

The Planning Board of the Village of Montebello held a meeting on Tuesday, July 10, 2018 at The Dr. Jeffrey Oppenheim Community Center, 350 Haverstraw Road, Montebello, New York. Chairman Anthony Caridi called the meeting to order at **7:15 p.m.** and led everyone in the Pledge of Allegiance.

PRESENT

Anthony Caridi, Chairman
Jane Burke, Vice Chairperson
Donald Wanamaker, Member
Stan Shipley, Ad Hoc

OTHERS

Max Stach, Village Planner
Jonathan Lockman, Village Planner
Martin Spence, Village Engineer
Regina Rivera, Planning/Zoning Clerk

ABSENT

Michael Iatropoulos, Member
Thomas Ternquist, Member
Ira Emanuel, Asst. Village Attorney

Member Shipley made a motion to approve the minutes of June 12, 2018, seconded by Member Burke. Upon vote, the motion carried unanimously.

Stonehedge Heights Corporation – Public Hearing, continued
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).

The applicant requested an adjournment to the August Planning Board meeting. Member Shipley made a motion to continue the public hearing and adjourn the application to the August 14, 2018 Planning Board meeting, seconded by Member Burke. 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.

Present were the Applicant, Loren Ware, his attorney Steven Silverberg, and his engineer Larry Torro of Civil Tec Engineering. Mr. Silverberg briefly summarized the application, noting that it received a Neg Dec in 2017 after plans were modified to address the concerns of the Board and Village Consultants. His letter of May 18, 2018 (copy on file) addresses the issues the Board has

with the size of the house on lot 3 due to the size of the Applicant's family and his religious customs and beliefs, he said. Mr. Stach, he continued, has issues with the Floor Area Ratio (FAR) on this lot, claiming that a home as large as this is not in character with the neighborhood. But it is in fact in line with other homes in the Village and compliant with Zoning, as is noted in the June 14, 2018 follow-up letter (copy on file), he said, adding that the proposed FAR is less than two other houses in the village, and roughly a third is attributed to the basement. This is interesting because in 2016 the Montebello ZBA granted a variance to 2 Golf Course Drive permitting the FAR to double, the basement being included in those calculations, he said. Mr. Stach additionally raised the issue of the amount of disturbance of the regulated wetlands, some of which will soon be under new regulations, he continued, noting that according to the drafted provisions the Applicant is allowed a 50% disturbance of vegetation in the Conservation and Environmental Protection Overlay Districts as set forth in the 2017 Comprehensive Plan, and this plan proposed 45%. Mr. Stach agreed that at subdivision time, 50% is the standard that needs to be met but in approving the subdivision, the Planning Board needs to be looking ahead to the post-approval building permit process on the subsequent lots that would require whatever covenants or building envelopes necessary for conformance.

Mr. Stach asked if they could provide a graphic showing the limits of disturbance. Mr. Torro said it is already there on sheet 4 of 7. Mr. Silverberg noted that he was interpreting the code differently than Mr. Stach in that the coverage allowance cannot be separated from the subdivision once approval is received, and suggested that an off-line conversation regarding interpreting the code should take place with [Village Attorney] Mr. Emanuel. Mr. Stach agreed and said that the intent of the provision is clear even if the way it is drafted is not.

Mr. Silverberg then stated that, according to his aforementioned letter, the Applicant is not required to provide a right-of-way to serve the public that is irrelevant to the subdivision. Also, he continued, Mr. Ware's religious beliefs would be violated as such, which raises issues with RLUIPA. Nonetheless, he continued, the size of the house on Lot 3 and the issue of the right-of-way need to be decided so the Applicant can proceed and submit for a final subdivision approval.

Chairman Caridi, noting that this application has been before the Board for nearly three years and that it has been adjourned for several months before today, requested a Planning Board workshop to discuss past and ongoing issues with this subdivision. All agreed and Mr. Stach said that he would have a conversation with Mr. Emanuel prior to the workshop in preparation. The workshop was scheduled for July 18, 2018 at 4:00 p.m. at the Village Hall.

Mr. Stach briefly summarized his memo dated July 10, 2018 (copy on file), and stated that most of the items in his review have not changed, that there are improvements needed and that the main issues are the buffer of the wetlands and trees between the lots, the size of the proposed homes, and the easements for the continuation of the cul-de-sac.

Mr. Spence summarized his memo dated July 9, 2018 (copy on file), noting that the driveway on Lot 3 is not reflected as a variance on the plans. Mr. Silverberg said that is because it's not necessary due to Average Density. Mr. Stach said that driveways are allowed in the side yard but parking is not. Mr. Spence said that he thought any hardscape in the side yard is not permitted. He then said that they should have a discussion on the wetlands at the workshop.

Ware Subdivision

Chairman Caridi opened the public hearing. No one wishing to speak, he instructed Mr. Spence to have a conversation with the Applicant's engineer prior to the workshop. Mr. Silverberg asked whether or not they should return to CDRC before the next meeting. Mr. Stach said he would defer to Mr. Spence but offered that the applicant's workshop attendance may help. Mr. Spence said the engineering comments can be discussed off-line and CDRC attendance is not necessary.

Member Shipley made a motion to continue the Public Hearing and to adjourn the application to the August 14, 2018 Planning Board Meeting, seconded by Member Burke. Upon vote, the motion carried unanimously.

Sisters of Life—Public Hearing
Conversion of Pool House and Garage to Living and Work Space
38 Montebello Road, Montebello, NY

Application of The Sisters of Life proposing the conversion of the existing un-used pool house to a convent for 12 sisters, and the renovations of the existing garage for use as office space for the sisters. The property is situated on the south side of Montebello Road, approximately 700 feet west of Mile Road in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 48.19, Block 1, Lot 41 in the LO-C Zone.

Present was the Applicant on behalf of the Sisters of Life, Julia Khomut of DCAK-MSA, along with Drazen Cackovic, Principal Architect of DCAK-MSA, and Jason Schultz, Project Engineer for Savik & Murray. Also present were Mother Agnes and Sister Mary Karen of the Sisters of Life.

Ms. Khomut explained that this project mainly entails the renovation of two existing structures. The garage, which is currently used for storage, will be turned into office space and the pool house, which has been unused for over 40 years, will be turned into living space for 12 sisters. The project is limited to the area of the buildings and will not be visible from the street thereby maintaining the character of the road along the front of the parcel, she said. The project also consists of improving the access road to the convent, hooking up to the municipal sewer line and decommissioning the septic system, and correcting the drainage issues at the front of the property. Mr. Schultz said that regarding the drainage at the road, there will be re-grading and a bio swale that will direct storm water to the creek and away from the road.

Mr. Schultz said that additionally, a fire hydrant will be added near the pool house, and the existing unused pool will be removed and that area will be converted into parking with small additions to the radius of the driveway to allow fire truck access. Regarding the access road, Mr. Schultz said they are proposing a 16-foot wide road with a three-foot shoulder of crushed stone on either side as per the Fire Department's advice. Mr. Spence asked if the 16 feet is hardscape. Ms. Khomut said yes, adding that with the shoulder, the road will measure 22 feet across and which is subject to Tallman Fire Department approval.

Ms. Khomut then stated that they will make some adjustments to the overhead power lines by moving two poles further away from the garage. Member Burke asked if the lines could be buried. Ms. Khomut said that burying the lines would be too costly. Member Burke asked if any of the wiring is deteriorating and in need of replacement. Ms. Khomut said not at all, and assured Member Burke that they are being moved because they were simply too close to the garage.

Chairman Caridi asked about various agency reviews, particularly those of the Tallman Fire Department dated June 26 and June 28, 2018 (copies on file). Ms. Khomut said the Fire Department required them to update the pressure circulators, which was done and verified in the PRV and Fire Flow Testing report issued by the Tallman Fire Department dated July 10, 2018.

Chairman Caridi asked why, other than the fact that there is change in use, this application needs to come before the Planning Board. Mr. Stach said that any non-residential expansion requires site plan approval. Mr. Spence said that not only are they expanding, they are adding parking and reconstructing an access road. Chairman Caridi noted that this is mostly engineering and asked again why they need site plan approval. Ms. Khomut said that was a good point and asked if perhaps the Board would grant a conditional site plan approval this evening. Mr. Stach said it must go through the

site plan approval process, and noted that he was in error when he said this would be a Type II action under SEQR. He said his original assumption was that the pool house was already a two-story building. The additional second floor will cause the expansion to exceed the 4000 square foot threshold and would therefore be considered an unlisted action under SEQR, he explained.

While Mr. Stach further researched the issue, Mr. Spence summarized his memo dated July 10, 2018 (copy on file). He asked that the engineer show the breakdown of coverages to illustrate the amount of additional impervious surface being added. He then asked Mr. Schultz how they will mitigate extra runoff. Mr. Schultz said that there will be a rain garden and that he was preparing a SWPP and a summary report on drainage design with a few areas of additional storage. Ms. Khomut said there will be a swale that will take the runoff into the watercourse west of the driveway. Mr. Spence asked that the applicant provide a statement in narrative form responding to engineering items and to report on all updates made to date, for example, the water pressure.

Mr. Stach brought the discussion back to whether or not there should be a SEQR review and asked the Applicant to walk the Board through their project. Mother Agnes explained that the main convent houses many young Sisters in training for up to two years. In addition to the main house, there are 13 Sisters dedicated to the administration of the community which is comprised of seven convents in the New York metropolitan area, Denver, Toronto, Philadelphia and Washing DC. This convent is the Mother House and serves as the center of all administration for the community, she said. At the moment, the Sisters are working in the basement which was originally designed as a study hall for the novices, and the garage is not being used at all except for storage. The pool house conversion will provide more room for respite for the Sisters, particularly when they return from doing work throughout the community, she said, adding that it will also serve as lodging for visiting counselors and superiors.

Mr. Stach clarified that the garage is currently one story and that the pool house is one story with a walk out basement. Ms. Khomut confirmed and said they are proposing a second floor to the garage as well as to the pool house. The pool house will have 12 small bedrooms, a dining area, kitchen and living room, she explained. Mr. Stach clarified that if this were a non-residential expansion they would not have to do an environmental review, but residential expansions are not exempt. He then advised that the Board can declare lead agency now and the Notice of Intent can be sent out the next day. After some discussion regarding a coordinated versus an uncoordinated SEQR review, the Board decided on a coordinated review.

Member Shipley made a motion to declare the Planning Board lead agency, seconded by Member Wanamaker. Upon vote, the motion carried unanimously.

Chairman Caridi opened the public hearing.

No one wishing to speak, Member Burke made a motion to continue the public hearing and to adjourn the application to the August 14, 2018 Planning Board meeting, seconded by Member Wanamaker. Upon vote, the motion carried unanimously.

New Business:

Discussion regarding the Planning Board's recommendation to the Village Board of Trustees the zoning code amendments adopting public gathering uses, special permit procedures, standards & definitions, as per Village Board Resolution 18-178 and as set forth in the 2017 Comprehensive Plan

Chairman Caridi congratulated Mr. Stach and the whole team for drafting a thorough and well-thought-out proposal. Mr. Stach said it was the culmination of two months of work and collaboration with the Village's special counsel Jodi Cross of Zarin & Steinmetz, Assistant Village Attorney Mr. Emanuel and Village Attorney Warren Berbit, as well as workshops with the Village Board of Trustees during which every single provision was examined. The goal, he said, is to revamp the way places of worship and schools are regulated in the Village, both of which currently must have a minimum lot size of five acres, a stipulation which would probably not survive any kind of challenge. The new proposal regulates public gathering places of any type on both the neighborhood and community level. The latter still requires five acres, but any regularly scheduled public gathering for any reason in a residential neighborhood, specifically in a home, is allowed on three acres with limited use. For example, he said, in most nearby municipalities, if someone wants to have religious services in their home, no permit is necessary. Our special counsel advised that RLUIPA doesn't allow special regulation for places of worship over any other type of place of assembly, so this proposal defines a "residential gathering place", as a place where 15 to 49 people regularly gather at least 12 times per year. These are the conditions that will require a special permit for a gathering. The threshold of 49 people was taken from New York State Building Code, he explained. Mr. Stach then stated that these measures are defensible and regulate gathering spaces to the level that is appropriate for the Village of Montebello.

Chairman Caridi asked if there is a limit to the size of the home in which the gatherings take place. Mr. Stach explained that the maximum is 2,000 square feet or 50% of the gross floor area of the one-family attached residence, whichever is less. For example, if a home is 5,000 square feet, then 2,000 square feet is allowed for public assembly of up to 49 people.

Chairman Caridi asked if those applying for the public gathering special permit must demonstrate that they meet all fire safety requirements. Mr. Stach said that it is absolutely required if they apply for a special permit. Chairman Caridi then asked if the building code requires sprinklers. Mr. Lockman said if there are 50 people or more, they will need sprinklers. Member Shipley asked about required exits. Mr. Stach said that is a building code issue and is the purview of the Building Inspector. Chairman Caridi asked if these code amendments pose any enforcement issues. Mr. Stach said that there are enforcement issues that could arise without these measures. Member Wanamaker asked if this applies to pool parties. Mr. Stach said that if more than 15 people gather for a pool party more than 12 times per year, it would apply. Member Burke asked how taxes will be affected by a neighborhood place of worship. Mr. Lockman said that taxes have nothing to do with special permits, are not the Planning Board's jurisdiction, and should not be one of the criteria for Planning Board review.

Member Burke expressed concern about allowing schools and places of worship on just three acres in residential neighborhoods. Mr. Stach said that right now, any school or church needs at least ten acres, but counsel opined this is something that will not withstand a challenge and that schools and places of worship alike have been deemed to be beneficial and appropriate to residential areas. After exhaustive research, he explained, the precise amount of building area, parking, outdoor recreation and buffer between neighbors needed has been calculated and it has been determined that 120,000 square feet is the minimum acceptable area needed to accommodate a 100-student school. There is

a sliding scale to accommodate additional students that was modeled on Viola Elementary School, he continued; an additional 50,000 square feet is required for every 50 additional students.

Chairman Caridi reminded everyone that the Village Board will open a Public Hearing on this issue at their next Board of Trustees meeting and suggested that if this Board would like to discuss this proposal further, it could be added to the July 18th workshop agenda. The Board agreed.

Member Shipley made a motion to adjourn the meeting at 9:35 p.m., seconded by Member Wanamaker. Upon vote, the motion carried unanimously.