

**Minutes - Board Meeting – 9/13/2017**

Minutes of the meeting of the Board of Trustees of the Incorporated Village of Mineola held Wednesday, September 13, 2017 at Village Hall, 155 Washington Avenue, Mineola, New York 11501.

**PRESENT:** Mayor Scott P. Strauss  
Trustee Paul S. Cusato  
Trustee Paul A. Pereira  
Trustee George R. Durham  
Trustee Dennis J. Walsh

**ALSO PRESENT:** Village Attorney John P. Gibbons, Jr.  
Deputy Village Clerk Linda D. Pardo  
Superintendent of Public Works Thomas J. Rini  
Superintendent of Buildings Daniel B. Whalen

**Press Observers:** *Mineola American*  
*Williston Times*

**Sunshine Observers:** 7 Observers

**Mayor Scott P. Strauss called the Public Hearing to order at 6:50 PM**

*A Public Hearing was held at 6:50 PM at the Village Hall, 155 Washington Avenue, Mineola, New York, 11501 in order to receive public comment upon the following:*

**APPLICATION OF ELMER A. ARGUETA 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 RETAIL FOOD AND DRINK (GROCERY) STORE UPON THE  
PROPERTY KNOWN AS 90-12 JERICHO TURNPIKE, MINEOLA,  
NEW YORK, KNOWN AND DESIGNATED ON THE NASSAU  
COUNTY LAND AND TAX MAP AS SECTION 9, BLOCK 336,  
LOT 418.**

*No Speakers addressed the Board*

**Resolution No. 193-17**

Resolved to declare the Special Use Application of Elmer A. Argueta 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 retail food (grocery) store upon the property known as 90-12 Jericho Turnpike, Mineola, New York, known and designated on the Nassau County Land and Tax Map as Section 9, Block 336, Lot 418, as a Type II action pursuant to S.E.Q.R.A.

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

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 194-17**

BOARD OF TRUSTEES  
INCORPORATED VILLAGE OF MINEOLA

-----X

In the Matter of the Application of

ELMER A. ARGUETA

**DECISION**

For a Special Use Permit pursuant to Chapter 550, Section 550.12 of the Code of the Incorporated Village of Mineola, at premises known as 90-12 Jericho Turnpike, Mineola, New York, known and designated on the Nassau County Land and Tax Map as Section 9, Block 336, Lot 418.

-----X

NAME OF APPLICANT:	Elmer A. Argueta
SUBJECT PROPERTY:	Section 9, Block 336, Lot 418
STREET LOCATION:	90-12 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 for the purpose of establishing a new retail food and drink (grocery) store upon the property.
PUBLICATION & POSTING:	All in accordance with applicable laws, rules and regulations.
DATE OF HEARING:	September 13, 2017
APPEARANCES:	Bradley Schnur, Esq. Elmer A. Argueta, Owner Danis Argueta

**DECISION:**

Elmer A. Argueta (hereinafter, “Applicant”), is before this Board, pursuant to Chapter 550, Section 550.12 of the Municipal Code of the Incorporated Village of Mineola, for a special use permit for the establishment of a new retail food and drink (grocery) store upon the property known as 90-12 Jericho Turnpike, Mineola, New York (known and designated

on the Nassau County Land and Tax Map as Section 9, Block 336, Lot 418) (hereinafter, the “Property”).

By Notice of Disapproval, dated June 21, 2017, 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 establishment of a new retail food and drink (grocery) store 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:

- 1) Applicant is seeking a special use permit to establish a new retail food and drink (grocery) store upon the property known as 90-12 Jericho Turnpike, Mineola, New York;
- 2) Applicant is proposing a new mini-market that will not prepare any food on premises;
- 3) Applicant will not be selling any alcohol at the Property;
- 4) Applicant is proposing minor improvements/alterations to the interior and exterior of the building;
- 5) Applicant is anticipating 2 employees;
- 6) The proposed hours of operation would be 8:00 am to 10:00 pm, seven (7) days a week;
- 7) Applicant is proposing a mini-market that sells traditional products from Central and South America at the Property; and
- 8) 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 the 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 occur on-site during off-peak traffic hours and shall not occur before 6am. Applicant shall make all deliveries through the front of the building;
- 2) Applicant will not prepare or cook food upon the Property;
- 3) Applicant shall have no seating/tables upon the Property;
- 4) Applicant shall utilize a private sanitation service for garbage removal which shall not occur before 6am. Applicant shall have a strict schedule for the removal and replacement of all refuse containers;
- 5) All putrescible waste shall be stored within the premises and shall be removed by a private carting company;
- 6) Each of these conditions is material to the approval granted by the Board of Trustees. Violations of any of the conditions of this agreement shall subject the applicant or its successors to enforcement pursuant to the Village's Municipal Code, including possible revocation of this special use 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 decision. Applicant's representations are deemed to be part of the conditions of this special use 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  
October 4, 2017

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

Deputy Village Clerk Linda D. Pardo polled the Board:

**Vote:**

**Yes**

**No**

**Abstain**

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

**Mayor Scott P. Strauss requested a motion to close the hearing at 7:20 PM.**

Motioned by Trustee Paul A. Pereira  
Seconded by Trustee George R. Durham

## Abstain

## Abstain

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 197-17**

Resolved to authorize a public bid for the 2017 Roadway and Drainage Improvements Program.

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

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 198-17**

Resolved to authorize the installation of a Handicap Reserved parking space at 167 Emory Road, Garfield Avenue, Mineola.

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

**Vote:**

**Yes**

**No**

**Abstain**

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

*Superintendent of Buildings Daniel B. Whalen presented a monthly report of Department activities, and a monthly Department financial report for August.*

*Village Attorney John P. Gibbons, Jr. presented the following proposed resolutions:*

**Resolution No. 199-17**

Petitioner: Beardslee  
Petitioner's Attorney: Koeppel

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding Beardslee, Section 9, Block 381, Lots 10-16, 17-21, 30-31 is approved.

Further resolved, that the Petitioner will receive a refund of \$34,000 for the tax years 2010/2011 through 2016/2017. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 200-17**

Petitioner: Calicchia

Petitioner's Attorney: Cronin Cronin Harris & O'Brien

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding Calicchia, Section 9, Block 405, Lot 102 is approved.

Further resolved, that the Petitioner will receive a refund of \$1,000 for the tax years 2010/2011 through 2016/2017. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 201-17**

Petitioner: CVS Albany, LLC  
Petitioner's Attorney: Koeppel

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding CVS Albany, LLC, Section 9, Block 2, Lots 69-72, 73, 83-86 is approved.

Further resolved, that the Petitioner will receive a refund of \$1,500 for the tax years 2010/2011 through 2016/2017. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

<b>Vote:</b>		
<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Abstain</u></b>
Mayor Scott P. Strauss		
Trustee Paul S. Cusato		
Trustee George R. Durham		
Trustee Paul A. Pereira		
Trustee Dennis J. Walsh		

**Resolution No. 202-17**

Petitioner: CVS Albany, LLC  
Petitioner's Attorney: Koeppel

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding CVS Albany, LLC, Section 9, Block 342, Lots 28, 35 and 36 is approved.

Further resolved, that the Petitioner will receive a refund of \$3,500 for the tax years 2009/2010 through 2016/2017. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

<b>Vote:</b>		
<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Abstain</u></b>
Mayor Scott P. Strauss		
Trustee Paul S. Cusato		
Trustee George R. Durham		
Trustee Paul A. Pereira		
Trustee Dennis J. Walsh		



**Resolution No. 203-17**

Petitioner: DeSousa  
Petitioner's Attorney: Cronin Cronin Harris & O'Brien

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding DeSousa, Section 9, Block 313, Lots 128, 129 is approved.

Further resolved, that the Petitioner will receive a refund of \$53,000 for the tax years 1995/1996 through 2016/2017. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

<b>Vote:</b>		
<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Abstain</u></b>
Mayor Scott P. Strauss		
Trustee Paul S. Cusato		
Trustee George R. Durham		
Trustee Paul A. Pereira		
Trustee Dennis J. Walsh		

**Resolution No. 204-17**

Petitioner: FP 300 OCR LLC (Key Court Condo)  
Petitioner's Attorney: Herman Katz

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding FP 300 OCR LLC (Key Court Condo), Section 9, Block 435, Lot 114A is approved.

Further resolved, that the Petitioner will receive a refund of \$175,000 for the tax years 2009/2010 through 2016/2017. The refund shall be payable in two (2) equal installments of \$87,500 on May 31, 2017 and July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 205-17**

Petitioner: Gutman Realty Co., LLC

Petitioner's Attorney: Koeppel

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding Gutman Realty Co., LLC, Section 9, Block 355, Lot 31 is approved.

Further resolved, that the Petitioner will receive a refund of \$3,500 for the tax years 2010/2011 through 2016/2017. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 206-17**

Petitioner: JPMorgan Chase

Petitioner's Attorney: Koeppel

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding JPMorgan Chase, Section 9, Block 662, Lot 19 is approved.

Further resolved, that the Petitioner will receive a refund of \$9,000 for the tax years 2010/2011 through 2016/2017. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 207-17**

Petitioner: Kingdom Family Holdings

Petitioner's Attorney: Koeppel

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding Kingdom Family Holdings, Section 9, Block 415, Lot 856 is approved.

Further resolved, that the Petitioner will receive a refund of \$82,000 for the tax years 2010/2011 through 2016/2017. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 208-17**

Petitioner: Koscal

Petitioner's Attorney: Podell Schwartz

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding Koscal, Section 9, Block 322, Lots 212, 213 is approved.

Further resolved, that the Petitioner will receive a refund of \$10,000 for the tax years 2008/2009 through 2016/2017. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 209-17**

Petitioner: Maskir

Petitioner's Attorney: Cronin & Cronin

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding Maskir, Section 9, Block 37, Lots 6-10, 35 is approved.

Further resolved, that the Petitioner will receive a refund of \$4,000 for the tax years 2012/2013 through 2016/2017. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

Motioned by Trustee Paul A. Pereira

Seconded by Trustee Paul S. Cusato

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 210-17**

Petitioner: Massell

Petitioner's Attorney: Koeppel

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding Massell, Section 9, Block 355, Lot 230 is approved.

Further resolved, that the Petitioner will receive a refund of \$5,000 for the tax years 2010/2011 through 2016/2017. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

Motioned by Trustee Paul A. Pereira

Seconded by Trustee Paul S. Cusato

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 211-17**

Petitioner: Penei, LLC

Petitioner's Attorney: Forchelli

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding Penei, LLC, Section 9, Block 452, Lot 620 is approved.

Further resolved, that the Petitioner will receive a refund of \$5,000 for the tax years 2011/2012 through 2016/2017. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 212-17**

Petitioner: Carol Pusey

Petitioner's Attorney: Forchelli

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding Carol Pusey, Section 9, Block 453, Lots 429, 430 is approved.

Further resolved, that the Petitioner will receive a refund of \$2,500 for the tax years 2011/2012 through 2016/2017. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 213-17**

Petitioner: Reis

Petitioner's Attorney: Cronin Cronin Harris & O'Brien

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding Reis, Section 9, Block 408, Lots 358-359 is approved.

Further resolved, that the Petitioner will receive a refund of \$1,000 for the tax years 2008/2009 through 2016/2017. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 214-17**

Petitioner: Valente Contracting

Petitioner's Attorney: Cronin Cronin Harris & O'Brien

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding Valente Contracting, Section 9, Block 462, Lots 595-598 is approved.

Further resolved, that the Petitioner will receive a refund of \$4,000 for the tax years 2010/2011 through 2013/2014. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 215-17**

Petitioner: Veroll Construction

Petitioner's Attorney: Cronin Cronin Harris & O'Brien

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding Veroll Construction, Section 9, Block 400, Lots 350-353 is approved.

Further resolved, that the Petitioner will receive a refund of \$1,000 for the tax years 2010/2011 through 2013/2014. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

**Vote:**

**Yes**

**No**

**Abstain**

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

**Resolution No. 216-17**

Petitioner: Wilkoff Properties

Petitioner's Attorney: Cronin Cronin Harris & O'Brien

Resolved, that the certiorari settlement recommended by Spellman Rice Gibbons Polizzi & Truncale, LLP, regarding Wilkoff Properties, Section 9, Block 423, Lot 19 is approved.

Further resolved, that the Petitioner will receive a refund of \$4,500 for the tax years 2010/2011 through 2016/2017. The refund shall be payable on July 31, 2017 following the submission of a voucher along with a Judgment and Stipulation.

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

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

**Resolution No. 217-17**

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

LIFFCO POWER EQUIPMENT

**DECISION**

For a Special Use Permit pursuant to Chapter 550, Section 550.16A of the Code of the Incorporated Village of Mineola, at premises known as 42 East Second Street, Mineola, New York, known and designated on the Nassau County Land and Tax Map as Section 9, Block 303, Lot 310.  
-----X

NAME OF APPLICANT:	Liffco Power Equipment
SUBJECT PROPERTY:	Section 9, Block 303, Lot 310
STREET LOCATION:	42 East Second Street Mineola, New York 11501
ZONING DISTRICT:	"M" District
RELIEF REQUESTED:	Application For a Special Use Permit pursuant to Chapter 550 Section 550-16A for the operation of a gasoline and electric engine repair shop upon the property
PUBLICATION & POSTING:	All in accordance with applicable laws, rules and regulations.
DATE OF HEARING:	July 5, 2017
APPEARANCES:	Albert DiMarco, Esq., Applicant’s Attorney Darryl Murray, Owner

**DECISION:**

Liffco Power Equipment (hereinafter, “Applicant”), is before this Board pursuant to Chapter 550, Section 550-16A of the Municipal Code of the Incorporated Village of Mineola for a special use permit for the operation of a gasoline and electric engine repair shop upon the property known as 42 East Second Street, Mineola, New York (known and designated on



the Nassau County Land and Tax Map as Section 9, Block 303, Lot 310) (hereinafter, the “Property”).

By Notice of Disapproval, dated April 25, 2017, Applicant’s building permit was denied. The Building Inspector determined that the proposed application is contrary to the Village’s zoning regulations in that operating a gasoline and electric engine repair shop 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:

- 1) Applicant is seeking a special use permit to establish a retail store for the sale of landscaping equipment and to operate a gasoline and electric engine repair shop to service the equipment upon the Property.
- 2) The hours of operation will be 7:00 am to 5:00 pm Monday-Friday, 8:00 am to 3:00 pm Saturday and closed on Sunday;
- 3) Applicant will only conduct retail sales on Saturdays and not perform any repairs;
- 4) Applicant will not be repairing or servicing automobiles;
- 5) Applicant will be the sole tenant and occupy 100% of the Property; 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 “M” 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) The operation of the facility shall be self-contained within the interior of the building and no work shall be performed on any equipment outside of the building;
- 2) All equipment shall be stored within the building. No equipment shall be stored and/or displayed outside;

- 3) Applicant shall only utilize the Property in connection with the primary use (retail sale of landscape equipment and the repair and servicing of the landscape equipment);
- 4) 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 in compliance with the Incorporated Village of Mineola Municipal Code, 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;
- 5) Applicant shall obtain all necessary licenses, permits and approvals from all interested governmental agencies having jurisdiction prior to operation and shall remain in compliance at all times. Applicant shall submit sufficient documentation to the Village to confirm compliance;
- 6) Vehicles shall not be permitted to idle/double-park or impede the flow of traffic in and around the Property;
- 7) Applicant will be the sole tenant and occupy 100% of the Property;
- 8) The Property shall be maintained in a clean and broom-swept condition at all times;
- 9) Each of these conditions is material to the approval granted by the Board of Trustees. Violation of any of the conditions of this agreement shall subject the applicant or its successors to enforcement pursuant to the Village's Municipal Code, including possible revocation of this special use permit;
- 10) 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
- 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.

Dated: Mineola, New York  
September 13, 2017

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

Deputy Village Clerk Linda D. Pardo polled the Board:

**Vote:**

**Yes**

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

**No**

**Abstain**

*Mayor Scott P. Strauss apologized for the lack of volume at the 9/11 Remembrance Ceremony stating that it will be rectified for future events; encouraged residents to attend the final Concert in the Park which will feature Who's Next Saturday September 16 at 7:00 PM at the Memorial Park Amphitheater; and announced that there will be no meeting Wednesday September 20 in observance of Rosh Hashanah.*

**Mayor Scott R. Strauss requested a motion to close the Work Session at 7:35 PM**

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

**Vote:**

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