

MINUTES of the Village of Montgomery Planning Board meeting and Public Hearing held in the Conference Room of the Village Hall, Clinton Street, on Wednesday, July 24, 2013 at 7:30 pm.

ATTENDANCE: Chrm. Conero, Mbr. Romano (was on vacation), Mbr. McLean, Mbr. Fitzpatrick, Mbr. Weeden, Atty. Kevin Dowd, Eng. John O'Rourke from Lanc & Tully, Eng. Ross Winglovitz, Marc Devitt (applicant), Atty. Joe Catalano

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

Chrm. Conero began--we have two scheduled public hearings for tonight. One is the **Change of Use 203-1-12.2**, which is the Montgomery Group/Montessori School on **232 Ward Street**...Orange County Planning Department which has come back with a county recommendation of approval, so they have no conditions with the use change.

Mbr. Fitzpatrick excused himself from the meeting due to conflict of interest.

Chrm. Conero continued; SHIPO also did not have any problems with it adjacent to the Patchett House. We did get that back in a timely matter, which is good. Eng. Winglovitz entered the meeting at this time; Chrm. Conero apologized for not seeing him there. He turned the meeting over to Ross Winglovitz, the Engineer for Marc Devitt.

Ross Winglovitz introduced himself, from Engineering Properties, regarding the application for the Montgomery Group, Inc., for 232 Ward Street on the corner of 17K and Factory Street. Many people know the property as the Wallkill River School, in the back is Miss Claire's Music School. The application before the board this evening for the public hearing is for converting the existing music school to a pre-k through first grade. There will be no changes...a crosswalk and a fenced in outdoor play area which is underneath a large beech tree. The drop off will be out in front of the school and parents will be able to park in the rear parking lot if they need to come in for any reason. There are 33 parking spaces on site-some of which are for the Wallkill River School and some are attributed to the new use. Five additional spaces are overflow for parent drop off and visitors. Atty. Catalano said the main change is the curriculum and hours, which will be 9-3...under code. Chrm. Conero said under special exception use. We had on

the same location as the historic building, had them fill out a full EAF and that is in order, coordinating evening activities with the Wallkill River School, the parking requirement table has been revised. All the responses are back from SHIPO and from OC Planning.

Chrm. Conero-at this time, we'd like to open the public hearing up; you just need to state your name and address for the record, one at a time, address the board and we'll listen to all of your comments. If you want to talk again, we'll go around a second time if we need to.

**RE: PUBLIC HEARING 232 WARD ST CHANGE IN USE
(203-1-12.2)**

MOTION to open the public hearing at 7:32 pm, made by Mbr. Weeden and seconded by Mbr. McLean and carried 3 Ayes 0 Nays.

Chrm. Conero noted the Original Notice of Hearing, Affidavit of Publication and Affidavit of Posting were present and ordered they be filed.

Steve Mosensen: I'm from Walden and I am the Attorney for Ms. Claire's. I am here for any questions that you may have.

Shawn Del Joyce: I am the Executive Director of the Wallkill River School. This school will be a wonderful addition-Claire and I are already partners. Her use of the parking lot is opposite of our use. The two schools would help each other increase quality of life. I'm here for any questions, if any. 501-Ce Art School, there are 50 children on campus for the summer. We have been in business for 12 years and have had an \$80,000 economic impact in Montgomery. I brought our annual report in case someone would like to see it.

Chrm. Conero: No, that is not necessary, we're talking about the Carriage House, in the back, so we don't...

Tina Quinlan: 2279 Route 208, Montgomery: I am supportive; being a kindergarten parent. This is a great program and a definite need.

Bob Ridelski: 232 Ward Street, Montgomery: I've been here since 1968. This would greatly help the village. It will help with the overload of the school. Valley Central is already looking into moving programs to the Wallkill Valley School and this will help with the demand.

Kate Fontaine: 44 Sycamore Drive, Montgomery: my daughter attends Ms. Claire's now, for the summer. And I would keep her there till at least 1st grade.

Brian Fitzpatrick: 158 Chandler Lane, Montgomery: I have a 3 year old grandchild at Ms. Claire's, now. This will be good for the Village of Montgomery.

Atty. Dowd: Will there be any evening activities?

Claire Pahucki: 99 Union Street, Montgomery: No, there will be no school activities-we cannot host plays there. The functions would be during the school hours, from 9-3. There will be music classes, as usual, in the evening.

Chrm. Conero: Are there any more questions? Can we motion to close the public hearing?

A MOTION to close the Public Hearing was made at 7:50 pm, by Mbr. Weeden and seconded by Mbr. McLean and carried 3 Ayes 0 Nays.

REGULAR MEETING

Chrm. Conero said most of what was done with the parking requirements, were met; we've met all the other requirements that we really spelled out in this project...the Fire Dept did have some concerns about fire safety in front of the building-the spots that are located in front of the building, the FD thought it would be better to have a wider spot for his truck to get in there. He didn't write a formal letter to us, he spoke with me over the phone. He suggested that we could move some of the parking that's there and move it sideways-would give him twice as much room to get a truck in there. Another thing, the play area is in an area that is along factory street and adjacent to the egress coming out of the self storage. We brought this up at our meeting about the safety of the fence, the 4ft high fence that would be

put around on Factory Street. Can you discuss that a little bit-where the fence is going to be in place, how you're going to ensure the safety of the kids in that area as opposed to something in the back of the building. Eng. Winglovitz said the back of the building is adjacent to the existing factory...the crosswalk, directly opposite the entrance; we can shift the parking around a little bit and have a dedicated crosswalk from the proposed school to the play area. Each time the kids leave the building, they will be escorted. There will be a 4ft high white picket fence. Chrm. Conero asked if a better fence could be put in, in the event that something happened on the road. Eng. Winglovitz said it is a permissible fence per code, as a barrier. It would be provided around a pond or a pool, if you had to. You could add a wooden guide rail outside the fence right along the property line. Chrm. Conero said that might help litigate the situation. It would accomplish two things-leaving the play area here, and not having to move it back here, and it would help with any potential problems. The Chrm asked Atty. Dowd-in regards to the fire dept, this is an existing use building, the parking 1-5 and the fire egress, this whole situation with the fire dept, has never come up before. There are no electric wires on this property at all; there is only one electric wire that comes in the back. A fire could be fought from the front of the building, from Factory Street. Atty. Dowd said that it wasn't code, and that's what the B/I meant. The code may have changed since it is a change/school. Chrm. Conero asked if they moved the parking-took out five spaces and moved it parallel to the fence, how would that affect the parking calculations? Eng. Winglovitz said they'd lose three parking spaces. Chrm. Conero-they have five extra, right? Eng. Winglovitz agreed. Chrm. Conero said then there are two extra after that in the front-they will be parallel with the fence. The handicapped area would be moved somewhere else. He also said that the tree should stay. Eng. Winglovitz said as far as fire access, this building has better fire access than any building I know. Mr. Devitt asked if they meet code? This was submitted last time and-there was access everywhere-do they meet code now? Atty. Dowd said there is no fire lane and there is concern about the crosswalk; the same safety as a public school. Chrm. Conero said they could accommodate this by moving these spots around and moving some of the parking-you'd have enough parking to do this. Atty. Catalano if the board allows it, we can take them out. Chrm. Conero asked Mr. Devitt if the existing parking lot in the back part of your land was his. He responded with yes. Eng. He asked the Chrm how he was supposed to move spots around as still be expected to keep the same number? O'Rourke said the fire lane has to be a dedicated lane. Mr. Devitt asked if it was required. Chrm. Conero said that it would make him

compliant. Mr. Devitt asked if it was a fire dept. requirement. Mbr. McLean asked if the parking spots could be angled. Eng. O'Rourke reiterated that the fire lane has to be dedicated and is code. A code enforcement officer would have to clarify. Atty. Dowd asked if the entrance to the play area was at the end of the walkway. Chrm. Conero said yes and suggested moving the crosswalk to where the handicapped parking is. Atty. Dowd asked why the play area was where it is-put it where is they aren't crossing traffic. Chrm. Conero suggested making the play area bigger. Mr. Devitt stated that the nursery school kids in the village walk all over-they're talking about across a parking lot-they will be supervised, they'll add signage. There's no parking during school days. Chrm. Conero asked if they move the spots parallel to the fence and you don't allow parking during the school day. Atty. Dowd asked who would enforce this. He and Chrm. Conero said that the Village couldn't. Atty. Catalano said the school would. The school is responsible for enforcing a lot of rules when it comes to students. He doesn't understand the fire lane being required by code. How does it help the fire dept. gain access to the building when they're pulling up? Atty. Dowd said they would need access to the front to get someone from the second floor. Mbr. Weeden stated that the fire trucks are big; one in front of the school wouldn't be enough room-there's usually more than one, and an ambulance. Eng. O'Rourke said it all relates to whether a fire lane is required-it relates to the fire code. Atty. Dowd asked if there was any letter. Chrm. Conero said there was no formal letter from the fire dept. or B/I. If we approve this tonight you'll have conditions...and I don't want to be...You need to take care of this stuff now before we approve something. Atty. Catalano-let's assume the fire lane is required by code, let's provide a solution tonight-there is a lot of interest here; parents want to know if this school will be able to...If the board will allow us to reduce the number of parking spots during school hours and we provide signage, is one solution. The other solution is to take out all the parking and allow us to only have 29 spaces. Eng. O'Rourke said that you 5 extra parking spaces-who's parking there during school hours? Maybe you should just eliminate them. (pointing to site map) Chrm. Conero asked if this was a property line (pointing to the site map). Atty. Catalano said it was a separate parcel. Chrm. Conero asked if it was separate from the dotted line. Mr. Devitt said it was part of the same parcel. Chrm. Conero said it was theoretically possible for him to take those five spots out and move them in the back. Mr. Devitt said they could take them out. Chrm. Conero asked if they could move the whole play area back there. That would eliminate the problem of crossing the road. Mr. Devitt said that if they're meeting code, they won't have to do anything. Atty. Catalano said there are

certain requirements for state building code for public schools. You need separate architects, licensed contractors to do any work in public schools. I do not believe that they're the same strict requirements in private schools. I'm not sure about the fire lane. But the school across the street was approved without a fire lane and they didn't have a problem with that. Eng. O'Rourke said that just because it was missed once doesn't mean it would be done again. Atty. Catalano said they would look into the code requirements and then they would deal with what to do with the parking spaces. Chrm. Conero agreed. Mr. Devitt was asking, for timing purposes, if they could get some sort of ok. Chrm. Conero said they couldn't give a conditional ok. Mr. Devitt said as far as use...Chrm. Conero said that wasn't a problem or they wouldn't have gone to a public hearing. It hasn't been that. I think what Ross came up with, with the barrier-that will satisfy a lot of concern; and having to change the parking around to accommodate the trucks, that's ultimately what we are trying to do. In the essence of time, to Atty. Dowd, maybe have another meeting, instead of the regularly scheduled meeting, so we can finalize what the fire code is, we can have a set of plans with this stuff taken out, update the notes and parking calculations and things like that. Atty. Catalano asked for a conditional approval that the use is ok subject to the site plan review and amendment depending on the code issues? If we find some solution for the site plan rather not be pressured into it tonight...so the parents know the school can happen. Atty. Dowd said when you create a special session there are certain conditions...which tends to be about the safety of the facility and appropriateness of the site. We're talking about the safety/fire code issue-I don't know how, without being resolved yet, you make a finding that this is a proper use for that site. Mr. Devitt said that if we say right now that we're going to amend the site plan that would satisfy the board, based on what we don't have. If the code says we don't need a fire lane can we amend the approval at that time. Chrm. Conero asked if they could schedule another meeting to give them time to do this-before the next regular meeting. Atty. Dowd said they could. Chrm. Conero said they would schedule that tonight and it would give them time to find out what the fire code is and to move forward. The B/I code got the plans on the 12th and the fire Dept. I wish there was a prepared document that stated the law but it's not there. It's unfortunate. There was discussion about when the next meeting would be scheduled...Atty. Dowd suggested the 7th of August. Everyone agreed since it would give everyone time to do what needed to be done. Atty. Catalano said it is only an hour issue and would prefer the 31st. Atty. Dowd said all changed may not be completed in a week. There is also concern of the barrier on the property and if the play

area is staying where it is. Chrm. Conero agreed with the barriers but preferred to have the play area in the back...this is a compromise. Mr. Devitt expressed frustration in the lack of information from the building department regarding the changes that need to take place. Eng. O'Rourke defended the B/I and also said that coming before the Board in June saying that you want to open in September is highly unusual.

RE: SPECIAL MEETING

A **MOTION** to schedule a **special meeting** for Wednesday, August 7, 2013, at 7:30 pm, for the 232 Ward Street property, was made by Chrm. Conero and seconded by Mbr. Weeden and carried 3 Ayes 0 Nays.

RE: PUBLIC HEARING 146 RIVER STREET SUBDIVISION (208-1-24.1 24.2)

Chrm. Conero said we have another public hearing scheduled for the subdivision lot line on **208-1-24.1 and 24.2 on 146 Union Street**. He asked Eng. Winglovitz to present. Eng. Winglovitz introduced himself and that he is from Engineering Properties regarding the applicant. Chrm. Conero asked Eng. Winglovitz to hold on...Atty. Dowd asked for the owner's endorsements for the public hearing-to which I gave him. He said I see an owner's endorsement for Devitt Management, your wife is an owner and she should be signing an owner's endorsement, as well. Who are the record owners? Mr. Devitt said his parents. You are the trustee of the trust? Your wife needs to sign the affidavit. I know this is a procedural thing but I want it on the record and you can clarify it. Chrm. Conero asked for a motion to open the public hearing.

A **MOTION** was made to open the public hearing by Mbr. Weeden and seconded by Mbr. McLean and carried 3 Ayes 0 Nays.

Chrm. Conero noted the Original Notice of Hearing, Affidavit of Publication and Affidavit of Posting were present and ordered they be filed.

Eng. Winglovitz begins discussing the application of Devitt Management for a lot line change and two lot subdivision of two existing parcels on River Street and Route 211. One parcel is approximately 2 acres in size and encompasses the Boylan residence. The lot line behind 208-1-24.1, which is the larger parcel will be moved to parallel the Boylan residence. The new lot

208-1-24.2 will be subdivided creating one additional residence; the existing home along Route 211 and there will be new residence directly behind that between the Boylan property and the Devitt residence. The new residence will use the existing driveway and a new driveway will be constructed for the existing residence. The proposed sewer is in River Street and below the proposed residence a swale constructed to divert any storm water created on the property...existing drainage on River Street or to the rear of the property onto woodlands of the project. We get only one new residence, one new driveway, two new water and sewer connections...are conforming as to area. The existing lot 1 does have existing non-conforming...as far as along Route 211 and along the side, Wunderling, those are the existing and not be affected by the application. Chrm. Conero confirms that 24.2 is the existing lot/house and the proposed dwelling is on .2 but it's really on lot .1.

Chrm. Conero asked Eng. O'Rourke if he wanted to go over Lanc & Tully's letter.

Alan Lipman: I am with...in Goshen, NY. I am the lawyer for the Stokers; what happened to the topo?

Chrm. Conero: The elevations, the topos were added last plan, right?

Eng: Winglovitz: The elevations were on the existing plan, the proposed grade was added between the initial submission and this submission.

Alan Lipman: One of the comments that Mr. O'Rourke has found in his letter from July 18th...may be run-off... what is shown on last plan may not be adequate.

Chrm. Conero: So, your concerns are the run-off? Specifically on #5.

Alan Lipman: I would like to know if there is going to be revisions as far as the public...before you act on the subdivision...

Chrm. Conero: We're going to leave the public portion of the comment period open on this property. They have to fix item #5 on the engineer's report What ever is done will drain to the back of the property or drain out toward River Street somehow. It will be addressed. This doesn't need to close

tonight. Again, I haven't heard the engineer talk about this report yet.

Alan Lipman: inaudible

Chrm. Conero: I don't know if it is but we can certainly retain that portion of it. We don't have to...

Alan Lipman: The swale, if it is, needs to be reviewed by the Board. There should be a detail of the swale. There needs to be a description of the swale-the depth, construction.

Eng. Winglovitz: The swale detail (showing Mr. Lipman on the site map).

Alan Lipman: I appreciate that. (Pointing at map) evergreens put in?

Chrm. Conero: So you have concerns with the screening between lots 1 and 2, also?

Alan Lipman: No, I'm concerned about the possible need for screening between the new house and our house.

Eng. Winglovitz: We can design the swale to retain the existing cedar tree...

Alan Lipman: Unfortunately, that tree line has been...there has been little growth. Can it be filled in?

Chrm. Conero: I appreciate your comments. Do you live at this address?

Alan Lipman: They own the property.

Chrm. Conero: Okay. Are there any other comments from the public on this piece of property?

Christopher Jinks: I live at 90 River Street-3 parcels down. I wanted to hear the other comments. I'm quite interested in this drainage issue. There doesn't seem to be any flow coming off that property-coming down River Street in the front of the property; most of the drainage is on the opposite side of

the road. If this property does drain onto River Street in front of the property then we're going to have major problems in front of my house and...we have a problem as it is now. We do not get very good drainage between Beegle's and the other property.

Eng. Winglovitz: On the same side of the street?

Christopher Jinks: Yes, on the same side. Especially with all the rain we had in June. We had a lot of standing water on both sides, in front of the Beegle property. If we get additional runoff from the construction of the new house, it will overflow the street.

Chrm. Conero: So, you have runoff problems on your property, 90 River Street, is that where the standing water is?

Christopher Jinks: It has gone all the way up my driveway. Basically, it's in front of Beegle's house and part of the Devitt property. Across the street, John Schmidt had flooding on his property during the month of June. Where the culvert is across the street, we had standing water there for most of the day after the rain. Unless something is done with the drainage, the ditch next to the Beegle property...we need more drainage...To Marc Devitt-Do you anticipate additional runoff?

Marc Devitt: No, nothing significant compared to now.

Chrm. Conero: We've already discussed the drainage problems and the issues in detail. I think we can leave the public hearing open at that point, too, I don't know yet. But thank you.

Christopher Jenks: What is the frontage of the new property?

Eng. Winglovitz: It is 78 feet wide. That is from the edge of Boylan to the driveway-the existing property line to the proposed property line.

Rob Radulski: 80 River Street. There was major flooding there for many years. It would sit for days. It would help if it ran to a well or back of the property. It would help divert some of that water-River Street all the way down to #117.

Eng. Winglovitz: We couldn't divert all the water to the back but we could divert all of the water from the house to the back of the property. Even water that does go to the front on River Street does discharge back onto the Devitt property-just north of the Boylan property-it all comes back onto ourselves.

Alan Lipman: Between the two properties and drains down behind my property, as well as...it doesn't...

Eng. Winglovitz: Right here, it shows right through the Devitt property and then it gets to the back where it finally discharges off.

Eng. O'Rourke: Let me just jump into #5 of the report. There needs to be clarification-show roof leaders and footing drains. There are a lot of lots in the Village that the house and driveway are depicted on this plan should be locked into a specific area. This way the neighbor knows that the house is going to be "X" amount of feet from the property line and it's not shifted. I would like to see the drainage swale cleaned up a little bit-you can stay away from the roots of the existing trees. Possibly a French drain to discharge to the back.

Chrm. Conero: The lawn on the property is approximately how much lower than the proposed?

Eng. O'Rourke: Right now, everything flows in their direction, the existing house, the upper house-everything flows in that direction. Because of new structure, we're potentially going to add or concentrate that flow, so what we want to do is take that flow and shift it to the back and reduce the amount of flow that is entering onto them, now. You can certainly do that by locking in the house location and

driveway location and clean up that swale. It can certainly solve that problem. The front page, basically relates to when are they going to be done? The problem is, if he sells, not that he is, if you approve this whether there's a note on the map or not, then those have to be beefed up because he can sell both of these lots and you're going to have each lot be responsible when...take out that driveway, you're responsible for it-and when it's going to be done.

Atty. Dowd: I would say prior to signing the map. These things have to be done.

Marc Devitt: If there's a note on the map, we will be responsible.

Eng. O'Rourke: I would be satisfied if there was a note on the plans saying whoever is responsible, lot 1 or lot 2, and it has to be done before a building permit is issued on lot 2 or some other way; CO or whatever the case may be.

Atty. Dowd: They have to be resolved and earlier than prior to the sale.

Chrm. Conero: Back to #5, will there be details on the swale-more than what was provided?

Eng. Winglovitz: Yes.

Chrm. Conero: How will this litigate the water problems? How are the calculations done?

Eng. O'Rourke: On his plans, he's going to show all the roof leaders and the impervious areas to the house. They are going to take all the new impervious area, and divert that away from Boylan's house-that's what we're asking them to do.

Eng. Winglovitz: The swale will also now take existing flow that goes to the residence and divert...the existing conditions for it's flow onto...

Chrm. Conero: Okay. I can't...especially on these smaller lots. It's a huge concern. I've seen it a lot over the years. I've also seen it where people with a plan gets approved and during the construction of the property, they'll bring in material that raises it up higher and creates more of problem into an adjacent property. I'm just trying to not have that happen.

Eng. O'Rourke: Again, that's why we're saying to lock into a driveway location and house location. This is just for filing purposes, they have to clean up some of this stuff. The letter from 239 that they had...It's typically when there is pre-existing, non-conforming lot configuration on the existing house so usually the board when they approve or disapprove it, at that time, they confirm for the record that it is pre-existing, non-conforming.

Atty. Catalano: There is no need for variances.

Eng. O'Rourke: No, we make it part of the record so in the future, when somebody says, why did you approve this? Five years from now, two houses could be built and you're going to say why was this house allowed...

Atty. Catalano: Do you want a note on the map for that, too?

Eng. O'Rourke: No, I think we can just make it part of the record.

Atty. Catalano: Okay

Chrm. Conero: I think we should leave the public hearing open.

Atty. Catalano: You want to leave it open just for the drainage issue?

Atty. Dowd: Do you want to put this on your regular meeting or with the special meeting on the 7th?

Chrm. Conero: We'll do it the 7th, that would give the public the opportunity to speak after they look at the details on it, as well.

Atty. Dowd: So you need a motion to continue the public hearing on August 7th.

A MOTION was made by Chrm. Conero and seconded by Mbr. Weeden to continue the public hearing on August 7th, 2013, 7:30 pm and carried 3 Ayes 0 Nays.

RE: MINUTES

A MOTION was made by Mbr. Weeden, and seconded by Chrm. Conero, to accept the Planning Board minutes, as written, from June 26, 2013.

RE: ADJOURNMENT

A motion was made to adjourn the meeting at 8:57 pm by Mbr. McLean and seconded by Mbr. Weeden, and carried 3 Ayes 0 Nays.

Tina Murphy
Clerk