

**MINUTES** of the Village of Montgomery Planning Board meeting held in the Conference Room of the Village Hall, Clinton Street, on Wednesday, April 27, 2016 at 7:30 pm.

**ATTENDANCE:** Chrm. Conero, Mbr. Romano, Mbr. McLean (not in attendance), Mbr. Weeden, Mbr. Crowley, Atty. Kevin Dowd, Eng. Dawn Kalisky of Lanc & Tully, Darren Doce, Steve Crofoot, John and Marlene Wood, Taylor and Matthew Raimondo, Scott Malarkey

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

**A MOTION** was made by Chrm. Conero and seconded by Mbr. Weeden, **TO SAY THE PLEDGE OF ALLEGIANCE BEFORE EVERY PLANNING BOARD MEETING**, and carried 4 Ayes, 0 Nays.

**RE: OLD BUSINESS**

**MS. CLAIRE'S MONTESSORI 202-9-4 Special Exception Use**

The Chrm. said that Dawn gave the ok to have Bruce go in. Ms. Murphy said we have been waiting for fees to be paid before going forward with sending the Building Inspector and signing the site plan.

The Atty. Dowd said that they cannot operate without a proper CO. Ms. Kalisky reminded the Board that the CO cannot be issued until the plans are signed.

The Chrm. said that a violation should be issued if fees haven't been paid. They've worked hard on this and it should be completed.

**PLEASE**

Ron Feller is representing himself.

Chrm. Conero said that they have issued several extensions and that they have had issues there. He asked if there was going to be any movement in the next 6 months.

Mr. Feller said he has received 5 bids from contractors to do the infrastructure and that they listed it with a local realtor two days ago for 60 days. They are trying to sell it to a developer with the 8 lots, as is. Concurrently, they are trying to get the paperwork legalized but it may take longer than 6 months.

**A MOTION** was made by Chrm. Conero and seconded by Mbr. Weeden, **TO GRANT A SIX MONTH EXTENSION FROM JANUARY 27, 2016**, and carried 4 Ayes 0 Nays.

**RE: NEW BUSINESS**

**AGOTARAS PROPERTIES, LLC 205-1-11, 10 & 5 Lot Line Change**

The Chrm. asked if Mr. Doce received the engineers report and to show the Board what he is proposing.

Mr. Doce shows the shape of the parcel and explains the lot line changes. He said the Crofoot lot, 77 Bachelor Street, would go from 5,700 sq. ft. to 18,800 sq. ft., 78 Union Street, the funeral

home, would go from 12,500 sq. ft. to 19, 700 sq. ft. and 82 Union Street (Agotaras) would decrease from 50,000 sq. ft. to approximately 30,000 sq. ft. He states that nothing is non-conforming. There are a few existing buildings on the property.

The Chrm. Conero said there were 9 issues that were brought up by Lanc & Tully. Mr. Doce said he already made the changes but they weren't on the site plan that he brought.

Ms. Kalisky said there were only "clean-up" things. They would really need the owner's consent, as this concerns 3 different property owners.

Atty. Dowd said procedurally, make sure all owners of the property sign the consent.

Ms. Kalisky requested a waiver of the 2 ft. topography because this is a lot line change and no new construction is proposed, so the Planning Board would have to waive the requirement.

Chrm. Conero questioned if they needed a public hearing.

Atty. Down said that one was not needed. It still has to be referred to the County, as it is on Route 211.

Chrm. Conero said they will classify Type-2 Action next month when they return.

**A MOTION** was made by Chrm. Conero and was seconded by Mbr. Romano to **WAIVE A PUBLIC HEARING**, and carried 4 Ayes 0 Nays.

**A MOTION** was made by Chrm. Conero and was seconded by Mbr. Romano to **CHANGE THE REQUEST OF SUBDIVISION TO A LOT LINE CHANGE**, and carried 4 Ayes 0 Nays.

**A MOTION** was made by Chrm. Conero and was seconded by Mbr. Crowley to **WAIVE THE 2% TOPOGRAPHY CHANGE**, and carried 4 Ayes 0 Nays.

Mr. Doce was advised to bring the updated site plans to Ms. Murphy, ASAP, to submit to the County.

**RE: MINUTES:**

**A MOTION** was made by Chrm. Conero and was seconded by Mbr. Crowley, **TO ACCEPT THE MINUTES OF OCTOBER 28, 2015**, and carried 3 Ayes 0 Nays.

Chrm. Conero asked Atty. Dowd about the Zoning Board's decision for the Wallkill River School. The attorney asked Ms. Murphy to obtain a copy of the decision from Ronnie, for the Planning Board members. Chrm. Conero stated that they are advertising for summer camp again; he thought that the interpretation through the Zoning Board was going to clear up that, "what an art studio," meant and their intent was to come back here. The attorney said they expanded the definition of what an art studio is; that there are certain things they were going to do that would be indoors and anything that was going to be outdoors, was supposed to come to this board.

Ms. Kalisky reminded the Board that the studio is only 300 sq. ft.; that is what the code states the parking is based on. It's based on the uses within the structure. We have office, we have retail and we have art studio; art studio, based on the sq. ft. is a much larger requirement-a higher parking space count based on the square footage as opposed to office or retail. If more than 300 sq. ft. of that building is actually being utilized as the "art studio" for classes or whatever you may have, the parking needs to be calculated on that square footage.

Atty. Dowd said the majority of the interpretation was what constitutes an art studio. We will need to speak with the Building Inspector and go back to the Wallkill River School. The understanding was that if they want to conduct anything outdoors, under their use, they had to come back to this Board. There were clearly issues of safety and how expansive the use was going to be.

Chrm. Conero said, it's in their best interest to come before our Planning Board now before the summer...it's already April, so they don't get shot down in the middle of the year. We can't have kids running around... Should we write a letter to Bruce to and tell him to go down and issue them a violation, to get them to come here or is there already a violation in place?

Atty. Dowd said no, when they went before the ZBA, any violation was put off because of the interpretation, but the interpretation resulted in the ZBA's decision requiring them to come back for certain expansions of the use.

Chrm. Conero questioned, when the Zoning Board decided what the uses were, the classifications of art, were they under the assumption that they were going to come back in front of this Board?

Atty. Dowd said no one has a problem with, if somebody wanted to take an easel outside and paint the landscape, that's certainly within...I think when they start talking about summer camps, you have a number of children on the property outdoors, not confined indoors. The number of children you have, the proper protection for those children running around and doing things that are not necessarily art related; that was the other part of the problem. And in climate weather, how could they fit all these children into the building without violating the occupancy codes? They said they were going to go to different locations and do different things in rainy weather. But, I think they need to come here for you to authorize any outdoor activities that they want to conduct.

Mbr. Crowley said, that basically, the Zoning Board said that it can be a studio if they can use the whole building and outside?

Atty. Dowd said, no, they can't do that. They expanded the use of what an art studio would be beyond just painting or drawing in the light; ceramics, fine arts and other kinds of arts. When they tried to expand the number of people using the premises, with the summer camps and different types of parties they have, there were certain problems with that with the Zoning Board. For safety, they felt it would be better if they came back to this Board to clarify what they need to do site-wise to protect the children when they're at these summer camps, or anything outdoors. It's important that you look at the decision, tell the Building Inspector and remind their attorney that they need to come back here if they're going to conduct outdoor summer camps.

Mbr. Crowley asked if the studio was confined to the 320 sq. ft. The attorney said that was for indoors; they were never approved for outdoor activities. The Zoning Board was having a problem with getting a grasp on what is an art studio, what constitutes art, outdoor verses indoor.

Mbr. Crowley asked if they ever came before us to do outdoor activities. They rent the building, do they rent the property? They only rent the structure. The attorney advised that when it comes to parking requirements, safety issues, site improvements, these have to be evaluated by the Planning Board. The Chrm. has problems with this. This is a main road. The Chrm. stated that they made the Montessori school, which is right behind it, come up with a fenced in area with a walkway for the kids to get from one side of the parking lot to another, to get into a fenced in area. Where is the containment along 17K if you're going to have kids running around? Mbr. Crowley asked, since the occupancy is based on the 320 sq. ft., how many people can fit in 320 sq. ft.-if there's only so many people in that space, then only so many people can be outside. Even if they hold a class indoors that has far too many people in it, it would be up to the Building Inspector to go in and shut them down. Mbr. Crowley asked who defines how many people can be in that...Atty. Dowd said the Building Inspector, by the code, occupancy of the building. Chrm. Conero said when it comes to requirements for parking, it's based on the 300 sq. ft. room that dictates how much parking. It wouldn't matter if they were inside or outside. Ms. Kalisky reiterated, if they are using more than 320 sq. ft. for a studio, there may be classes in the kitchen and then it becomes a classroom; if they're utilizing 3 rooms downstairs and one upstairs, great, but make sure it's not listed as office space and they're going to use it as classroom because the parking requirement needs to be adjusted. Where are they teaching these classes?

They ask Ms. Murphy to send Bruce a letter regarding going to the Montessori School and the Wallkill River School to discuss the outside use for the summer.

Scott Malarkey, of the Weaver Street area, inquired about the Feller Subdivision; that the advertising of it seems as though everything is still a variable. He is concerned about the land-swap. He lives behind the well and is wondering if it's still Village property. Atty. Dowd said the Village owns the land around the well. The land around the well will always belong to the Village. They (the Engineer and Attorney) show him on the site plan.

Inaudible due to paper noise and too many people speaking at once.

It's a conditional final subdivision approval for 8 lots. It can only be final approved with the land swap. There is no zoning change in the future. There cannot be spot zoning or townhouses. It is 8 individual lots with single family homes.

**RE: ADJOURNMENT:**

**A MOTION** was made by Mbr. Romano and was seconded by Mbr. Crowley, **TO ADJOURN THE MEETING** at 8:08 pm, and carried 4 Ayes 0 Nays.

---

Tina Murphy  
Deputy Village Clerk