

Minutes of the Special Meeting, of the Board of Trustees, with the Planning Board, of the Village of Montgomery is held in the Meeting Room at 133 Clinton Street, Montgomery, NY 12549 on Tuesday, October 2, 2018 at 6:30 pm.

Present: Mayor Brescia, Deputy Mayor Scheels, Trustee Andolsek, Trustee, Hembury, Trustee Lindner, Atty. Dowd, Village Clerk Rivera-Fernandez, PB Chrmn. Conero, PB Mbr. Romano, PB Mbr. Steed, PB Mbr. Crowley (arrived late), PB Mbr. McKenna (absent), B/I Yancewicz, DPW Supt. Nelson, Police Chief Walsh (absent), Don Berger, Maria Beltrametti, L. Kathi Pitts, John Byrnes, Marc Devitt, Laura Fitzgerald, Mary Ann Lindner, David Holbert, Maureen Holbert, Margaret Ann Grasso, John Reale, Jane Hoeffner.

Mayor Brescia opened the meeting with a Pledge of Allegiance to the flag.

RE: ADJOURNED FOR ATTORNEY CLIENT PRIVILEGE

Mayor Brescia called for a motion to adjourn for Attorney client privilege at 6:35 pm.

Moved by Trustee Lindner, seconded by Deputy Mayor Scheels, the Board adjourned for Attorney client privilege at 6:35 pm. Motion carried, 5-Ayes, 0-Nays.

Chrmn. Conero called for a motion to adjourn for Attorney client privilege at 6:36 pm.

Moved by PB Mbr. Steed, seconded by PB Mbr. Romano, the Planning Board adjourned for Attorney client privilege at 6:36 pm. Motion carried, 4-Ayes, 0-Nays.

RE: EXITED OUT OF ATTORNEY CLIENT PRIVILEGE

Mayor Brescia called for a motion to exit out of Attorney client privilege at 7:12 pm.

Moved by Trustee Andolsek, seconded by Deputy Mayor Scheels, the Board exited out of Attorney client privilege at 7:12 pm. Motion carried, 5-Ayes, 0-Nays.

PB Chrmn. Conero called for a motion to exit out of Attorney client privilege at 7:13 pm.

Moved by PB Mbr. Steed, seconded by PB Mbr. Crowley, the Planning Board exited out of Attorney client privilege at 7:14 pm. Motion carried, 4-Ayes, 0-Nays.

Mayor Brescia asked Attorney Dowd to provide the public with a synopsis of the development project on Route 211.

Attorney Dowd stated there is an applicant that recently purchased property on Route 211, which is the former Alden Link property. Last Wednesday, a formal application has been submitted to the Planning Board. The new owner wishes to subdivide the property into three parcels, located across from the Chandler Lane, zoned industrial for warehousing. The proposal is for two warehouses, a ninety thousand square foot warehouse and a two hundred thousand square foot warehouse. The ninety thousand square foot warehouse would be for his business which is expanding, he is presently working out of Cornwall of which he is leasing. The two hundred thousand square foot warehouse is a spec building, he would not necessarily build but would sell if he found the market for it. The third parcel is approximately five acres that abuts up behind the residents on Weaver Street, which gains access to a fifty foot right of way off of Route 211, near the car wash. In that area he proposes two buildings for affordable senior housing of a total of eighty units. Reviewing the preliminary application, the site plan meets with the Village of Montgomery zoning code. The applicant has to come back this month and has to re-delineate the wet lands on the property. The last delineation was completed approximately ten to twelve years

ago, ultimately the Department of Transportation will have to conduct a review and approve the access, as well as the site distances for entering and exiting, since Route 211 is a State highway. Just so they you all know, for the last fifteen years, the Village Board had adopted a Senior Overlay District, that law is currently in effect. The law allows for affordable senior housing to be put on any properties that abut or has frontage on Routes 211 or 17K, of which it goes back to the 2003 project development on 17K. Those units, if they are built would be for anyone fifty-five and older that meet a certain income criteria, with one bedroom units only and with the exception of a potential caretakers unit of three bedrooms and can have other amenities that I will not specify as of yet. It is to his understanding that the applicant does not intend to build it but would find someone who is in that business, such as Jonah Mendelbaum or another individual that does build senior housing projects. He would probably sell the property to them, for them to develop it.

This is the very beginning of the phase of the project, we have accepted the application but we have not done anything as far as the environmental review process. The maps have not been finalized and they have to come back this month to start that process, at which point all of the different involved agencies, the Health Department, Department of Transportation, Army Corp of Engineers, Orange County Planning, Village of Montgomery Water and Sewer Departments would all be involved in the process, based on the site plan review. Again, it in its infancy stage. He is not certain what rumors are out there on this proposed development. It is certain by the number of people here, he understands all of your concerns. We ask that you all be patient, let it play out and you all certainly have the right to attend very Planning Board meeting that is on the agenda. There will be public hearings and you will understand exactly the process as it goes step by step.

Mayor Brescia stated there is an exploratory committee to look for other uses in that district, of which Kevin Conero Chaired that committee, at least six or more years ago. One result of that committee and public opinion, was not to allow workforce housing, therefore, the Village Board certainly did change the zone. The floating zone has been in existence since 2003, which was created to allow for senior housing on 17K and it's allowed in this particular zone.

Atty. Dowd stated, the actual law states, 24 units per acre, therefore, 120 is allowable, the applicant is proposing 80 units, it's probably due to the wet lands and cannot fit the number of buildings on the site to accommodate the 120 units. It is possible for the number of units to change, depending on the environmental review, the wet land delineation and the Department of Transportation with egress and the access, it could be minimized even more.

Mayor Brescia said with that said, he opened to entertained questions from the public present.

RE: PUBLIC QUESTIONS

Mr. Donald Berger is curious about the status of the proposed Master Plan, a public hearing was held on September 24, 2016?

Mayor Brescia asked, Planning Board Chrmn Conero, what is the current status?

PB Chrmn. Conero stated, it was recommended that an update be conducted to the ten year Master Plan, at five years. Therefore, a committee was created and presented all of the changes and the facts on the five year update. Our committee was abolished at that point and presented to the Board for the final approval.

Mayor Brescia replied there was a draft.

Attorney Dowd stated there were two public hearings held, after the last public hearing several changes were to be made. Allen sent those changes to the Planning Board and that is last he recalls on the progress.

PB Chairman Conero mentioned there were some demographics that needed to be changed as well, for instance the population did not reflect the latest figures.

Mayor Brescia asked weren't there recommendations in this zone that you may recall.

PB Chairman Conero replied, yes, there were other recommendations with other permitted uses and others were removed, in the I-1 zone, again it was supposed to be a planned business district, such as light warehousing, non-nuisance commercial buildings, not residential.

Mayor Brescia asked other than the residential aspect of the I-1 zone were the other uses that are being requested in the application allowed from the beginning.

Attorney Dowd replied yes, from the presentation submitted the owner proposes a ninety thousand square foot space for ecommerce of recreational trampolines, bouncy houses, bicycles, he is a wholesaler of these type of products. He is growing beyond where is currently renting now in Cornwall. He would rather own his own facility rather than rent.

Mr. Berger asked that question after attending last Wednesday, Planning Board meeting. One of the Planning Board members seem to be upset that the Master Plan had not been approved. It was assumed that if the Master Plan was in place, we would not be here today.

PB member Romano stated that is not the case, in fact, she had asked that question, we missed the overlay. Even if the Master Plan was approved, this is still an allowable submission to the Planning Board.

PB Chrmn Conero stated the Overlay precedes the Master Plan.

Mayor Brescia said the Board will certainly look over the recommendations.

Mr. Berger mentioned Mr. Steed and Mr. Dowd having a discussion at the Planning Board meeting regarding a Local Law that brought up. He asks if Mr. Steed could possibly speak on it and where it stands.

Mr. Steed said all he could do at this point is to get a third independent party opinion, which he is in the process of doing. He hopes to have an answer by the next Planning Board meeting of October 24th.

Ms. Beltrametti questions the approach here, you want us to patient and not get upset and not let rumors spread. Why go into executive session at the moment you begin the meeting? It makes her feel suspicious, not that she needs any help in this area. Zoning is not a topic to be discussed in the executive session.

Atty. Dowd stated legalities are. My clients want legal advice from me, I have the right to go into a closed session to discuss it with them.

Mayor Brescia stated especially with respect to potential litigation, the Board is able to adjourn for Attorney client privilege.

Ms. Beltrametti was not able to understand the Board's need to adjourn for Attorney client privilege.

Mayor Brescia moved to the next question.

Mr. Holbert asked, what is the height requirement of the industrial building?

(In audible – too many speaking at the same time, and over each other)

Attorney Dowd stated, thirty five feet.

(In audible – too many speaking at the same time, and over each other)

PB Mbr Crowley stated except in the Senior Overlay, the building height be forty feet.

Mayor Brescia asked Atty. Dowd if this is still the case with the Airport.

Atty. Dowd mentioned it depends as you know there are issues with map being incorrect, of which we are trying to work the Orange County Department of Planning on this, as well as the zoning.

Mayor Brescia asked Atty. Dowd to send the OC Dept. of Planning a letter that the Village is in the midst of an application that is very concerning to many Village residents, asking for an immediate opinion on the height restriction. If the height restriction can be lowered for safety measures, as recommended, the Village will certainly do so.

PB Mbr Crowley mentioned as a reminder that was one of Dawn's recommendations that they go to the FAA to clarify the flight pattern, because the County has not always been clear.

Mr. Holbert asked on the Senior Housing portion a few years ago, men were fishing around, what is the difference from that query.

Mayor Brescia replied, Jonah Mendelbaum was fishing around, regarding workforce housing. The Board thought they were in their right to tell Mr. Link we would not allow any residential, however, senior housing is allowed in the Overlay zone. The Board told Mr. Link, repeatedly we would consider some residential of twenty to thirty units; if the commercial was done first. Not remembering about the law of 2003 regarding the Senior Overlay District.

Atty. Dowd also mentioned that the Board tried to direct him towards a PDD, were the Village Board would have that kind of control on how to phase in residential and commercial. At the time, Mr. Mendelbaum came before the Board was to talk senior housing and workforce housing.

Mayor Brescia stated due to the response from the exploratory committee, we did not consider workforce housing. Workforce housing became more fundable in the State of New York then it was previously and Jonah was no longer interested.

A gentlemen, who did not state his name for the record asked where the access is to be located.

Mayor Brescia stated the access to the right of car wash.

PB Mbr Steed describes the layout of the feasibility development plan to the public present.

Mayor Brescia asked that a copy of the feasibility plan be posted on the chalk board and the Village website.

John Reale said it seems everything is being done properly but is concerned about the wild life, Turkey, Deer and Owls and the Peregrine falcon that is an endangered species as recently as a week ago. He would like to be assured that the Board and the Village addresses this concern, in light of this request.

Mr. LaRocca understand that the feasibility plan can change, however, what is the distance of the senior housing to the current property line of the current occupants there. His concern is for the people who live in this Village. He actually walked the property line and it is definitely wet but the property line is closer than it was thought to be.

Atty. Dowd stated the Senior Overlay allows the Planning Board to reduce the side of the yard to five feet, it allows them but does not require. The buffer between an industrial and residential is two feet.

PB Chrmn Conero stated the set back of an industrial zone is fifty feet and five feet for the Senior Overlay.

Ed Malley is concerned why his property was surveyed without giving consent?

Mayor Brescia said the Board was neither aware nor did they give consent to have any ones property surveyed.

Gentlemen Scott asked if there is an endangered species at this proposed development doesn't that have to be addressed.

Trustee Lindner stated that is all part of the SEQR process.

Ms. Pitts stated her concerns with all of the development of warehouses, where are the trucks going to go and the noise.

Mayor Brescia stated the Planning Board will take all of these factors into consideration, as well as the hours of operation.

Mr. Berger is concerned about the water and sewer with this proposed development as well as the Candler Lane development. Is there a way for the Village ask the applicant to perhaps pay for an upgrade of the sewer plant?

Mayor Brescia stated this application is fairly new and the Village is always looking for water. The warehouses do not use much water. It is now illegal impact fee by the State of New York, we only charge for the basic cost of the hook up. If they are in the Village, they are entitled to water and sewer by law.

Mr. LaRocca mentioned to keep in traffic will also be increased with the potential of eighty senior citizens coming and going. It is a concern.

Atty. Dowd said the law states you can regulate the use but not the business itself, nothing outlandish has been proposed. The hours of operation tend to be business related.

Mr. Reale asked, will the access roads be taken over by the Village or private.

Atty. Dowd replied it has not been determined or asked yet.

Mayor Brescia stated that it is not the Village's plan to take over the access roads for this development.

Jane Hoeffner asked, how many employees will they employ?

PB Mbr Crowley replied it is mentioned the he plans to employ thirty to thirty five employees in his warehouse.

RE: CLOSE THE SPECIAL MEETING

Mayor Brescia called for a motion to close the special meeting.

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board closed the special meeting. Motion carried, 5-Ayes, 0-Nays.

Moved by PB Mbr Steed, seconded by PB Chrmn Conero, the Planning Board closed the special meeting. Motion carried, 4-Ayes, 0-Nays.

Monserate Rivera-Fernandez, Village Clerk