

**MINUTES** of the Village of Montgomery Planning Board meeting held in the Conference Room of the Village Hall, Clinton Street, on Wednesday, June 26, 2013 at 7:30 pm.

**ATTENDANCE:** Chrm. Conero, Mbr. Romano, Mbr. McLean, Mbr. Fitzpatrick, Mbr. Weeden, Dawn Kalisky from Lanc & Tully, Eng. John Szarowski, Ross Winglovitz, Marc Devitt

**OPEN:** Chrm. Conero opened the meeting with the Pledge of Allegiance.

## **OLD BUSINESS**

### **VASAPOLI 190 WARD STREET, CONVENIENCE STORE AND FILLING STATION, SBL 203-1-8**

Chrm. Conero began with mentioning the submission that the board received after they received their packets. Eng. Szarowski explained that last week, they met with the Village Board to make sure that the Board was comfortable with what was being proposed. He said that you (Planning Board) didn't like the colors (banding) and the Board *really* didn't like the colors. They went back to Sunoco and it turns out that Sunoco has done, and they are doing it now in Warwick—they are looking at pictures of what the new canopy will look like—it's a subtle canopy, slanted roof and the sign is smaller, blue with yellow lettering. Sunoco is not happy about it, but they will do it because they want to get in here. They want to do this as quickly as possible. Mr. Vasapoli dropped off a sample of the stone—the lower part of the building. There will be a sign facing 17K, straight in, and a sign just coming into the village; over the door will be the subtle Sunoco, not the vibrant NASCAR colors.

Chrm. Conero asked Ms. Kalisky what else they needed to do. Ms. Kalisky stated that the Planning Board needs approval from the Village Board on the architectural, approval from the AHRB for the signage, and approval from DOT—a permit will be issued. Chrm. Conero is ready to send this to the Village Board and the AHRB. Ms. Kalisky agreed—for their final and sign off; a conditional final approval of the site plan, subject to those three conditions, as well as any outstanding/applicable fees, can be issued. Chrm. Conero said that compromise has been made historically and fire suppressed; and hiding the fire suppression. The planner was looking for this.

Chrm. Conero made a motion for a conditional final pending AHRB, Village Board and DOT and was seconded by Mbr. Romano, and carried 5 Ayes, 0 Nays.

### **PLEASE 6 MONTH EXTENSION**

Chrm. Conero motioned to extend another six months and was seconded by Mbr. Weeden, and carried 5 Ayes 0 Nays.

### **NEW BUSINESS**

#### **232 WARD STREET, CHANGE OF USE SBL 203-1-12.2**

Chrm. Conero said that this is Ms. Claire's Music Cupboard, and asked Eng. Winglovitz to discuss.

Mbr. Fitzpatrick excused himself from the Planning Board, due to the Devitt Management submissions, as he feels conflict of interest.

Eng. Winglovitz is proposing a change of use of what is now a residence and studio, to a school for pre-k through first grade. They are looking to have 25 students, no busing-student drop off; one way in and exit onto Factory Street. There are no site plan changes; just a fenced area for outdoor recreation-kids will be walked to the area.

Chrm. Conero referenced Lanc & Tully's letter dated 6/20/13.

Eng. Winglovitz mentioned possible use change that was brought up last year-he presents a letter to Chrm. Conero, from Bruce Yancewicz, dated 8/22/2012. Mr. Devitt stated that there had been confusion about what Claire was doing there; someone had filed a complaint to the Board of Trustees. It was determined that it is considered a professional studio/personal service shop, which is a permitted use in the B1 zone, and the B/I confirmed such. (Copies of the letter were made and given to the Planning Board members at this time.) Eng. Winglovitz will send a change of use/special exception that requires public hearing, they agree.

Eng. Winglovitz reiterated the number of students to be enrolled, escort to and from parent car. Ms. Kalisky asked if this would be a full day program. Eng. Winglovitz said that since Valley Central is going to half-day

kindergarten, Claire will be offering opposite days and first grade, as well. Ms. Kalisky asked if this is considered a school, by definition in the zoning code. Claire is dealing with the Superintendent of Schools and NYS Education and is working on becoming certified for all-day school. Chrm. Conero asked how many square feet would be used downstairs. How many classrooms? What is the total square footage you will be using? He's questioning the impact this will have on the parking needed. Eng. Winglovitz stated that parking is based on employees at the school, not the students. Mbr. Romano asked if there is an event going on, where will parents park? Mr. Devitt said that it is one parking space per every 250 square feet for office/retail; this is less parking. The original approval was for office/retail so there had to be 31 spaces and 33 were provided. Chrm. Conero said that there were 22 for the Patchett House. Eng. Winglovitz and Mr. Devitt said that the 33 spaces were included in both buildings-they have not reduced any parking. Ms. Kalisky said that is not what code is, the Wallkill River Studio is a gallery, which is according to code public or semi-public art gallery, library or museum see auditorium; auditorium is 1 per 3 permanent seats or 1 per each 40 square feet. This is not provided. The parking calculation table is not the village code. Eng. Winglovitz said 1 per client or 1 per 8 students. Mr. Devitt said that site plan was based on the Patchett House; nothing has changed. The only use that's changing is Ms. Claire's Music Cupboard is becoming Ms. Claire's Montessori. Eng. Winglovitz said that they will characterize the Patchett House the way it was in the original approval so it is consistent but there'll still be enough parking. The parking for this building (carriage house) goes down. Mr. Devitt said that Claire and Shawn have a good working relationship so if there is an event...she wants to do k-1<sup>st</sup> grade-permitted use by special exception. She still has children going in and out; she's just changing the curriculum. Mr. Devitt said that she can only have as many students as the B/I and Dept of Education permits. There will be a director, asst director, teacher, and asst teachers; there will be 5-6 staff. She will still do private parties and music instruction.

Chrm. Conero referred back to Ms. Kalisky's letter, who stated that the site plan is an enforcement document. Mr. Devitt is requesting possible future bussing on the plans. Chrm. Conero said they need curriculum documents-which Dept of Ed is working with Claire on. Ms. Kalisky said site plans need clarification pre-k-3<sup>rd</sup> grade could be a nursery school age-group by code definition; hours of operation. Will there be classrooms on the 2<sup>nd</sup>

floor? Mr. Devitt stated yes, that Shawn will be moving out. Chrm. Conero said that that has to be added on the plan.

Chrm. Conero asked if the B/I had comments. Ms. Kalisky stated that Bruce may want to see the floor plans. Mr. Devitt asked if this was common. Ms. Kalisky said the Building Dept review is not for building permit issuing. New protocol for B/I and DPW input is explained by Ms. Kalisky. Mr. Devitt asked why the B/I would be making comments now. "Why are we wasting his time-I have to pay his time to review it? The normal process is that the Planning Board approves the site plan, I get a building permit. So I have to show Bruce the floor plan, the layout, ingress, egress, the doors. I have to comply with all of that-I've never seen this before and what comments are you looking for from the B/I". Chrm. Conero is looking for anything that stood out that we missed on the plan, that should've been on the plan to make his job easier to enforce what you need to do. Mr. Devitt asked if he was going to be issued a building permit after the Planning Board gives approval. The Chrm. and Ms. Kalisky said absolutely not! Chrm. Conero said that the B/I input is requested, as is the DPW, the fire dept and those are part of the standard SEQRA process. We always do that. Ms. Kalisky stated that this is not untypical of any municipality. Mr. Devitt said they are not changing the driveway, not adding any more toilets-water/sewer. Mr. Kalisky said this is just a matter of protocol-that way everyone is in the loop. If they have nothing to say, they have nothing to say, or no comment.

Chrm. Conero refers to Ms. Kalisky's letter regarding signage and walkway to children's play area. Ms. Kalisky said the site plan indicates handicapped spaces but do not have ADA signage. Eng. Winglovitz will add. Ms. Kalisky said signage needs to be added to show one way/do not enter. Mr. Devitt said they will add-no problem.

Chrm. Conero brought up the concerns of the children's safety regarding fencing from the factory and Factory Street. There is 4ft behind the building. Mbr. McLean asked why the play area is between the buildings and not near the building. Mr. Devitt said there are parking spaces there now. Chrm. Conero asked how much fencing would be needed on the back line for health and safety reasons. Mr. Devitt said there are children there now. There was discussion about the lack of fencing around other schools in the Village. Not sure of where fence will go. Chrm. Conero brought up the future use of the factory behind the school. You can eliminate some of the

safety hazards by putting a fence there. Mr. Devitt said will not be effective unless whole school is fenced in. Chrm. Conero said the current use is studio/professional use-there must be some type of litigation involved in the program that doesn't allow the kids to go out that way, in the parking lot. There are no doors on the back. The warehouse doesn't have a lot of truck traffic right now, and like Ms. Kalisky was saying, this is a site plan approval for a school.

Chrm. Conero referred to parking requirements. Eng. Winglovitz will revise the parking to be consistent with the Patchett House with the approvals-the use that was on the plan when we got the approval and the carriage house remain as proposed. Ms. Kalisky said the school is 1 per employee + 1 per 8 students. If you have 6 employees and 25 students-this means no parent will ever go here. Mr. Devitt said they are not changing the parking-what the use will be changed to require less parking. There will be more parking than required for the school. How do you think there should be? Chrm. Conero said there are 33 total on the site plan, 11 for the carriage house. Ms. Kalisky said there are just 6 spaces, no auditorium-consider there may be people wanting to stop at the school-accommodate parking for other people. Mr. Devitt will check with Claire. Ms. Kalisky said if site plan is approved as a school for 25 students, Claire can change her mind and someone else can come in and make their own program. This site plan isn't for Claire's Montessori School, it's for school use.

Chrm. Conero referred to the letter, regarding Type 1 action under SEQRA because it is next to the Patchett House so we have to refer to SHIPO. Ms. Kalisky said they have to complete a full EAF and receive approval. Eng. Winglovitz didn't like but agreed. Chrm. Conero asked if they know anyone at SHIPO? Mr. Devitt is not concerned.

Chrm. Conero asked if this needs to be done by September; it needs to be moved along. Ms. Kalisky said the law is the law and a full EAF is needed. A public hearing is mandatory. When did Claire decide she wanted to do this?? Making submission at the end of June for a September opening? It's only two months. Chrm. Conero said it's waited this long because of what happened with Valley Central-external events. There is a need for this. Ms. Kalisky said they do not have to go to the Village Board for a Special Exception, just the public hearing, filing decision with the Clerk, Orange County Planning, EAF to declare the intent for Lead Agency, SHIPO, DOT. The thirty day is based on the mailing date. Chrm. Conero states the

Board's intent to declare Lead Agency under Type 1 action under SEQRA (#10 on Ms. Kalisky's letter), subject to full environmental assessment form sent to their engineer, and approved. A motion was made by Mbr. Romano and seconded by Mbr. McLean, and carried 4 Ayes 0 Nays.

Mbr. McLean asked if a public hearing date could be set. Eng. Winglovitz that by the August meeting, they would already have heard back from SEQRA and Lead Agency. Chrm. Conero said the next Planning Board meeting will be the public hearing-July 24, 2013. Ms. Kalisky reminded the Board that they will not be able to issue an approval at the July meeting. Chrm. Conero will not be at the August meeting-they may need to change it or someone else will have to cover.

Ms. Kalisky mentioned that the Wallkill River School was originally approved to be a gallery & office-the parking calculation comes from there. It was never approved as a school, a studio-yes. That's a school now? Mr. Devitt said no, it's still a studio where they do art. Chrm. Conero said it is a school, not an art studio. Ms. Kalisky said it is an art school where they give classes. That has expanded since the original site plan in 2008. Is there still office space? No art, classroom space? Where do they do the cooking class? Mr. Devitt said he didn't know that they do that. Ms. Kalisky said that it is on their website. The point is, when the EAF is done, it has to be the entire site, not just the carriage house. Mr. Devitt said they are not changing anything to the Wallkill River School. Ms. Kalisky said not changing, it has grown. Consider the usage of classes, as far as the impact of water, sewer, the cooking classes. That is not an art studio function. The school has grown, don't minimize what the Patchett House is and on the parking requirement. Your numbers aren't matching what is really there. Demonstrate the actual uses on the site plan itself and refer to and analyze the actual uses on the site for the full EAF. Discussion about the cooking classes and whether or not there is a stove is brought up.

#### **146 RIVER STREET, SUBDIVISION, SBL 208-1-24.1 & 24.2**

Chrm. Conero asked Eng. Winglovitz to explain what is going on. Eng. Winglovitz said they are proposing a two lot subdivision on River Street with a lot line change. The existing lot includes existing residence-we are basically adding additional acres to that lot and subdividing that lot into two parcels; one approximately 9,000 and one approximately 15,000 square feet; One new home, one new driveway and one new water/sewer connection.

Chrm. Conero-this lot line change will make lot one...Eng. Winglovitz no new, non-conforming. Ms. Kalisky said she spoke with Atty. Dowd-the pre-existing/non-conforming side yard setback were there before the zoning ever came into effect-house was built before zoning. Policy with the Village of Montgomery is to memorialize the approval of a pre-existing/non-conforming; there is nothing the ZBA can do but it recognizes...Atty. Dowd said referral to ZBA to get variance for side yard setback. Eng. Winglovitz said he's never had to do that and he had a pre-existing/non-conforming. Ms. Kalisky advised him to take it up with Atty. Dowd when he gets back. It's not that a variance wouldn't be granted. Eng. Winglovitz said that it's time and money. Mr. Devitt said it's another application, another review, another...Ms. Kalisky said she is just relaying the message from Atty. Dowd...

Eng. Winglovitz agreed to 239 Review (because of lot line adjustment), certification-owner's endorsement is no problem, current tax map is entirely wrong. He has (shows) the survey and discusses lots.

Chrm. Conero is asking about the stone foundation and existing well-it's a hand well. Ms. Kalisky said the foundation cuts across the well...part of the rock wall can be removed so that there is no encroachment. Mr. Devitt said he can remove part of the wall or the well. The well is decorative.

Chrm. Conero asked about the driveway, which will be referred to DPW. Ms. Kalisky said his comments will be that they have to get permits for the driveway and water/sewer. Ms. Kalisky asked about removal of existing driveway. Mr. Devitt shows on the site map what will be changing. Ms. Kalisky said the existing driveway will serve the new house and the existing house will get a new driveway. You should clarify when the asphalt is being removed and what the landscape will be; when you get BP, approval of subdivision, before CO, whatever and expand on your landscaping. You have a couple of shrub/tree details. The configuration of the existing lot, cutting that off, will you have enough room for vehicles? Eng. Winglovitz said they will not be able to turn around, and will have to back out. Ms. Kalisky mentioned that the proposed grating should be shown. Chrm. Conero asked if the lot was relatively flat. Mr. Devitt said yes. Chrm. Conero is concerned about run-off with adjacent properties-and has had issues in the past. Ms. Kalisky said that Eng. Winglovitz will show swale on the property. The B/I will need to see swale to ensure that in the future, it eliminates neighbors being flooded. Mbr. Romano asked about the odd

shape of the property...the 30 foot swag (sp?) There is discussion about this. Ms. Kalisky said 140 ft to Boylan...they are interested in what the surveyor finds. This is an unlisted action, we do have a 239 review, intend can be declared.

Chrm. Conero motioned to declare intent Lead Agency on this unlisted action under SEQAR and was seconded by Mbr. Weeden, and carried 4 Ayes 0 Nays.

Mr. Devitt asked if the public hearing could be at the next meeting. Ms. Kalisky recommended to the Planning Board that the changes and clarifications were minimal and could be accomplished and back for the next submission, and they could schedule a public hearing.

Chrm. Conero motioned to schedule the public hearing on July 24, 2013, at approximately 7:30 pm, for the 146 River Street property, and was seconded by Mbr. McLean, and carried 4 Ayes and 0 Nays.

Ms. Kalisky said that Eng. Winglovitz will forward the full EAF on the carriage house property; to make provisions outside of the provision requirements-we are authorized to look at it and approve it, require submission and okay it, within the typical Planning Board time, prior to the next meeting. The Planning Board acknowledges that they are authorized to go outside the scope of the typical review.

Mbr. Fitzpatrick returned to the meeting.

**RE: MINUTES**

**A MOTION** to accept the Planning Board minutes, as written, from May 22, 2013, was denied, as Mbr. Weeden was not included in attendance.

**RE: ADJOURNMENT**

A motion was made to adjourn the meeting at 9:03 pm by Mbr. Romano and seconded by Mbr. Weeden, and carried 5 Ayes 0 Nays.

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Tina Murphy  
Clerk