

MINUTES of the Village of Montgomery Planning Board meeting held in the Conference Room of the Village Hall, Clinton Street, on Wednesday, August 22, at 7:30 pm.

ATTENDANCE: Chrm. Conero, Mbr. Crowley, Mbr. Steed, Mbr. Romano (not in attendance), Mbr. McKenna, Atty. Kevin Dowd, Eng. Dawn DeSantis of Lanc & Tully, Larry Marshall, Maria Beltrametti, Michael Lynch, Howard Weeden, Jon Darwin, Liz Vasapoli, Israel Friedman

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

OLD BUSINESS

RE: WILD SUBDIVISION 202-5-4 & 5

Larry Marshall is representing the applicant. This is a 4 lot subdivision with 2 exiting parcels that they will divide in half. NYS Parks responded and asked them to complete a Phase 1A & B for the site which they have completed. They received the report (gave a copy to the Board) and also retained an archeologist for the rear portion of the property. Some historic artifacts were found but nothing of substance. The most important portion in the conclusion is that it recommends no further action. They have submitted this to SHPO and hope to get a reply within the next few weeks.

A MOTION was made to SCHEDULE A PUBLIC HEARING FOR WILD SUBDIVISON on SEPTEMBER 26, 2018 at 7:30pm by Chrm. Conero and seconded by Mbr. Steed and carried 4 Ayes 0 Nays at 7:37pm.

RE: 32 RAILROAD AVENUE – AMENDED SITE PLAN 202-12-7

Michael Lynch is representing the applicant, Liz Vasapoli. They are proposing a 2nd floor caretaker's residence over the existing spa. There is also a proposed 3rd floor apartment which needs referral to the ZBA.

Chrm. Conero asked if it is an apartment or caretaker's residence.

Mr. Lynch said the 2nd floor is the caretaker's residence, which is approved. The 3rd floor will be an apartment which needs referral to the ZBA.

Chrm. Conero asked if the 2nd floor was part of the business. There's 3 or 4 floors?

It is confirmed which floors are business and proposed apartments.

Chrm. Conero mixed use is usually business on the bottom, residence on the 2nd floor, but now residence on the 3rd floor?

Atty. Dowd said in the Industrial Zone, where this is, the spa was a permitted use; you approved the spa/salon. But when they came they did not ask for the caretaker's unit, so that changes the plan and the use of the building and may require two permanent parking spaces for the caretaker's unit. The application was originally put before the Zoning Board for the 3rd floor apartment because it is definitely not permitted in the zone but when the applicant did not have economic proof so they maintained Engineering Properties to assist with the site plan. One of the questions raised is what the caretaker's responsibilities are. Typically, they are not paying market rent and

are performing duties for the property owner. The submittal from the engineer (July 13th), they are stating that the person will be performing certain duties.

Ms. Vasapoli said the person living there will be maintaining the interior, office, spa and common areas, also maintaining the exterior with regards to the sidewalks, parking lot and caretake; as far as cleaning, if there are issues with plumbing/heating, they would be responsible for making those phone calls and meeting with those people.

Atty. Dowd asked what she meant by maintenance?

Ms. Vasapoli replied, shoveling snow off the sidewalk, clearing the parking lot, cleaning the interior common areas, cleaning the spa location, overall general maintenance of the building.

Atty. Dowd asked if this person would be an employee of the spa.

Ms. Vasapoli said they may or may not be.

Atty. Dowd said originally presented at the Zoning Board it would be an employee.

Ms. Vasapoli said right and the spa is still in the process of hiring someone.

Atty. Dowd asked if they will be paying reduced rent or market rent.

Ms. Vasapoli said reduced rent but to what extent, she is not sure.

Chrm. Conero asked how you determine what a caretaker residence is vs. an apartment. He's looking at it as two apartments in one building.

Atty. Dowd said the Board is only dealing with the 2nd floor and if you are satisfied with the explanation that the applicant is giving you and that this will indeed be a caretaker's unit which is a permitted accessory use and you can amend the site plan approval as a spa/salon with a caretaker's unit.

Mbr. Crowley asked if the apartment was empty, as they have not found someone to fill it.

Atty. Dowd asked if the apartment was built.

Ms. Vasapoli said it's open space. She hasn't been in the building in a while.

Atty. Dowd asked if she was the owner of the spa or the building.

Ms. Vasapoli said the building and she is not sure if the 2nd and 3rd floor are completed.

Atty. Dowd said if the Board is satisfied with Ms. Vasapoli's explanation as to what the duties will be of the person who will be there, he recommends that they submit a lease agreement that is required of the caretaker to sign (that he can review), so there will be a record to show that they will actually be performing those duties to make it a caretaker's unit.

Chrm. Conero said so if there was a question of the caretaker...what is the difference between the two apartments if there are two apartment?

Atty. Dowd said the only thing permitted in there is a caretaker's or owner's unit and the owners aren't going to live there. To make it a permitted caretaker's unit is one thing, if it's just going to be a rental apartment, then it's not allowed, just like the 3rd floor isn't allowed. They would have to go the Zoning Board for two variances for two apartments. Enforcement is another issue. If in the winter the sidewalks aren't shoveled and the parking lot isn't cleared and the Building Inspector says you have a caretaker who is supposed to be taking care of this, why aren't they? And there's a lease that says they are supposed to be doing it. That might become an issue as to whether or not it's a caretaker or renter. The same could happen if the property is sold and it isn't clear about the caretaker's unit. So the approval must be exact. If you aren't comfortable with what she has defined, refer to ZBA for an interpretation of the caretaker's unit and a variance for the upstairs.

Mr. Lynch asked if they could go before the ZBA to make both apartments rentals (no caretaker's unit).

Atty. Dowd said they could. It would do away with the responsibility of the need for a lease agreement regarding the caretaker's unit.

Chrm. Conero asked that the site plan be updated to include the parking lot and retaining wall. He confirms where the garbage cans would be and where snow removal would be during the winter.

Ms. Vasapoli said the garbage cans would be under the stairs and snow would be put in the back of the lot.

Mr. Lynch said they could stripe the parking lot to include storage along the back wall.

A MOTION was made to REFER 32 RAILROAD AVENUE 202-12-7 TO THE ZONING BOARD OF APPEALS FOR INTERPRETATION OF THE CARETAKER'S UNIT FOR THE 2ND FLOOR AND FOR APPROVAL OF AN ADDITIONAL APARTMENT ON THE 3RD FLOOR by Chrm. Conero and seconded by Mbr. Crowley and carried 4 Ayes 0 Nays.

RE: PLEAVE

Michael Lynch is representing the applicant. He said they are awaiting the DEC approval on the sewer main. The realty subdivision approval has been reissued, water main doesn't expire and they filed a Nationwide Permit 29 and they haven't responded.

Atty. Dowd said they are there for the Performance Bond, which was reviewed by Dawn.

Ms. DeSantis said the amounts are spot on.

Atty. Dowd said if the Board wants to approve the numbers; he has been in touch with their attorney regarding documents for the land swap. It is not filed yet.

Ms. DeSantis said they need active permits, as they have expired.

Mr. Lynch said the Army Corps. have been notified and the water certification comes from the DEC.

A MOTION was made to ACCEPT THE FEES FOR THE PLEAVE PROJECT - \$400,000 BOND AND \$20,000 INSPECTION FEES by Chrm. Conero and seconded by Mbr. Steed and carried 4 Ayes 0 Nays.

RE: LOOSESTRIFE FIELDS – PHASE II

There is no representation.

Atty. Dowd confirmed that a letter was received from Tower Management regarding waiving the 62 day rule.

Ms. DeSantis said that John sent a letter...the DEC needs to waive the requirement of the Village of Montgomery having jurisdiction to allow them to not have to follow State rules. The Village has to be satisfied and the DEC is okay as long as the Village is. She said Amy had emailed a copy of the letter to the DEC and no one was copied. The DEC had mentioned it to John but they (Lanc & Tully) do not know what was in the email from Chazen. John's point is the Village has no jurisdiction, as far as State regulations on this. It's a private system; it's not being dedicated to the Village, the Village doesn't have to maintain it. They still have to provide SWPP and a drainage design that works, not just a box with underground drainage storage area - not even specified what it is.

Chrm. Conero asks Ms. Murphy to send a letter.

NEW BUSINESS

RE: DARWIN SUBDIVISION 210-8-5.22

Howard Weeden is representing the applicant. This will be a 2 lot subdivision; it used to be the Norlander property and is on the left hand side on Purple Heart Way. They are proposing a proposed house on lot 2. He is in receipt of Dawn's comment letter; we have add some elevations in here (indicates on site plan) for the sewer but will address all of her comments.

Chrm. Conero asked where the residents pump out to.

Ms. DeSantis said everything flowed down to the pump station that was between lots 2 and 3. That pump station was relocated to the other side (Montgomery Estates II) but the manhole is still there. The 4 inch main in front of the Norlander's was abandoned-it does not work. They did not start picking up until sewer until lot 1 which is just down the street.

Atty. Dowd asked Mr. Weeden to provide a copy of the deed of the property. He said he would.

Ms. DeSantis said the easement was changed due to the Army Corps. She spoke with Buddy regarding the swale-you'll have to go down in the grass area, backside of the curb within the right of way, to get into that manhole. She advised Mr. Weeden to revise some of the boxes on the EAF, and doing it online would be easier. She isn't sure when it was taken down.

Atty. Dowd said they will need to do 239; to OC Planning as well as the Town, since it is within 500 feet of the town line.

Ms. DeSantis said the maps need to be revised before the submission deadline.

A MOTION was made to SCHEDULE A PUBLIC HEARING FOR DARWIN SUBDIVISION on SEPTEMBER 26, 2018 at 7:45pm, by Chrm. Conero and seconded by Mbr. Crowley and carried 4 Ayes, 0 Nays at 8:21pm.

RE: ALDEN LINK PROPERTY DISCUSSION

Michael Lynch is representing the applicant. They wanted to introduce the project. They are proposing a 3 lot subdivision; lot 1 will have a 200,000 sq. ft. warehouse, lot 2 will have a 90,000 sq. ft. warehouse and since the property is in the I1 district but is also in the senior overlay district, it's not a change of use just a Planning Board approval, there will be senior housing units with access off of Union Street.

Chrm. Conero asked when it will be in front of them

Mr. Lynch said possibly October. He indicates on the site plan the access points; off Union Street in front of Chandler for the warehouses and closer to Weaver off of Union Street for the senior housing. He introduced the applicant.

Israel Friedman is the CEO of KSH Brands, a company that sells sport and outdoor recreational equipment: trampolines, swing-sets, etc. They are currently renting space in Cornwall and would like to relocate to their own building. They currently have 35 employees. They are considering using the 90,000 for all purpose, and possibly sell the 200,000 sq. ft. for the same usage if they do not use it. There will not be much large truck traffic; UPSP, UPS and FedEx will be every day. The 3rd lot would be for senior housing, since it is permitted, if the Village allowed.

Ms. DeSantis asked Mr. Lynch if he had the original DOT access onto the property.

Mr. Lynch will follow up with Ross to obtain it.

RE: MINUTES

A MOTION was made to ACCEPT THE MINUTES OF June 27, 2018, by Mbr. Steed and seconded by Mbr. McKenna and carried 4 Ayes 0 Nays.

RE: ADJOURNMENT:

A MOTION was made to ADJOURN THE MEETING AT 8:31 pm by Mbr. Crowley and was seconded by Chrm. Conero and carried 4 Ayes 0 Nays.

Tina Murphy, Deputy Village Clerk