

THE REGULAR MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY, MAY 21, 2020 ON ZOOM. THE MEETING WAS CALLED TO ORDER AT 7:08 P.M. FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

Present:	Rodney Gittens	Chairman
	Jack Barbera	Member
	Janet Gigante	Member
	Samuel Diaz	Member
	Carl Wanderman	Member
	Elizabeth Dugandzic	Ad Hoc

Others Present:	Alyse Terhune	Assistant Village Attorney
	Regina Rivera	Planning & Zoning Clerk

Absent:

**Manhattan Beer Distributors, c/o Andrew Berger AIA—Public Hearing  
10-20 Dunnigan Drive  
55.07-1-11 and**

Application of Manhattan Beer, 10-20 Dunnigan Drive, Montebello, New York 10901 which was submitted to the Village of Montebello Zoning Board of Appeals for area variances for front setback [required 75 feet, proposed 44 feet], side yard [required 20 feet, proposed 10 feet] and height [required 45 feet maximum, proposed 51 feet] per Sec. 195-13 bulk table, use group K of the zoning code of Village of Montebello. The 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, the construction of a loading deck with canopy, and a parking deck on the north side of the parcel. The properties are located on the north side of Dunnigan Drive, approximately 200 feet west of the intersection of Airmont Road in the Village of Montebello, which are known and designated on the Ramapo Tax Map as Section 55.07, Block 1, Lots 11 and 12 in the PI Zone. THE APPLICANT WAS LAST BEFORE THE BOARD ON MAY 21, 2020

Member Wanderman made a motion to approve the minutes of March 21, 2019, seconded by Member Diaz. Upon vote, the motion carried unanimously.

Present were the Applicant Andrew Berger, Principal of di Domenico & Partners, LLP, Simon Bergson, President of Manhattan Beer, Mitchell Bergson, and SVP of Operations for Manhattan Beer Michael McCarthy.

Chairman Gittens established that the posting, publication and mailing legal requirements were met, and reviewed the materials submitted. He noted also that the Planning Board of the Village of Montebello noticed their intent to be lead agency for the coordinated SEQRA review for this proposal.

Mr. Berger said that the project was here a year ago to obtain similar front yard setback variances. He explained that they have returned because it was determined they would install an automated storage and retrieval system (AS/RS), during phase 2 of their efforts to improve overall efficiency in the warehouse, and the best way to house it was to combine the two properties and put the addition between the two buildings. Effectively, we are returning with a combined lot showing a similar platform design and configuration and similar variance requests, he added.

Chairman Gittens asked Mr. Berger to share his screen so everyone could view the site plan together. Mr. Berger explained that, like before, they propose the construction of a loading deck and canopy that will straddle the new addition. The parking area between the two existing buildings will be eliminated and moved to the proposed parking deck to the north of the property facing the NYS Thruway. The existing ingress/egress at 10 Dunnigan Drive for cars and trucks alike will remain, and cars may proceed along the road to the rear parking deck and trucks can proceed to the loading berths below.

Mr. Berger said that robust landscaping will be installed on the north side of the property to shield headlights from traffic on the Thruway, and along Dunnigan Road in front of the train tracks to screen the platform and canopy. Chairman Gittens asked Mr. Berger to clearly explain the requested setbacks.

Mr. Berger shared his screen with the Board and illustrated the required and proposed setbacks and side yards, noting that there are several existing non-compliant areas that they were seeking to correct as well. For example, he continued, by removing a portion of the existing building to the north to build the addition, the non-compliant rear yard of 25 feet will be restored to the required 50 feet.

Chairman Gittens asked why they were requesting the height variance for the addition. Mr. Berger said the structure will house the AS/RS which will require a full height clearance of 50 feet. Due to the average grade of property around the building, the calculated necessary height is 51 feet. Gittens noted that is a hardship issue.

Mr. Berger then spoke of the proposed screening landscaping, explaining that trees will be planted in the area along the entire frontage at Dunnigan Drive and on the north side facing the Thruway. Chairman Gittens asked the type and size of the proposed trees. Mr. Berger said the proposed trees are arborvitae that will grow to 20-30 feet. He said there is already very dense landscaping along the Thruway and that the new plantings will provide additional screening from the Thruway. Chairman Gittens suggested that Mr. Berger submit a landscape rendering from the Thruway and from Dunnigan Drive and asked if there was any existing vegetation at the frontage. Mr. Berger said there is not but that the trees will be staggered to provide maximum screening from the road.

Chairman Gittens asked why they would not consider enclosing the train tracks and loading deck. Mr. Berger explained that they would then be requesting a greater front yard setback variance. Mr. McCarthy said that Norfolk Southern Railroad would not allow an engine inside an enclosed canopy. Mr. Berger offered that if the ZBA was interested they could instead create a panel or façade that will allow open space above but provide full screening and some sound attenuation from the road. Mr. Gittens said that would be something worth looking into.

Ms. Terhune noted that the plans indicated they will be able to unload up to 14 cars at one time. Mr. Berger said that after discussions they found that 12 cars will work after all that that if the ZBA agrees, that number will be adopted on the client side.

Chairman Gittens asked if the buffer of trees on the north will screen from structures on the other side of the Thruway. Mr. Berger said it would because the parking deck is 20 feet high. Chairman Gittens asked what type of lighting will be installed on the parking deck and how it will be shielded. Mr. Berger said the lighting will be baffled and pointing downward so light does not spill onto the highway, and that specific lumens and shielding, the very same as those approved last year, will be included on the plans.

Member Diaz asked if they would plant anything other than arborvitae and how tall the trees will be at the time of planning. Mr. Berger said only arborvitae is planned and that they will be seven or eight feet at the time of planting. Member Diaz asked how long it would take for the trees to grow to 20 feet, to which Mr. Berger replied four or five years. Member Diaz suggested they plant taller trees rather than wait so long. Mr. Berger said they will explore which spots would require larger plantings.

Member Dugandzig said she was very concerned about light from the parking deck spilling onto the Thruway and to the other side of the highway and that she would want to have light pollution mitigation in the resolution. Mr. Berger assured her that the lights would project downward as per the requirement of the NYS Thruway Authority.

Member Gigante asked if there will be enough room for large trucks to turn around. Mr. Berger said that as discussed, trucks will enter on the east side and can either drive straight to the loading berths or loop around the property and come out from behind the building on the west side and out the way they came in. We also consulted our engineers for the truck-turning analysis, he added. Ms. Gigante asked if there was enough room from the northeast corner of Dunnigan Drive to the end of the property line for two trucks to pass each other. Mr. Berger said the road is 36 feet wide, adding that a typical driving lane is 12 feet wide so there will be the equivalent of three traffic lanes and therefore plenty of room.

Ms. Terhune circled back to the proposed façade wall and asked if that was something the Board wants the Applicant to explore further. Member Gigante asked how the free-standing wall would be sturdy enough to stay upright, and Mr. Bergson said the façade could be fastened to the building, and that the bigger question is that of aesthetics. Mr. Berger said he is concerned the wall will result in a larger requested variance. Ms. Terhune asked Chairman Gittens and the Board if they would consider the greater variance. The Board responded favorably and Chairman Gittens said that trees need to be maintained for the duration of the ownership, whereas a façade would require less maintenance. Member Gigante asked if the façade would perform better sound attenuation. Mr. Berger said that it may and that it could be made of a solid insulated metal panel like that on the building for consistency. Chairman Gittens asked for a rendering and elevations of the wall for the next submission.

Chairman Gittens then opened the public hearing.

Shaina Peetie, 21 Stage Street, Airmont, NY stated that she can see right through the trees to where the addition will be built. She has been in contact with the Village of Airmont, has FOILED these plans and said she understands that this is a business. However, she said there are a host of problems regarding the current state of the property in relation to her own, including improperly covered lights and the attendant light pollution, honking and idling trucks, and the noise of train deliveries. To this last issue, Ms. Peetie said she understands that Manhattan Beer has no control over the frequency and time of deliveries from Norfolk Southern Railroad, but that it is important to note that when they first moved there, trains came twice per month on average. She said they now come three times a week and many times in the middle of the night, disrupting their sleep patterns and overall quality of life.

Ms. Peetie said that the trees between her property and that of Manhattan Beer are deciduous and sparse and that she is not sure more foliage would help given that the structure would be twice the height of her house.

She went on to describe the garbage generated from all the trucks on Dunnigan Drive, including bottles filled with urine that are thrown into the woods and onto her property. Trucks idling for hours are also a

problem that has caused her to call the police several times. She expressed her concerns too about the runoff from Dunnigan Drive and the train tracks that carry all that garbage into the Mahwah river.

She asked how long the additional noise due to the construction will last and how much less truck traffic there will be. She said she asks these questions not only out of concern for her own family's quality of life, but for those living in the nearby senior housing and on Lackawanna Trail.

Mr. Berger said that all existing lighting will be retrofitted with baffles and shields to reduce light pollution onto adjacent properties. All new lighting will be on the north side and away from any residential areas. Regarding noise, Mr. Bergson said that there will be no additional hours of operation. He agreed that the train deliveries are out of their control but noted that they will be able to accommodate the unloading of more cars at once. He said he was not sure where all the trash is coming from, that it has been discussed in the past and that they are actively trying to help with that problem. As the construction time nears, a schedule of mitigation will be provided, Mr. Bergson explained, adding that all the construction work will be done during hours of operation only.

Mr. Bergson said that an increase in the number of rail cars will reduce the number of trucks on Dunnigan Drive overall and is more efficient. Mr. McCarthy added that over the last three years, Manhattan Beer has converted nearly their entire truck fleet to compressed natural gas, the safest, cleanest, most environmentally friendly fuel. However, he said, there is nothing they could do about outside trucks and their toxic idling and garbage.

Ms. Peetie asked if [the village of] Montebello approved the baffling shields on the existing lighting the last time. Mr. Berger said that was a condition of the resolution. Ms. Peetie said that Manhattan Beer has not to this date complied with that condition. Raymour & Flanigan have shielded their lights and it made a very big difference, she said. She then asked if there will be speakers for intercoms and lighting installed at the proposed loading deck. Chairman Gittens noted that GLM review issued by the Rockland County Planning Department (copy on file) requires oversight of all these issues and that these issues will be conditioned in the resolution.

Ms. Peetie said her last comment has to do with the mosquitos from the nearby wetlands, explaining that the Village of Airmont promised to ensure proper drainage of another warehousing project on Stage Street and that she hopes Montebello will do the same. She said that she submitted a complaint to Norfolk Southern Railroad because the pooling storm water not only supports a robust mosquito population but is eroding the train tracks. She then thanked the Board and the Applicant for listening to her comments and said she would appreciate any help and compliance.

Ms. Terhune asked if the ZBA consents to the Planning Board's intent to be lead agency. Under SEQR, she explained, they filed notice of this intent, and because it will be a coordinated review, the ZBA is an involved agency and must therefore decide if they agree. Additionally, she said, because this is a coordinated review, this board cannot grant any variances until the Planning Board closes SEQR.

Member Wanderman made a motion to accept the Planning Board as lead agency for SEQR, seconded by Chairman Gittens and upon vote, all were in favor.

Ms. Terhune said that a letter written on behalf of The Sisters of Life that was submitted to this Board shall also be part of the public hearing record. (Copy of letter on file.)

No one else wishing to speak, Member Wanderman made a motion to adjourn the public hearing to the June 18, 2020 ZBA meeting, seconded by Member Diaz, and upon vote, all were in favor.

The clerk reminded everyone that this application will appear before the Planning Board at their June 9<sup>th</sup> meeting. Mr. Berger confirmed, and said they wish to return to this Board afterwards on the 18<sup>th</sup>.

Member Gigante made a motion to adjourn the meeting at 8:31 p.m., seconded by Member Dugandzig, and upon vote the motion carried unanimously.

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