

MINUTES of the Village of Montgomery Planning Board meeting held in the Conference Room of the Village Hall, Clinton Street, on Wednesday, September 26, at 7:30 pm.

ATTENDANCE: Chrm. Conero, Mbr. Crowley, Mbr. Steed, Mbr. Romano, Mbr. McKenna, Atty. Kevin Dowd, Eng. Dawn DeSantis of Lanc & Tully, Larry Marshall, Maria Beltrametti, Adam Weeden, Jon Darwin, Sal Vasapoli, Ross Winglovitz, Don Berger, John Byrnes, Doug Hantusch, Judy Lozier, Mary Ann Lindner, Jane Hoeffner

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

PUBLIC HEARING 7:30pm

RE: WILD SUBDIVISION 202-5-4 & 5

Clerk Rickerd stated that 32 mailings were sent out with 28 received back; posts and publications were completed.

A MOTION was made to OPEN THE PUBLIC HEARING FOR WILD SUBDIVISION by Chrm. Conero and seconded by Mbr. Romano and carried 5 Ayes 0 Nays.

Larry Marshall is representing the applicant. This application is for a subdivision of 2 existing parcels located between Union Street and Hanover Street. There are 2 existing parcels with 2 existing homes. They propose to subdivide the rear portion of the property located along Hanover Street from the portion contained on the existing homes for the potential development of two new dwelling units on those parcels. They propose to connect to the existing water/sewer mains on Hanover Street because there is no sewer on Union Street. The existing dwellings will have their sewer lines rerouted from their current location to right down the center to connect to Hanover Street. The existing garage that is located on Hanover Street will remain. They received a response from NYS Historic Preservation Office and they found no fault in the Board acting on SQRA and the project can move forward.

Chrm. Conero asked about the Phase I dig that they were required to do.

Mr. Marshall said they contacted NYS Historic Preservation Office regarding the potential of archeological site for the rear portion of the property. They did a Phase IA and a Phase IB study on the property. Phase IA is the research as to the potential and Phase IB is the actual dig they did. There were a series of digs on portion of lot 1B and lot 2B that are proposed to be disturbed and they did find china but nothing significant. They submitted the report to the Village and the full phase I report to SHPO; they said no further work is necessary, you can proceed with the project.

The Public Hearing was opened for Public Comment by Chrm. Conero:

Doug Hantusch – 2 Hanover Street – is the garage part of the sale of the property or will it be sectioned off?

Chrm. Conero said it is part of the parcel.

Mr. Marshall said it is part of lot 2B, it will be involved in the sale of the property.

Mr. Hantusch asked what zoning it is.

Mr. Marshall said R5 zone district, which requires a minimum of 5,000 sq. ft. of lot area. The smallest lot that they propose is 8,600 sq. ft.

Mr. Hantusch asked if this would be an apartment house.

Chrm. Conero said it will be a single-family residence. We worked extensively with our engineer and the applicant's engineer, Larry Marshall. We looked at all the set-backs, what was required; we feel pretty confident that this plan is in good shape to bring to you, the public, that the applicant proposed.

He asked if there were any other comments.

John Byrnes – 100 Washington Avenue – what is going to happen to the pool?

Mr. Marshall said there is no pool on the parcel. Nothing on the plans.

Mr. Byrnes believed there to have been an in-ground pool.

A MOTION was made to CLOSE THE PUBLIC HEARING at 7:40pm by Chrm. Conero and seconded by Mbr. Steed and carried 5 Ayes 0 Nays.

A MOTION was made to ISSUE NEGATIVE DECLARATION ON SEQRA by Chrm. Conero and seconded by Mbr. Romano and carried 5 Ayes 0 Nays.

A MOTION was made to APPROVE THE WILD SUBDIVISION SITE PLAN, OF TWO LOTS BECOMING FOUR, AS APPROVED BY THE PLANS AND PENDING ANY OUTSTANDING FEES by Chrm. Conero and seconded by Mbr. Crowley and carried 5 Ayes 0 Nays.

OLD BUSINESS

RE: PLEAVE

Ross Winglovitz is representing the applicant. They are requesting a 6 month extension. They are getting all permits reissued/renewed with the exception of the wetlands; they are re-delineating them, hopefully by the end of the year.

A MOTION was made to APPROVE THE 6 MONTH EXTENSION FOR PLEAVE by Chrm. Conero and seconded by Mbr. McKenna and carried 5 Ayes 0 Nays.

PUBLIC HEARING 7:45pm

RE: DARWIN SUBDIVISION 210-8-5.22

Clerk Rickerd stated that 13 mailings were sent out with 7 received back; posts and publications were completed. Atty. Dowd asked when they were mailed but there no stamped dates were on them.

A MOTION was made to OPEN THE PUBLIC HEARING FOR DARWIN SUBDIVISION by Chrm. Conero and seconded by Mbr. Steed and carried 5 Ayes 0 Nays at 7:45pm.

Adam Weeden is representing the applicant. He states that they covered all of the engineering changes and would like to move forward.

Atty. Dowd said that a month ago when his father was there, they set the public hearing with the understanding that those plans would be amended and distributed so that they would have it and the public would have it and see the changes that were required. He believes they did not receive amended plans.

Ms. Kalisky said we needed to circulate to the Town of Montgomery and 239 Review because of the close proximity to the Town line.

Atty. Dowd said that we cannot approve anything tonight. The question is whether or not, the plans that are on file are sufficient for the public hearing tonight.

Chrm. Conero said they could leave it open.

Atty. Dowd said he concern is that 6 out of 13 are missing, records are not complete; normally we try to have a public hearing done on a complete set of plans so that the public and the Board can ask and answer questions appropriately. The Board can decide if you want to close the public hearing and not schedule another one or require them to re-notice when the plans are properly distributed (including the County and Town) which hasn't been done, yet.

Chrm. Conero asked if they can just leave the public hearing open.

Atty. Dowd said they could wait until any of the other 6 green cards come back.

Chrm. Conero said it would give Dawn time to look over the changes.

Mr. Weeden said they would be submitted before the next meeting.

Atty. Dowd said that is not good enough because we have to send them...10 days before the 4th Wednesday of the month.

Chrm. Conero said they would leave the public meeting open; get the plans to us as soon as possible.

Atty. Dowd said that we send a copy to the County and Town.

A MOTION was made to ADJOURN THE PUBLIC HEARING FOR DARWIN SUBDIVISION TO OCTOBER 24, 2018 AT 7:30PM by Chrm. Conero and seconded by Mbr. Steed and carried 5 Ayes 0 Nays.

Ms. Kalisky reminded Mr. Weeden that two additional plans need to be submitted for the Town and County.

OLD BUSINESS (con't)

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

Ross Winglovitz is representing the applicant, Sal Vasapoli. He believes they addressed all site plan issues. The final discussion was for the use of the property and what is a caretaker's presence. The advice the Board gave was to seek an interpretation from the ZBA. They did speak with Bruce.

Atty. Dowd said he legally cannot make that decision/interpret the zoning code. We were told last month by Mr. Vasapoli's wife that none of the work has been done on either of these apartments and she didn't know.

Mr. Vasapoli said there has been work done to one of the apartments-the caretakers.

Atty. Dowd said if Bruce makes a determination, this Board has to approve it and they have not approved that site plan so there should have been no building permit issued until he received approval from this Board for that unit.

Mr. Winglovitz said there was some work done before he was notified that he had to come back. Based on the interpretation of the building inspector that the use was in conformance with the zoning.

Atty. Dowd said it may be in conformance with the zoning law if this Board approves the site plan. There are several steps that needed to be done. We also spoke about how the parking lot got built when that was not on the original site plan, as well. After it was looked at, the work that was done was fine but again, this Board was concerned how that got built when they didn't approve it. At the last meeting, Mrs. Vasapoli explained what the people living in this would do, that would make it a caretaker's unit, but the Board felt that if it were going to ZBA for the top floor/apartment, they wanted the ZBA to interpret whether or not the definition of the caretaker's unit was in the parameters of what was being described.

Mr. Winglovitz said Mr. Vasapoli is not proceeding with the third story apartment (top floor) or with the ZBA. He wants to get the approved site plan for that taken care of.

Atty. Dowd asked what the person who lives there is going to provide to the property to make them a caretaker.

Mr. Vasapoli stated that they would take out the garbage; clean the hallways, keep the common space clear and clean, bring the (garbage) cans in, snow removal, anything that arises as a problem in that building. Keep the sidewalks clean.

Atty. Dowd asked building superintendent?

Mr. Vasapoli said yes, caretaker.

Chrm. Conero said he sees this as 4 levels; the bottom floor, floor 2 is the salon, the 3rd floor is the caretaker and the top floor was going to be another rental. We were saying that you should just look for 2 apartments; now you are back here, abandoning the idea of having an apartment on the very top floor.

Mr. Vasapoli responded, right.

Chrm. Conero said so now we are here to amend the site plan for the parking lot, the wall and also...

Atty. Dowd said, to approve the use of the 3rd floor as a caretaker unit. The fact that it is a permitted accessory use under the building code. If you are satisfied that it is a caretaker's unit then you can technically approve it.

Mbr. Romano asked if he was putting in the agreement for the caretaker's unit.

Atty. Dowd said one of the issues people have is enforcement. How do you distinguish the caretaker's unit from any other rental apartment and how is the code enforcement officer enforce that if he finds out that the person on the 3rd floor is not providing those caretaker services. He has to have some way of enforcing this. He suggested last month that these duties would have to be clearly spelled out in the lease of that unit and a copy of the lease be brought to the Planning Board and Building Inspector so everybody knows what the person(s) will be doing as a caretaker. If they aren't doing them or the residency changes, the new tenant should also be a caretaker, otherwise it's not approved by this Board.

Chrm. Conero said the lease will have to be sent to the Building Inspector yearly, indefinitely, as long as it is a caretaker's unit.

Atty. Dowd said if they want to change it, you have to come back.

Chrm. Conero said as long as it's spelled out in a lease, he is fine with it.

Atty. Dowd said there is normally no residential units in the Industrial Zone.

Mbr. Romano asked if the rent would be less for the caretaker.

Mr. Vasapoli said yes. If he rents to someone at a discounted rate to caretake, he'll be making sure they take care, caretake his building. If he gets any violations that come to him, then he will go back to his caretaker and make sure they take care of his building. I know what a caretaker is.

Atty. Dowd said it will be a condition of your approval of your amended site plan.

Chrm. Conero said he wants to make sure that if the building is sold...

Mbr. Crowley said they are looking at the use of the building and if the next person purchases the building, they have to understand that the 3rd floor is a caretaker unit.

Chrm. Conero said unless they go to the Zoning Board.

A MOTION was made to DECLARE A NEGATIVE DECLARATION, UNLISTED ACTION, ON THE AMENDED SITE PLAN FOR 32 RAILROAD AVENUE by Chrm. Conero and seconded by Mbr. Romano and carried 5 Ayes 0 Nays.

A MOTION was made to APPROVE THE AMENDED SITE PLAN FOR 32 RAILROAD AVENUE, TO ALLOW THE ADDITIONAL USE OF THE CARETAKER'S UNIT ON THE 3RD FLOOR, THE PARKING LOT AND THE RETAINING WALL, WITH THE

CONDITIONS THAT THE PARKING LOT BE PAVED AND STRIPED AND ALLOWING 2 DESIGNATED SPACES FOR RESIDENTS ONLY, by Chrm. Conero and seconded by Mbr. McKenna and carried 5 Ayes 0 Nays.

NEW BUSINESS

RE: KSH-ROUTE 211 DEVELOPMENT 211-1-29.22

Ross Winglovitz is representing the applicant. They are proposing a 3 lot subdivision; this will include 2 warehouses on two of the lots and senior affordable residences on the 3rd lot. The acreage is not labeled. The largest lot is 14 ½ acres and are proposing a 200,000 sq. ft. warehouse on it. That warehouse will be speculative so they will be looking for a tenant for that facility. Next door to that, on approximately 13 acres, there is a proposed 90,000 sq. ft. warehouse which Mr. Friedman is looking to move his business to from Cornwall; he has an e-commerce business that he would like to occupy that building with. The 3rd lot is approximately 5 acres is proposed with 2 buildings with 40 units each, a total of 80 affordable senior units, in accordance with the senior overlay, which is permitted in the I1 zoning district. The access to the commercial property will be a proposed road, it could be private, could be public; it accesses 211 just to the east of Chandler-it is not directly lined up. There was a permit issued at one point for a driveway there. They have reached out to the Hoeffner's to discuss the potential to obtain an additional 30 ft. or so, so that they can line it up with Chandler; those discussions are ongoing. They hope to come to fruition. It will help clean up that intersection; it wouldn't be offset and there will be a light. The senior development would have an access area 50ft. simple ownership right of way that goes out to 211 just east of the car wash. There will be a drive way in to service 2 proposed buildings with accessory parking. The buildings would be serviced by sewer that runs through the property; there's a sewer main that comes down Chandler-it crosses directly through the middle of the property so it would sewer these buildings with connections to the sewer main, as well as the proposed senior buildings. It's convenient for sewer, the water is in Chandler and would require a water main extension which they would do up the proposed road and service each of the buildings from there with hydrants, as necessary-they will meet with the fire department to address that. There will be a separate service for the senior development off of 211 going along the driveway. Storm water flows to the north (toward the Hoeffner property) here (indicates on site plan)-this is a big wetland system. They will have to have the delineation updated, it was done before 2008. They have located the storm water pods in the rear because most of that flow will go toward the rear and we have smaller ones in the front to take the water that cannot get to the rear, those will discharge to the wetland system and eventually to the north. Similarly with the senior apartments we show a storm water pod here and water will be collected and discharge to the stream and wetland system. All the uses and lot areas are compliant with the zoning. Questions?

Chrm. Conero asked for clarification on the overlay district for senior housing from Atty. Dowd and if it were a permitted use in this area.

Atty. Dowd said the overlay was created 15 years ago and it allows affordable senior housing to be put in anywhere that is off of a state highway.

Chrm. Conero said the 50 ft. right of way is bordering a state highway.

Atty. Dowd said the 50 ft. right of way is subject to DOT approval. It is an entrance onto their highway so they will have ultimate say.

Chrm. Conero said it doesn't matter if it's industrial, business, residential...

Atty. Dowd said only if it has frontage on a state highway and it has to have a minimum of 3 acres with a maximum capacity of 24 units per acre.

Chrm. Conero said when you look at the Master Plan for this property, the original plan was over 10 years ago and the updated Master Plan, and there was no mention of any residential in that area at all.

Atty. Dowd said the Master Plan had not been adopted by the Village Board.

Chrm. Conero said the original Master Plan had been adopted by the Village Board and the original Master Plan has that property as a planned business district. He is bringing that up because the people were on this plan that said that.

Atty. Dowd said the actual floating zone pre-exists the master plan.

Mr. Winglovitz said even as a planned business district, it would still be permitted in the zone because it meets the criteria of the state road frontage entry use.

Chrm. Conero said there were two exploratory committees that helped the Village Board out, make determination on other applicants that wanted to build residential in this area, actually two times on the exploratory committees, based on residents in the Village of Montgomery and they were forwarded to the Village Board, as well, with possible changes to the zone but never were enacted.

Atty. Dowd said as of tonight, this plan meets the current zoning.

Mbr. Steed questioned Local Law I-2003, the law states that senior housing is allowable in residential and business. The word industrial, it's not in the law, it's in their letter of recommendation from the OC Department of Planning which "would not recommend the overlay district be permitted in any industrial zone where future industrial development would be incompatible with senior housing." That was the only time the words Industrial Zone is in the local law. Business, yes. Residential, yes. (Industrial) Zoning was excluded from that law because of this recommendation, therefore, this property in his opinion is not zoned for senior housing.

Atty. Dowd told Mbr. Steed that he is incorrect. The OC Planning Department recommendations are not necessarily inconsistent with that plan. The overlay district was never excluded from any zone in this village as long as it met the criteria. Frontage on a state highway, and this clearly does, and the fact that where they located it, it abuts against existing residential uses, is separated by a vast amount of wetlands, does not mean that this plan is inconsistent with what it says. If you look at this plan, those two warehouses will not affect that senior housing project. There's a huge buffer.

Mr. Winglovitz said his client had asked what kind of commercial he could do there. That was a concern of theirs; that, being compatible with the neighboring uses here. It's a transition use between the single family residential, commercial use and senior residential use. That's a transition from industrial commercial use, multifamily senior use, to single family as opposed to having some type of small warehouse and there's a large wetland buffer that is heavily wooded, that separates the two uses.

Mbr. Steed said his opinion still stands. Local law 1-2003 excludes industrial zone for senior housing overlay. It's a matter of public record, anybody can read Local Law 1-2003. The word industrial is only mentioned there one time and that is from OC Planning.

Atty. Dowd said it is not mentioned in Local Law and that means that overlay can overlay any district anywhere in the village as long as it meets the criteria. The Village Board passed that law 15 years ago and they have not changed that law-that is what the law says.

Mbr. Romano asked if the Master Plan has any effect on this. It was sent to the Trustees and they chose not to adopt it yet.

Atty. Dowd said this Board is confined to the law as it exists today.

Mbr. Crowley asked if there would be more detailed plans.

Mr. Winglovitz said absolutely. These are just preliminary.

Atty. Dowd said you have full site plan control over this site-all aspects of this site. If you want buffer and trees and plantings, you have the right to impose that as legitimate conditions.

Mbr. Crowley asked, since it was a question in another development, if firetrucks would be able to have access in and be able to turn around if necessary. Will the plans have that?

Atty. Dowd said that is a legitimate question. It will go through the same review as the other development is still going through. It is part of the process of site plan and SEQRA. You don't want to have a senior housing complex where firetrucks and ambulance and police cannot get to. These are preliminary plans.

Mr. Winglovitz said they will look at it and show how it (the firetruck) will move through the site.

Atty. Dowd said it will be referred to the fire department for their input, as was the other project.

Mbr. Romano asked if there would be a common area for the seniors.

Mr. Winglovitz said there would be a large common green area proposed between the two parking lots but no building for them. The units will be facing the green space. They will be modeled after the units that Jonah had.

Mbr. Romano asked what quality of life these seniors would have.

Mr. Winglovitz said they would conform to the village regulations; max 1 bedroom and 700 sq. ft.

Mbr. Romano said she was talking about the common area.

Mr. Winglovitz said it would be similar, again, to what Jonah had. There will be a common green space; the elements of that common space, what it is comprised of, they haven't looked at yet.

Atty. Dowd said the other senior housing has indoor common rooms.

Chrm. Conero said the Master Plan took into account the number of Village residents that live here and they did a comparison of how many senior housing units that the Village needs in the Village, does that have any bearing on the number of units they are proposing?

Atty. Dowd only to the extent that the Village Board would have changed the law and they have not changed the law.

Chrm. Conero asked how the number of units were calculated.

Atty. Dowd said if you look at the code, it says 24 per acre. So there's five acres so that's 120. Obviously, with wetlands and other restrictions, they realized they couldn't get that many so that's why they're proposing the 80. It may come out after they do more of the site plan and depending on the delineation, they may have to cut that number. We don't know. (To Ross) You're client is not going to build these, correct?

Mr. Winglovitz said correct.

Atty. Dowd said he is going to sell them to someone to build affordable senior housing.

Chrm. Conero said the last time someone wanted to build senior housing in this area, it wasn't just senior housing, it was senior housing, work force housing and (inaudible).

Atty. Dowd said they do, but the priorities with the State seem to be the (inaudible) that was before the Village Board as part of a proposed PDD and they did not go for it.

Mbr. Romano asked if a traffic study would be completed.

Mr. Winglovitz said Dawn had comments on the EAF-additional info and detail on the plan, once we got that to a point where you were comfortable, you could declare your intent to be lead agency, get everybody's feedback and tell us what you want us to study. Visual, whatever.

Atty. Dowd asked what the proposed parking spaces would be for the proposed warehouses.

Mr. Winglovitz said 116 for the 200,000 and 41 for the other. The senior housing would have 52 total between the two buildings. The seniors is 1/2 a space per unit by code.

Chrm. Conero said they only have to provide 40 but they are providing 52.

Atty. Dowd said it's an unlisted action. We may want to ask the applicant for an EIS but you want traffic and sewer...

Mr. Winglovitz said they want everyone's input because DOT is involved, especially on the environmental concerns, and address everyone at once.

Atty. Dowd said before we do that, how much more work are you going to put in that plan? We want to make sure the plan has the proper lot, subdivision...

Mr. Winglovitz said at the next meeting, if you're comfortable, you can circulate.

Mbr. Crowley clarified that there will be a traffic study, the issue of Chandler offset, water, there will be more details.

Mr. Winglovitz said this plan is just conceptual, the layout.

Mbr. Crowley asked how tall the buildings could be, the warehouses.

Mr. Winglovitz believes 35 ft.

Mbr. Crowley asked about the flight pattern, if it's an issue. I'm sure it has to go to the county.

Ms. DeSantis said check with the FAA, with the new runway realignment.

Atty. Dowd has been trying to have the County assist in updating maps and have the law changed to reflect the updated patterns and still no response.

Mbr. Crowley said the County isn't clear about what the patterns are going to be. Haven't the patterns changed? Is the pattern in flux?

Ms. DeSantis said Ross will check with the FAA for their requirements.

Atty. Dowd said part of the SEQ process is checking to see the building proposed are not going to be a problem.

Mbr. Crowley said her concern is that they are going to build a 200,000 sq. ft. warehouse that's going to be 35 ft. high, most warehouses are higher.

Mr. Winglovitz said the applicant is not a developer. He is a business man who owns a business who needed a spot to move his business to, found this location, bought it for his building but realized that it has a lot more potential than just his. He's going to build his building and market the other building to buy.

Chrm. Conero asked about a traffic light.

Mr. Winglovitz said it's up to the DOT but because of the offset intersection, that may be one resolution to that.

RE: MINUTES

A MOTION was made to ACCEPT THE MINUTES OF August 22, 2018, by Chrm. Conero and seconded by Mbr. Steed and carried 3 Ayes 0 Nays.

RE: ADJOURNMENT:

A MOTION was made to ADJOURN THE MEETING AT 8:45 pm by Chrm. Conero and was seconded by Mbr. Crowley and carried 5 Ayes 0 Nays.

Tina Murphy, Deputy Village Clerk
Minutes recorded by Clerk Rickerd