

MINUTES
BOARD OF TRUSTEES
VILLAGE OF NORTH HILLS
Village Hall
One Shelter Rock Road
North Hills, New York
June 15, 2022
7:30 pm

PRESENT: Mayor Marvin Natiss
Deputy Mayor Dennis Sgambati
Trustees Elliott Arnold, Gail Cohen and Phyllis Lentini
Marianne C. Lobaccaro, Village Administrator
Peter Cinquemani, Superintendent of Building Department
A. Thomas Levin, Esq., Village Attorney

Mayor Natiss called the meeting to order at 7:30 pm.

Mayor Natiss announced that the next regular meeting date for the Board of Trustees will be July 20, 2022, at 7:30 pm at Village Hall.

The minutes of the May 18, 2022 meeting were approved on motion by Trustee Cohen, seconded by Trustee Arnold and adopted unanimously. The approved minutes are on file in the village office.

The Board held a public hearing with respect to Case 21-08bt – Application of The Residences at North Hills Homeowners, with respect to premises known as Section 8, Block A, Lot 906A on the Nassau County Land and Tax Map. The minutes of the hearing were recorded stenographically and are on file with these minutes. Michael Sahn, Esq. and Joseph Graziose made the presentation on behalf of the applicant. After hearing all interested persons present, on motion by Mayor Natiss, seconded by Deputy Mayor Sgambati, and adopted unanimously, the Board continued the hearing to July 20, 2022, at 7:30 pm at Village Hall. The Village Attorney noted that the Board had not yet

classified this matter nor a determination of significance pursuant to the State Environmental Review Act (SEQRA), and that the Village had not yet received a General Municipal Law §239-m recommendation from the Nassau County Planning Commission.

The Village Administrator read the Treasurer's Report for May 2022, which was approved unanimously on motion by Deputy Mayor Sgambati, seconded by Trustee Arnold.

On motion by Deputy Mayor Sgambati, seconded by Trustee Lentini and adopted unanimously, the Board approved a refund of the unused portion of a deposit for Case 21-05bt, in the sum of \$8,957.65, as identified in the June 8, 2022 memorandum from the Village Administrator, a copy of which is on file in the Village office.

On motion by Trustee Cohen, seconded by Trustee Arnold and adopted unanimously, the Board approved the budgetary fund transfers requested in the June 10, 2022 memorandum from the Village Administrator, a copy of which is on file in the Village office.

On motion by Deputy Mayor Sgambati, seconded by Trustee Cohen and adopted unanimously, the Board approved payment of the claims on General Fund Warrant 06/22. A copy of the Warrant is attached to these minutes.

The Board discussed the remaining portions of the bifurcated application in Case 18-01bt, Buckley Country Day School, pertaining to the proposed perimeter fencing. On motion by Deputy Mayor Sgambati, seconded by Trustee Lentini and adopted unanimously, the Board adopted the following decision:

**RESOLUTION WITH RESPECT TO THE APPLICATION OF
BUCKLEY COUNTRY DAY SCHOOL (CASE 18-01bt)
FOR BUILDING INFILL AND PERIMETER FENCING**

WHEREAS, the Board of Trustees of the Village of North Hills ("Board") acting as Lead Agency, previously reviewed an Environmental Assessment Form (EAF) submitted in support of a bifurcated portion of the application of Buckley Country Day School (Case 18-01bt) for amendment of an existing special permit and site plan with respect to an infill addition to an existing building and for perimeter fencing; and

WHEREAS, the Board heretofore had issued a Positive Declaration pursuant to the State Environmental Quality Review Act (SEQRA) with respect to the full application submitted as Case 18-01bt; and

WHEREAS, at the request of the applicant, the Board thereafter consented to the bifurcation of that application, to consider only that portion ("the Project") of the application which seeks permission to add an infill addition to an existing building, and to add perimeter fencing, and to hold the remainder of that application in abeyance; and

WHEREAS, the Board heretofore duly adopted a resolution concluding that the bifurcation of the application did not constitute an impermissible segmentation of the application, and that the bifurcated portion of the application should proceed for further review, including review of environmental impact; and

WHEREAS, upon further review of the bifurcated portion of the application, the Board issued a Negative Declaration pursuant to SEQRA; and

WHEREAS, the Nassau County Planning Commission has issued a recommendation that the Board take such action with respect to the bifurcated portion of the application as the Board deems appropriate; and

WHEREAS, the Board has held numerous public hearings with respect to the original application and the bifurcated portion of that application, the

hearings and submissions with respect to the bifurcated portion of the application are complete, and the hearings with respect to the bifurcated portion of the application have been closed; and

WHEREAS, the Board has considered the EAF, the various comments made at the public hearings, the authorized submissions after the close of the public hearing, and the comments and recommendations of its consultant VHB Engineering, Surveying, Landscape Architecture & Geology P.C. ("VHB"); and

WHEREAS, at its May 18, 2022 meeting, the Board of Trustees issued its determination with respect to the portion of the bifurcated application as pertains to the building infill, and expressed its intention to act at the June 15, 2022 meeting with respect to the perimeter fencing portion of the bifurcated application; and

WHEREAS, also at the May 18, 2022 meeting, the Board expressed willingness to consider a boundary line agreement between the applicant and the owners of one or more adjoining properties, but no such agreement has been forthcoming to date,

NOW, THEREFORE, IT IS

RESOLVED, that with respect to the remaining portion of the bifurcated application, which pertains to the proposed perimeter fencing, the Board finds and concludes as follows:

- 1. In considering this application, the Board is mindful that the applicant is an educational entity operating an educational use, and that zoning and planning laws must be interpreted and applied differently with respect to such entities and uses.*
- 2. Objections were raised to the proposed perimeter fencing, particularly related to how installation of such fencing would affect existing landscaping, foliage, and topography, including concerns that the installation of such fencing might cause or enhance water*

runoff onto adjoining properties, and additional information also was received by electronic mail message from Russell Scott, PE of Nelson + Pope, dated February 28, 2022, on behalf of Acorn Ponds, which indicates that "a high point exists along the approximate property line between the Acorn Ponds Community and the [Buckley Country Day] School, this high point prevents any overland flow of stormwater from entering the Acorn Ponds Property".

- 3. The school demonstrated a reasonable basis for the proposed perimeter fencing, to provide greater security for its property, and for persons lawfully on the property from time to time, and also demonstrated that perimeter fencing is customary at other similarly situated properties in the Village and elsewhere.*
- 4. The proposed perimeter fencing would not be out of character with the neighborhood nor the community.*
- 5. The height of the proposed fencing, and related posts or piers, requires special permit approval and area variances. Given the nature of the site and the location of the various portions of the perimeter fencing proposed, and after considering the benefit to the applicant if any necessary variances are granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant, the Board concludes that (a) no undesirable change will be produced in the character of the neighborhood, nor any detriment created to nearby properties by the granting of area variances; (b) the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance; (c) the requested area variances are not substantial; (d) the proposed area variances will have no adverse effect or impact on the physical or environmental conditions in the neighborhood or district.*

6. *The Board further finds that notwithstanding that any difficulties which may be asserted in support of the perimeter fencing may be self-created, that is not a consideration which warrants denial of zoning relief.*
7. *The Board also finds and concludes that the variances sought, and granted, are the minimum variances which the Board deems necessary and adequate to both protect and preserve the character of the neighborhood and the health, safety and welfare of the community, while also meeting the reasonable needs of the applicant.*
8. *During the public hearings, various claims were asserted by individuals, for themselves and others, of a right to access or enter upon the school property, which claims were disputed by the school. The Board has no jurisdiction to evaluate or determine such claims and, in the absence of legal documents or judicial determinations of such rights, does not do so. Any persons who claim, or seek to exercise, such access or entry rights do so at their peril in the absence of legally documented or judicially determined rights. Nothing in this decision should be understood or determined to recognize or reject any such claims of access or right of entry.*
9. *Accordingly, for the foregoing reasons, the Board approves the perimeter fencing application, and grants the applications for special permit approval and zoning area variance relief, subject to the following conditions:*
 - (a) *The perimeter fencing, including posts and piers, shall be constructed and installed as represented by the applicant at the public hearings, and in particular as shown on the plan submitted to the Board and identified as "Plans prepared by Frank Petruso Architect, P.C., entitled 'Proposed Two Story School Building & Perimeter Fence Buckley Country Day*

School 2 I.U. Willets Rd., Roslyn, NY 11576', Sheets No. A-1, A-1b and A-3 dated 2-13-17, last revised 3-23-22.'";

- (b) In the event the applicant and one or more owners of adjoining properties submits a boundary line agreement to the Village, together with a request for amendment of this decision consistent with such agreement, the Board may consider such amendment, without a public hearing, and take action with respect thereto as to the Board may then determine to be appropriate;*
- (c) All construction shall take place in accordance and compliance with the laws and regulations of each governmental entity having jurisdiction;*
- (d) The proposed perimeter fence at the side and rear lot lines shall be installed using hand tools only, and all existing trees, mature vegetation and underbrush along either side of the proposed fence shall be retained to the maximum extent feasible. The fence shall be installed in a manner that is protective of the root systems of all trees. Except as otherwise shown on the plan referenced in paragraph 9(a) of this resolution, the perimeter fence shall be located a minimum of two feet interior to the property boundary between the Buckley Country Day School property and the adjoining Acorn Ponds residential community, and may include such gates or other access points sufficient to protect Buckley Country Day School ownership rights;*
- (e) All trees and vegetation along the route of the proposed estate-style fence along the I.U. Willets Road frontage shall be located on a survey, shown on a plan together with the proposed fence location, and all trees to be removed (i.e., all trees at least six inches in diameter at breast height, or flowering ornamentals at least three inches in diameter at breast height) shall be identified. The protection measures*

to be implemented for all trees to be retained shall also be shown on a plan approved by the Building Department. The final location of the fence shall be chosen to provide the greatest setback from the roadway practicable to reduce the perceived height of the fence and to require the least removal of trees and other natural vegetation.

- (f) All construction shall be in accordance with the plans submitted to the Board, as last revised, except as otherwise provided herein;*
- (g) Prior to issuance of any building permit for any portion of the proposed perimeter fencing, including posts and piers, the applicant shall submit a final site plan, which shall be subject to approval by the Village Building Department, consistent with the plans reviewed by the Board and approved herein;*
- (h) Prior to issuance of any building permit, the applicant shall demonstrate to the reasonable satisfaction of the Village Building Department that the installation of the proposed fencing, including posts and piers, and construction activity in furtherance thereof (including removal or alteration of existing landscaping, foliage, or plant growth), will not cause any additional water runoff from the site onto adjoining properties;*
- (i) Prior to issuance of any building permit, the applicant shall provide a construction schedule satisfactory to the Building Department, and a plan satisfactory to the Building Department showing locations on site for storage of equipment and building materials, and other items to be stored on site, such that any such storage is visible from neighboring properties to the minimum extent necessary. The Building Department may require reasonable screening of such storage areas;*

- (j) All permits for the proposed construction shall be issued within one year from the date of this determination, and all construction shall be completed within one year from the date of permit issuance. These time periods may be extended by the Board of Trustees for good cause shown, and no public hearing shall be required with respect to any such extension application (although the Board may hold such public hearing in its discretion);*

- (k) Until such time as a certificate of occupancy or completion is issued for the perimeter fencing, the applicant shall coordinate construction traffic on I.U. Willets Road with buses and other vehicles which use that road such that traffic congestion and noise are avoided to the maximum extent feasible. In furtherance of this requirement, the applicant shall comply with reasonable directions from the Building Department;*

- (l) In the event of material default in compliance with any condition of this resolution, the Board of Trustees, after reasonable notice to the applicant and an opportunity for the applicant to be heard, may modify, rescind or revoke any condition of this resolution, and/or may impose reasonable penalties and/or additional or other conditions.*

The Board discussed the Village Administrator's May 12, 2022 and June 7, 2022 memoranda regarding improvements to the Residents Notification System. On motion by Trustee Cohen, seconded by Trustee Lentini and adopted unanimously, the Board authorized acceptance of the proposal from Rave Wireless, Inc. d/b/a Rave Mobile Safety, dated May 20, 2022, and authorized the Mayor to execute such documents in the name of the Village as may reasonably be necessary to implement such acceptance.

The Board discussed a proposal from Crown Castle, Inc. for addition of DISH Network facilities at the Long Island Expressway Service site, as has been discussed at previous meetings. On motion by Deputy Mayor Sgambati, seconded by Trustee Arnold and unanimously adopted, the Board (a) acting as Lead Agency, determined that the proposed action is a Type II SEQRA Action which requires no further environmental impact review, and (b) authorized the Mayor to execute on behalf of the Village the proposed Sixth Amendment to the Village's lease agreement with STC Five, LLC, in a form approved by the Village Attorney.

The Board discussed a pending class action against Monsanto, and took no action to remove the Village from the litigation class.

The Board discussed the June 6, 2022 memorandum from the Superintendent of Building Department regarding a waiver of fees for renewal of building permit 4790 regarding premises 129 Firestone Circle, Roslyn, New York. Mayor Natiss and Trustee Cohen recused themselves from participation in this matter. On motion by Deputy Mayor Sgambati, seconded by Trustee Lentini and adopted by vote of three in favor, and none opposed, the fee waiver was approved.

The Board received an update and further discussed the May 3, 2022 memorandum from the Superintendent of Building Department regarding new building department software and hardware. On motion by Deputy Mayor Sgambati, seconded by Trustee Cohen and adopted unanimously, the Board accepted the proposal from OpenGov, Inc., including the upgrades referenced in the memo, to be paid from ARPA funds, and

authorized the Mayor to execute such documents as reasonably necessary to effectuate the transaction.

The Board discussed the most recent report on usage of the Village shuttle. The Board deferred taking any action pending review of usage as New York City businesses reopen.

The Board discussed an application from North Hills Country Club for a permit for fireworks display in commemoration of the July 4, holiday. Deputy Mayor Sgambati recused himself from the discussion and vote. On motion by Mayor Natiss, seconded by Trustee Cohen and adopted by a vote of four in favor and none opposed, the Board reduced the required bond to \$5,000. Mayor Natiss will determine whether to exercise his authority to grant the permit.

The Board discussed the Village Administrator's June 14, 2022 memorandum regarding separate proposals from NYSID (New York State Industries for the Disabled), a preferred source provider, for scanning and digitizing of (a) various Village records and local law documents, and (b) Building Department records. The Village Attorney previously had made a written disclosure to the Board regarding prior representation of Seery Systems, Inc., which would be providing the scanning and digitizing services for NYSID. On motion by Deputy Mayor Sgambati, seconded by Trustee Arnold and adopted unanimously, the Board approved both proposals, to be paid for using ARPA funds, and authorized the Mayor to execute on behalf of the Village all documents reasonably necessary to effectuate the transaction.

On motion by Mayor Natiss, seconded by Trustee Lentini and adopted unanimously, the Board convened in executive session at 9:45 pm to obtain legal advice from counsel. The Board took no action in executive session. At 9:55 pm, on motion by Trustee Cohen, seconded by Trustee Arnold and adopted unanimously, the Board returned to public session.

The Board discussed the Environmental Assessment Form filed by the applicant in Case 21-08bt. On motion by Deputy Mayor Sgambati, seconded by Trustee Cohen, the Board unanimously adopted the following resolution:

*Determination Pursuant to New York State
Environmental Quality Review Act
Case No. 21-08bt – The Residences at North Hills Homeowners*

WHEREAS, the New York State Environmental Conservation Law and the regulations of the Department of Environmental Conservation as contained in 6 NYCRR Part 617 require review of the possible environmental consequences of various actions under consideration by the Board of Trustees prior to the approval or funding of such actions, and

WHEREAS, the Board of Trustees (“Board”) is considering an application designated Case 21-08bt, The Residences at North Hills Homeowners, for a use variance and amendment of certain prior approvals to permit a commercial use (i.e., business center) in an R-3 Residence District, where commercial uses are not permitted, and

WHEREAS, the Board of Trustees, has reviewed an Environmental Assessment Form for the proposed project, including the funding thereof,

NOW, THEREFORE, IT IS

RESOLVED, that the Board of Trustees hereby finds and concludes that

- *the Board is the lead agency with respect to environmental review of the proposed action;*
- *the proposed project would replace a now closed sales office with a commercial use (business center), where current regulations and approvals do not permit commercial uses;*
- *the Board finds that the proposed project is an Unlisted Action pursuant to the State Environmental Quality Review Act and the regulations adopted pursuant thereto;*
- *after consideration of the following factors in respect to the environmental impacts of such proposed action the Board concludes as follows as to each such proposed action and factor:*
 - *the proposed action would not result in any substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels, nor any substantial increase in solid waste production, nor create a substantial increase in the potential for erosion, flooding, leaching or drainage problems;*
 - *the proposed action would not result in the removal or destruction of large quantities of vegetation or fauna, substantial interference with the movement of any resident or migratory fish or wildlife species, impacts on a significant habitat area, substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species, or other significant adverse impacts to natural resources;*
 - *the proposed action would not impair the environmental characteristics of any Critical Environmental Area;*
 - *the proposed action would not impair the character or quality of important historical, archeological, architectural or aesthetic resources or of existing community or neighborhood character;*
 - *the proposed action would not result in a major change in the use of either the quantity or type of energy;*
 - *the proposed action would not create a hazard to human health;*
 - *although the proposed action could create a noticeable change in the use, or intensity of use, of land, including agricultural, open space or recreational resources, or in its capacity to*

support existing uses, such changes would not create adverse environmental impacts;

- *although the proposed action could encourage or attract additional persons and vehicles to the site at various times, compared to the number who would come to such place without such action, such would not constitute significant adverse impacts on the environment;*
- *the proposed action would not create changes in two or more elements of the environment, no one of which would have a significant impact on the environment, but which when taken together would result in a substantial adverse impact on the environment;*
- *the proposed action would not create substantial adverse environmental impacts when considered cumulatively with any other actions, proposed or in process;*
- *although the proposed action might have adverse consequences, the proposed action would not result in substantial adverse impact with respect to any relevant environmental consideration, including noise, aesthetics, traffic, air quality, water quality or adequacy of water supply, drainage, soil conditions, or quality of life in the community in general and the immediate neighborhood in particular;*
- *although the proposed action(s) may have adverse impacts, it would not have a significant adverse environmental impact; and*
E. no further environmental impact review is required with respect to the proposed action.

There being no further business, on motion by Deputy Mayor Sgambati, seconded by Trustee Arnold, and adopted unanimously, the meeting was adjourned at 10:12 pm.

THE ABOVE MINUTES WERE FILED IN THE VILLAGE OFFICE OF THE VILLAGE OF NORTH HILLS AT:

TIME: 9:30 (AM/PM)

DATE: August 18, 2022.

PERSON FILING: Marianne C. Iobaccaro

(Print full name of filer)