

MINUTES of the Village of Montgomery Planning Board meeting held in the Village of Montgomery Meeting Room, 133 Clinton Street, on Wednesday, November 15, 2023, at 7:30 pm.

ATTENDANCE: Chrm. Conero, Mbr. Romano, Mbr. Steed, Mbr. Meyer, Mbr. Frisbie, Vlg. Atty. Joseph McKay, Vlg. Eng. John O'Rourke of Lanc & Tully, Jay Samuelson of Engineering & Surveying Properties

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

Chrm. Conero said KSH asked for an adjournment until next month. Just so everybody knows, it happened late on Tuesday. He apologized for not e-mailing the Board to let them know that it was adjourned. They did get it out to the public on the website. So that leaves us with the old business 81 Union.

Atty. McKay said to the Chairman that he didn't get a chance to let the board know that he received a call from the applicant's attorney, John Capello. Since there is quite a lengthy rebuttal report, they're reviewing it now and they've asked if they could have an attorney-client session with less than a quorum of the Board to meet with the experts and see if they can come up with a plan to move forward. He told him that he'd let the Board know.

Chrm. Conero said he appreciates that. They'll get to the bottom of it because there's some discrepancies there, but he didn't want to get into them tonight.

Chrm. Conero said 81 Union St, 206-1-9. They were there last month for a two-lot subdivision. They referred them to the ZBA and didn't take action on SEQRA.

Atty. McKay said they simply referred it.

Jay Samuelson said they were there two months ago presenting the initial application for the two-lot subdivision. There were some variances required for the front yard of the existing garage that's being converted to a dwelling, and for the rear yard setback of the existing house based upon the proposed lot line change. They went to the ZBA in October and those variances were granted. Now they're back to present the project again to the Planning Board. So again, this is a 2-lot subdivision of 81 Union St. There's the existing house that's on the corner lot, the existing barn/garage that was in the rear that was issued a permit to convert it to a dwelling upstairs. There is some small dwelling space downstairs in the existing garage. There are no physical improvements to the site other than some cleanup that they've done around the building. At some point in time, there may be some work done. That's on the plan labeled as proposed to be done. But the existing patio and brick fireplace that's back right along the property line, the applicant has some intentions to redo that, to clean it up and redo it for the house. When he redoes it and they'll make sure it's completely on that property. Other than that, that's it. We're here to, like you said, start the SEQRA process and move forward from there.

Chrm. Conero asked if they received Lanc Tully's review letter.

Eng. O'Rourke said, the first thing, the note #17 that he references basically the easement in the future I think that should be put into the deed, as well, so it's filed because I don't think anybody will look at the site plan or potentially if he sells it off to someone. So, I think that note, something along that needs to be in the deed itself so it can be tracked. Then, it's just cleaning the shrubs on the corner, per the Village code. Keep those down. That's about it with everything they had. Your attorney came up with a good point; even though they can't grant an easement to each other because they're the same owners, there is going to have to be some type of, as Joe pointed out, a maintenance agreement or something for that access and for the

parking. He thinks that's easy enough to do, but it's got to be done. If he does sell, you don't have an argument over who's plowing the driveway.

Atty. McKay said there would be a note on the map that an easement needs to be recorded, some type of a restriction in the deed would have to be a note on the map and also a note indicating that that easement would have to contain some type of maintenance agreement or at least a note that there is a maintenance agreement for the properties required upon transfer.

Mbr. Romano said there's three easements.

Mr. Samuelson said it's for one area but for access, parking and utilities all within the same defined area of what would be the easement, yes.

Mbr. Romano has a question. Right here. The water main. It shows that it's connecting to one spot. It's coming off one spot off the main when if you subdivide, you have to tie in in separate spots. I called Buddy and he said he had no idea that he was subdividing. He made it sound like it was in one spot. He tied in in the same exact spot as the other one off the line. So, if you could check that, please.

Chrm. Conero asked what building permits have been issued for this so far?

Mr. Samuelson said he believes there were two. The first one was the general repair of it because it was starting to fall down and then the second one was for the construction or conversion to a residential dwelling.

Chrm. Conero said maybe they discussed this at the last meeting, he doesn't recall.

Mr. Samuelson said yes, he thinks it was not supposed to be issued without coming here or the ZBA first, but it was. So that's we're now backtracking trying to clean up that permit that was issued.

Chrm. Conero said, there was a permit issued to allow the construction of a dwelling unit above a garage.

Mr. Samuelson said, to convert that building to a dwelling unit. Part of it will be a garage and part of it will be living space on the first floor because there's a minimum square footage required, and the second floor doesn't meet that minimum. So, there will be living space on the first floor.

Chrm. Conero said, so you got a building permit to put a dwelling unit in a converted garage.

Mr. Samuelson said, and that's where that happened.

Chrm. Conero said because we don't allow having accessory buildings on the same piece of property. So, then he decided that he wanted to subdivide the land and then he didn't have the space to do the proper setbacks, so there was a nonconforming lot. Then we referred him to the ZBA who granted them the variances which allowed the subdivided property to become conforming at this point.

Mr. Samuelson said yes.

Chrm. Conero said, and then a part of this was it needs to be referred to AHRB and to the County Planning Department.

Jay Samuelson said they didn't do any referrals last month when they were here because the Board didn't want to move forward until they got to the ZBA because if the variances weren't granted, they were done. It wasn't going to happen. Now that those were granted, they would request referral to both of those.

Chrm. Conero asked if there were any questions or comments.

Mbr. Romano said maybe do something with the gravel parking lot? Make it look a little more presentable? Or do we leave that for the Historical Review Board?

Mbr. Frisbie asked if there is a code or a certain amount that has to be paved off the street; when she lived in the town of Newburgh, they had to have a certain amount of set back from the road that was paved. She doesn't know if that existed here.

Eng. O'Rourke said on Union Street, which is a state road.

Mr. Samuelson said no, the driveway is on Meade Alley.

Mbr. Romano said they are not requiring curbing or anything.

Atty. McKay said, the access to the new law is over a private road.

No, no, no, no. in unison.

Mr. Samuelson said Meade is a Village Street. It's not a state street.

Eng. O'Rourke said he doesn't think there's a specific code that it must be paved. He agreed that in the town of Newburgh, the first 20 feet had to be paved as you're entering the town road. In the village, he's not aware of that regulation.

Mr. Samuelson said he would look into it, he'll confirm that, but he doesn't remember it either.

Chrm. Conero asked, there's no way of having a separate entrance to Lot 1 and Lot 2. Wouldn't that clear up any easement issues?

Mr. Samuelson said for access and parking, yes, not for the utilities because the services for the house come up right through there. All of the services go to Meade.

Mbr. Romano said, but he could have tied into Union.

Mr. Samuelson said it was but there was an issue with it, and because it was just repaved and all that work was done, the state didn't let them dig into it. John can back me up but when you're doing work on a state road, if you have access from another road or utilities available on another road, they prefer you to make all those connections there.

Mbr. Frisbie asked, isn't there a curb drop on Boyd?

Mr. Samuelson said there's an existing drop in the curb there. There are shrubs planted in front of it and it's not proposing to be used in any which way, but it does exist.

Mbr. Frisbie asked, but that would solve the driveway easement or is it too far back?

Mr. Samuelson said, it's right here on the corner.

Eng. O'Rourke said they want the access off of Meade versus Union. Union is a very busy street. Meade is a much quieter road, and he thinks, realistically again, they're existing there now. If this was a completely different lot, they'd have a completely different layout that was brand new. But these buildings have been there for a while. The driveways have been there for a while. Everybody's used to that driveway being there. He thinks, engineer-wise, he would keep it in the same place as well.

Mbr. Romano said, it's just that it's very gravelly and large. I wonder if there's anything you could...

Eng. O'Rourke said, you could ask the applicant to look into it, again, because the variances were granted, but it also had to go to subdivision, you could ask them to clean up the driveway, potentially...

Mbr. Romano said, make it any more uniform, not so much curbing, but just make it look. AHRB might be dealing with that too.

Mbr. Frisbie said it looks like a parking lot.

Eng. O'Rourke said honestly, you can go through this; they could add some shrubbery along Meade between or their parking area.

Chrm. Conero asked if there was any other proposed landscaping for them?

Mr. Samuelson said, again, no, we weren't proposing any improvements. But hearing these, he can go back and discuss them, and they can look at those options. The only proposed thing would be to trim the shrubs that were on the corner for the code.

Eng. O'Rourke said, the other thing you don't have, when discussing, you have four parking spaces, but it's a gravel parking spot, so you should put at least maybe. Again, you don't know if you're who's going to sell this in the future but maybe bumper curbs at the end, so you actually know there's four spots. It's not like you can stripe it.

Mr. Samuelson agreed.

Mbr. Romano suggested planters or something pretty that's more historical. Maybe when he goes there, they'll have better ideas.

Chrm. Conero asked if the applicant had been before the AHRB, before.

Mr. Samuelson replied, no, they need to go for that.

Chrm. Conero asked the attorney if he would recommend them referring the project to the AHRB for review.

Atty. McKay said they would need the AHRB, a GML referral, because it's on State Road. If it's actually within the historic district, they would normally send it to SHPO for their comments. The only thing is if the water Superintendent hasn't seen the plans, they may want to do that.

Chrm. Conero asked if they should send it to the historic architect since it's in the historic district?

Atty. McKay said they've done that before.

Chrm. Conero said why don't we do that, too?

Mbr. Frisbie asked if they had any renderings yet. They haven't seen any of what it looks like.

Mr. Samuelson replied, it's going to look like what it looks like, a barn. Well, he's already done; he's cleaned up what's there and replaced what's there. But he can find out.

Chrm. Conero said the historic architect will also have comments on the landscaping, you know, lighting all that. They should be consistent. They will need to look at the law that was just passed recently, Chapter 6 updates in the historic district as to whether any property that's going to be modified or changed has to go in front of the historic architect. I think that's in Chapter 6 of the new code. He will have to look that up. It was adopted and ratified by the Village Board.

Atty. McKay said he will have to check the new code provisions.

Mbr. Frisbie said she is confused because she knows they put the cart way before the horse with this one, right? They didn't do that, the applicant did. So, if they're approving a subdivision in the historic district that essentially now, they are going to send something to Elise, the historic architect, but if they weren't planning to do any of that, to her, she feels like...

Eng. O'Rourke said, if they went through the process the correct way and had come into this board and said, "we want to make this a dwelling unit (inaudible) subdivision." They would have said, you need to go to the historic architect and they're going to tell you to do this, this and this and now upgrade the building. That didn't happen, so we're kind of backing into it. But I think at this point you could still send it because the historic architect can say, yes, it's existing, but you know, maybe put in exterior light that looks like it's a period light here or something. He's not going to make him redesign the whole thing because unfortunately it's already been built, but there could be little tweaks that he could do. You're right, they're kind of backing into this.

Mbr. Frisbie said they spent a lot of time on the property across from Sears Street and that wasn't even in the historic district, it was adjacent to the historic district. But they spent so much time on that from a subdivision perspective trying to make sure that we were going to get something that was appealing that fit the architecture and the character. She wants to make sure with this, they have the same opportunity, as well.

Chrm. Conero said, he might be unclear as to who refers it to the historic architect; whether it's the Planning Board or if it's a AHRB, so he suggests they would go ahead and motion to send it to the historic architect upon reviewing the chapter 6 updates, that it might be the AHRB that does that, he doesn't recall where they left off on that.

Eng. O'Rourke said that would make more sense that they would do it rather than this Board.

Chrm. Conero said he is not sure legally.

Eng. O'Rourke said doing something twice is better than not doing it at all.

Mr. Samuelson said, I was going to say it doesn't hurt to send it to the historic architect then because then they'll have it once they get the questions from the AHRB, as well.

Mbr. Frisbie said there were no variances.

Mbr. Romano said it was because they weren't referred.

Chrm. Conero said it hasn't been updated in eCode yet. He was on the committee that helped. He's sorry he just doesn't know it exactly. It's better that they have a copy of it too. It's the one Helen did from Delaware Engineering, who sent it to Will, the Village Board's attorney. He wrote it into law and the Village Board voted on it.

Ms. Murphy told Atty. McKay that she would forward it to him the following day.

Eng. O'Rourke said you may need to update your zoning map, as well.

Atty. McKay said he's pretty sure he looked at this last month and he doesn't see anything now. In another Village he represents, another Planning Board he represents, they have a requirement that if you have access over one private lot to another, that it has to meet certain specifications. And in that jurisdiction, it requires a variance also. He's pretty sure he looked at this because he knew it had to go to the ZBA. He doesn't see anything that would require it, so he doesn't think it's in the code. Are you aware of anything?

Mr. Samuelson said no, and he remembers having this conversation. He remembers him looking it up and determining that it did not and then they had that discussion about granting easements to yourself.

Chrm. Conero said they would look that information up. So, they're going to refer them to AHRB, GML 239 review and historic architect, if it is their responsibility or if it's ZBA, they don't send it to the architect. That's basically the motion on the floor.

Atty. McKay said, they also said SHPO. He prepared a draft resolution that the Board can adopt this evening. It's very brief. Basically, all it says is that the Board has received the application of the plat, the EAF, they reviewed it, the Board has determined that this is an action that's subject to SEQRA and the Board establishes itself as Lead Agency because it's the only agency that can approve the project, hereby preliminarily classifying it as an unlisted action. And that's basically all it says, because for tonight, not having done any of the other referrals yet, he thinks that's really all we can do.

A MOTION was made to DECLARE INTENT TO BE LEAD AGENCY FOR 81 UNION STREET – 206-1-9 by Chrm. Conero, seconded by Mbr. Romano and carried 5 Ayes, 0 Nays.

A MOTION was made to REFER 81 UNION STREET – 206-1-9 TO SHPO, GML 239, HISTORIC ARCHITECT (if necessary) AND AHRB by Chrm. Conero, seconded by Mbr. Steed and carried 5 Ayes, 0 Nays.

Mr. Samuelson is hoping to be before the Board on December 20, 2023, for final paperwork for Butler Construction.

A MOTION was made to APPROVE OCTOBER 25, 2023, MINUTES AS WRITTEN by Mbr. Meyer, seconded by Chrm. Conero and carried 4 Ayes, 0 Nays.

A MOTION was made to ADJOURN THE MEETING AT 7:59pm by Mbr. Steed, seconded by Mbr. Romano and carried 5 Ayes, 0 Nays.

Tina Murphy, Deputy Village Clerk