

The Planning Board of the Village of Montebello held a meeting on Tuesday, September 4, 2018 at The Dr. Jeffrey Oppenheim Community Center, 350 Haverstraw Road, Montebello, New York. Chairman Anthony Caridi called the meeting to order at **7:18 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
Elizabeth Cassidy, Asst. Village Attorney
Max Stach, Village Planner (VP)
Jonathan Lockman, Associate VP
Bryan Rose, Associate Village Engineer
Regina Rivera, Planning/Zoning Clerk

ABSENT

Martin Spence, Village Engineer

Member Iatropoulos made a motion to approve the Planning Board minutes August 14, 2018, seconded by Member Wanamaker. 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 Mr. Loren Ware, his attorney Mr. Steve Silverberg and Rachel Barese, his engineer. Mr. Silverberg said that any outstanding items have been addressed at this point, including all issues raised at the [July 18th] workshop, and that he and his client were hoping for a Resolution this evening. Ms. Barese said the Workshop brought to light two compliance issues with the house on Lot 3 which have been corrected. The house is now 50 feet from the wetlands and the driveway is 25 feet from the lot line. Further, as was suggested at the workshop, the landscaping was adjusted and made more robust and now includes plantings along the edge of the wetlands and between lots, she said.

Associate Village Engineer Bryan Rose summarized Martin Spence's memo dated September 3, 2018 (copy on file) explaining that there are only minor comments that can easily be addressed. Village Planner Max Stach said that his comments are also minor (M. Stach September 4, 2018 memo on file), noting that the narrative in support of the wetlands permit application he requested was submitted by Ms. Barese earlier that day along with the calculations for the areas of disturbance in the aquifer protection area. As Ms. Barese noted, he continued, they revised the landscaping plan to reflect more trees and plantings, and now the only remaining issue is the note on the plans regarding the cairns, which seemed vague and should be shown clearly on the map prior to signature. Every other concern has been addressed, he said.

Mr. Emanuel asked Mr. Stach if the latest narrative was sufficient. Mr. Stach said it was and that it provided enough information to allow the Board to make a determination. Mr. Rose agreed.

Member Burke asked why the building envelope on Lot 3 was so large. Ms. Barese said that the envelope is based on the setbacks of the lot, even though technically the house will not be that large. The setbacks reflect the lot coverage, and that's what this Board is reviewing right now, not the size of the house, she added. Mr. Emanuel noted that the setbacks of the lot reflect the development coverage and that there is a conservation easement. He then asked Ms. Barese if she could snap the envelope to take the easement into consideration. Ms. Barese said she would.

Mr. Stach said the 100-foot wetlands buffer is shown on page three and if they wanted to change anything within that buffer they would have to come back to the Planning Board. In a way, he said, that is part of the building envelope. Member Burke said that she was concerned that the map could be misleading. Mr. Emanuel said that there was enough information on these maps that a Building Inspector will understand. Member Burke said that she recalled past applications with similar lots with similar dimensions but with much smaller building envelopes. Mr. Emanuel reasoned that the conservation easement is well laid-out and well-defined and is much more binding than a building envelope.

Mr. Emanuel asked if anyone had any issues with the trees at the easement line and in the cul-de-sac. The Board was satisfied with what was put forth.

Chairman Caridi opened the public hearing.

No one wishing to speak, Member Iatropoulos made a motion to close the public hearing, seconded by Member Ternquist. Upon vote, the motion carried unanimously.

Mr. Emanuel read the draft resolution into the record.

Member Iatropoulos made a motion to approve the resolution, seconded by member Ternquist. Upon vote, the motion carried unanimously.

RESOLUTION PB- 05 OF 2018
Granting Approval of a Subdivision Entitled
"Ware"

WHEREAS, an application has been made by Loren Ware for final approval of a subdivision plat entitled "Ware" dated February 9, 2016, last revised August 6, 2018, affecting premises designated as Section 40.20, Block 1, Lot 5 on the Tax Map of the Town of Ramapo; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, a negative declaration was issued by this Board on October 10, 2017; and

WHEREAS, the applicant has sought review of the proposed subdivision as a cluster subdivision pursuant to Village Law section 7-738, the Density Zoning Resolution of the Board of Trustees (No. 88-16), and section 195-15.A of the Montebello Code; and

WHEREAS, the Board of Trustees granted authority to this Board to consider this subdivision as a cluster subdivision by its Resolution No. 17-002, with the condition that this Board "should be especially attentive to protecting the wetlands"; and

WHEREAS, this Board has reviewed a proposed "standard" layout of the subdivision, which layout conformed to the requirements of the Zoning Code, and determined that the maximum number of lots that could be created is three; and

WHEREAS, this Board has reviewed proposed layouts using clustering techniques and determined that clustering would be more effective at preserving and protecting the freshwater wetlands that exist within the eastern portions of the site than would the standard conforming layout by minimizing intrusions into the wetlands and placing new structures farther from the wetlands while still affording the applicant three lots; and

WHEREAS, pursuant to section 191-10 of the Montebello Code, relating to protection of streams and wetlands, a separate permit is not required in connection with a site development plan or subdivision plan that provides the protections required under chapter 191; and

WHEREAS, in a memorandum dated April 9, 2018, the Rockland County Planning Department recommended modifications to the proposed final plat; and

WHEREAS, a public hearing was held on May 10, 2016, December 13, 2016, April 4, 2017, July 12, 2017, October 10, 2017, July 10, 2018, and September 4, 2018; and

WHEREAS, as a result of the reviews conducted to date, this Board has determined that separate approvals for preliminary and final subdivision are not needed, and that this application may therefore proceed directly to final subdivision approval.

NOW, THEREFORE, be it

RESOLVED, that the plat entitled "Ware" dated February 9, 2016, last revised August 6, 2018, consisting of seven sheets prepared by Civil Tec Engineering & Surveying, P.C., affecting premises designated as Section 40.20, Block 1, Lot 5 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 April 9, 2018.
2. All conditions of letters/memoranda from the following agencies:
 - Rockland County Sewer District No. 1 dated 6/27/2018
 - Rockland County Health Department dated 7/3/2018
 - Town of Ramapo Department of Public Works dated 10/30/2017
 - Tallman Fire District dated 9/6/2017
 - New York State Department of Environmental Conservation dated 4/29/2016
 - Rockland County Drainage Agency dated 4/12/2016
 - United States Army Corps of Engineers dated 3/6/2018
3. Pursuant to petition by the applicant, approval by the Board of Trustees to abandon portions of Wilbur Road as shown on the project drawings described above.

4. Applicant shall comply with any outstanding comments contained in the memorandum of Village Engineer Martin K. Spence, P.E., dated September 3, 2018.

5. This Board finds 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.

6. This Board finds that, although there is a small intrusion into the wetlands that exist on the site, the use of clustering minimizes the impact on the wetlands by removing all construction from the wetlands area except for that needed to lay a sanitary sewer connection, and there is adequate separation from the wetlands for all other construction activities.

Specifically, pursuant to section 191-7.B, this Board finds:

- a. The environmental impact of the proposed action is minimal, as all work will be underground, the disturbed wetlands will be replaced, and over 5,700 s.f. of new wetland area is to be created.
- b. There are no reasonable alternatives to the action. If the sanitary sewer was not extended, then the homes would need to be serviced by septic systems or by force sewer main, which would have greater adverse environmental impact.
- c. The sanitary sewer will be underground and the commitment of resources is minimal.
- d. The sanitary sewer is necessary to the proposed residential use. Its location is the least intrusive to the wetlands.
- e. The proposed single-family residences are consistent with development in the area and their placement is respectful of the wetlands. The proposed activity is appropriate for the area. Structures and disturbances are placed away from wetland areas.
- f. The proposed activity adequately protects the existing wetlands by separating most construction activity from the wetlands. In addition, more than 5,700 s.f. of new wetland area is to be created. Last, the wetland area is to be placed in a conservation easement.
- g. This Board has explored alternative locations for construction activity and placement of structures and infrastructure. We find that the proposed plan provides the maximum protection of the wetlands while allowing reasonable development of the parcel.
- h. Appropriate mitigation measures have been incorporated into the plan, including the creation of more than 5,700 s.f. of new wetland area and the imposition of a conservation easement over the wetland areas.
- i. There is an appropriate balance of the property owner's desire to develop three residential lots and the need to protect the wetland area.

7. The following requirements from the Subdivision Regulations are hereby waived:

- a. § 165-25(1) – removal of trees from side yard – applicant may remove trees from the required side yard, but only to the extent shown on the approved plat;
- b. § 165-23 (1) – paved street width may be 24 feet instead of 30 feet as required; paved turnaround diameter may be 96 feet instead of 100 feet as required;
- c. The applicant may post security instead of installing improvements prior to signing of the plat.
- d. The requirement for street lighting is waived – applicant need not provide street lighting.

8. 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).

9. All other applicable requirements of the subdivision regulations of the Village of Montebello.

MOTION: Member Michael Iatropoulos

SECOND: Member Thomas Ternquist

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.

**McDonalds/SWA Architects
Sign and Drive-Thru updates [Amended Site Plan]
1 Indian Rock Plaza, Montebello, NY**

Present was Steve Wygoda, Principal/Architect for SWA Architects. Mr. Wygoda stated that the Architect working on this proposal, Sergio Ali, was unable to attend this evening due to an urgent family matter and explained that this was very last minute and that he did not have materials to present to the Board.

Mr. Stach said they could begin by going through his memo dated September 4, 2018 (copy on file) and said that first and foremost, this application would very much benefit from a comprehensive narrative explaining the scope of the work. It's difficult to tell what is going on based on just the map, he said, and he asked Mr. Wygoda to walk the Board through the changes. Chairman Caridi offered that it might be better if the applicant would use Mr. Stach's memo as a guide for the next submission. Everyone agreed.

Mr. Stach advised Mr. Wygoda to explain concisely and clearly all the changes proposed in his next narrative and asked him to clearly label and include exact dimensions on any plans, drawings or photos so consultants and Board Members know what they are looking at. There is nothing alarming in anything submitted, he continued, but there are many unanswered questions, particularly about the browse boards.

Mr. Stach asked if the browse boards were LCD TVs and not something merely digital and backlit. Mr. Wygoda said they are digital displays. Mr. Stach said that these may be considered "flashing signs" which are defined in the Village Code as "... any sign or device on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use, except to

show time and temperature. Signs with a sequence of messages of short duration shall be considered to be “flashing signs.” If these signs flash change at all, he continued, the building inspector must make a determination of the “short duration” as per the code. If McDonalds wants something that does not agree with his determination, they can ask the Board to waive that determination, he said.

Mr. Lockman asked if the roof color would remain unchanged. Mr. Wygoda said that though the roof will be replaced, the color will match the existing green, adding that he will provide color samples. Mr. Lockman asked if the white perpendicular bars on the mansard roof will be removed. Mr. Wygoda confirmed they will be removed. Mr. Lockman noted that the roof will then match the rest of the shopping plaza which will please this Board.

Mr. Stach said that, per his memo, he recommends this as a Type II action under SEQRA, but noted there are two items that were not addressed in his memo. The first, that this application requires Architectural Review Board (ARB) approval, and the second that the plantings by the drive-thru should be replaced, especially since the arborvitae have been denuded by deer or blight.

Member Burke asked whether there were any proposed changes to the store-front or the glass, and whether the front door will remain in the same spot. Mr. Wygoda said they are leaving the storefront, door and glass as is.

Mr. Wygoda said that this proposal is part of McDonalds plan to modernize all 16,000 stores across the country and that his firm will submit a full narrative along with a proposal for the flashing signs and will adhere to any determination made by the Building Inspector.

Assistant Village Attorney Elizabeth Cassidy said that there were several blanks on the application to be filled in so the record is complete. Further, she said, due to its proximity to State Route 59, this application needs to go to Rockland County Planning Department and the New York State DOT for review, and to the Town of Ramapo as well because the municipal boundary is just across the street.

Chairman Caridi suggested the application go to CDRC before returning to Planning Board. Mr. Stach agreed and advised the applicant to attend the September 25th CDRC prior to their next Planning Board appearance.

Member Burke asked if the new signs are internally lit and whether the lighting will be similar to what is there now. Mr. Wygoda said they are internally-lit LEDs, which will save money. Member Burke said she would like more information on the brightness of the signs. Mr. Wygoda said he would include all lighting information in the narrative and will also provide photos of other renovated McDonalds so the Board has a better sense of the proposed changes.

Chairman Caridi said that this meeting should adjourn to the next Planning Board meeting and noted that this is not a public hearing. Member Iatropoulos made a motion to adjourn the application to the October 9, 2018 Planning Board meeting, seconded by member Ternquist. Upon vote, the motion carried unanimously.

**Jersey Realty Management Properties, LLC—Public Hearing
Parking Lot Expansion
49 N. Airmont Road, Montebello, NY**

Application of Aaron Berger of Jersey Realty Management Properties, LLC, PO Box 415, Monsey, New York 10952. The Applicant is proposing a parking lot expansion for the existing

office building at 49 N. Airmont Road to accommodate overflow parking. The property is situated on the south side of N. Airmont Road, approximately 1000 feet east of Rella Boulevard in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 55.08, Block 1, Lot 4 in the LO-C Zone.

Mr. David Zigler, the applicant's engineer, was in attendance. Mr. Zigler said that he revised the plans based on comments from the Rockland County Highway Department and feedback from Village Consultants at CDRC. The differences are slight, he said, but they alter what was previously proposed. The grasscrete was removed and replaced with 2 new parking spaces and a turnaround area and an 11 additional parking spaces were added to the right center of the building. These changes to the existing variances in the side yard and buffer necessitate three variances, he said.

Mr. Zigler noted that though the changes are slight from the last submission, particularly with regards to the landscaping and lighting, there are still many details that need to be worked out. Mr. Rose asked if the impervious area will be increased. Mr. Zigler said it will and that drainage will be increased as well.

Mr. Stach said the majority of his comments in his memo dated July 24, 2018 from CDRC (copy on file) deal with trying to determine what's pre-existing non-conforming, and what requires new variances. Mr. Stach suggested that Mr. Zigler should get variances for all non-conformance issues, which would convey more rights than the existing non-conformances, thereby making this property a real conforming use. Other than the variance issues, he continued, there's not much more to discuss here this evening.

Member Iatropoulos said he was very concerned about the entrance to the parking lot in that the curb cut is exactly where North Airmont Road narrows down to two lanes. Drivers are often disobedient and make left turns out of the driveway even though left turns are prohibited, which is a real safety concern, he said. Mr. Zigler said this issue was discussed at CDRC and that the higher curb cuts and the angled island at the entrance will prevent cars from illegally turning left onto North Airmont Road.

Chairman Caridi asked if the application should just go to the Zoning Board at this point. Mr. Stach said there is still some confusion as to the number of variances to request and with what is non-conforming. The Planning Board members and consultants must agree on the variances before a Zoning Board appearance, he added. Mr. Zigler said he will detail the variances in the revised plans to be submitted to this Board.

Ms. Cassidy noted that if [the applicant's attorney] Mr. Lynch doesn't believe his client needs variances, he could appeal that to the ZBA.

Chairman Caridi opened the public hearing.

No one wishing to speak, Member Iatropoulos made a motion to adjourn the meeting and the public hearing to the November 13, 2018 Planning Board meeting, seconded by Member Ternquist. 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 October Planning Board meeting. Member Iatropoulos made a motion to continue the public hearing and adjourn the application to the October 9, 2018 Planning Board meeting, seconded by Member Ternquist. Upon vote, the motion carried unanimously.

**Sander Gerber – Public Hearing
Addition of a Circular Driveway, Tennis Court
556 & 558 Haverstraw Road, Montebello, NY**

Application of Sander Gerber, 558 Haverstraw Road, Montebello, New York. The Applicant owns both properties and as such is proposing the installation of a circular driveway connecting both residences and the construction of a tennis court. The properties are located at 556 and 558 Haverstraw Road, on the west side of Haverstraw Road, approximately 0 feet north of Coe Farm Road in the Village of Montebello and designated on the Ramapo Tax Map as Section 40.19, Block 1, Lots 34 and 33 respectively in the RR-50 Zone.

The applicant requested an adjournment to the November Planning Board meeting. Member Iatropoulos made a motion to continue the public hearing and adjourn the application to the November 13, 2018 Planning Board meeting, seconded by Member Ternquist. Upon vote, the motion carried unanimously.

New Business:

Member Iatropoulos made a motion to adjourn the meeting at 8:17 p.m., seconded by member Ternquist. Upon vote, the motion carried unanimously.