

REGULAR MEETING OF THE MONTVALE PLANNING BOARD

MINUTES

May 15, 2018

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.

ROLL CALL: Mr. Culhane, Mr. D'Agostino, Mr. Lintner, Ms. O'Neill, Mr. Stefanelli, Mr. Teagno, Chairman De Pinto

Absent: Councilwoman Curry, Mr. Fette, Mayor Ghassali, Ms. Russo

Mayor arrived at 8:00pm

Also Present: Ms. Hutter, Land Use Administrator, Mr. Regan, Board Attorney, Mr. Hipolit, Board Engineer, Ms. Green, Borough Planner

MISC.MATTERS RAISED BY BOARD MEMBERS/BOARD ATTORNEY/BOROUGH

ENGINEER: none

ZONING REPORT: none

ENVIRONMENTAL COMMISSION LIAISON REPORT: none

SITE PLAN COMMITTEE REPORT: Mr. Lintner gave the report. There were four applicants. First, was McLaren Engineering they are moving into a building in Woodcliff lake and the back portion is in Montvale. They would like to put a sign up on the garden state parkway. They will need a use variance to do. They suggested that he put up a large sign on the building in Woodcliff Lake. Second, was the Hornrock Properties who provided with a preliminary basic site plan and walked through the plan and building. They are going to make a decision of whether they want to go and get preliminary site plan or file for preliminary and final. The development will require some development in Park Ridge and Park Ridge is in litigation over their property. It may be very difficult for them to get all of their permissions for us from Park Ridge. So they might go for preliminary site plan instead of a final. Libock on 37 Eagle Ridge Road they are looking to subdivide their piece of property. This is the area where there was a drainage from the Flintlock have existed. There has been some modifications to some drainage swales and they are looking to subdivide their property and it will be in more of agreement with Eagle Ridge Road. They need to revised their plans. Ali Enterprise came in the Shell Station on Kinderkamack they want to do put in a convenience store with a drive through. The committee told them that they have a lot of work to do that hasn't been completed on the prior approval.

CORRESPONDENCE: On the back of the table

APPROVAL OF MINUTES: May 1, 2018 carried

RESOLUTIONS: Block 1901 Lot 5-Quality Facility Solutions, LLC-

180 Summit Avenue (7037 sq..ft.)-Mr. Pomerantz came forward with his applicant Mr. Stern. Chairman read by title only. A motion to approve was made by Mr. D'Agostino and seconded by Ms. O'Neill. A roll call vote was taken with all stating aye.

USE PERMIT: Block 3004 Lot 2-Our Bookkeeping Service, LLC-50

Chestnut Ridge Road-7467 sq. ft.-

Andrew Bolson of Meyerson, Fox, Mancinelli represented the applicant John Grippo. Chairman read the application into the record. Mr. Grippo gave a brief description of the business. They do financial and booking for different synagogues in the area. Their business has grown and they need more space. A motion to approve was made by MR. Teagno and seconded by Mr. Culhane. A roll call vote was taken with all present stating aye.

DISCUSSION: Block 2305 Lot 17-Memorial school Site Improvements Section 31

Review. Mr. Hipolit gave a summary of what needs to be done. They need to widen the path for safety reasons. They are working in conjunction with the school and prepared the plan. The board's obligations are to review as a capital project and determine if it is consistent with the Master Plan. A motion to have the board secretary prepare a memo to the Governing Body approving was made by Mr. Culhane and seconded by Mr. Stefanelli. A roll call vote was taken with all stating aye.

PUBLIC HEARINGS (CONT):

1. Block 1103 Lot 5 and Block 403 Lot 1-Metropolitan Home Development at Werimus, LLC- 87 and 91 Spring Valley Road-Amended Site Plan and Major Soil Movement Application-carried to June 5th, 2018-Chairman made the announcement that the application was carried to June 5th and no further notice was required.

Public Hearings: PUBLIC HEARINGS (NEW):

1. Block 505 Lot 3 - Jacovino-31 Terkuile Road- Variance Application-at the applicants request this public hearing is carried to June 5, 2018-Chairman made the announcement that the application was carried to June 5th with no further notice was required.

Block 201 Lot 3-Lawrence and Tania Pinto-121 Upper Saddle River Road-Minor Subdivision Applications- Chairman went over the procedure that the board would follow. The applicant will present to the board what their proposal is. The board will hear testimony from their design engineer, a planner and others. After each of the witnesses has an opportunity to testify before the board, the chair will then open it to the board for questions and then the public. This will be the opportunity to ask questions through the chair of whatever witness just testified. He asked that they limit it to questions. It is not the appropriate time to make comments. Comments will come at the end of the completed hearing. The Notice was marked as **A1**. Mr. Regan said we would follow the procedure of making sure the notices are complete. It had an original hearing date of April 17th and it was carried to May 15th. Mayor Ghassali arrived. Mr. Del Vecchio came forward representing the applicant. The map was posted to the TV Screens. It is located in the R40 zone. They are looking for a Minor Subdivision approval. Their goal is to save the existing home on the lot and propose a subdivision of a rear home for the applicant's parents. They need 3 bulk variances. They need lot width. The applicant proposes a lot width of 25 feet for proposed lot 3.01 and 77.69 feet for proposed lot 3. Second Variance for side yard setback are required. The ordinance requires 20 feet per side. The applicant is proposing a side yard setback of 13.7 feet on the northern lot line of proposed lot 3. They believe this is a less intrusive means of constructing the house on the property.

Minor subdivision plat consisting of one sheet date of November 23, 2017 was marked as exhibit **A2**. McNally Doolittle Engineering, LLC letter dated January 24, 2018 was marked as

A3. An aerial map in color consisting of one sheet was marked as **A4.** Frontage on Upper Saddle River Road. They are looking to mirror the situation as across the road. They are trying to save the home instead of putting a full load cul de sac in and then create two lots that way stated Mr. Del Vecchio.

Mr. Doolittle, Mr. Hipolit and Ms. Green were all sworn in by Mr. Regan. Mr. Doolittle prepared the plans and letter. Mr. Doolittle gave an overview. The property is on the east side of the road. There is a driveway, on the left there is a gazebo and garage. The property to the left which they are proposed as Lot 3.01 has a metal shed which will be removed. The property is irregular shaped and some of the property is land locked stated Mr. Doolittle. Mr. Doolittle referenced **A2**, subdivision plat. They are looking to take the 2.6 acres and leave 40,000 with the existing house. The new proposed lot for the new home has a flag lot with a 25 ft. of frontage. The side yard setback was discussed. The existing lot line today is where the driveway is cutting through which makes the 15.7 feet.

They are to maintain the existing home in its exact location. The second lot will comply with all codes except the front yard. All the trees that have been identified are needed to be removed due to construction. Within the 25 feet to put a 13.5 driveway and to follow back to lot 3.01 to a side yard garage. The home to be built is approximately 3000 sq. ft. Mr. Hipolit's review letter was marked as **B1** dated March 23, 2018. Mr. Doolittle went over his letter January 23, 2018 dated **A3.** He went over the EIS Exemption. The land is stable and it has lawn, vegetation and tree growth on it stated Mr. Doolittle. They propose to prepare a site plan if approved and submit it to the town. They will follow the Bergen County Soil Conversation and the property will be brought back to its original conditions. They will install the necessary drainage structures; retention and detention based on the RSIS standards and provide the calculations. There are no known springs on the property Mr. Doolittle stated. There is no effect on animals or significant plant species. It is a single family residence that they are proposing and it is 1.6 acres. The removal of the trees is only what is necessitating by the construction of what is proposed on the new lot. He would be willing to take a look at it if it were necessary to take down any additional trees stated Mr. Doolittle. There is no wildlife or animals that need protection. There are no critical slopes to the property stated Mr. Doolittle. There will be no additional noise except the noise of the construction. There will be no industrial waste Mr. Doolittle testified.

Mr. Hipolit stated normally the waiver for the Environmental Impact Statement is the usual procedure and the board decides to grant it or not. Mr. Hipolit stated that his comments are good globally but his concern is the existing home. By creating the subdivision with the 25 ft. pole you have now moved the driveway to 16 feet of the house. It will have an increase to that homeowner or future homeowner of noise pollution, light pollution and drainage as the property drains that way. Mr. Hipolit has a concern with the driveway. That it will cause the original home to be impacted. He asked Mr. Doolittle to expand on his testimony in regard to his comments. Mr. Doolittle stated that he would add that this is not a municipal right of way so the volume of traffic on the driveway for a single family residential is somewhat limited and the people who will be living in this house are the applicant and their parents. Mr. Regan stated that won't be forever. Mr. Doolittle stated there might be a moving truck from time to time but mostly automobiles using the driveway. Mr. Del Vecchio stated that the owners are wanting to keep their home as they like the character. If the owner in the future doesn't like it there is a full building envelope to the rear that is available for a new home to be constructed of whatever variety that a future owner may have and that they have taken into consideration both instances and from an the current owners have made their election and the EIS is meant to deal with the construction not the permitted environmental impact to a lot stated Mr. Del Vecchio. Mr. Hipolit's recommendation is to not waive the Environmental Impact Statement. Mr. Del Vecchio doesn't agree with Mr. Hipolit's recommendation to not grant a waiver for the EIS. Mr. Del Vecchio doesn't believe that doing a full blown EIS would be helpful what it would achieve. It is not a regulatory approval or disapproval. He stated by bringing in an acoustical expert and environmentalist is not

going to change. An EIS is meant to ascertain impact and provide the board with information stated Mr. Del Vecchio. He can bring in the experts but it is only going to raise the cost and the time of these proceedings, but at the end of the day we have all seen an EIS report and we know what it says is it really going to provide the board with any additional information other than raise the expense of a two lot subdivision stated Mr. Del Vecchio. He asked what additional information is Mr. Hipolit or the board needs he would like to give it to them but he needs to know what that is and he doesn't believe it is contained in the EIS Statement. Mr. Hipolit's major concern is the lot with the pole. He stated that they have created a hardship with their own lot area and that is causing a hardship to the existing house. We don't really know if the driveway is going to be curbed and will the water run down to the street or on to their property, how are the headlights going to be mitigated and noise going by the house. Is a fence going up? Chairman stated that he is bringing questions that relate to the subdivision but not specifically to the EIS. He asked that a distinction be drawn between the two and until we hear Mr. Hipolit's review dated March 23, 2018 we cannot separate it at this point. He asked that the EIS waiver be set aside until Mr. Hipolit goes over his review letter.

Mr. Hipolit's letter was marked as **B1** and Mr. Hipolit stated that they are creating this subdivision but they have neighbors very close to the lot that pole. Mr. Hipolit doesn't believe waiving showing all streets and streams within 50 feet of the proposed subdivision. Mr. Hipolit's letter under comments 7, 8, and 9 and 10 he doesn't believe waivers should be granted without additional testimony. Mr. Del Vecchio answered 8,9, 10. In regard to 8, 9, and 10 all the trees are identified stated Mr. Doolittle. The waiver for removal of trees is not located on the site they are talking about the trees off the boundary of the 2.65 acre tract. The offsite trees were discussed. The development is a large enough lot and it is contained within it and they are not disturbing any boundary areas or wooded areas around them. The flag pole area was discussed. Mr. Hipolit stated that there will be impact to lots 4 and 5 there is potentially a lot of impact to those lots with storm water runoff and the driveway going in may damage the trees on their sites. Mr. Del Vecchio stated that the items that they are speaking about are site plan items, and this is a subdivision application and the board is not approving any of the improvements on the map. Ultimately Mr. Hipolit and the borough will have to sign off on the improvements if the subdivision is approved by the board stated Mr. Del Vecchio. They don't believe that the driveway that they are proposing will impact any of the trees that may exist off site. Chairman stated that the plan shows and driveway with a proposed dwelling which are site plan issues and the testimony that Mr. Doolittle has given has spoken about these improvements. Chairman stated that if they are seeking just subdivide the property then don't show the driveway or proposed dwelling then you would have a strict subdivision he believes that this is a combination by his interpretation of both a request to subdivide and a request to get site plan approval it is deficient in requirements necessary for site plan approval.

Mr. Del Vecchio stated he prepared it this way as he knows the board would not look at this subdivision without him demonstrating how the access to the house would be for the proposed new lot. Chairman asked then why wouldn't they show all of the other site plan application requirements, why did they limit it only to accessibility and building envelope? Mr. Del Vecchio stated that they were crucial for an approval for subdivision.

Chairman stated that the borough engineer is stating that it is deficient in other areas that are necessary that would apply to subdivision. Mr. Hipolit stated for the subdivision they have met the submission in regard to subdivision and they have extended some requirements for site plan to try and prove that their application is viable. Mr. Hipolit's stated that putting a driveway of 25 feet is possibly affecting their own home and the home next to them. I don't know how they prove that it doesn't without going into site plan requirements stated Mr. Hipolit. He believes the board is only getting half of the information needed. Chairman's concern is that the site plan details that have been eliminated are important. He also stated that if the board were to grant the subdivision, they would have

the legal right to take the position that not only did the board subdivide the property in accordance with the plan but additionally approve the location of the driveway on this flag. Mr. Del Vecchio stated he doesn't believe it follows in legal terms but it follows in practical terms. The frontage for the new lot is 25 feet wide there is nowhere else to put the driveway. Mr. Regan doesn't agree, he believes if the board approves this plan it will include the location of the driveway. Mr. Hipolit stated he will not make that recommendation as he has two lines on a plan with no grading, no drainage, no curbing and no fencing. Discussion ensued between Mr. Del Vecchio and Mr. Hipolit about the driveway and placement. Mr. Del Vecchio will show the all streets and streams within 500 feet if the board wants it. There is no impact stated Mr. Del Vecchio. Item no. 10 in Mr. Hipolit's letter he asking them to comply with it except for the railroad bridges can be waived. The applicant will comply. Item No. 12 the correct setback distance was verified as 13.7 feet. Item no. 13 Mr. Hipolit asked about giving testimony for the gore. Mr. Doolittle stated that when they surveyed the Pinto property there the lots do not come up to each other leaving this gore of 7 to 8 feet. That area within that space they have not taken title to or are using in lot width stated Mr. Doolittle. Item No. 14, Mr. Hipolit would like to see site plan detail. Mr. Regan stated that under the MLUL we need to be careful as it is not permitted for site plan review for a single family home. You can ask for some detail and he would ask that the applicant provide some detail but strictly speaking the board cannot compel a site plan for a one family dwelling. Chairman cannot understand how they can grant subdivision approval absent site plan requirements. Does the law prohibit the applicant from providing the information? Mr. Regan stated that they cannot deny the application because site plan details were not provided. The chairman addressed the applicant's attorney and Mr. Doolittle by stating that they are not going to necessarily require the detail because the board is not going to do anything outside the law but they voluntarily include them he believes it would be easier for the board to make a decision. Mr. Del Vecchio asked Mr. Hipolit what he is looking for. Mr. Hipolit stated grading for the driveway on how it is going to drain and if it will be curbed. How is the stormwater going to be street? Will there be a fence there to shield the house from light and headlights. What is going to happen to the trees north of the pole. Will the utilities affect those trees? Chairman stated he has no difficulty with Mr. Hipolit and Mr. Doolittle working out the details or deficiencies with respect to the technical review letter of March 23. Or if Mr. Del Vecchio is comfortable that the applicant complying with the requests. Mr. Del Vecchio believes with most they can comply but he would like the option of having Mr. Doolittle be able to communicate Mr. Hipolit. Chairman asked the board members if they had any questions.

Mr. Lintner asked if Mr. Doolittle was responsible for the location of the new dwelling. He placed it there with the intent to show where a home could fit within the building envelope. He asked him to share with the board why he thought that was a good location. Mr. Doolittle Made it that way so the front yard would be facing the street and it would have two side yards. Mayor Ghassali stated that the two lots that are mostly impacted are lots 12 and 4 and if they had an option to change the driveway location to get to the house, is there a shorter way or to alternate it so that it doesn't impact the neighbors. Mr. Doolittle placed the house there to show that it could be accessed and placed there with no variances. Chairman stated that it is not casted in stone where it will be placed. Mr. D'Agostino asked if there was any thought to a different type of access, maybe a shared driveway or cul de sac. Mr. Doolittle stated that they actually did a layout on the property where they put a conforming street in there with a turn around and two conforming lots. Chairman stated he didn't want that plan shown at this time. Unless they are formally willing to submit it and open it up to the public he doesn't want to go there. Mr. Regan stated unless they want to amend the application. Mr. Del Vecchio stated that they are just reply to the question from Mr. D'Agostino. They would lose the existing dwelling.

Open to the public by a motion made by Mr. Lintner and seconded by Mr. D'Agostino.

Doris and Mike Bartel. 4 Foxhill Road came forward. They did check with the borough and

although they are not within 200 feet they are within 219 feet stated Ms. Bartel. Ms. Bartel stated that they have been here for 37 years. She asked about the removal of trees. She is asking about the air quality of her home if there are less trees and more coverage. Mr. Hipolit stated that if you take trees down and cover with pavement or pervious structures there will be an impact. What is the actual impact he is not sure stated Mr. Hipolit. They are taking some trees but they will be adding additional trees and landscaping stated Mr. Doolittle. Ms. Bartel stated that they have taken down a significant number of trees over the property. Mr. and Mrs. Bartel have concerns of tree removal, drainage and noise. Chairman said some of these questions can be answered by their planner or ours when they testify. Ms. Green stated that we do have performance standards under 128-8.11(b) it states that smoke, fumes, gas and dust and odors and that there should be any other atmospheric disseminate of the boundaries of the lot of such use. They will follow up on it.

Carmela Hevern 125 Upper Saddle River Road-came forward and was sworn in. She has only a well for her water supply. She has a concern of what would be an impact on the well. Mr. Doolittle stated he believes that there will be no impact.

A motion to close meeting to the public was made by Mr. Lintner and seconded by Mr. D'Agostino. Chairman made the announcement that the meeting was carried to June 5, 2018 No further notice is required stated the Chairman.

DISCUSSION:

- 1. Ordinance No 2018-1449-An ordinance of the Borough of Montvale Amending and Supplementing Chapter 128 of the Code of the Borough of Montvale to Establish a Borough-Wide Set-Aside Requirement and to Set Forth the Standards and Criteria Applicable thereto**

Ordinance NO 2018- 1449- Ms. Green gave an overview. One of the requirements in satisfying our unmet need obligation to create a borough wide set aside ordinance. This is an overlay of the entire borough. It is only triggered in the instance where a property in the borough is requesting a zoning change, a use variance, density to build 5 or more units with a large number of units to be built. It is a requirement of the settlement agreement. It codifies what the planning board has been doing all along stated Ms. Green. Mr. Regan stated it is in our Housing Element as well. A motion to introduce was made by Ms. O'Neill seconded by Mr. Teagno. A roll call vote was taken with all stating aye.

- 2. Ordinance No. 2018—1450-An Ordinance Renaming Chapter 28 of the Code of the Borough of Montvale, "Affordable Housing Regulations," and Replacing the Entire Contents Thereof to Address the Requirements of the Fair Housing Act and the Uniform Housing Affordability Controls (UHAC) Regarding Compliance with the Borough's Affordable Housing Obligations—**Ms. Green stated that this ordinance spells out the requirements for affordable housing after it has been approved. It spells out the bedroom distribution, income verification of the low and very low to moderate units. Requirements of phasing of building the affordable along with the market rate are listed. IT also provides the two roles required to have an in-house municipal housing liaison and the administrative agent who over sees the rentals and sales to make sure that who is occupying is eligible. A motion to introduce was made by Ms. O'Neill and seconded by Mr. D'Agostino. Mr. Lintner asked the Mayor why there a split vote. He stated that they were just following through on their vote from being a no. A roll call vote was taken with all stating aye.

3. **Ordinance No. 2018-1451-An Ordinance Amending Chapter 57 Land Use Procedures Ordinance Article VII Development Fees of the Borough of Montvale to Provide for the Collection of Development Fees in Support of Affordable Housing As Permitted by the New Jersey Fair Housing Act** A motion to introduce was made by Mr. Lintner and seconded by Mr. Culhane with a roll call vote taken with all stating aye.

Ordinance No. 2018-1452-An Ordinance of the Borough of Montvale Amending and Supplementing Chapter 128 of the Code of the Borough of Montvale to Rename Section 128-5.5 to be Entitled "Overlay Districts" and To Establish the Mixed-Use Inclusionary 1 (MI-1) Overlay District, The Mixed-Used Inclusionary 2 (MI-2) Overlay District, and the Mixed-Used Inclusionary 3 (MI-3) Overlay District and to Set Forth the Standards A motion to introduce was made by Mr. Lintner and seconded by Mr. Teagno with all stating aye.

PUBLIC HEARINGS (NEW):

Block 3102, Lot 1.01 & Block 2701, Lot 2-KPMG-3 and 75 Chestnut Ridge Road-Amended Site Plan-Lighting

PUBLIC HEARINGS (CONT):

RESOLUTIONS:

1. **Block 1103 Lot 5 and Block 403 Lot 1-Metropolitan Home Development at Werimus, LLC- 87 and 91 Spring Valley Road-Amended Site Plan and Major Soil Movement Application-** A motion to introduce was made by Mr. Stefanelli and seconded by Mr. Culhane. A roll call vote was taken with Mr. D'Agostino abstaining and all others voting aye.

Other Business-none

Open Meeting to the Public-no one present

Adjournment-A motion to adjourn was made by Mr. Stefanelli and seconded by Ms. O'Neill.

Next Regular Scheduled Meeting: May 15, 2018

Respectively Submitted by:

R. Lorraine Hutter, Land Use Administrator