

REGULAR MEETING OF THE MONTVALE PLANNING BOARD

Minutes

Tuesday, January 17, 2012 at 7:30PM

Municipal Complex, 12 Mercedes Drive in Council Chambers

Please note: A curfew of 11:15 PM is strictly adhered to by the Board. No new matter involving an applicant will be started after 10:30 PM. At 10PM the Chairman will make a determination and advise applicants whether they will be heard. If an applicant cannot be heard because of the lateness of the hour, the matter will be carried over to the next regularly scheduled meeting.

Chairman DePinto opened the meeting and led everyone in the Pledge of Allegiance at 7:35pm

ROLL CALL:

Present: Mr. Culhane, Mr. Fette, Mr. Stefanelli, Councilmember Cudequest, Mr. Lintner Mrs. Widmer, Mr. Vogt and Chairman DePinto

Also Present: Mr. Regan, Board Attorney, Mr. Preiss, Borough Planner, Mr. Hipolit, Board Engineer

Absent: Mr. Teagno

MISC.MATTERS RAISED BY BOARD MEMBERS/BOARD ATTORNEY/BOROUGH ENGINEER: none at this time

ZONING REPORT: Mr. Fette stated that he will be back in court with the Culhane Property on Grand Avenue on the finalization of the unsafe structure. He is going to push for the maximum fines. If the Judge prorates it back to August 2010 he is looking at over \$100,000 in fines that Mr. Culhane would have to pay. Chairman DePinto thanked Mr. Fette for his diligence in attempting to resolve this issue. The Mayor receives many complaints in regard to this property and it has been a challenge over the past few years trying to have that property brought into compliance.

SITE PLAN REVIEW COMMITTEE: Mr. Stefanelli stated there was no committee meeting.

ENVIRONMENTAL COMMISSION LIAISON REPORT: Mr. Vogt stated that there was no meeting because of the holiday, Martin Luther King's birthday. He did, however, receive an as built plan from the Enclave which he finds unacceptable. The plan was passed around. He met with Mark Johnson, the construction manager. It was their intention to make changes to the landscaping plans along West Grand Avenue. Larger evergreen plants were to be planted. When he actually met with them they want to add evergreen trees. Their plan was unacceptable to Mr. Vogt and he recommended to them changes to their proposal which were minimum changes. Mark Johnson had agreed to the changes and he stated he would bring it to his superiors. On January 31, 2012, Mr. Vogt passed the Enclave and saw that evergreens had been planted. On January 4th he was given as built plans. They are not acceptable and either is the landscaping that they have planted. Chairman DePinto stated that Mr. Vogt has not received any return telephone calls. Mr. Vogt is asking that they come back for a revision before the board as the landscaping no longer matches the approval. There is also a patio that has been moved. Chairman DePinto asked Mr. Regan to reach out to Mr. Steve Santola the in house counsel for Woodmont

Properties. Advise them that Mr. Vogt has visited the property on numerous occasions and he has communicated with their on-site construction manager. Improvements have been made to the property which is not consistent with those required with the environmental commission or the agreement that Chairman had with him that an as built plan would be submitted by them and that the plan should reflect the changes that were requested by Chairman Vogt. At this time none of that has been done and the Chairman sees no other alternative but to have them reappear before the board for amended site plan approval and limited to the installation of the landscaping as has been installed and the patio as referenced by Mr. Vogt. Chairman asked Mr. Fette to communicate with Mr. Regan after an investigation is taken.

Mr. Vogt also stated that Mr. Bigos had stated when he was before the board that there is a lot of trees on the north side. He has submitted a plan and there is not enough screening. Mr. Hipolit also asked for as-built plans and he hasn't receive it as of yet. The plan that was submitted to the environmental was a hand drawn sketch. Ms. Hutter stated that she had received an email from him stating that he was in the process of getting the as built. The pictures that Mr. Vogt shows that there is not enough planting and he would like the board to make a decision if additional plantings are required or needed. Chairman DePinto asked that he would ask that the case be carried to February 21 to allow Mr. Bigos to obtain an as built plan. Chairman asked that the environmental commission cancel the meeting for Mr. Bigos appearing until heard from the planning board. Chairman asked Ms. Hutter to inform Ms. Russo and Mr. Bigos that he has been carried.

CORRESPONDENCE: Correspondence was on the back table

Chairman read into the record a letter from the homeowners on Eagle Ridge, Baudish, Perez, and Stickman. They needed time to rehire an engineer and they requested to be carried to the February 7 meeting.

APPROVAL OF MINUTES: January 4, 2012-Minutes were carried to the February 7th meeting.

DISCUSSION:

AN ORDINANCE OF THE BOROUGH OF MONTVALE, COUNTY OF BERGEN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 128, ZONING, OF THE BOROUGH OF MONTVALE CODE IN ORDER TO ELIMINATE THE "SED" SPECIALIZED ECONOMIC DEVELOPMENT DISTRICT AND IMPLEMENT A NEW "OR-4" OFFICE AND RESEARCH DISTRICT, TO ESTABLISH THE STANDARDS THEREOF AND TO IMPLEMENT CHANGES AND REVISIONS CONSISTENT WITH THE MASTER PLAN- Chairman read by title into the record. Mr. Regan stated that the governing body as referred this ordinance for review under section 26 to determine if what is proposed is consistent with the Master Plan. Mr. Preiss gave a summary of the zoning ordinance. The memorandum dated November 28th, 2011 proposed amendments to the land use regulations was referenced. The memo have two purposes: one was to provide the proposed changes and the second was to evaluate the changes in the proposed ordinance. To show consistence with the most recently adopted Master Plan which this board adopted on April 1, 2008. There were a lot of policies and recommendations made in the Master Plan document to increase the

ratable base in Montvale to allow developers to get closer to the maximum floor area ratio in the office research district and the maximum being 25%, there were many obstacles in the ordinance that did not allow developers to reach that maximum stated Mr. Preiss. Amongst the changes that are also recommended in the Master Plan and have now been implemented by the adoption of the ordinance were changed from the SED zone to the OR4 zone. Accidentally there will no longer be an SED zone and the zone will become the OR4, Office Research Zone. Mr. Preiss stated that the major change is that light manufacturing; warehousing and commercial recreation complexes would no longer be permitted. It was also stated that another change would be a recommendation in the master plan to allow fitness centers and hotels would be allowed in this OR4 zone. It will be conditional uses. They have to meet conditions before they are permitted and comply with certain bulk regulations. The reason why they made conditional uses is that the needs to more strictly regulate the parking and design for those two kinds of uses. Another change is allowing multi-level parking garages. In this ordinance, Mr. Preiss stated, that they will only be permitted in the OR4 zone, not in the other OR zones. This has been the intent of the Borough for many years. It was delayed primarily because for the third round COAH rules would have penalized the Borough intent to having more office development by creating a higher affordable obligation. Those rules have been suspended by the Appeal Court decision and it seems that whatever changes are made to the Fair Housing Act, additional non-residential will not create a higher obligation for the Borough. It is not adjacent to any areas in Montvale. The other change is the impervious coverage. There have been a number of applications in the past five or so years where applicants have come into increase their impervious coverage to 40 to 45% in attempt to create more space for parking. This is to try and eliminate the need for all of the "c" variance and to increase the impervious coverage in the OR-1, 2, 3 and 4 to 45%. Pervious materials, paving that allow the infiltration of water is permitted in a number of instances so that additional parking and walkway areas can be accommodated in certain circumstances. There is some changes to off-street parking and loading requirements Borough wide. Changes of definitions are also included for clarification in regard to existing uses and proposed uses and some changes in the limiting schedule. He has quoted these references from the 2008 Master Plan to indicate all of the changes which have been incorporated to this proposed zoning is consist with the 2008 Master Plan. It is Mr. Preiss' opinion that the ordinance proposed is entirely consistent with the Master Plan of 2008. Chairman DePinto stated that since the adoption of the 2008 Master Plan with discussions with the governing body and the planner have been discussed on numerous occasions and he is delighted to hear that we are addressing a lot of what needed to change. Chairman read by title only again. Mr. Regan stated that it is consistent with the master plan and Mr. Regan had prepared a resolution, a motion to introduced by Mr. Vogt and seconded by Mr. Stefanelli. Discussion was opened to the professionals and board members. Mr. Stefanelli stated it was a long time coming. He stated that Richard did a great job. Mr. Vogt stated that Mr. Preiss did a good job. He thinks the best part is the parking garages from an environmental standpoint. He feels it should have been done 15 years ago. Mrs. Widmer had no

comment. Mr. Lintner stated he had the pleasure of helping to input information into the Master Plan development and he certainly agrees that this has been a long time coming and that Richard did an excellent time. Councilwoman Cudequest had no comments. Mr. Culhane stated that it was a long time coming and that Mr. Preiss did a good job. Mr. Fette had no comment. Mr. Regan stated once the board adopts the resolution and the board secretary should transmit a copy to the borough clerk and then the governing body has scheduled for a public hearing on February 7th. A roll call vote was taken with all stating aye.

USE PERMITS:

1. **Block 2401 Lot 2-Lab Corp.- 28 West Grand Avenue**-Ms. Marlene Eickemeyer of Beattie Padovano on behalf of applicant. Also present was Lynn McGrew. Mr. Regan swore in the applicant. Chairman read the application into the record. Ms. McGrew stated that she works for Beacon a subsidiary of Lab Corp. They are a parent company. They are a benefit management company for laboratory services. This space will only be used for office use. Mr. Culhane stated that the lease allows for 21 parking spaces yet the application states only 6 employees and are they anticipating additional employees in the future? Ms. McGrew stated that she is not anticipating a lot more employees. It came with the 21 parking spaces because of the size of the space. A motion to approve was made by Mr. Culhane and seconded by Mr. Lintner. A roll call vote was taken with all stating aye.

PUBLIC HEARINGS (new):

1. **Block 1405-Lots 3,4,5-Richard Baudish (21),, Leslie Stichman, (19), David Kuenzler (23)-19,21,23 Eagle Ridge Road-Major Soil Movement Application-** It was carried to the February 7th, 2012 meeting.
2. **Block 1801 Lot 2- Scott Farber-30 Huff Terrace- Major Soil Movement Application-**Mr. Farber came forward and his engineer wasn't present at the time. Lou Luongo from Aqua Pools , and Mr. Di Tomas, landscape architect were sworn in. Chairman stated let the record reflect that there is a neighbor who is known to the board and she is also an attorney. Ms. Wendy Berger identified herself. She stated she was here to listen to the application. All neighbors identified themselves. Notices were discussed. Chairman asked if the application was discussed and if Mr. Luongo was an engineer. The engineer Chris Lantel, was not present. His seal was on the plans. Mr. Hipolit stated that someone from his office did speak to him and he was instructed that he would need to be present at the meeting. Chairman moved forward and stated he would come back in hopes that they can reach the engineer. An engineer has to testify to the plan. Mr. Hipolit stated that he had written a letter dated January 9th. There is a little low point in your back yard shown on the topo and it needs to be offset. They need to speak to their engineer. Ms. Berger spoke and asked when the environmental meeting would be. Chairman DePinto stated that they are welcome to go to the meeting the following Monday. Unfortunately, the engineer did not show and the application was carried to February 7th, 2012 meeting.

PUBLIC HEARINGS (con't):

- 1. Block 2509, Lot 35-Ethan Homes, LLC -24 South Middletown Road- Minor Subdivision and Major Soil Movement Application –carried to **February 7, 2012****
- 2. Block 603 Lot 8- Joseph R. Bigos-Sport Court-Variance Application-carried to **February 7, 2012. It was discussed and it will not be heard and it was carried to February 21, 2012.****

RESOLUTIONS:

- 1. RESOLUTION AMENDING A PRIOR RESOLUTION DATED NOVEMBER 20, 2007 WHICH GRANTED AMENDED SITE PLAN APPROVAL, VARIANCE RELIEF, WAIVERS AND EXCEPTIONS FOR PREMISES DESIGNATED AS BLOCK 1601, LOT 21-Chairman read by title only. Mr. Regan gave an overview. The most recent approval was in 2007 the board had approved 32 housing units of which 8 would be market rate and 24 would be available for low and moderate income. That approval was granted upon a land use of Rockland Built Homes and the Borough. The Borough did a RFP and late last year the borough accepted a bid for development of this property. The new plan will be now for 29 low and moderate income and seven or eight would be for people with disabilities with MS. The purpose of this resolution to make a change to the unit count and that all of the units would be qualified for low and moderate income housing. It gives the Borough additional 4 or 5 units. Mr. Preiss concurred and stated he believes it will be acceptable to the DCA. The footprint will not be affected. Mr. Regan went over the corrections. A motion to introduce was made by Mr. Stefanelli and seconded by Mr. Culhane. A roll call vote was taken with all stating aye.**
- 2. Resolution Acknowledging Distinguished Service of Peter Moltzen as a Planning Board Member-Chairman read by title only and made a motion to introduce and seconded by Mrs. Widmer. A roll call vote was taken with all stating aye.**
- 3. Resolution Acknowledging Distinguished Service of Mark Bardes as a Planning Board Member-Chairman read by title only and made a motion to introduce and was seconded by Mr. Stefanelli. A roll call vote was taken with all stating aye.**

Other Business-Mr. Lintner stated in regard to the Bigos application is there something that we can do to have him move this along and comply. Mr. Fette stated that he sent him a letter several weeks ago stating that he was dragging his feet. He also reminded him that if he didn't move it along he will reassess penalties retroactive going back to April.

Open Meeting to the Public- A motion to open to the public was made by Mr. Stefanelli and seconded by Mr. Vogt. NO one from the public wishing to be heard a motion to close the meeting was made by Mrs. Widmer and seconded by Mr. Lintner.

Adjournment- A motion to adjourn was made by Mr. Vogt and seconded by Mr. Stefanelli.
Next Regular Scheduled Meeting: February 7, 2012- 7:30 p.m.

Respectively submitted:

R. Lorraine Hutter
Land Use Administrator