

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

ATTENDANCE: Chrm. Conero, Mbr. Romano (was on vacation), Mbr. McLean, Mbr. Weeden, Eng. Dawn Kalisky from Lanc & Tully, Eng. Ross Winglovitz, Marc Devitt (applicant), Atty. Joe Catalano

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

232 WARD ST CHANGE IN USE (203-1-12.2)

Chrm. Conero began—this is a continuation of the public hearing that was scheduled at last month’s meeting. We closed the public comment period and left the public hearing open. We also made some changes to the site plan to alleviate some of the concerns that the fire dept. had, as well as the Planning Board, on the play area situation that’s out toward the road. Ross had brought up a guardrail system idea that we went along with and he’s made up details on that. He asks Eng. Winglovitz to explain.

Eng. Winglovitz—the changes we proposed include doing away with the 90 degree parking and provided two parallel spots. This provides a much larger area for fire dept. vehicle access directly in front of the building, even though we still have access on three other sides. The second item that we addressed was is the concern about a guiderail for the play area due to the exiting driveway from the storage units directly opposite, so what we’ve proposed is a wooden guiderail system that will be integrated into the fence. It runs the extent of the play area fence.

Chrm. Conero—I did get official word from the B/I, who indicated that the ladder truck needs access to the front of the structure so we moved the spaces out of the way, so we’re all set. I think we’re ready to vote on this at this point. We declared our intent to be lead agency when we first started the process, in June, so it would be...it’s a Type 1. Ms. Kalisky reiterated that it is a Type 1-we got comments back from Parks & Rec? Yes from Chrm. Conero and Eng. Winglovitz. If you have comments from OC Planning then those were the two agencies you needed.

A **MOTION** was made by Chrm. Conero and seconded by Mbr. McLean, to clear negative declaration, Type 1 SEQRA on this project, and carried 3 Ayes 0 Nays.

A **MOTION** was made by Mbr. Weeden and seconded by Mbr. McLean to ADOPT A RESOLUTION GRANTING A SPECIAL EXCEPTION USE PERMIT TO MONTGOMERY GROUP, INC. TO ALLOW A PRIVATE MONTESSORI SCHOOL TO BE OPERATED IN THE CARRIAGE HOUSE BUILDING AT 232 WARD STREET. Motion carried 3 Ayes, 0 Nays.

Ms. Kalisky advised to make this contingent upon the plan dressing up items-Lanc & Tully’s comment letter. Chrm. Conero didn’t receive the letter so a copy was given to

him. Ms. Kalisky continued...subject to condition upon...clarification of the plan. The two parking spaces (the letter from Bruce), so with the revisions, it does provide a 24 foot width. It does not need a designated fire lane; a couple of additional signs; dimensions of guiderail. The plan is fine. Just for clarification, subject to plan revisions, minor, the typical outstanding fees...

**CONTINUATION OF PUBLIC HEARING 146 RIVER STREET SUBDIVISION
(208-1-24.1 24.2) 7:42 pm**

Chrm. Conero said the next one is Devitt Management, River Street Subdivision at 146 Union. Eng. Winglovitz began with comments regarding the plan. The primary issues were identifying where the roof and footing drains were going to go to-away from the neighboring property. We have shown the roof and footing drains discharge to the back property line of the new lot-away from the home. We did talk about putting potentially in a swale but the best thing would be to get it back away from anything. We've added evergreen screening-cedars will remain but they are thinned out on the bottom. Dawn had a comment to specify the type of evergreen screening and we will do that. We're looking for low shrubbery below where the cedar trees are. We've raised the finished floor slightly on the building, to accommodate footing drains so they can discharge to the back of the property. A proposed iron rod has been added to the plan so that will be staked in the field. That's the extent of the changes.

Chrm. Conero clarified that they will be running the footing drains out to the back directly from the home, you're still putting in the swale to avert any runoff that potentially would happen when grading this lot over to the other one. He asks Ms. Kalisky if the calculations are correct and if the swale will work and bring the water away from the adjoining property. Ms. Kalisky said that in their comment letter, they attached a copy of their sketch of bringing the rear swale up further, up to the front of the proposed structure that way to ensure to catch anything coming that way. The front swale that they have showing-there's really nothing in that area, any disturbance is staying the same. The elimination of that swale will flow naturally as it is existing now. They provided Ross with a copy of that sketch and he concurs. Eng. Winglovitz said they will extend the swale that discharges to the rear, further past the building; instead of discharging a small amount to the front, they'll discharge the majority all to the back away from the road and house. Ms. Kalisky said all the new construction will be caught and diverted to the rear of the lot. Chrm. Conero asked about runoff from the new driveway being put in, as that was a concern from neighbors at the public hearing. Ms. Kalisky said the minimal new impervious that's going to be installed on proposed lot 1 is not enough to affect, significantly, minimally the existing drainage pattern there right now. There's no grading needed on lot 1-it's relatively flat up there where the new proposed driveway is going. It's actually a very small driveway-just enough to accommodate two cars. Eng. Winglovitz agreed. Chrm. Conero commented on the details of the swale, which is with the site plan and asked who would maintain it. Ms. Kalisky said the property owner would. It will be constructed, intact and functioning before they get their CO-in the future if anything is done on the property that impacts your neighbor, it is a code enforcement issue. To the Chrm., you would be approving...at the last meeting, it was

discussed that a note be put on the plan, that the dwelling on lot 2 is to be constructed in that footprint on that plan and if it differs from that...Eng. Winglovitz asked if they could have some flexibility, that it's probably not going to be the exact same footprint that's here. It may be slightly longer and narrower; we want to have some flexibility in the language in the approximate location. Ms. Kalisky said it was discussed at the last meeting (with Eng. O'Rourke). If you approve a plan that is a very small lot, it can impact the neighbors because of the proximity of all the lots in that area. If you approve a plan that has ensured that you will not impact the adjoining neighbor, and they do something totally outside of that plan, what is the point of approving it's location and no impact on the adjoiner. That's why I believe it was discussed for a note. A little flexibility. Chrm. Conero asked about side yard setback. Ms. Kalisky said it needs to be constructed within the set back, the biggest concern is that the new swale line catch all runoff. Eng. Winglovitz said the additional screening and the swale have to be maintained. Kalisky said if they change it to something totally different where the swale is to the rear and doesn't catch any of the runoff created from the new impervious dwelling, that will be a problem. A note should be added on the plan. Eng. Winglovitz asked if it could be in the location and not the footprint-that gives a little bit of leeway to the B/I-to say it's in the same location. Ms. Kalisky said the B/I prior to issuing the building permit would have to get a plot plan of the actual footprint-he can look and see if that it looks a different-he can call her. If it's something that needs to come back to the Board or if it's something that they changed the footprint but they've extended the drainage to ensure it won't be a problem. If it's that different, they would have to come back. They will have to fabricate a verbage for a note that isn't wholly restrictive to that rectangular box that you're showing. Eng. Winglovitz said based on the same language, it's the location of the building, that way, it's not the exact footprint-footprint means it's exactly the same. Ms. Kalisky said it should be constructed in the location shown on the plan and shall not be relocated. Eng. Winglovitz said it would give Bruce enough leeway to say it's...Ms. Kalisky said that before a building permit is issued, he would need a plot plan, so that should not be an issue. We'll stick a note on Bruce's copy for his file of the approved subdivision plan. That if it differs drastically or is unsure it's going to impact to reach out, prior to issuance of the building permit. Chrm. Conero confirmed that they would make a note for the B/I.

Chrm. Conero discussed #3 of Lanc & Tully's original letter, dated July 18th, regarding the stone wall; stating the stone wall would be removed prior to approval and filing of subdivision. Ross's note says it will be removed by the owner of lot #1 prior to the issuance of a building permit. Ms. Kalisky said it was discussed at last meeting and could go either way. It indicates who is responsible for...Chrm. Conero clarified that once the buiding permit is issued then it would be removed so there would be a clear lot line? Ms. Kalisky said prior to issuance. Eng. Winglovitz agreed. Ms. Kalisky said that if Mr. Devitt does not own lot #1 when lot #2 is sold and wants to be developed, it will be the responsibility of the owner of lot #1-because it is on the filed map. Chrm. Conero suggested removing it now, but Eng. Winglovitz said there wouldn't be access to his house (Devitt). The idea is that he has to maintain this lot for a while, so why would he rip it out.

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

Alan Lipman: Attorney for Maureen Stoker family; the footing drains and roof and gutter drains, how is it being transported to the rear? Pipes?

Eng. Winglovitz: Yes, it'll be piped from the building to the back.

Alan Lipman: To some point at or beyond the new line?

Eng. Winglovitz: Correct.

Alan Lipman: And the swale is going to run from the front of the structure to the rear.

Eng. Winglovitz: Yes

Alan Lipman: Do you think it would be appropriate to put a note on the plan requiring the owner of lot #2 to maintain the swale?

Chrm. Conero: I asked that question. The owner of lot #2 has to maintain the swale.

Alan Lipman: That's just because it's on his property line.

Eng. Winglovitz: It's not a problem. Sometimes you have to do that.

Ms. Kalisky: Thirty years down the road if the future owner of lot #2 decides to fill in his property, I don't think anyone get a copy of the filed map and say that it says you had to maintain it. Once again, it would be a neighbor complaint-they're filling next door and my property is getting wet now and it'll be handled thru that channel.

Alan Lipman: The nice thing about having it on the file is that it's always available if somebody wants to look.

Ms. Kalisky: Yes.

Chrm. Conero: Lot #2 is responsible.

Ms. Kalisky: Ross, you have no issue with that?

Eng. Winglovitz: No.

Alan Lipman: The screening that you added. It really does...I don't know what kind of shrubs you're proposing, but the trees on both the Boylan side and your client's side are not cedars, they're hemlock. They are very tall, in fact, they ought to be removed and new screening-those shrubs are going to be in the shade of those trees and they're not going to grow. What kind of shrub did you have in mind, could you tell me?

Eng. Winglovitz: I'd have to talk to a landscaper and see what he would recommend. I agree with you, that was the exact concern that we had.

Alan Lipman: A low shrub is not going to close the gap between the ground and where the growth is on these hemlocks; that's up 40 ft. To where the green is...even if it isn't, it's at least 20-30 feet up.

Chrm. Conero: Mr. Lipman, I think you are referring to having proper screening between...where is the house located on this land?

Eng. Winglovitz: On the road? Right there, next to the garage (he points on map).

Chrm. Conero: That's the actual garage. So, you're proposing screening on this side and we talked about this last meeting, that's why we have that in there, as well as for screening. But, that should really be figured out before...sometimes we allow the screening to be determined while it's being subdivided. Some projects we do that. But in this situation, because of the existing trees...I have not visited the property, so I don't really...

Alan Lipman: I just came from there.

Ms. Kalisky: Are the trees on the Devitt piece?

Eng. Winglovitz: Yes.

Alan Lipman: There are two rows; one row is on our property in the back.

Eng. Winglovitz: Yes, the back; behind their house there's a row along the property line on their property.

Chrm. Conero: That's what you have listed.

Alan Lipman: It's the row that's on your property line.

Eng. Winglovitz: So, you're suggesting that the cedar trees be removed and something more significant be...

Alan Lipman: They're not cedar, they're hemlock.

Eng. Winglovitz: The hemlocks.

Alan Lipman: I suggest they be removed, but that's my opinion. They're not in great shape. If you're going to dig a swale through there, you're probably going to cut through some of the roots. I don't think they're doing anything positive for anybody. And I think that shortly, they'll be dangerous.

Chrm. Conero: So the screening you're trying to maintain is a visible screening between one property and another. So it has to be a certain height, as well.

Alan Lipman: That's also a problem. I think it's mentioned tonight, low shrubbery. I don't think you need low shrubbery. You need something that's going to grow up.

Chrm. Conero: We're trying to do screening between one property and another-we'll need a higher type of landscaping.

Eng. Winglovitz: I thought the under...was much lower

Alan Lipman: No.

Chrm. Conero : I haven't been to the site.

Mr. Devitt: I have to duck when I mow.

Alan Lipman: You might be ducking from the branches that have no growth on them.

Mr. Devitt: No.

Alan Lipman: Well I was there tonight and it was pretty high.

Mr. Devitt: It's about as high as a deer can reach.

Chrm. Conero : So you're idea was to put low shrubbery to fill in the gaps between the hemlocks.

Eng. Winglovitz: That was my thought.

Alan Lipman: I think you ought to measure what the gap is before you propose what evergreens.

Chrm. Conero: So, we can just have a landscaper come in and tell us what to do about it.

Mr. Devitt: Is there a code for screening between residential uses?

Chrm. Conero: No, I don't think there's a code but there's also...

Mr. Devitt: Don't get me wrong, I do want to provide some sort of screening between the two houses regardless, anyway, I do want to do that. I think those hemlocks are in rough shape and I do think they eventually need to come down. I don't know that it's an issue that needs to be attached to a map.

Chrm. Conero: I think that when you have a small lot size like this and you're trying to maintain some harmony between the two lots, that having the proper screening in place, up front, right now on the plans, is probably better than waiting later on to find out that we've got the wrong plants in there and it's not going to provide the right screening. So, I think that having laid this out right now, and figure this out...

Mr. Devitt: So why don't we just call it evergreen trees.

Chrm. Conero: Evergreen trees, here?

Alan Lipman: Instead of shrubs.

Chrm. Conero: Instead of shrubs?

Mr. Devitt: Yes.

Chrm. Conero: Yes, that's fine. I was just saying...I'm trying...

Mr. Devitt: I don't have a problem with that.

Chrm. Conero: Can we do that, Dawn?

Ms. Kalisky: Yes.

Chrm. Conero: And that would be where indicated? What about the existing hemlocks down here?

Ms. Kalisky: They're not on the...

Alan Lipman: Those are ours, these are his...this should really extend the length of his, so maybe one more here and two more here should do it.

Chrm. Conero: Alright. Is there any risk of ruining the trees on the adjacent property side when making that swale. It's a foot deep.

Alan Lipman: The swale is on the other side of their trees.
Chrm. Conero: Right. It's not on the property line? It's on this line here, Ross?

Eng. Winglovitz: Yes, probably five feet off the property line. The closest point...

Ms. Kalisky: Not knowing where the actual tree trunks are located.

Eng. Winglovitz: I think they're on the other property. We have a shot...

Alan Liipman: We need nine plants, not six.

Chrm. Conero: To extend further down the lot line or up toward the front?

Alan Lipman: To extend the length of the tree growth that he owns; all of the area between those trees.

Chrm. Conero: Again, I've not been to the property. Is nine enough? Will nine provide the proper...

Alan Lipman: I don't know what the separation is between those trees.

Eng. Winglovitz: It's 30 feet, so nine...every five feet...

Ms. Kalisky: Trees should be 10 on center. You can't plant them...10 foot on center from the...7 trees...

Chrm. Conero: Will there be an extra one in the beginning of the lot line? Where are you measuring from?

Ms. Kalisky: Basically, where the existing hemlock tree row is on Mr. Devitt's property. It's 68 feet. So from the backside of...you can put 7 trees in on 10 foot on center.

Chrm. Conero: So 7 trees, 10 foot on center, would give the proper screening between them? Is there any other...

Alan Lipman: I have one more question about the location, the change in the configuration of the house. My concern is the yard facing the Boylans...maintain the yard that you proposed...your side yard.

Eng. Winglovitz: We don't have a problem stipulating that. We would maintain the side yard as proposed.

Alan Lipman: It looks about 20 feet.

Eng. Winglovitz: That's fine.

Alan Lipman: You're real nice guys.

Chrm. Conero: Does anyone else have a comment on this property? Are the hemlock trees going or staying?

Eng. Winglovitz: We don't want to be obligated to...going to leave the plan as is...

Mr. Devitt: I think they're going to have to come down.

Chrm. Conero: To plant these evergreens...

Mr. Devitt: I think you're right, but I don't want it on the map. If I'm going to plant 7 trees, obviously, I want to make sure they grow and live so I don't have to, in five years, plant 7 more. I think we'll look at it at that time. I think the hemlocks have to go down, at some point. They're just overgrown.

Chrm. Conero: So, then the owner of lot #2 would be responsible for those 7 trees and their growth. That should be noted on the plans, as well. So if someone does buy that piece of property, and they own that, it's their responsibility to maintain that to the proper height, to provide the proper screening.

Eng. Winglovitz: If it dies, they replace it.

Chrm. Conero: So, any other comments?

A MOTION was made by Chrm. Conero and seconded by Mbr. Weeden to close the public hearing on August 7, 2013, 8:10 pm, and carried 3 Ayes, 0 Nays.

Chrm. Conero questioned the detail on the evergreens. Ms. Kalisky said there would be 7 evergreen trees, 10 ft on center, for additional screening. There is 67 ft of evergreen trees that need to augment. Mr. Lipman asked what the center distance was of the existing evergreen trees and if they could even put trees 10 ft on center. Eng. Winglovitz and Ms. Kalisky clarified that the evergreens would not be between the existing trees, that they would be on the Boylan side of the Devitt property. Eng. Winglovitz asked the Chrm. for conditional final approval, subject to these comments; reasons to come back aren't significant. Chrm. Conero said that Mr. Lipman and the adjacent land owners comments are significant and wants to be sure that the items are on there correctly. Ms. Kalisky said they could ensure that, which they are going to do with the previous application. The public hearing is closed, the public comments are more than satisfied, the board is satisfied, if the conditional final is subject to the items that were discussed this evening, the revisions on the plan; the Chrm. cannot sign the plan until the revised are reviewed by her office, and if they are found satisfactory, they'll make the proper submission for the signature. Chrm. Conero is fine with it as long as it's correct. If there is something minor on it that needs to be changed, he wants it changed. If it's something that's going to come back later on, he's going to have a problem with it. These are his concerns.

A MOTION was made by Chrm. Conero and seconded by Mbr. Weeden to declare negative declaration under SEQRA and carried 3 Ayes, 0 Nays.

A MOTION was made by Chrm. Conero and seconded by Mbr. Weeden for a conditional final approval, subject to comments discussed this evening and carried 3 Ayes, 0 Nays.

RE: ADJOURNMENT

A MOTION was made to adjourn the meeting at 8:15 pm by Mbr. McLean and seconded by Mr. Weeden, and carried 3 Ayes, 0 Nays.

Tina Murphy
Clerk