstain

Mayor Scott P. Strauss
Trustee Paul S. Cusato
Trustee Paul A. Pereira
Trustee Dennis J. Walsh

Resolution 186-21

BOARD OF TRUSTEES
INCORPORATED VILLAGE OF MINEOLA

-----X

In the Matter of the Application of

YAN WANG

DECISION

For a Special Use Permit pursuant to Chapter 550,
Section 550-12.B of the Code of the Incorporated
Village of Mineola, at premises known as 106 E.
Jericho Turnpike, Mineola, New York, known and
designated on the Nassau County Land and Tax Map
as Section 9, Block 362, Lots 37-40, 70-71.

-----X

NAME OF APPLICANTS:	Yan Wang
SUBJECT PROPERTY:	Section 9, Block 362, Lots 37-40, 70-71
STREET LOCATION:	106 E, Jericho Turnpike Mineola, New York 11501
ZONING DISTRICT:	Business "B-1" District
RELIEF REQUESTED:	Application For a Special Use Permit pursuant to Chapter 550, Section 550-12.B to establish a dance studio upon the Property
PUBLICATION & POSTING:	All in accordance with applicable laws, rules and regulations.
DATE OF HEARING:	July 14, 2021
APPEARANCES:	Yan Wang, Owner

DECISION:

Yan Wang (hereinafter, “Applicant”) is before this Board, pursuant to Chapter 550, Section 550.12.B of the Municipal Code of the Incorporated Village of Mineola, for a special use permit to establish a dance studio upon the property known as 106 E. Jericho Turnpike, Mineola, New York (known and designated on the Nassau County Land and Tax Map as Section 9, Block 362, Lots 37-40, 70-71) (hereinafter, the “Property”).

By Notice of Disapproval, dated May 27, 2021, Applicant's building permit was denied. The Building Inspector determined that the proposed application is contrary to the Village's zoning regulations. Applicant was thus required to seek relief before the Board of Trustees for a special use permit to establish a dance studio upon the Property.

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) Applicant is seeking a special use permit to establish a dance education studio upon the property known as 106 E. Jericho Turnpike, Mineola, New York;
- 2) The name of the business is "Little Swan Dance Art";
- 3) The business will have 2 classrooms with a maximum amount of six (6) students each;
- 4) The hours of operation will be 4:30 pm to 7:30 pm Monday-Friday, 9:30 am to 3:30 pm Saturday and Sunday;
- 5) Applicant anticipates having one (1) teacher per class; and
- 6) The proposed use, subject to the conditions imposed by this Board, will provide a desirable service and convenience to the Village.

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) No food and/or beverages will be sold upon the Property;
- 2) The operation of the facility shall be self-contained within the interior of the building;
- 3) Music, if any, shall be played at a low volume and shall not be audible outside of the building;
- 4) Each of these conditions is material to the approval granted by the Board of Trustees. Violations of any of the conditions of this Special Use Permit shall subject the applicant or its successors to enforcement pursuant to the Village's Municipal Code, including possible revocation of this Special Use Permit;

- 5) The representations made by Applicant on the record in this proceeding have been deemed material to this application and have been relied upon by the Board of Trustees in its deliberations and decision. Applicant's representations are deemed to be part of the conditions of this Special Use Permit; and
- 6) Violation of a condition set forth in this Special Use Permit 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
July 14, 2021

Motioned by Trustee Dennis J. Walsh
Seconded by Trustee Paul S. Cusato

Village Clerk Joseph R. Scalero polled the Board:

Vote:

Yes

No

Abstain

Mayor Scott P. Strauss
Trustee Paul S. Cusato
Trustee Paul A. Pereira
Trustee Dennis J. Walsh

Mayor Scott P. Strauss called the Public Hearing to order at 6:45 PM

Sunshine Observers: 15 Observers

A Public Hearing was held at 6:45 PM at the Village Hall, 155 Washington Avenue, Mineola, New York, 11501 in order to receive public comment upon the following:

APPLICATION OF LOST FARMER BREWING CO. TO AMEND THE SPECIAL USE PERMIT DECISION, DATED SEPTEMBER 16, 2020 AND FILED IN THE VILLAGE'S CLERK OFFICE ON NOVEMBER 24, 2020 FOR THE PROPERTY KNOWN AS 63A EAST SECOND STREET, MINEOLA, NEW YORK, KNOWN AND DESIGNATED ON THE NASSAU COUNTY LAND AND TAX MAP AS SECTION 9, BLOCK 437, LOTS 454, 471.

3 speakers addressed the Board

Resolution 187-21

Resolved to declare the Special Use Application of Lost Farmer Brewing Co. to amend the Special Use Permit decision, dated September 16, 2020 and filed in the Village Clerk's office on November 24, 2020 for the property known as 63A East Second Street, Mineola, New York, known and designated on the Nassau County Land and Tax Map as Section 9, Block 437, Lots 454, 471, as a Type II action pursuant to S.E.Q.R.A.

Motioned by Trustee Dennis J. Walsh
Seconded by Trustee Paul S. Cusato

Vote:
Yes **No** **Abstain**
Mayor Scott P. Strauss
Trustee Paul S. Cusato
Trustee Paul A. Pereira
Trustee Dennis J. Walsh

Mayor Scott P. Strauss requested a motion to reserve decision and close the hearing at 8:35 PM.

Motioned by Trustee Dennis J. Walsh
Seconded by Trustee Paul S. Cusato

Vote:
Yes **No** **Abstain**
Mayor Scott P. Strauss
Trustee Paul S. Cusato
Trustee Paul A. Pereira
Trustee Dennis J. Walsh

Mayor Scott P. Strauss called the Work Session to order at 8:35 PM.

PRESENT: Mayor Scott P. Strauss
Trustee Paul S. Cusato
Trustee Paul A. Pereira (via teleconference)
Trustee Dennis J. Walsh

ALSO PRESENT: Village Attorney John P. Gibbons, Jr.
Village Clerk Joseph R. Scalero
Deputy Village Clerk Linda Pardo
Superintendent of Public Works Thomas J. Rini

Press Observer: None

Sunshine Observers: None

Resolution No. 188-21

Resolved to approve bills and payroll.

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Dennis J. Walsh

Vote:
Yes **No** **Abstain**
Mayor Scott P. Strauss
Trustee Paul S. Cusato
Trustee Paul A. Pereira
Trustee Dennis J. Walsh

Resolution No. 189-21

Resolved to approve a request by the 55+ Senior Basketball Group for the use of the Community Center gymnasium, for non-league play, Mondays and Fridays 12:30 pm – 3:00 pm, schedule permitting.

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Dennis J. Walsh

Vote:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Mayor Scott P. Strauss		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee Dennis J. Walsh		

Village Clerk Joseph R. Scalero announced that The Little Mermen, a Disney rock cover band, will perform Friday July 16 at 7:30 pm at the Memorial Park Amphitheater.

Resolution No. 190-21

Resolved to award the installation of a new packaged rooftop unit to replace the existing HVAC system at Mineola Fire Department Company #3 located at 166 Elm Place.

<u>Proposals received:</u>	
Five Star Mechanical, Inc.	\$15,875.00
Dynaire Corporation	\$19,825.00

Funding Source: 2021-2022 General Fund Budget and/or the General Fund Unreserved Fund Balance

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Dennis J. Walsh

Vote:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Mayor Scott P. Strauss		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee Dennis J. Walsh		

Resolution No. 191-21

Resolved to authorize the emergency reconstruction in place of the collapsing concrete masonry unit catch basins at the following locations:

- Catch Basin in front of 169 Evelyn Road
- Catch Basin at the north side of the intersection of Cottage Place and Roosevelt Place
- Catch Basin at the northwest corner of Marcellus Road and Buchanan Avenue
- Catch Basin at the north side of the intersection of Buchanan Avenue and Bauer Place
- Catch Basin at the northwest corner of Bauer Place and Harding Avenue

Proposals received:
Valente Contracting Corp. – Approximately \$15,000.00 each
Pratt Brothers, Inc. – Approximately \$18,749.00 each

Recommend awarding this emergency work to Valente Contracting Corp.
Funding Source: 2021/2022 general Fund Budget and/or the General Fund
Unreserved Fund Balance

Motioned by Trustee Dennis J. Walsh
Seconded by Trustee Paul S. Cusato

Vote:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Mayor Scott P. Strauss		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee Dennis J. Walsh		

Village Attorney John P. Gibbons, Jr. presented the following resolution:

Resolution No. 192-21

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

CVS ALBANY LLC

DECISION

For a Revocation of a Special Use Permit pursuant to Chapter 550, Section 550-50(H) of the Code of the Incorporated Village of Mineola, at premises known as 17 East Jericho Turnpike, Mineola, New York, known and designated on the Nassau County Land and Tax Map as Section 9, Block 342, Lots 28, 35 and 36.
-----X

NAME OF APPLICANT:	CVS Albany LLC
SUBJECT PROPERTY:	Section 9, Block 342, Lots 28, 35 and 36
STREET LOCATION:	17 East Jericho Turnpike Mineola, New York 11501
ZONING DISTRICT:	"B-1" District
RELIEF REQUESTED:	Revocation of a Special Use Permit pursuant to Chapter 550, Section 550-50(H)
PUBLICATION & POSTING:	All in accordance with applicable laws, rules and regulations.
DATE OF HEARING:	May 12, 2021
APPEARANCE:	Andrea Helman, Esq., Allyn & Fortuna, Counsel for CVS Albany, LLC Lana Sholomoba, District Leader for CVS

DECISION:

By Decision of the Board of Trustees of the Incorporated Village of Mineola, dated January 9, 2008, and entered in the Office of the Village Clerk on January 18, 2008, First Hartford Realty Corp (CVS) (hereinafter referred to as “CVS”) was granted a Special Use Permit to sell and store food and beverages upon the property known as 17 East Jericho Turnpike, Mineola, New York (known and designated on the Nassau County Land and Tax Map as Section 9, Block 342, Lots 28, 35 and 36) (hereinafter, the “Property”). The Decision required, among other things, compliance with the conditions set forth in the Decision, including:

- 1) The property shall be maintained in a clean and broom-swept condition at all times. Snow shall be removed promptly from all sidewalks surrounding the property;
- 2) The garbage dumpster on the premises shall be maintained in a fully-enclosed area and the gates to the dumpster shall be closed at all times except during loading and pick-up. The garbage dumpster and surrounding area shall remain free from debris, odors or litter at all times. All putrescible waste shall be refrigerated indoors until pick-up;
- 3) Perimeter fencing around the property shall be of closed construction, shall be six (6’) feet in height along Washington Avenue and along Royal Avenue and shall be four (4’) feet in height along Roslyn Road. The design of the fencing shall be subject to approval by the Building Department;

* * *

- 5) A full landscape plan shall be submitted to the Building Department for approval. The plan shall include plantings on the street side of Washington Avenue and Royal Avenue as well as along the interior side of the fence along said streets. The landscaping shall be appropriately irrigated and maintained at all times. A streetscape plan employing the paver, lighting and street furniture design pallet for Roslyn Road, Old Country Road and a wrap-around onto Royal Avenue shall be submitted and, upon approval, implemented;

The Decision recites that “[e]ach of these conditions is material to the approval granted by the Board of Trustees. Violations of any of them shall subject the applicant or it [sic] successors to enforcement pursuant to the Village’s Municipal Code, including possible revocation of this special permit.”

Mineola Municipal Code Section 550-55 H provides,

- H. Revocation of special permit. Any special permit granted pursuant to this chapter shall be revocable on the order of the Board of Trustees at any time upon the failure of the owner or operator of the use or structure covered by the special permit to observe all requirements of this chapter with respect to the maintenance and conduct of the use or structure or upon failure to observe all conditions in connection with such special permit which were designated by the Board of Trustees

issuing the same. Prior to revoking any such special permit, the Board of Trustees shall give the holder of the special permit at least 10 days' written notice of violation. If, within such 10 days, the special permit holder so requests, the Board of Trustees shall hold a hearing on the revocation of such special permit and shall give the applicant for the hearing at least 10 days' written notice thereof, either by certified mail, return receipt requested, or by personal service. The foregoing provisions shall not be deemed to preclude the use of any conditions of the special permit. The violation of any condition imposed by the Board of Trustees as part of a special permit shall constitute a violation of this chapter.

CVS received notice that the Board of Trustees would hold a public hearing on April 21, 2021 to consider whether the Special Use Permit should be revoked based upon the continual failure of CVS to abide by the conditions set forth in the Decision and CVS's frequent, numerous and continued violations of the Mineola Village Code. At CVS' request, the public hearing was adjourned to May 12, 2021 to answer these allegations.

At the public hearing, the Board received the testimony of Daniel B. Whalen, the Superintendent of Buildings for the Incorporated Village of Mineola. Mr. Whalen gave extensive testimony regarding the frequent and continuous violations by CVS of the conditions set forth in the Special Use Permit. The Board considered documentary evidence contained in a Hearing Exhibit Book labeled Exhibits A through J. CVS appeared through their representatives, Ms. Helman, an attorney from an outside law firm, and Ms. Sholomoba, a District Leader for CVS, who was installed in that position in "late November 2019." Unfortunately, since the cited violations having been occurring continuously since at least 2013, Ms. Sholomoba was put in a difficult position of answering for conditions she knew little or nothing about. To their credit, neither Ms. Helman nor Ms. Sholomoba denied the violations. Instead, CVS presented an "Ongoing compliance plan for the conditions of the special use permit." The Board was both surprised and disappointed that CVS did not send a representative in a management position to address the Village's concerns about their neglectful and shameful CVS location which sits at a prominent site in the Village and abuts a residential community directly to the south.

In addition to the numerous summonses issued to CVS during the time period from 2013 to the present, Mr. Whalen detailed his efforts to reach out to CVS Headquarters which is located at 1 CVS Drive, Woonsocket, Rhode Island. In his letter, Mr. Whalen eloquently pleaded to Mr. Larry Merlo, then CEO and President of CVS, to address the on-going property maintenance issues – "For the past eight years, Mineola has had to assuage the evermore vociferous complaints from not only the immediate surrounding homeowners but, also, from your very own customers who, like the

Village, cannot understand why this store continues to be such a blight on this community.” Inexplicitly, Mr. Whalen testified that “we got absolutely no response from corporate headquarters or anyone else”. As a matter of fact, Mr. Whalen testified that CVS did not even bother to “show to the arraignment” on the summonses then pending in the Village Justice Court. It has been made abundantly clear to the Village of Mineola that CVS simply does not care about its property or the living conditions of its neighbors. One neighbor who testified at the hearing, James Bruno, has had to endure CVS’ neglect since 2009 including, CVS not mowing its grass, dandelions over a foot and half high, lights shining into the residential neighborhood throughout the night, 4 a.m. dumpster pick-ups, failure to trim their trees resulting in power outages when the trees pull down electrical wires during a storm, sidewalks are buckled, garbage thrown about, sidewalks not cleared of snow and ice, no irrigation resulting in dead plantings, rodent infestation, and a total lack of respect for their residential neighbors.

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

- 1) The Board finds that CVS is in violation of Condition No. 1 of the Special Use Permit, to wit,

The property shall be maintained in a clean and broom-swept condition at all times. Snow shall be removed promptly from all sidewalks surrounding the property;

- 2) The Board finds that CVS is in violation of Condition No. 2 of the Special Use Permit, to wit,

The garbage dumpster on the premises shall be maintained in a fully-enclosed area and the gates to the dumpster shall be closed at all times except during loading and pick-up. The garbage dumpster and surrounding area shall remain free from debris, odors or litter at all times. All putrescible waste shall be refrigerated indoors until pick-up;

- 3) The Board finds that CVS is in violation of Condition No. 3 of the Special Use Permit, to wit,

Perimeter fencing around the property shall be of closed construction, shall be six (6’) feet in height along Washington Avenue and along Royal Avenue and shall be four (4’) feet in height along Roslyn Road. The design of the fencing shall be subject to approval by the Building Department; and

- 4) The Board finds that CVS is in violation of Condition No. 5 of the Special Use Permit, to wit,

A full landscape plan shall be submitted to the Building Department for approval. The plan shall include plantings on the street side of Washington Avenue and Royal Avenue as well as along the interior side of the fence along said streets. The

landscaping shall be appropriately irrigated and maintained at all times. A streetscape plan employing the paver, lighting and street furniture design pallet for Roslyn Road, Old Country Road and a wrap-around onto Royal Avenue shall be submitted and, upon approval, implemented;

Based upon the above findings and evidence presented at the public hearing, it is hereby determined that CVS has, on numerous occasions, violated its Special Use Permit, dated January 9, 2008, and entered in the Office of the Village Clerk on January 18, 2008. Further, it is hereby determined that the Special Use Permit is **REVOKED**. Such revocation shall be held in abeyance until February 9, 2022. CVS shall immediately comply with all conditions of its Special Use Permit. No later than September 1, 2021, CVS shall submit to the Village Building Department a complete irrigation plan, landscape plan, property maintenance plan, building permit applications for the repair of the existing picket PVC boundary fence on the west side of the Property and for the installation of a new dumpster enclosure with locking system, a lighting plan which addresses the complaints by the residential neighbors as to the brightness of the outside lighting and the spill over of the lighting into the residential properties, and a dumpster pick-up schedule which provides that CVS may only have its garbage which is contained in the dumpsters located in its parking lot picked up between the hours of 8:00 am and 5:00 pm. CVS shall also submit copies of all yearly maintenance contracts for landscaping and snow removal. CVS shall again appear before the Board on February 9, 2022, at which time the Board will make a determination as to whether CVS has achieved satisfactory compliance with the conditions in the Special Use Permit and in this Decision in which event this revocation shall become null and void or, in the event that CVS cannot demonstrate compliance with the conditions set forth in the Special Use Permit and in this Decision, this Decision shall become final.

Dated: Mineola, New York
July 14, 2021

Motioned by Trustee Paul A. Pereira
Seconded by Trustee Dennis J. Walsh

Village Clerk Joseph R. Scalero polled the Board:

Vote:

Yes

No

Abstain

Mayor Scott P. Strauss
Trustee Paul S. Cusato
Trustee Paul A. Pereira
Trustee Dennis J. Walsh

Mayor Scott P. Strauss requested a motion to close the Work Session at 8:43 PM.

Motioned by Trustee Dennis J. Walsh
Seconded by Trustee Paul S. Cusato

Vote:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Mayor Scott P. Strauss		
Trustee Paul S. Cusato		
Trustee Paul A. Pereira		
Trustee Dennis J. Walsh		