

The Planning Board of the Village of Montebello held a meeting on Tuesday, March 12, 2019 at Village Hall, One Montebello Road, Montebello, New York. Chairman Caridi called the meeting to order at **7:18 p.m.** and led everyone in the Pledge of Allegiance.

PRESENT

Anthony Caridi, Chairman
Thomas Ternquist, Member
Stan Shipley, Ad Hoc Member
Don Wanamaker, Member

OTHERS

Alyse Terhune, Asst. Village Attorney
Jonathan Lockman, Village Planner
Martin Spence, Village Engineer
Regina Rivera, Planning/Zoning Clerk

ABSENT

Max Stach
Jane Burke, Member, Vice Chairperson
Michael Iatropoulos, Member

Member Ternquist made a motion to approve the Planning Board Minutes of January 8, 2019, seconded by Member Wanamaker. Upon vote, the motion carried unanimously.

**Howard Hellman/84 Viola Road, LLC—Public Hearing
House of Worship, 84 Viola Road, Montebello, NY**

Application of 84 Viola Road, LLC, c/o Howard Hellman, 100 Snake Hill Road, West Nyack, New York, 10994 for approval of a Site Plan entitled “84 Viola Road, LLC” proposing the construction of a house of worship.

The applicant requested an adjournment to the April meeting. Member Ternquist made a motion to adjourn the public hearing and the application to the April 9, 2019 Planning Board meeting, seconded by Member Shipley. Upon vote, the motion carried unanimously. Chairman Caridi noted that applicant will re-notice the application before coming before the Planning Board.

**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.

The Clerk noted that this applicant is appearing before the March 21, 2019 Zoning Board of Appeals for several variances before returning to the Planning Board and said that they will re-notice their next appearance. Member Ternquist made a motion to adjourn the public hearing and the application to the April 9, 2019 Planning Board meeting, seconded by Member Shipley. Upon vote, the motion carried unanimously.

**Manhattan Beer Distributors, c/o Andrew Berger AIA—Public Hearing
20 Dunnigan Drive, Montebello, NY**

Application of Manhattan Beer, 20 Dunnigan Drive, Montebello, New York. Applicant proposes the relocation of the railroad track at the south property line and the construction of a loading deck and canopy. The property is located on the north side of Dunnigan Drive, approximately 1200 feet west of the intersection of Airmont Road in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 55.07, Block 1, Lot 12 in a PI Zone.

Chairman Caridi noted that the applicant received requested variances from the Zoning Board of Appeals. Member Ternquist made a motion to adjourn the public hearing and the application to the April 9, 2019 Planning Board meeting, seconded by Member Shipley. Upon vote, the motion carried unanimously.

**Irvine Subdivision
77 Mile Road, Montebello, NY**

The applicant is requesting a second 90-day extension of the preliminary approval that was granted on May 8, 2018 and extended on November 13, 2019. The extended application expiration date is February 12, 2019.

Member Ternquist made a motion to grant the preliminary approval extension, seconded by Member Shipley. Upon vote, the motion carried unanimously.

**Ware Subdivision
10 Wilbur Road, Montebello, NY**

The applicant is requesting a 90-day extension of the preliminary approval that was granted on September 4, 2018. The application's current expiration date is March 3, 2019.

Member Ternquist made a motion to grant the preliminary approval extension, seconded by Member Shipley. Upon vote, the motion carried unanimously.

**The Sentinel of Rockland County – Public Hearing continued
Assisted Living Facility
200 Rella Boulevard, Montebello, NY**

Application of The Sentinel of Rockland for approval of a site plan entitled "The Sentinel of Rockland," a 200-bed assisted living facility. The property is located at 200 Rella Boulevard on the south side of Rella Boulevard, ?? feet east of North Airmont Road in the Village of Montebello and designated on the Ramapo Tax Map as Section 55.08, Block 1, Lot 9, in the LO-C Zone.

The Sentinel Assisted Living Facility

Present were the applicant Eric Newhouse, his attorney Amy Mele, and his engineer Zach Kamm of Civil Design Works. Ms. Mele reminded the Board that this application was given a Neg Dec under SEQR and said that she hoped the Board would grant a preliminary approval and Special Permit at this meeting. There remain some minor issues, she continued, such as the covenant to add a sidewalk if Rockland County Department of Public Transportation decide to put a bus stop on Rella Boulevard, as discussed at previous Planning Board meetings. Visual and drainage analyses were performed and most of the engineering details have been worked out, she continued, stating that this use is low-intensity in terms of traffic and community impact and that they were hoping for approvals at this meeting. Mr. Kamm agreed that technically, there were not many changes or issues, noting that a recent memo from the Village Engineer said as much.

Mr. Spence summarized that memo dated February 8, 2019 (copy on file) and said that after several meetings with applicant's engineers, he determined that all significant items have been resolved and the SWPP is acceptable.

Mr. Lockman summarized his memo dated January 23, 2019 (copy on file) and said that a note is to be added to the plans about the sidewalk covenant and that the resolution should reference that note and this memo. There are no other major planning issues to resolve, he added.

Chairman Caridi said that the suggestions outlined in the letter from the Tallman Fire Department dated February 25, 2019 (copy on file) should also be referenced in the resolution. He then opened the public hearing. No one wishing to speak, Member Ternquist made a motion to close the public hearing, seconded by Member Wanamaker. Upon vote, the motion carried unanimously.

Ms. Terhune summarized her draft resolution and stated that language will be added to the resolution that will reflect all that was discussed here, particularly the sidewalk covenant and declaration.

Member Ternquist made a motion to grant a Special Permit and Site Plan approval, seconded by Member Shipley. Upon vote, the motion carried unanimously.

Sander Gerber – Public Hearing continued
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.

Present were the applicant's attorney Amy Mele, his engineer Zach Kamm of Civil Designs Works, LLC, his Landscaping Architect Michael Virgona of Kelly Varnell Virgona Inc., and his Project Manager Edward Silvestri.

Ms. Mele summarized the application to date, noting that it received all requested variances from the Zoning Board of Appeals as well as a Certificate of Appropriateness from the Historic Preservation Commission, and that they are asking this Board for one GML override having to do with pervious pavers. Installing such pavers would not decrease the lot coverage calculations under village code and would over time become pervious without maintenance, she said, and added that the Zoning Board granted that override. Mr. Gerber would like to see his family play tennis this summer and so we are hoping to receive approvals tonight, she said. Mr. Kamm said that he went over any outstanding issues with the village engineer and that he will be submitting plans and a SWPP to the Rockland County Drainage Agency that will comply with all their comments.

Mr. Spence said he issued an updated review dated March 3, 2019 (copy on file) which was based on plans last revised on February 15, 2019, noting that the property is subject to Rockland County Drainage Agency review due to the proximity to the Mahwah River, and that a permit must be obtained from that agency prior to any construction. The biggest change to plans was that lighting was removed from tennis courts and none are shown in the plans, he said. Mr. Spence said his office takes no issue with the proposed override of item #9 of Rockland County Planning's GML review dated December 6, 2018 as pervious pavers require high maintenance to keep the cores clean, and there will be no oversight by this municipality to ensure their integrity over time.

Regarding any drainage issues, Mr. Spence said the applicant is providing adequate drainage that will vastly improve the existing conditions by channeling sheet flow into subsurface detentions and discharging it into the river. The applicant should perform test pits at the drainage areas prior to construction to confirm there is good drainage, he added. He then noted several issues with the landscaping/planting plan, particularly with the proposed plantings in the flood plain of the rear property where no disturbance should occur, and with the many inconsistencies between the landscaping and the site plan.

Mr. Lockman agreed with that last assessment in his memo dated March 11, 2019 (copy on file) and explained that the landscaping plan was done on a different base, that the trees to be removed are not identified, there was no differentiation made between new and existing plantings and

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suggest that there should be a legend on the landscape plan. He then pointed out that the proposed pool house is in the Wetlands Environmental Protection Overlay District (WEPOD) yet there is nothing in the narrative to explain the reason for the location or plans to move it. Such justifications are required in the wetland standards, he said, adding that the applicant should address how each wetland criteria can be met rather than just stating that they are applying for a Stream and Wetlands Protection Permit. Mr. Kamm said that they do not plan on building it at this time and that it is there for future consideration.

Mr. Lockman noted that the landscaping plans show a path along the Mahwah River in the rear lot that was not shown as an existing condition and asked for an explanation. Mr. Virgona said the path along the river is merely conception and will be removed from the plans. Mr. Lockman also noted in his memo a 6-foot fence along the front of the house and said that variances are needed for fences or walls higher than four feet if they are in the front yard. No variances were granted other than for the tennis court fence, he said. Ms. Mele recalled that any pre-existing structures like fences that are over the height limit do not require a variance and stated that the 6-foot fence is already there. Ms. Terhune agreed that variances are granted only for new fences and said that no variances are needed if that pre-existing fence is not being replaced. They would either need to go to the Zoning Board or lower the fence if they planned on replacing it, she added.

Mr. Lockman reiterated that the existing conditions on the engineering plans are not consistent with the landscaping plans, hence the confusion.

Chairman Caridi stated that if the site plan and the landscaping plan do not match, this Board is unable to rule on the application. Regarding the pool house's encroachment into the wetlands, Chairman Caridi advised the applicant to either follow the proper steps for a wetlands permit or remove it from the plans. Ms. Mele said that the landscaping plan can be superimposed on the site plan, and that she will talk to her client about removing the pool house from the plans all together.

Member Wanamaker asked if the existing gazebo in the rear property is in the flood plain. Ms. Mele said that it is, it is pre-existing, and they have no plans to remove it because doing so would disturb the area.

Chairman Caridi opened the public hearing.

Carol Van Hook, 5 East Gate Road, Montebello said that on behalf of her approximately 30 neighbors, she was there to make sure that any lighting plans for the tennis court were removed as was promised at previous meetings and wanted to be sure that this Board would enforce that. Ms. Mele assured Ms. Van Hook that the lighting has been removed and that the fact that there is to be no lighting will be included in the Resolution issued by the Planning Board. Ms. Terhune said that the Board approves a set of plans and if lighting plans are not included, then they are approving plans with no lighting. Mrs. Van Hook asked what would happen if the Gerbers subsequently installed lighting anyway. Chairman Caridi explained that if the Gerbers wanted to add lighting, they would have to come back to the Planning Board for approval. Mrs. Van Hook wanted to know what this Board will do to ensure the Gerbers do not install lighting. Chairman Caridi said approval will be issued through a resolution which will impose

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conditions. However, this Board cannot prevent a property owner from coming back to the board seeking an amended site plan to, for example, to add lighting, he added.

Mrs. Van Hook asked about the current flood lights on the property, explaining that they are very bright and do not turn off until 12 a.m. Ms. Mele said she will communicate this to the homeowner. Chairman Caridi noted that high-intensity flood lights causing a disturbance is a Village code issue and therefore under the purview of the village Building Department.

Mr. Virgona said that he understood what had to be submitted but said he would be unable to make the submission date for the April Planning Board meeting. After a brief discussion with village consultants, Chairman Caridi advised the applicant to submit revised plans no later than March 31, 2019

Mr. Spence quickly summarized the resubmission criteria and advised Mr. Virgona not to include any hardscapes in his planting plan. Chairman Caridi mentioned a letter from the Rockland County Department of Health dated March 11, 2019 (copy on file) stating that the wells on the property should be decommissioned, and a letter from the New York State Department of Transportation dated March 11, 2019 (copy on file) stating that a road opening permit should be obtained prior to the issuance of a building permit.

Member Ternquist made a motion to adjourn the meeting and the public hearing to the April 9th meeting, seconded by Member Shipley. 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).

Present were the applicant, Marsel Amona, his engineer Stuart Strow of Brooker Engineering, and Mr. Amona’s attorney Deborah Loewenberg. Mr. Strow summarized the application to date, stating that he has answered every engineering issue point by point, that a Part 3 EAF was submitted along with a report from the wetlands consultant and a letter from the Army Corps of Engineers (ACOE) wetlands delineation jurisdiction letter, and that a preliminary SWPP was submitted to Mr. Spence’s office. Mr. Strow said he believed there were no longer any major outstanding issues but that he would like to discuss any lingering minor issues now.

Ms. Loewenberg said that she and Ms. Terhune corresponded regarding the language in the conservation easement dedication and Ms. Terhune confirmed that the document is satisfactory.

Mr. Spence reviewed his memo dated January 25, 2019 (copy on file), noting all major issues were addressed, that the SWPP was received and generally acceptable, and that the only remaining problem is whether there should be street lighting at the entrance road by Spook Rock Road and before each cul-de-sac. There was discussion that the village may require the applicant to provide conduits for any future street lighting, and that is something the Village still needs to decide, he said.

Mr. Lockman reviewed his memo dated January 24, 2019 (copy on file) and asked about the wetlands report. Mr. Strow said the report from the New York State DEC dated September 25, 2018 (copy on file), and from the applicant’s wetlands consultant, are both consistent with the earlier ACOE review.

Mr. Lockman asked Mr. Strow to explore saving the cluster of large trees on the north side of lot 2 that are marked for removal, and to indicate the very large conservation areas on lots 1 and 12, asking that these far limits be indicated on the plans and on the bulk table. Mr. Strow said that they will change the grading to save the larger trees, and that the conservation areas on the very large lots 1 and 12 will be reflected on the maps and in the bulk table.

Mr. Spence, referring to the DEC letter, said that no streams should be disturbed. Mr. Strow said that stream is near the site but not on Mr. Amona’s property and that it will not be disturbed in any way. Mr. Spence advised him to put notes on the plans indicating the blue line on the resource map is not a stream but is in fact an error in the mapping. It’s important to clarify for posterity’s sake, he added.

Chairman Caridi asked Mr. Spence if the plans indicate the delineation of the wetlands in the southern most section of the property. Mr. Spence said the wetlands are shown on the plans and are not being disturbed,

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but that in the interest of allowing future homeowners to have a reasonably-sized back yard, the applicant is requesting a reduction in the wetlands buffer from 100 feet to 50 feet on lots 8, 9 and 10. Mr. Strow reminded them that he agreed to delineate the buffer areas via concrete monuments, which are shown on the plans.

Member Wanamaker referred to the ASTM Phase 1 environmental site assessment report submitted at his request by the applicant and said he found it lacking. Mr. Lockman clarified for the record that this is the issue surrounding Mr. Wanamaker's suspicion that there may have been oils used to control dust on the former horse farm which could have cause soil and/or groundwater contamination. Mr. Wanamaker said that such an assessment requires research as far back as the 1940s to assess if a pollutant was used that can then leach into the ground water. The applicant is trusting his engineer who prepared this latest report, which seems more like an opinion, he continued, adding that he doesn't feel comfortable approving this project if there is any chance of soil vapor intrusion.

Mr. Amona said that the bank required this assessment for financing and that it was updated at Mr. Wanamaker's request. The owner of the property, Mr. Minetto, averred that oil was never used where the horses ran because it would harm them, he added.

Ms. Terhune said if the consultants find the environment assessments that were submitted acceptable, and in the absence of hard evidence, the Board can't speculate beyond what was requested and provided.

Chairman Caridi said great care must be taken with ASTM versus the standard SEQR. Mr. Amona is not required to provide an ASTM Phase 1 to this Board in order to prove that somewhere in time something harmful was added to the ground, and while there is validity to Member Wanamaker's convictions, the ASTM is not mandated. We can condition an approval for possible future legislation, but we cannot impose this on the applicant, he said.

Ms. Terhune said that conditioning an approval on possible future requirements could be problematic. Instead, she continued, the language should indicate that the Board recognizes there may be an issue and should the state government or this municipality impose additional requirements, and as part of the next step of the development, for example a building permit, it may come back under this Board's jurisdiction. If it does, then the laws that apply at that time will apply. Ms. Loewenberg said that even if a new law is passed, there is no way to know if it will apply retroactively. Ms. Terhune said that language can be crafted accordingly.

Mr. Spence asked Mr. Amona how he preferred to take care of the required post-approval improvements. Mr. Amona said that he would prefer to preform all the infrastructure improvements in lieu of submitting a Letter of Credit, and having the plat signed after said improvements are completed.

Member Ternquist made a motion to adopt a Neg Dec under SEQR, seconded by Member Shipley. Upon vote, the motion carried unanimously.

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Chairman Caridi determined, after polling the Board, that the members were ready to vote on a subdivision approval but acknowledged that there is no draft resolution. Ms. Terhune said she would draft the resolution and circulate and asked Mr. Spence to write a revised and updated commentary that reflected the engineering issues discussed. The Board agreed to issue a vote conditioned upon a subsequent resolution.

Chairman Caridi, before allowing the vote to proceed, asked Mr. Mr. Amona if he would be amenable to installing the conduits for future lighting at the exiting entry road up to the "t" of the subdivision in case the Village one day required street lights. Mr. Amona said he had no problem doing so.

Chairman Caridi opened the public hearing. No one wishing to speak, Member Ternquist made a motion to close the public hearing, seconded by Member Shipley. Upon vote, all were in favor.

Member Ternquist made a motion to grant the subdivision approval based on the draft resolution, with any minor discrepancies to be resolved in an expedited review that precludes the applicant from returning to the Planning Board. Member Shipley seconded the motion and upon vote the motion carried unanimously.

Member Ternquist made a motion to adjourn the meeting at 9:15 p.m., seconded by Member Shipley. Upon vote, all were in favor.