

The Planning Board of the Village of Montebello held a meeting on Tuesday, May 8, 2018 at The Dr. Jeffrey Oppenheim Community Center, 350 Haverstraw Road, Montebello, New York. Chairman Anthony Caridi called the meeting to order at **7:16 p.m.** and led everyone in the Pledge of Allegiance.

PRESENT

Anthony Caridi, Chairman
Jane Burke, Vice Chairperson
Michael Iatropoulos, Member
Thomas Ternquist, Member
Donald Wanamaker, Member
Stan Shipley, Ad Hoc

OTHERS

Ira Emanuel, Asst. Village Attorney
Jonathan Lockman, Village Planner
Max Stach, Village Planner
Martin Spence, Village Engineer
Regina Rivera, Planning/Zoning Clerk

ABSENT

Member Iatropoulos made a motion to approve the minutes of April 10, 2018, seconded by Member Ternquist. Upon vote, the motion carried unanimously.

**Loren Ware – Public Hearing--Continued
3-Lot Subdivision and Stream and Wetlands Permit
10 Wilbur Road, Montebello, NY**

Application of Loren Ware, 5 Cragmere Road, Suffern, New York, for approval of a Subdivision and Wetlands and Stream Protection Permit entitled "Ware Subdivision." The applicant is proposing 3 separate lots each with a single-family dwelling with driveway access from Wilbur Road. The property is designated on the Ramapo Tax Map as Section 40.20, Block 1, Lot 5 in an RR-50 Zone.

The application requested an adjournment to the July Planning Board meeting. Member Iatropoulos made a motion to adjourn the Applicant's appearance and Public Hearing to the July 10, 2018 Planning Board meeting, seconded by Member Ternquist. Upon vote, the motion carried unanimously.

**Joy Irvine—Public Hearing
3-lot subdivision
77 Mile Road, Montebello, NY**

Application of Joy Irvine, 77 Mile Road, Montebello, New York for a 3-Lot subdivision on her property. The applicant is proposing to divide the land behind the existing house to create two extra lots each with a single family dwelling with driveway access from Montebello Road. The existing house will remain. The property is located on the northwest side of Mile Road at the intersection of Montebello Road in the Village of Montebello, which is designated on the Ramapo Tax Map as Section 48.19, Block 1, Lot 17 in the RR-50 Zone.

Present were the applicant Mrs. Joy Irvine, and her land surveyor Mr. James Drumm. Mr. Drumm reminded the Board that they last appeared before them in March and stated that the current plans have been revised to reflect all previous engineering comments, including the correction of Lot numbers, new drainage calculations, and clarification of the areas of disturbance. A complete tree list will be submitted as per the Engineer's request, he said. He then noted that soil percolation tests were conducted the previous week which were overseen by the Village Engineer's office. Additionally, Mr. Drumm said that paperwork was sent to the Army Corps of Engineers for wetland review and field work will begin shortly.

Irvine Subdivision

Mr. Spence summarized his memo dated May 7, 2018 (copy on file), and noted that the soil percolation tests were conducted on the property and the drainage was found to be satisfactory.

Mr. Stach summarized his memo of May 7, 2018 (copy on file) which emphasized that Applicants are required to improve all frontage zones to the widths required as per the subdivision regulations, and that this Board can waive the regulation given the small size of the subdivision. Regarding SEQRA, he continued, a Part 2 EAF has been provided indicating no significant adverse impacts from this project and if the Board agrees, Part 2 can be adopted and a Negative Declaration of Environmental Impact (Neg Dec) can be issued. Finally, Mr. Stach noted, the Rockland County Planning Department raised an issue with the root cellar on Lot 2 in their letter dated March 14, 2018 (copy on file). Mr. Emanuel clarified that Rockland County Planning merely suggested that the Board look into whether or not the root cellar is an accessory structure in the side yard. The Building Inspector can decide whether or not it should be deemed as such, he said, and the Applicant can then decide to either remove it or pursue a variance. He then advised the Board that this is a relatively small matter that should not hold up the process. Mr. Drumm said that he received an email from the Building Department stating that the root cellar can remain.

Mr. Emanuel expanded on Mr. Stach's comments regarding the frontage improvement, explaining that the Board could waive the requirement to widen the road because this is a small subdivision with little impact on the road, and because it could possibly be dangerous to do so on such a small patch of road. He offered that the Village can accept a road dedication instead. Mr. Drumm noted that the Rockland County Highway Department, in their February 28, 2018 review (copy on file) suggested that a gratuitous dedication of the right-of-way should be made to the county and asked to whom the dedication would go. Mr. Emanuel answered that it would be dedicated to the Village, not the County.

Member Burke said the house on Lot 2 might be too close to the road according to the regulations proposed in the Scenic and Historic Road District, and Mile and Montebello Roads are both within the District. Mr. Emanuel said that the Scenic & Historic Road District has been proposed but that there is no legislation yet and therefore there is no current impact. The Planning Board in its authority can examine whether or not the house is too close to the road or can require additional screening from the road, he said.

Mr. Stach said that under the draft regulations for the District, this would require a referral to Historic Preservation Commission (HPC) for their recommendations on how to preserve the scenic character of Montebello and Mile Roads. Until that law passes, those regulations won't apply. However, the Village Building Department's future review of the new structures will require HPC referrals. For approval of the subdivision, this Board can require certain aspects proposed in the District like maintenance of vegetation along the roadway. Member Burke asked whether the Board is locked in to the proposed building envelope. Mr. Stach said that as long as this is a standard subdivision, you are locked into the building envelope but that any suggested changes can be discussed with the Applicant and put into the approval resolution.

Mr. Emanuel brought the subject back to waiving the road widening provision and asked the Board to vote on it. Member Ternquist made a motion to waive the road-widening provision, seconded by Member Iatropoulos. Upon vote, the motion carried unanimously.

Member Burke asked if the future builder of the homes should be required to come back to the Board for site plan approval, adding that this has been done in the past. Mr. Emanuel said it's been done only when there were significant environmental impacts. Mr. Stach said that by the time a building permit application is made, the HPC will be able to impose conditions. Mr. Emanuel cautioned that Mr. Stach's comment is based on the assumption that the Scenic & Historic Road District becomes legislation. Theoretically, it might not be adopted, he said.

Chairman Caridi opened the Public Hearing.

Patricia Sohn, 69 Mile Road, Montebello, said that she and her husband live next door to the Irvines and that they have several environmental concerns. They bought the house for the property that is buffered by trees and they are nervous about how this proposed subdivision will impact the trees, the wetlands and most of all, their privacy, particularly when there is discussion about moving the house on Lot 3 back further from the road, she said. She explained that her concerns are compounded by the fact that the future builders of the houses are unknown and so she is worried they will not comply with what was discussed here. Mr. Emanuel said that any changes to the approved subdivision would be subject to a variance as determined by the Zoning Board of Appeals, which is a strict board. With respect to the wetlands, Mr. Emanuel said there is nothing on this plan that touches the wetlands or the stream between their properties. Mr. Drumm pointed out the stream and the 100 foot regulated area on the map, and explained that the line of regulated area covers roughly one-third of the rear of the property on Lot 3 and that there will be absolutely no work or construction proposed in that regulated area.

Sung-Rai Sohn, 69 Montebello Road, Montebello, asked hypothetically what would happen if the builder encroached into the buffer or the hill at the rear of the property. Mr. Emanuel said that this would be reviewed during the building permit process and that the permit would not be issued by the Building Inspector if the plans do not match the site plans or if they show any encroachment into the hill or the buffer. Also, the hill is outside of the building envelope and the builder can't touch it at all, he added.

Mrs. Sohn asked how the Village will regulate the removal of trees for the subdivision. Mr. Emanuel said that the Village Engineer approves all tree removal permits and that this Village has a very restrictive tree law that limits tree removal to areas immediately around the construction site. He added that the Village has prosecuted homeowners and tree contractors who have unlawfully removed trees in the past. Mrs. Sohn said that is very consoling except for the fact that the trees are gone. Mr. Emanuel noted that what she is asking for is insurance, and the Village cannot offer that. Mr. Spence said that the Village monitors all phases of construction, including the removal of trees, and that Certificates of Occupancy are not issued unless all conditions are met at the end of a project. Additionally, he said, the Village usually requires a performance bond to be submitted to ensure compliance on site work.

No one else wishing to speak, Member Iatropoulos made a motion to accept the EAF Part 2, seconded by Member Ternquist. Upon vote, the motion carried unanimously.

Member Ternquist made a motion to issue a Neg Dec, seconded by Member Iatropoulos. Upon vote the motion carried unanimously.

Member Iatropoulos made a motion to close the Public Hearing, seconded by member Ternquist. Upon vote, the motion carried unanimously.

Chairman Caridi noted that there are some technical engineering issues that need to be addressed before the final plat is signed, and asked if there is anything else to be discussed now. Mr. Spence noted that the issue of money in lieu of land should be addressed. Mr. Emanuel explained that New York State law requires the Board to make a determination on existing recreational facilities and can require property developers to donate land toward parkland. In the event there is insufficient land, the property owner can make a payment in lieu of land, as is the case here, he said. There are two new lots, at \$7500 each and the Resolution addresses this fact, he added.

Mr. Emanuel read the resolution into the record.

RESOLUTION PB-03 OF 2018
Granting Approval of a Subdivision Entitled
"Irvine"

WHEREAS, an application has been made by R. Gerald Irvine and Radosveta Topalova Irvine for final approval of a subdivision plat entitled "Irvine" dated May 7, 2015, last revised March 23, 2018, affecting premises designated as Section 48.19, Block 1, Lot 17 on the Tax Map of the Town of Ramapo; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, this Board declared its intent to be lead agency on March 13, 2018, and a negative declaration was issued by this Board on May 8, 2018; and

WHEREAS, since this proposal is for the creation of only two additional single-family residential lots, this Board has agreed to combine the preliminary and final subdivision review into a single final review; and

WHEREAS, on March 14, 2018, the Rockland County Planning Department recommended modifications the proposed final plat; and

WHEREAS, a public hearing was held on March 13, and May 8, 2018; and

NOW, THEREFORE, be it

RESOLVED, that the plat entitled "Irvine" dated May 7, 2015, last revised March 23, 2018, together with supporting sheet 2 dated May 7, 2015, last revised February 7, 2018, sheet 3 dated January 30, 2017, last revised March 11, 2018, and 4 dated May 7, 2015, last revised February 7, 2018 (collectively, the "Drawings") affecting premises designated as Section 48.19, Block 1, Lot 17 on the Tax Map of the Town of Ramapo, be and hereby is approved, and the Chairman is hereby authorized to sign same and to permit same to be filed in the office of the Rockland County Clerk, upon payment of any and all outstanding fees to the Village of Montebello, subject to the following:

1. Rockland County Planning Department conditions as stated in its memorandum dated March 14, 2018. With respect to item 11, it is unclear at this time whether the Building Inspector has determined that the root cellar is a structure as defined in the Zoning Code. If the Building Inspector determines that the root cellar is a structure, then the Applicant must either remove the root cellar or seek a variance to allow the root cellar to remain in place prior to the issuance of a

building permit for proposed Lot 3. This Board does not believe that the existence of the root cellar is sufficient cause to delay the granting of subdivision approval or the filing of the plat.

2. This Board has considered the review letter from the Rockland County Highway Department dated April 17, 2018. In particular, it has reviewed whether the driveway for proposed Lot 2 should access Mile Road instead of Montebello Road. Based upon input from the Applicant's surveyor and the Village Engineer, this Board determines that the proposed access to Montebello Road would be safer than any access to Mile Road from proposed Lot 2. There is insufficient frontage for proposed Lot 2 along Mile Road. In addition, this portion of Mile Road is adjacent to a division of the southbound travel way into two turn lanes. The introduction of a driveway at this location will create an additional, unnecessary, conflict point.

3. This Board reaffirms its finding that, based upon studies previously conducted, there is a need for additional park and recreation land within the Village, that this need shall be increased as a result of the increase in population which will result from the proposed project, and that there is insufficient land available in the premises to be subdivided to warrant setting aside a portion thereof for parks or recreation, and therefore directs that money be paid to the Village in lieu of land in the amount set forth in the Village's Schedule of Fees.

4. Signature of the Chairman of the Rockland County Drainage Agency pursuant to the requirements of section 13-A of the Rockland County Stream Control Act (L. 1975, Ch. 846, as amended).

5. Applicant shall comply with conditions S-1 through S-16 of the Village Engineer's memorandum dated May 7, 2018.

6. In order to preserve views from Montebello Road and from properties to the North, the front setback on proposed Lot 3 shall be increased to 150 feet and the rear setback on proposed Lot 3 shall be increased to 220 feet. The Drawings shall be changed to reflect these setbacks.

7. Applicant shall maintain shade trees every 40 feet along the street frontages (Montebello Road and Mile Road) by a combination of existing and new trees, and shall replace any trees that are removed or that die as a result of construction activities. A note to this effect shall be added to the Drawings, as approved by the Village Engineer.

8. Landscape screening shall be installed to screen the view of any elevated deck to be constructed on proposed Lot 2 from Mile Road. A note to this effect shall be added to the Drawings, as approved by the Village Engineer.

MOTION: Member Thomas Ternquist

SECOND: Member Michael Iatropoulos

MEMBERS PRESENT:

Anthony Caridi, Chairman
Jane Burke, Vice Chair, Member
Michael Iatropoulos, Member
Thomas Ternquist, Member
Donald Wanamaker, Member
Stan Shipley, Ad Hoc

YEA or NAY

Yea
Yea
Yea
Yea
Yea
Yea

MEMBERS ABSENT:

None

Upon vote, the Resolution carried unanimously.

Stonehedge Heights Corporation – Public Hearing
Stonehedge Farm Subdivision
220 Spook Rock Road, Montebello, NY

Application of Stonehedge Heights Corporation, 130 East Route 59, Spring Valley, New York, for an informal discussion on the proposed residential subdivision “Stonehedge Farm.” The property, consisting of 11 lots on 16.68 acres, is located on the east side of Spook Rock Road approximately 500 feet south of Topaz Court in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 49.13, Block 1, Lot 13 in an ER-80 Zone (Rural Preservation Overlay District).

Present were the Applicant Marsel Amona, and his engineer, Stuart Strow of Brooker Engineering, and the Applicant’s attorney, Deborah Loewenberg. Mr. Strow stated that at the April Planning Board, the Consultants and the Board were not satisfied with the layout, particularly regarding the lot shapes and the road configuration. They therefore re-evaluated the RR-50 yield plan and re-examined the ideas as presented by Mr. Stach and reconfigured the entire project to a 12-lot subdivision, and all lots are now compliant with Village zoning laws and conform to bulk requirements in the RR-50 zone with no variances required.

Mr. Strow said that there will still be a net reduction in impervious surfaces, but not as much as in the earlier iteration of the subdivision because now there are two cul-de-sacs and an extra lot. Nonetheless, they are able to comply with all New York State DEC regulations on storm water runoff, he added. They would like to develop the engineering fully, he said, but would first like to hear the Board’s and consultants’ comments and opinions on this latest revision.

Mr. Emanuel cautioned the Board to be careful with the yield plan before proceeding because the Building Inspector has not yet reviewed this revision. The Notice of Intent was sent out on April 30, 2018, he noted, and the plans were sent out for review to all pertinent outside agencies. Mr. Caridi said the emphasis of this meeting should be the preferred layout, adding that he favors this latest particularly because it offers more privacy for all. Several Board members agreed.

Mr. Spence asked Mr. Strow about the side yard encroachments on Lot 6 and Lot 8. Mr. Strow said that he can either amend the request for a minor adjustment or adjust both lots. Mr. Spence said that there was a bulk table for each lot at [Mr. Marsel’s earlier project] Fant Farm, and that would be helpful here.

Member Burke said that the new plan shows the development coverage at 40%, where the old one showed 20%. Mr. Strow said that Village code allows for up to 40% development coverage in the RR-50 Zone. Member Burke said that under the current code the houses can be built larger than what is shown, which is concerning. Mr. Emanuel said this has been discussed before, both here and before the Village Board, and the Village Board has chosen not to act. The Board must follow and consider the law as it is, he added, and the Applicant is entitled to request what the law allows.

Mr. Stach summarized his memo dated May 7, 2018, noting that his comments are general at this time, but informed Mr. Strow that a new EAF Part 1 needs to be submitted now that the layout is changed.

Member Wanamaker asked about the use of the former site, whether or not there is a corral and how long it was a horse farm. Mr. Amona said that it was a horse farm for about two generations and consisted of an indoor riding area, stables and an outdoor corral. There were up to 60 horses on the farm, he added. Member Wanamaker said he was curious as to the condition of the site now due to the past use.

Stonehedge Farm Subdivision

Member Burke suggested a site visit so they could see the existing conditions, particularly on Lot 1, the site of the existing house, and pointed out that there is a second structure near the existing residence. Mr. Amona said that it is a house that [resident and owner of existing house] Mr. Scott Minetto rents to his caretaker. Member Burke asked how they will use it in the future. Mr. Strow said that it was part of Lot 1 and that the Code will allow it to remain as part of the “homestead” on an oversized lot as a secondary structure. Member Shipley asked if that secondary structure is a legal residence. Mr. Emanuel explained that the Board is concerned that there will be two dwellings on one lot. There are requirements and restrictions in the Code regarding two dwellings and the Board will need to deal with this issue as the project progresses. Village laws are quite clear that this is a single family zone, although some of the larger properties in the Village do have guest houses. If the Applicant does not want to maintain it as a guest house, there are other habitable uses such as a studio, but again, it is something to be dealt with eventually, he said.

The Board decided there would not be an organized site visit and that Members would instead arrange visits with Mr. Amona Individually.

Chairman Caridi opened the public hearing.

Mr. George Colon, 3 Topaz Court, Montebello, asked the size of the smallest and largest lots. Mr. Strow said the smallest is 26,000 square feet approximately and the largest of the new lots is Lot 12 with 143,000 square feet which includes the preservation area. Mr. Colon asked if Lot 1 is configured in the lot as a whole. Mr. Stach surmised that Mr. Colon was trying to figure out the specifics of the zoning and explained the Rural Preservation Overlay District. The District, he said, was established with the knowledge that this property and what is now Fant Farm would be developed to ensure that the homes would not be overly visible from the road while preserving certain historical and rural features. The entire area was rezoned to the RR80 zone, or rather, lots of a minimum of 80,000 square feet and so designated as the Rural Preservation Overlay District. This district allows developers to map out a subdivision according to the RR50 zone, lots at a minimum of 50,000 square feet, as if they were going to use every square foot of the land with no buffers he said. In order to preserve the 200 feet along the road, as dictated by the district, the Village allows the developer to push the development back and put the houses on smaller lots. Essentially, he continued, it is an exchange of rural road preservation for smaller lots.

Mr. Colon asserted that this concept was created only to sell more houses. Mr. Stach said this is a concept known statewide as average density or cluster subdivision. He then elaborated on the concept, adding that if a developer was to tear down the farmstead buildings on Lot 1, the result would be 12 homes on 50,000 square foot lots, and in order to achieve this Village’s goal of not seeing the homes from the road and preserving rural structures, the homes will be moved to the rear of the property and only taking up half the area. Mr. Colon said that all the Village is doing is accommodating certain interests, essentially downsizing for this particular accommodation.

Mr. Emanuel said that all properties around this and the Fant Farm properties are zoned RR-50. The Village changed it to RR-80 Rural Preservation Overlay District in order to entice developers to accept the preservation of the street scape. It was not an accommodation, it was an attempt from the Village Board, with assistance from this Board and the Rockland County Planning Department to maintain the look of Spook Rock in that area, he said. If you want to call it pandering, you are absolutely one hundred percent incorrect, he added. Mr. Colon said he does not accept the concept of building larger houses on smaller lots. Mr. Stach said that the Village was the one that asked for this zoning. Mr. Colon said that the Village acquiesced. The Board and the consultants told Mr. Colon that this is definitely not the case.

Stonehedge Farm Subdivision

Donna Colon, 3 Topaz Court, Montebello, asked for the definition of development coverage. Mr. Stach explained that the development coverage is the amount of land on which one could add impervious surfaces, such as driveways, homes, and patios. Mrs. Colon asked if that was what Member Burke asked about earlier. Member Burke said yes, and explained that the larger the property the less the development coverage. Mrs. Colon said that she is wary of this development because they came here for the open space and the solitude but here the homes are being grouped together more closely than would normally be allowed. She admitted that she preferred this layout, but asked the Board to consider a lower lot yield. She then asked if all the agency reviews were completed. Chairman Caridi said that this is the beginning of a very long review process and reiterated that the Board currently favors this new layout. The Village Board has established a zoning rule for this area to guarantee the rural look of Spook Rock Road, he said.

Mr. Colon said that he now understands that the Village is trying to preserve the look of the area, but said the notion of cutting down the lot sizes is disturbing to him.

Mr. Bob Bochicchio, 4 Topaz Court, Montebello, said he was pleased with the new plan and asked that the Board, on their site visit, look at the proximity of the development to his property line. Mr. Amona said that the nearest proposed house is further away from his property line in this revision. Mr. Bochicchio said he appreciated that and acknowledged that the new plan addresses some of his main issues.

Member Burke asked Mr. Strow and Mr. Amona if they ever planned out the development as an RR-80 zone hypothetically. Mr. Strow said they could get maybe 2 or 3 houses. Mr. Amona said that he is not even allowed to consider an RR-80 zone and is bound by this zoning rule.

Mrs. Colon asked why this can't be an RR-80 development. Chairman Caridi said the only way to appeal that is to go to the Village Board.

Mr. Bochicchio wanted to know what the landscaping plans are for the buffer between Topaz court and the development. Mr. Strow said there is no landscaping plan this early in the planning process. Mr. Bochicchio said that there are many old trees, some of which have fallen or are in danger of falling.

Mr. Stach said that the stone wall is missing from the Existing Conditions page of the plans. Mr. Strow said he will show it in the next submission.

Mr. Amona explained that they would like to go to the next CDRC to address engineering and drainage issues before returning to Planning Board and requested a one week extension to submit the revised plans. Mr. Spence said Monday, May 22nd would give them enough review time. Mr. Stach agreed.

Member Ternquist made a motion to adjourn the Public Hearing to the June 12, 2018 Planning Board meeting, seconded by Member Iatropoulos. Upon vote, the motion carried unanimously.

New Business:

Village Planner Jonathan Lockman presented his memorandum dated May 8, 2018 (copy on file) summarizing the discussion of the May 3rd workshop on code amendment recommendations to the Village Board for legislation of Environmental Protection Overlay Districts (EPODs) and Scenic and Historic Road Districts throughout the Village, in furtherance of the 2017 Village Comprehensive Plan recommendations. He noted that the red-line code amendments of same reflect the changes agreed upon at the workshop.

The Board briefly discussed new procedures for applications affected by the Scenic & Historic Road District, particularly with regards to the HPC, which will be charged with reviewing these applications and issuing Certificates of Appropriateness.

Member Ternquist made a motion to accept the recommendations to the Village Board for EPODs as drafted by the Village Planners, seconded by Member Iatropoulos. Upon vote, the motion carried unanimously.

Member Iatropoulos made a motion to accept the recommendations to the Village Board for the Scenic and Historic Road District as drafted by the Village Planners, seconded by Member Ternquist. Upon vote, the motion carried unanimously.

Member Iatropoulos made a motion to adjourn the meeting at 9:50 p.m., seconded by Member Ternquist. Upon vote, the motion carried unanimously.