

The Planning Board of the Village of Montebello held a meeting on Tuesday, May 12, 2020 via Zoom. Chairman Caridi called the meeting to order at **7:00 p.m.** and led everyone in the Pledge of Allegiance.

**PRESENT**

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

**OTHERS**

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

**ABSENT**

Jane Burke, Vice Chairperson, Member  
Michael Iatropoulos, Member  
Howard Hochberg, Ad Hoc Member

**Meeting Minutes Approval**

Member Ternquist made a motion to approve the Planning Board Minutes of March 10, 2020, seconded by Member Shipley and upon vote, the motion carried unanimously.

**Howard Hellman/84 Viola Road, LLC—Public Hearing**

**Site Plan, 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 subject property is located on the north side of Viola Road, approximately 500 feet west of Spook Rock Road in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 49.05, Block 1, Lot 17 in the RR-50 Zone.

The applicant requested an adjournment to the June meeting. Member Ternquist made a motion to adjourn the application and the public hearing to the June 9, 2020 Planning Board meeting, seconded by member Shipley. Upon vote, the motion passed unanimously.

**Manhattan Beer Distributors, c/o Andrew Berger AIA**

**Subdivision/Amended Site Plan, 10-20 Dunnigan Drive, Montebello, NY**

Applicant proposes a lot line merge, the construction of an addition to the two existing buildings, the relocation of the railroad track at the south property line, and the construction of a loading deck with canopy and a parking deck on the north side of the parcel. The property is located on the north side of Dunnigan Drive, approximately 1000 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, Lots 11 and 12.

The Applicant requested an adjournment to the June meeting. Member Ternquist made a motion to adjourn the application and the public hearing to the June 9, 2020 Planning Board meeting, seconded by member Shipley. Upon vote, the motion passed unanimously.

**Hemion Land Lease LLC  
Site Plan, 5 Hemion Road, Montebello, NY**

Application of Hemion Land Lease LLC, 7-11 Suffern Place, Suffern, NY 10901 for a Site Plan entitled "5 Hemion Road." The Applicant proposes two-story, 12,000 square-foot office building with parking. The Parcel is located on the west side of Hemion Road approximately 500 feet north of Route 59 in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 55.10, Block 1, Lot 5.2 in the NS Zone.

Present were the Applicant's attorney, Amy Mele, Matthew Trainor of Brooker Engineering, PLLC and Stefano Gagliano of Aufgang Architects.

Ms. Mele presented an overview of the project, noting that they've had several appearances before the CDRC and that this proposal is fairly developed and requires no variances. However, she continued, there are two issues that area out of this Applicant's control.

The first issue is the road that goes through the property and links with Montebello Crossing, she said. CDRC asked that that the curbing, about 20 linear feet, be repaired and extended, which would cause a slight encroachment into an existing conservation easement. Ms. Mele said her client wants to avoid going to the Village Board to modify the easement, noting that they are doing it at the request of CDRC. The other issue, she continued, is the modified traffic study. The Village Traffic consultant requested new counts to be taken as the last ones were from 2019. However, Ms. Mele explained that an accurate count cannot be taken now during the pandemic and the Applicant is asking that the 2019 counts be used.

Mr. Trainor added that the entirety of the project was altered early on to avoid the conservation easement altogether. He then gave an overview of the site plan stating that it is fairly developed and includes drainage, erosion control, and landscaping. There are no objections to the consultant comments, he said, adding that they will address the housekeeping and landscaping details for the next submission.

The discussion turned to the aesthetics of the building, as Mr. Stefano explained that the exterior will be brick and natural cultured stone that mimics the stone walls throughout the village. There will also be a green grid roof system, not accessible to the public or tenants, but will environmentally benefit the building.

Mr. Lockman summarized his memo dated May 11, 2020 (copy on file), noting that there are not as many comments as usual because many issues were worked through during CDRC. The Applicant is required to submit additional elevations and colors for Architectural Review Board approval; Regarding SEQRA, Mr. Lockman prepared a Notice of Intent and recommended the project be classified as unlisted and that the Planning Board may declare lead agency. Further, he explained, the Applicant is working with the Village Traffic Engineer to come up with parameters to what they will submit. Mr. Lockman acknowledged that traffic counts in the time of COVID-19 will be irregular and inaccurate and advised the Applicant to wait and see if the traffic consultant may allow the 2019 counts.

Mr. Spence summarized his memo dated May 7, 2020 (copy on file), and explained that approximately one-hundred square feet of the existing travel lane currently encroaches into the conservation easement, the curbing for which should be extended about 20 linear feet to provide better drainage and to protect the easement from runoff and further encroachments. The

easement agreement states that this work can be done with approval from the Village Board, he added.

Member Shipley asked how the easement will be affected by the new traffic patterns caused by this proposal and by Montebello Crossing, which shares this access road. Chairman Caridi said that should be examined further but noted that the shared road will not be the main access road for Montebello Crossing in the adjoining parcel. It will be addressed in both projects' traffic studies in any case, he added. Regarding the encroachment into the easement, Chairman Caridi said that the Planning Board will recommend this slight encroachment into the easement to the Village Board. He then encouraged the Applicants to reach out to their adjoining neighbor to discuss the use of the driveway, to which they agreed.

Ms. Terhune said that she sent a memo to the Village Board of Trustees dated April 3<sup>rd</sup> asking them to discuss the matter at their next Board meeting. Chairman Caridi asked the Planning Clerk to confirm this item is on the Village Board's [May 20, 2020] meeting agenda.

Mr. Lockman said the Planning Board can announce their intent to be lead agency under SEQRA if they so choose but added that they can call for a public hearing for the next meeting or wait until after the traffic report is submitted to the Village Traffic Engineer. Ms. Terhune recommended the Board declare lead agency at this meeting.

Member Ternquist made a motion to declare lead agency, seconded by Member Shipley and upon vote, all were in favor.

Chairman Caridi said he preferred that the Applicant submit the traffic study before setting the public hearing and advised the Applicant to get it in as soon as possible. Ms. Mele said they will submit the traffic study right away. Mr. Lockman advised that the public hearing be set for the July meeting on condition that the Applicant submits their traffic study and resolves the conservation easement encroachment issue by the deadline for that meeting.

Member Ternquist made a motion to adjourn the application to the July 14, 2020 Planning Board meeting, seconded by Member Shipley, and upon vote, all were in favor.

**Montebello Crossing-- Site Plan/ Subdivision, Amended Site Plan  
250 Lafayette Avenue, Montebello, NY**

Application of Montebello Crossing, LLC, 100 Dutch Hill Road, Suite 340 Orangeburg, New York, for 250 Lafayette Avenue, Montebello, New York. The Applicant is proposing a mixed-use development consisting of a 132-unit, 200 bed assisted living facility, a 14,600 square foot pharmacy with drive-through, and a 10,000 square foot office building. The project will also consist of amending the site plan for Hemion Holdings shopping center to the east of the site. The property is located at 250 Lafayette Avenue, on the North side of Route 59, approximately 350 feet west of the intersection of Hemion Road in the Village of Montebello, which is designated on the Ramapo Tax Map as Section 55.10, Block 1, Lot 2 in the R59 DD Zone.

Present were the Applicant, Howard Josephs, his attorney Paul Baum, engineers Brian Brooker and Joseph Nyitray of Brooker Engineering PLLC, and Richard Filasky of the proposed Assisted Living Residence, Braemar. Mr. Baum summarized the Article 78 that was filed by the Tagaste Monastery (decision on file), and said they have returned with nearly the same site plan with the exception of the road access to Hemion Road and the removal of the traffic light at Route 59.

Mr. Baum explained that the New York State DOT would not approve the light at this location because they determined traffic warrants were not met. One other change to the plan, he continued, is that the proposed retail pharmacy will no longer be a CVS. Brian Brooker reminded everyone that additionally, because there will be no traffic light, there will be no left turn out of the property onto Route 59. As a result, the emergency access road from Braemar through the Hemion Holdings property to Hemion Road was extended as an alternate ingress/egress. Mr. Lockman said that during the previous incarnation of this project, it was not just an access road but also considered a second driveway.

Chairman Caridi expressed disappointed over the lack of a traffic signal and advised the Applicant to work on the easement through which the access road traverses with the other Planning Board application at 5 Hemion Road.

Mr. Lockman summarized his memo dated May 11, 2020 (copy on file). Noting that the elevations and floor plans were submitted for the Assisted Living Residence, he advised the Applicant to submit architectural designs and floor plans for the retail pharmacy and the medical office building as well.

He then explained that during CDRC and discussions with the attorneys, it became clear that because the site plan really is the same physically, there is no need to go back to the Village Board. The Special Permit [issued by that board] was not overturned by the court, and while the design no longer consists of a traffic light, the bulk requirements remain the same. Regarding SEQRA, he recommended that this Board act as lead agency and that this be classified as an Unlisted action because the Assisted Living Residence, though over 100,000 square feet, is a residential unit, not a commercial property.

Finally, Mr. Lockman noted that the traffic study from Maser Consulting was submitted to the Village Traffic Consultant, Osman Barrie, whose review is forthcoming.

Chairman Caridi asked Ms. Terhune to confirm that the Applicant does not need to go back to the Village Board for anything. Ms. Terhune confirmed this to be the case, explaining that the special permit was not voided by the court and remains in place. This is the same site plan except for the

traffic light, but no matter how careful we are to avoid problems, we cannot guarantee that there will not be another challenge, she said. Mr. Baum said that the court found fault with the Planning Board helping the Village Board (as lead agency) too much with SEQRA, and conversely felt that the Planning Board did not do their due diligence on SEQRA. With the Planning Board as lead agency, he said he was hopeful that they will be insulated against similar accusations.

The Chairman nonetheless expressed trepidation at the possibility that this Board's decision can be challenged again. Ms. Terhune explained that all this Board can do is follow strict protocols under SEQRA. Chairman Caridi asked what could prevent the monastery from coming up with another excuse to challenge the Board. Mr. Baum said he reached out to them to mitigate similar actions and explained that previously, they requested access through the property to use the traffic light. With the absence of a light, they might feel differently. The monastery has other issues to tackle legally in any case, he continued, and promised to reach out again.

Mr. Spence summarized his memo dated May 8, 2020 (copy on file). Mr. Spence had no issues of note, and among some minor requests, he advised the Applicant to clean up all the easements with the adjacent property.

Member Ternquist made a motion to declare lead agency under SEQRA, seconded by Member Shipley. Upon vote, all were in favor.

Ms. Terhune asked how the traffic study will be handled given COVID-19. Mr. Lockman said he could not answer for [Village Traffic Consultant] Mr. Barrie, but the state of New York issued guidance regarding SEQRA during COVID-19 and advised being reasonable. The most reasonable thing would be to allow them to use the counts from 2019, he said, but cautioned that he could not speak for Mr. Barrie.

Chairman Caridi agreed with this assessment. Mr. Brooker said that Hemion Holdings is a separate application although it is part of the overall project. Jonathan said the Notice of Intent combines them both rather than sending out two separate notices which would be confusing. Ms. Terhune said they are so interdependent it would be irresponsible to *not* send them together even though they are separate applications, and she did not foresee a problem. Mr. Lockman said this is how it was done the last time and the court did not address it as an issue.

Member Shipley asked if there is still an access driveway between Montebello Crossing and Hemion Holdings near the pizzeria. Mr. Brooker said that remains the same. Ms. Terhune asked about the reciprocal agreement between the two properties should the properties ever be sold. Mr. Baum said he will provide the reciprocal access agreement when the site plan is approved. Chairman Caridi requested that this be included in either the resolution or as a note on the map. Ms. Terhune said she would discuss further with Mr. Baum regarding a reciprocal agreement that runs with the land. Mr. Spence recommended a note on the plan on the map and Ms. Terhune agreed because resolutions sometimes get buried.

Member Shipley asked about notifying the Norfolk Southern Railroad, whose tracks run behind the proposed Assisted Living Facility. Mr. Baum reminded him that like last time, they will receive notice of the public hearing.

On that note, Ms. Terhune and Mr. Lockman recommended that the Applicant proceed with the public hearing for the next meeting, whether they received the traffic study review or not.

## **Montebello Crossing**

Member Ternquist made a motion to set the public hearing for the June 9, 2020 meeting, seconded by Member Shipley, and upon vote all were in favor.

Member Ternquist made a motion to adjourn the application to the June 9, 2020 meeting, seconded by Member Shipley. Upon vote, the motion passed unanimously.

Mr. Lockman said that the next meeting will likely be a Zoom meeting and a brief discussion ensued regarding noticing that login information.

## **34 North Airmont Road—Site Plan, Special Permit**

### **34 North Airmont Road, Montebello, NY**

Application of Berel Karniol, PO 782, Monsey, NY 10952. The Applicant is proposing the construction of a 3.5 -story, 50,000 square-foot medical office building with 253 parking spaces. The parcel is located at 34 North Airmont Road, on the northwest side of Airmont Road at the intersection of Montebello Road in the Village of Montebello, which is designated on the Ramapo Tax Map as Section 55.07 Block 1 Lot 3 in the LO-C Zone.

Present were the Applicant, Berel Karniol, his attorney Paul Baum, engineers Joe Nyitray and Brian Brooker of Brooker Engineering PLLC, and Architect Gabe Einhorn of AB Design.

Mr. Baum said that after attending CDRC several times, they were here to gain a sense of how the Board feels about the project so decisions can be made about acquiring the property. He advised that the proposal requires three variances from the Zoning Board and three waivers from this Board; Village code give the Planning Board authority to waive front yard requirements and to reduce the required number of loading berths.

Mr. Nyitray presented the proposal, a 50,000 square foot 3.5 story medical office building consisting of a basement and three floors and 250 parking spaces on property that is currently wooded and vacant across Montebello Road from Village Hall. Originally the building was centered on the property in the Scenic and Historic Road District of Montebello Road. Under CDRC's guidance, he explained, the building was shifted forward towards Executive Boulevard and away from that District. There will remain a 50-foot landscaped buffer along Montebello Road and that stone wall will be preserved. Likewise, the stone wall along Airmont Road will remain, and the parking lot will be nine feet lower than the road which will preserve the view on that side.

There will be two ingress/egress points on Executive Boulevard which will require some modifications to the median on that road, and a stone wall is proposed along the frontage to be complemented by landscaping. Mr. Nyitray explained that the Applicant will seek three variances from the ZBA for floor area ratio, building height and driveway placement within 300 feet of the residential zone to the west, and three waivers from this Board for reduction in loading berths, reductions in yards for sites with multiple street frontage, and the buffer to the residential zone. (See attached narrative summary).

Three renderings of the proposed building were submitted. One of steel and glass and two with stone facades. Architect Gabe Einhorn explained the building was moved toward Executive Boulevard and believes the glass and steel structure would be more in keeping with the other buildings there.

Chairman Caridi asked the thought process was in shifting the building close to Executive Boulevard. Mr. Baum said that from a regulatory standpoint it was easier to shift the building out of the Scenic and Historic Road District and avoid an appearance before the Historic Preservation and Parks Commission. Further, he continued, if the building remained closer to Montebello Road, the stone façade building would have prevailed to be in harmony with the surrounding structures, but the Applicant is inclined to do a more modern design. Ms. Terhune said that the current driveways on Executive Boulevard were recommendations of the CDRC. Mr. Lockman said that had the design remained in the center of the parcel, the Applicant would be required to obtain a Certificate of Appropriateness from the (HPPC). In any case, Mr. Lockman said that it is the purview of the ARB to choose one of the three building treatments.

Chairman Caridi said that, speaking for himself, he preferred the glass and steel building, mainly because it is harmonious with Executive Boulevard and that he better understands the reasoning for the placement of the building and the accompanying variances and waivers. He said he was concerned about the buffer to the residential zone however and said the Board, should they waive the requirement, may request additional screening. Still, the Chairman said he felt this is a worthwhile development that offers a rate-able from which the village would benefit.

Member Ternquist agreed with the Chairman and expressed his own concern about the residential buffer, but said he was undecided on which architectural style he preferred.

Chairman Caridi said a 50-foot buffer to the residential area, as opposed to the required 75-feet remains problematic and asked if the building could be turned so that the long end was facing Executive Boulevard in order to increase the buffer. Mr. Nyitray said they explored that option but then they would not be able to fit the required parking spaces. Mr. Baum reasoned that the area between the property line and the parking lot is 82 feet, 50 feet of which is the proposed buffer. The difference is that 32-feet is labeled a "side yard" so the property is not technically encroaching into the buffer, he added.

Reiterating his concern with the buffer, Chairman Caridi asked the Applicant if they could enhance the landscaping and grading to create the illusion that the setback was deeper, not only between the residential area, but also along Airmont and Montebello Roads. Mr. Nyitray said that was a possibility. Chairman Caridi reminded everyone that the Planning Board can also reduce parking and asked how such a reduction would affect the project. Mr. Brooker offered that there is no overflow place to park and that reserving 31 spaces would be preferable to reducing them. The economics need to work for the project to work, he said.

Mr. Baum offered that in lieu of granting a parking reduction, the 31 spaces can be land banked. They can be designed and engineered, but instead of building them they can be landscaped, he said. Mr. Lockman said it could work if they are structured so that no variances would be required if something triggered them to be built. Chairman Caridi said that language could be part of the waiver. Ms. Terhune said the waiver can be conditioned on the basis that they are banked and reserved, with the understanding that they may someday be required to be built. It would be a good idea to include that landscaping in the plans, she added. However, she cautioned that if the zone changes, they would be subject to a variance. Mr. Brook said that it would still be part of the site plan. Ms. Terhune countered that they had run into something similar with setbacks in an approved subdivision and how it affected a new proposal. The solution would be to draft a resolution to counter that possibility, she said.

Chairman Caridi said he felt the proposal is a worthwhile use of the property and that the banked parking is worth the effort. Enhancing the grade and landscaping/screening would therefore be the best course of action, he said. Members Ternquist and Shipley agreed.

Mr. Lockman said that thought the traffic impact study was not yet submitted, the Board could vote to declare lead agency. The next step would be to re-draw the plans with banked parking and to make an application. Ms. Terhune agreed, and advised that they should also make their application to the ZBA to get a sense of how they feel about the project, because you don't want to be in a position of the receiving Planning Board approval but having your variances granted.

Chairman Caridi asked the Applicant to update the plans to show the regrading necessary for maintaining the grade elevations so the parking spaces are not seen should they be built. Mr. Lockman envisioned two plan sheets for parking and grading: one with and one without the parking, each with its own grading plan. Mr. Spence said there should be notes on the plans to that effect along with full details to include grading, drainage, landscaping.

Chairman Caridi was emphatic about restoring elevations and grading should those spaces be built, explaining that the property should not be seen from Montebello Road. All agreed.

Mr. Spence asked Mr. Brooker about the engineering details. Mr. Brook said they would do the complete survey of the property now that they have a sense that this Board is amenable to the project. Now is the time to invest some money into the survey and engineering details, he added. The Chairman cautioned that, though there is a majority consensus on this project, there are two members absent who may not be as favorable.

Upon hearing that, Mr. Baum decided that they should modify the plans before the Board declares lead agency, explaining that he does not want anyone objecting to the SEQRA process. All agreed.

Mr. Baum said that they will submit revised plans when they are ready, at which time the Notice of Intent can circulate.

Member Ternquist made a motion to adjourn the application, seconded by Member Shipley. Upon vote, all were in favor.

### **New Business**

Mr. Lockman said there was no need for a CDRC update because those three applications were there this evening. He then asked if the Chairman was happy with the proceedings of doing more diligence on the CDRC end of things. Chairman Caridi expressed his appreciation with the new procedures and said things were operating more smoothly.

Member Ternquist made a motion to adjourn the meeting at 9:34 p.m. seconded by Member Shipley and upon vote the motion carried unanimously.