

Minutes of the Public Hearing, of the Board of Trustees, of the Village of Montgomery is held in the Court Room at 133 Clinton Street, Montgomery, NY 12549 on Tuesday, January 15, 2019.

Present: Mayor Brescia, Deputy Mayor Scheels, Trustee Andolsek, Trustee Hembury (absent), Trustee Lindner, Atty. Dowd, Village Clerk Rivera-Fernandez, Maria Beltrametti, Don Berger, Johanna Sweikata, Mary Ann Lindner, Anita Falcone, Lisa A Scheu, , Mark and Heidi Gridley, Laura Fitzgerald Tom Steed, Erin Crowley, Tina Murphy, Sean Murphy.

Mayor Brescia called for a motion to open the Public Hearing for the Introductory Local Law I-3 of 2018.

RE: OPEN PUBLIC HEARING FOR INTRODUCTORY LOCAL LAW I-3 OF 2018

Moved by Trustee Lindner, seconded by Deputy Mayor Scheels, the Board opened the Public Hearing amending Chapter 122 of the code of the Village of Montgomery entitled “Zoning” to modify certain provisions of the regulations regarding senior citizen development overlay districts as enacted by Local Law 1 of 2003. Motion carried, 4-Ayes, Nays.

Mayor Brescia asked the Village Clerk Rivera-Fernandez if all of the papers have been filed to hold this Public Hearing.

Village Clerk Rivera-Fernandez replied yes, all of the paperwork has been filed to hold this Public Hearing.

Mayor Brescia opened the Public Hearing for public comment for Introductory Local Law I-3 of 2018. He asked Atty. Dowd to provide a synopsis.

Atty. Dowd stated a renewal of the Senior Citizen Development Overlay District of any property this is facing Route 211. An application of KSH warehouse proposed senior development off of Route 211. This would remove that possibility a part of the overlay district, it does not remove it as part of a PDD would be concerned. It would certainly would remove it a right of an overlay district.

Mayor Brescia stated they can reapply for a residential overlay.

Atty. Dowd stated if they want to do a separate housing project, in that industrial zone, they would have to come back to the Village Board for a zoning change under the PDD regulations.

Trustee Lindner asked does this change the terms if they decide to come in across from Chandler Lane.

Atty. Dowd replied no. Right now it is zoned industrial, with only uses allowed within an industrial zone. The Senior District overlay would allow, as it stands now would allow them to put a senior development in there. However, this Law would remove that section of the law of the zoning code to prohibit that from being as of a right. They can come to the Board to plead their case for a PDD.

Mayor Brescia stated the Board would have more latitude as for as a number of residential units. In addition, we are looking to change the height requirements. Due to the problems with the construction on Dunn Road, which is currently thirty five feet and consider thirty feet or lower. We are waiting for recommendations from Orange County Airport. After the recommendations are received, we will do something.

Atty. Dowd said right, the Airport and the flight path.

Eric Crowley asked why the change is being made on Route 211 and not on 17K. Why is the law being changed?

Atty. Dowd stated it is being changed for two reasons. First, by changing the overlay district on Route 17K, it would be a non-conforming use for the senior project that already exists. Secondly, the concern about the senior project on Route 211, the DOT has stated given the plan as presented to them, they would allow a senior housing project to go in on the industrial zone property. Therefore, since it cannot be done without the DOT's approval, and since it is on a state highway. We felt that it was sufficient reason for the senior overlay to be removed on Route 211. Should the applicant want to put in senior housing under the industrial zone or anywhere else, they would have to come to the Village Board to apply under a PDD. Therefore giving the Board more control over what type of housing and number of units.

Mayor Brescia stated it is not just the sight distance that concerns the DOT. The wetland is another issue.

Atty. Dowd stated they could navigate around the wetlands with the access they are proposing.

Ms. Crowley asked what if someone else wants to develop along 211 where they might not have an issue. So why have you made a decision on this particular parcel with a plan that came before the Planning Board.

Atty. Dowd replied it is not just this particular parcel. The way the law reads anywhere along all of 211 the senior district overlay is being removed.

Ms. Crowley was of the understanding that the proposed plan should play out. Why was the decision made to change the law in the middle of a planning stage? The law was originally put in place to so that we could build away, to build senior housing there because it was benefit to the Village. Keeping the zone industrial and the Village would be able to sell the property and make money off of it. It was a difficult piece of property for us to sell because of the wetlands and it was oddly shaped. A developer came in, it was appealing to the Village, therefore a law was created and passed to say on industrial parcels that had frontage on state land, we could build senior housing. Another particular group wants to do the same thing, industrial, commercial space warehousing and senior. She asks the Trustee's why have you decided to change this law. It has worked on our favor before, again, why now? Is it because of the particular group that is before us?

Mayor Brescia replied, no not at all.

Ms. Crowley stated maybe it did not work for us, so we are going to change it. She asks to hear from the Trustees, the four sitting there. Explain it. There is other property in the Village still with frontage that the DOT would not have a problem with. The DOT has allowed a PDD on the other side of 211, which is still in the development stages, owned by Devitt. No one had a problem with transportation on that side. Actually the DOT has a problem with it, however the Village did but not the Trustees. Why was there an issue with the other side?

Trustee Lindner replied was a result of the DOT's findings. It wasn't until after receiving a letter issued by the DOT that an entrance by the car wash was not allowed. After reviewing it, senior

housing coming out by Chandler Lane is an issue simply because it does not line up with Chandler Lane. Therefore, they would have to buy the property adjacent to it.

Ms. Crowley asks what about Hoeffner's who owns that property, if they decide in the future, they want to make a change. Why not let the Planning Board do their job and DOT in this particular instance let it play out. Letting the DOT come to the Planning Board that it is not going to work allowing access onto 211. Further down the road, why did we block it all together? Now you prevent other people from doing and having.

Mayor Brescia stated Erin we did not preclude anyone from applying for a PDD to do residential on their property. To be honest, with you this was floating zone for years and everyone forgot it was a floating zone. We are concerned about the overabundance of residential and a warehouse next to each other. This was not done arbitrarily on a whim do this. Mr. Alden Link has come to us many times over the last few years, wanting to do residential development and senior housing. We told him, not remember of the floating zone that we would consider some residential, if he did the industrial commercial first. Remembering the floating zone, they could put in a hundred plus residential housing units in there. We did not want it. Please remember the Board of Trustee's decides the zoning in the Village of Montgomery not the Planning Board. As far as residential, it is certainly within our preview to limit it, it is within our right to do that. Trustee Hembury would not consider any housing there at all. He does not appreciate saying that we are arbitrarily doing it.

Ms. Crowley said she asked the reason why? (In audible) speaking over each other. She was told that she would be personally sued. That's why she is bringing it up. We were disciplined by the Village Attorney about what we were doing?

Mayor Brescia reminds Ms. Crowley not to speak of what was mentioned during the Attorney client privilege, which is not up for public discussion.

Trustee Lindner stated going back to Mr. Alden Link, he had come to the Board of Trustee's numerous times. He has other project other than what is was zoned for. It was looked at as one of the few remaining commercial pieces of property within the Village. The other part is across from where Devitt is planning, there is another parcel that we do not have. So by changing the law, we prohibit that. It is better for the Village to keep it as commercial rather than have it go to senior housing.

Ms. Crowley thanks Steve and Walt for being the only ones to explain. She would have heard from the rest of the Board.

Mayor Brescia stated JoAnn and Darlene are free to speak but they also sat on a committee, where we were looking at senior housing that Jonah Mendelbaum was looking to do. He also was talking about work force housing. They had a committee with members of the public and it come back overwhelmingly that they did not want work force housing in that district. The senior overlay district was mainly created for the 17K corridor.

PB Chrmn Conero stated that it was an overwhelming agreement by Master Plan committee that should be no residential in the industrial zone of any kind, whether it be senior housing or multi-family residents. He knows what the Board is trying to achieve with A PDD, but looking at the Master Plan, the municipal planner did not remember of the senior overlay district on 211. Mayor Brescia mentioned that the recommendation came about after the PDD was already created in those two zones. Ed and then Maria speaks next.

Mr. Malley asked who owned these properties a long time ago. He is aware that this is going through but the access road runs along his property. So they will try to take the Body Shop, his home as well as his to allow for the access.

Mayor Brescia said you asked me that and he does not know.

Atty. Dowd stated there are two access to that parcel. The first in across from Chandler Lane for the warehouse. He was then proposing if he owned a fifty foot strip from 211 up past the car wash into the back part of that parcel. This is where the senior housing was to be proposed.

Ms. Beltrametti asked if someone wants to put in a PDD, they would still need 10 acres.

Atty. Dowd stated the Local Law we had prior to this one was for the RM-1 to allow for a PDD but on ten acres or more. The regular PDD does not have any limitations on another zone.

Ms. Beltrametti feels it is a great opportunity to calm things on 211, every little bit helps.

Lisa Lockwood resident of 239 Union Street, directly across from the proposed warehouses. She is concerned about how far back they are going to go and what are they going to look like. She has heard something of some type of historic integrity that is important to Montgomery. Looking at what was built by the airport and it is not nice. Do we have control over what we are going to see?

Mayor Brescia replied during the planning process the Board has as far as buffering and noise. All of those concerns will have to be addressed. For all intense and purposes the developer has a right to build warehouses on his property as long as it meets with the zone. The Planning Board controls as much as possible.

PB Chrmn Conero stated in the sketch plan the main part of the warehouses are in the back part of the parcel. We will take into consideration of the yielding because it is the entrance to our Village.

Mayor Brescia mentioned reverse sirens on fork lifts and as much as a buffer because of sound, abatement.

Mr. Berger feels the Board should be able to prohibit with the construction of these two warehouses. He has a problem with the 200,000 square foot warehouse that building is being built to spec.

Mayor Brescia stated we are getting off the topic.

Ms. Crowley the applicant stated not building the larger warehouse until they had an occupant.

Atty. Dowd mentioned we have gone off the topic of the Local Law.

RE: PUBLIC HEARING ADJOURNED

Moved by Deputy Mayor Scheels, seconded by Trustee Lindner, the Board adjourned the Public Hearing to reconvene on February 5, 2019 at 7:30 pm. Written comments can be submitted to the Village Clerk, up until the meeting on the 5th. Motion carried, 4-Ayes, 0-Nays.

Monserrate Rivera-Fernandez, Village Clerk