

MINUTES of the Village of Montgomery Planning Board held at the Village Hall Meeting Room, 133 Clinton Street, Montgomery, on Wednesday, July 31, 2024, at 7:30 pm.

ATTENDENCE: Mbr. Frisbie, Mbr. Romano, Mbr. Steed (Absent), Mbr. Meyer (Absent), Mbr. Reynolds, Vlg. Atty. Joseph McKay, Vlg. Eng. Scott Sicina of Lanc & Tully, Cynthia Reynolds, Trustee Picarello

OPEN: Chrwm. Frisbie opened the meeting with the Pledge of Allegiance.

ADJOURNED PUBLIC HEARING

KSH is postponed.

OLD BUSINESS

PATHWAY PLACE MANAGEMENT 203-1-1

Chrwm. Frisbie: We have a request for a site plan extension of their approval for Pathway.

WHEREAS, on or about August 23, 2023, the Planning Board of the Village of Montgomery granted Pathway Place Management, LLC, “the Applicant,” conditional final site plan approval for the premises situated at Section 203, Block 1, Lot 1 in the Village of Montgomery, said lot also being known as 1-13 Factory Street; and

WHEREAS the conditional final site plan was signed on February 8, 2024; and

WHEREAS section 122-61L of the Village Code requires that within 180 days, an owner must pursue “substantial construction” in accordance with an approved site plan, as here, by August 6, 2024; and

WHEREAS, on December 19, 2023, the Village Board had adopted a local law implementing a six-month moratorium on the issuance of building permits, which moratorium has been extended for a second six-month period, and is now in effect until December 19, 2024; and

WHEREAS, due to the moratorium, the Applicant is prohibited from obtaining a building permit and cannot take action to pursue “substantial construction” as required by Village Code § 122-61.L;

NOW, THEREFORE, IT IS HEREVY:

RESOLVED, that the Planning Board of the Village of Montgomery, pursuant to Chapter 122-6.L of the Village Code, hereby approves the Applicant’s request to extend its site plan approval for 180 days, up to and including February 2, 2025.

A MOTION was made to APPROVE THE RESOLUTION EXTENDING SITE PLAN APPROVAL FOR PATHWAY PLACE MANAGEMENT LLC, 203-1-1 by Mbr. Reynolds, seconded by Mbr. Romano and carried 3 Ayes, 0 Nays.

NEW BUSINESS

FOOD BANK OF THE HUDSON VALLEY – 214-1-1 & 31-1-2.12

Chrwn. Frisbie: We have an application from the Food Bank for a lot line change and a site plan review.

Marsha Jacobowitz: We are here because we have a tight site, and we need to accommodate trucks that will deliver the food. When first site plan was looked at some of the things that have unfolded, as things move along, different things are taken into consideration and the amount of food that's going to be moved which

is £20 million pounds for share of operation requires us to have some trucks that can park there so that they can be loaded up and unloaded as the operations require so, in order to do that and allow for easier entry onto the property and exiting, we are going to pick up about quarter of an acre in the rear and really all this does is it just extends the parking in the back and we're going to just extend it out.

Jay Samuelson: This is the original plan; this is what was proposed in the back around and back across. With the proposed plan, instead of just coming straight across this parking area, it'll be expanded to be include that area. (Indicates on site plan.)

Marsha Jacobowitz: So, it doesn't really, you know Scott will definitely give his view on this, but from my perspective it doesn't change anything in terms of elevations or anything with regard to building location of any of the infrastructure except just some more curbing around the back, as Jake pointed out. It doesn't change anything with utilities, the need for additional services doesn't change anything other than extending the paving out and then the curbing to extend beyond the portion that's being picked up.

Mbr. Reynolds: How many more trucks are going to be back there? Is it trucks and trailers or just trailers?

Marsha Jacobowitz: It's actually not more, we actually had no place to park them to begin with. It was always anticipated that these trucks would be coming onto the property but as we developed the site there was no place to put them to adequately accommodate the parking of those trucks and so that's what's caused us to look to see how to accommodate the parking with those trucks.

Mbr. Reynolds: Is it trucks and trailers or just trailers.

Jay Samuelson: It's both. There is room for four trucks and trailers and room for 8 box-truck type vehicles. It was always anticipated those vehicles would park in front of the loading doors. That method is not going to work to leave them there to enable other vehicles to unload and then load, so having them parked in front of the loading dock for all time, it doesn't work, so they looking to just park them opposite the loading dock so that there's room for the park and allowing the loading and unloading to happen while the other trucks are out of the way.

Mbr. Reynolds: It's not going to affect the in and out traffic that was proposed or anything of that nature?

Jay Samuelson: No, the number of trucks is still roughly the same, it might go up one or two from what we originally proposed. I think originally, we were talking if I remember correctly, I want to say five or six a week is what we originally said, or four. So, I think we're up to five or six a week.

Chrwm. Frisbie: We did receive comments on the proposed application from our engineer.

The first one is the EAF provided in February 2023 noted only four trucks per week. This included tractor trailers and single unit trucks. The application discussed the need for additional truck parking areas and how this will impact the operations of the site.

Secondly, on the plans is noted a water storage tank. The height of the water storage tank should be provided on the plan, we don't see it. We see the diameter and the capacity, but not height.

The next item is the proposed water storage tank is located in the required side set-back and within the FAA easement. We note, the definition of a side setback only appears to apply to buildings. Where the water tank certainly does not meet the code definition of a building, so we don't believe it needs a variance, however additional review from the FAA is required in a no hazard letter since it is in the FAA easement.

Our next thing is regarding the SWPPP, the revised SWPPP does not appear to provide enough water quality volume treatment for the site, as noted on page 14 of the SWPPP report, and on the WQV calculation provided on the water quality volume calculation sheet 105 in area reduction credit is being taken for the proposed bioretention area and vegetative swales. Both the bioretention area and vegetated swales provide area reductions but are considered volume reduction.

The last two are a short EAF has been provided on which we have the following comments, there's three. Question three should be revised to reflect the correct amount of site disturbance, question 13B should be yes, as the proposed project includes wetland disturbance and then we know that the site is subject to clearing restrictions related to the Indiana bat, which there should not be clearing of any mature trees until November 1st. Lastly, a public hearing will be required for the proposed lot line change.

Marsha Jacobowitz: The only one I'd like to go over is the FAA clearance. I don't know that that's required. It's in the...what it means about the height is not...

Scott Sicina: The concern is, originally the building was in the FAA easement and then and then it got pulled out, which is fine. The concern is I don't know the height of the tank and we don't have any indication from the FAA that they're aware of the tank, they know the tank, just looking for clarification. If it's only 20 foot high and you guys are good, that's fine. If you have any light on top, whatever it may be, that's going to make sure that that is cleared with the FAA in there.

Mbr. Reynolds: Do you know the height of that thing?

Jay Samuelson: I didn't design it, but I don't want to quote a number that's not correct.

Chrwm. Frisbie: If we could just make sure...

Jay Samuelson: I think it's 28...

Scott Sicina: Just so you're aware, the reason why I made this comment now is I mean obviously you guys here for a lot of change, if that needs to be relocated it's kind of the time to do it. If we're going to move it so it's out of the FAA easement, you guys need more land to do that, I would need to have you guys do a lot line change and then you come back and do an additional lot line change potentially.

Chrwm. Frisbie: (To the Board) Any other questions?

Mbr. Romano: No, we just really want to know about the storage tank height.

Jay Samuelson: I'll definitely put that on there, that's not a problem.

Atty. McKay: I have a couple of things. You're going to need the 239 Review from the county because for several different reasons; the amended site plan is also near/within the border of the town of Montgomery, the state road so few different reasons that we need the 239 review. We really want to expedite this, and we had a discussion about how long it will take to get the comments together. Have you taken any steps, or do you intend, because it's still in the middle of the moratorium, right now it goes through December, are you going to get a hardship approval from the moratorium?

Marsha Jacobowitz: I think we're in the exception, Joe. I thought that was something that we decided was the case. We're an exception because we're not increasing any services and it's, we're just trying to find it...

Atty. McKay: Okay, so in the application for amended site plan, so long as the use is currently existing and in compliance with zoning code and the proposed action will not result in any increase in water supply demands.

Chrwm. Frisbie: So, we're fine in moving forward without needing an exception from the Village Board or a special waiver or hardship.

Mbr. Reynolds: It'll be an initial water supply demand but not an extended water supply.

Chrwm. Frisbie: It doesn't change their initial application. We need a referral to County Planning; we need to establish lead agency and then we can schedule a public hearing.

Atty. McKay: During the moratorium, (inaudible)...may need an opinion from the Village attorney.

Marsha Jacobowitz: What is it that you're questioning?

Atty. McKay: The moratorium says that this Board can't give a subdivision approval.

Marsha Jacobowitz: Unless there are specific exception, and this is a specific exception.

Atty. McKay: ...(inaudible)...the definition of a subdivision on whether this is...and there's a question as to whether or not a lot line change is technically a subdivision. I can look at the definition in the code I think a lot line change is classified as a minor. It's the timing. I don't see any problem with the application itself.

Chrwm. Frisbie: Regardless of this, we can move forward with referrals to County Planning, setting a public hearing everything that we can do, and you can work with the Village's attorney to determine the appropriate interpretation of the language and more. Are we up to the resolution?

Atty. McKay: We discussed that the Board does have to hold a public hearing on the lot line change. There's no waiver provision in the code for that so...A good thing for the applicant is you don't have to go back to the Village Board on this, the way you did the first time. I have prepared the resolution that you have there. The resolution is to designate lead agency status for the Board and move forward in setting the public hearing. The question would be that while this is being done whether or not people get the referrals back on time for the August meeting, so that's up to the Board as to how the Board wishes to handle that.

Chrwm. Frisbie: OK, I'll read the resolution and then we can make a motion I'll entertain your motion so

WHEREAS, the Planning Board of the Village of Montgomery has received applications from the Regional Food Bank of Northeastern New York, Inc. (the "Applicant" or the "Food Bank") for approval of a lot line change and for approval of an amended site plan (the "Project") for the premises situated at Section 214, Block 1, Lot 1.1 in the Village Montgomery, said lot also being known as 580 New York State Route 416 (the "Property"); and

WHEREAS the applicant has filed, and the Planning Board has reviewed, the Applicant's amended site plan application, its lot line change (subdivision) application, its proposed plat, Short Environmental Assessment Form (EAF) and Amended SWPPP for the Project;

NOW, THEREFORE, BE IT HEREBY

RESOLVED, that pursuant to, and in accordance with, the provisions of Part 617.6 of the regulations implementing the New York State Environmental Quality Review Act ("SEQRA"), the Planning Board hereby determines that the proposed Project is an Unlisted action; and it is further

RESOLVED, that pursuant to part 617.6 (a)(1) of the regulations implementing SEQRA, the Planning Board hereby preliminary classifieds the aforementioned Project as an Unlisted action; and it is further

RESOLVED that the Planning Board hereby determines that it would be the Lead Agency with respect to the consideration, review and determination of the significance of the aforementioned application pursuant to Part 617.6 (b)(1)(i), since there are no other agencies that have authority to approve the project; and it is further

RESOLVED that copies of the applications shall be referred to the Orange County Department of Planning in accordance with GML § 239 and to the

RESOLVED, that the Planning Board determines that the Applications are complete for purposes of scheduling public hearings thereon and hereby schedules a public hearing to review the lot line (minor subdivision) application and the amended site plan application for August 28th, 2024.

A MOTION was made TO APPROVE THE RESOLUTION ESTABLISHING LEAD AGENCY AND LOT LINE CHANGE AND AMENDED SITE PLAN APPROVAL FOR THE REGIONAL FOOD BANK OF NORTHEASTERN NEW YORK, INC. 214-1-1.1 by Mbr. Romano, seconded by Mbr. Reynolds and carried 3 Ayes, 0 Nays.

A MOTION was made TO APPROVE THE MINUTES OF June 26, 2024, by Mbr. Reynolds, seconded by Mbr. Romano and carried 3 Ayes, 0 Nays

A MOTION was made TO ADJOURN THE MEETING at 7:58pm by Mbr. Romano, seconded by Mbr. Reynolds and carried 3 Ayes, 0 Nays.

Tina Murphy, Deputy Village Clerk