

**MINUTES** of the Village of Montgomery Planning Board meeting held in the Meeting Room of the Village Hall, 133 Clinton Street, on Wednesday, September 28, 2022, at 7:30pm.

**ATTENDANCE:** Chrm. Conero, Mbr. Romano, Mbr. Crowley (Absent), Mbr. Steed, Mbr. Meyer (Absent), Vlg. Atty. Stephanie Tunic, Vlg. Atty. Joseph McKay, Vlg. Eng. Scott Sicina of Lanc & Tully, Ross Winglovitz, PE & Zack Szabo of Engineering Properties, Stosh Zamosky of Anderson Design Group, Tom Olley of Olley Architects, Steve Snyder, Robert Williams, Don Berger, Chuck LaRocca, Darren Doce, Bob & Cindy Reynolds, Hayyim Danzig, Todd Zwigard, Bradley Cleverly of MJS Engineering, Taylor Palmer, Beth Selig of Hudson Cultural Svcs, Vincent Satriano

**OPEN:** Chrm. Conero opened the meeting with the Pledge of Allegiance.

### **ADJOURNED PUBLIC HEARINGS**

**RE: 61 PROSPECT TERRACE 207-1-27.212**

**A MOTION was made to OPEN THE PUBLIC HEARING FOR 61 PROSPECT TERRACE 207-1-27.212 at 7:30pm by Mbr. Steed, seconded by Mbr. Romano and carried 3 Ayes 0 Nays.**

**Chrm. Conero** said, at our last meeting, we had asked our attorney to prepare a Resolution for Final Subdivision Approval and also a Negative Declaration for SEQRA.

**Atty. Midler** replied, that is correct.

**Chrm. Conero** said, those two have been written and proceeded to open the public hearing for comment.

**Atty. Midler** said, for the record, and she believes it was the reason they left the public hearing open, is they received a no impact letter from SHPO. All matters have been closed out.

**Chrm. Conero** asked, the letter is dated September 7<sup>th</sup>?

**Atty. Midler** replied, yes.

**Chrm. Conero** said, there is no significant archeological or substantial issues historic preservation.

**A MOTION was made to CLOSE THE PUBLIC HEARING FOR 61 PROSPECT TERRACE 207-1-27.212 AT 7:31 PM by Mbr. Romano, seconded by Mbr. Steed and carried 3 Ayes 0 Nays.**

**Atty. Midler** said she prepared the Negative Declaration;

It is a minor, two-lot subdivision. They are conforming lots; the only non-conforming setback was with regard an existing garage which is not being altered and is remaining a garage so no variance was sought for this application, or rather needed. One lot is going to have a single-family dwelling and lot 2 will have a conversion of the other 2<sup>nd</sup> garage on the property into another single-family dwelling. With that being the case, consistent with the residential character; they meet the minimum lot area requirements.

Atty. Midler recommends that the Board adopt the Negative Declaration as there are no environmental impacts for this subdivision.

**A MOTION was made to ADOPT THE NEGATIVE DECLARATION FOR 61 PROSPECT TERRACE 207-1-27.212 AT 7:33 PM by Mbr. Steed, seconded by Mbr. Romano and carried 3 Ayes 0 Nays.**

**A MOTION was made to ADOPT THE RESOLUTION GRANTING CONDITIONAL FINAL SUBDIVISION APPROVAL, CONTINGENT UPON ATTY. MIDLER'S FINAL REVIEW OF THE EASEMENTS THAT ARE REQUIRED TO BE RECORDED, FOR 61 PROSPECT TERRACE 207-1-27.212 AT 7:35 PM, by Chrm. Conero, seconded by Mbr. Romano and carried 3 Ayes 0 Nays.**

Chrm. Conero asked Atty. Midler if there were parkland fees. Atty. Midler responded, yes, because of the new lot, as part of the conditions.

Mr. Doce said he is aware.

Eng. Sicina had no outstanding comments to address.

**RE: ZAFIR – DUNN ROAD 213-3-4.22**

**A MOTION was made to OPEN THE PUBLIC HEARING FOR ZAFIR – DUNN ROAD 213-3-4.22 AT 7:35 PM by Mbr. Romano, seconded by Mbr. Steed and carried 3 Ayes 0 Nays.**

**Chrm. Conero** said, they have another comment letter from Lanc & Tully, we do have a letter from SHPO and the FAA. SHPO had no objections to this or potential impacts. They have an architectural view.

**Chrm. Conero** asked Mr. Olley and Scott to go through the issues that need to be addressed on the engineer's report before we open it up to the public.

**Tom Olley** is representing the applicant, Zafir, LLC. Scott wasn't here last month and he didn't get the benefit of some of the discussion they had. Some of the responses have already been made to your letter but they will formalize it in a letter back to the Board to clarify.

They submitted a whole bunch of documents with this past submission that included a determination by the DEC, that their interpretation of the stormwater regulations was correct; that this does not require a full SWPPP, including the post construction facilities. Scott acknowledged that in the letter. They did provide an architectural rendering of the proposed building and they, when listening to the Board's comments, incorporated some additional architectural elements into the design. That includes a central glass entry point, including a dormer above it, adding a second color of siding below the window line just to make it not a cream, blank wall. The architect included some foundation plantings to the left of the door, to the right. They will bring it into the site plan if the Board is satisfied with this, along with a couple of minor comments.

**Chrm. Conero** asked if there was any space between this building and the existing building?

**Mr. Olley** replied, yes. What the architect tried to do is give you a view you would see from 211. Because the existing building is closer to 211 and closer to Dunn Road, it's going to partially block the view of the building in the back because it's going to be sitting about 100-110 feet further removed from Dunn Road than the existing building.

We had discussed the curbing last time; about the internal curbing and that everything drains toward the low area on the site so they didn't need curbing to direct storm water flow.

**Chrm. Conero** asked the Board, if they decided whether or not they wanted curbing?

**Mr. Olley** replied, at the last meeting, you did.

**Chrm. Conero** said, he just wanted to make sure they addressed it because he had a note to bring that up tonight.

**Mr. Olley** said, Scott's comment with respect to access to the septic tank and the pump station/septic system is all behind the building but its only 65ft from the loading dock, so the hoses on the septic hauler truck are more than adequate to reach there. If the pump station is a fractional horse power affluent pump in there; it doesn't need any heavy equipment to move it. If there were any additional heavy work that had to be done, an excavator can certainly walk around to the back. There is no need for daily maintenance of it, it's a septic house like at someone's house outside the Village.

Scott's looking for a couple of dimensions on the parking spaces and the sidewalk. The parking spaces are mentioned on the detail sheet but they can add those on the plan.

**Chrm. Conero** asked, you're paving the parking lot?

**Mr. Olley** replied, yes.

**Mr. Olley** said, they show on the detail where the signs need to be and they will show them on the plan, as well. They will also indicate the ADA sign/accessible parking space sign placed on the existing space. He didn't see one today, so they will make sure it's installed.

With regard to the landscaping, last month they committed they would substitute out some deciduous trees but he wanted to be clear with the Board, that they are trying to maximize the screening, which the evergreens provide verses the deciduous. Is there any problem leaving these (indicates on site plan) evergreens on this side?

**Chrm. Conero** asked, you've actually identified all of those on that side of the property? The existing trees?

**Mr. Olley** said, no, these are proposed trees.

**Chrm. Conero** asked, what is the comment on the landscaping...?

**Eng. Sicina** replied, Special Exception criteria requires a mix of evergreen and deciduous trees. If he wants to use tree screening on one side of the property, and the Planning Board doesn't have a problem with it and there are other deciduous trees on the site, he meets the criteria.

**Chrm. Conero** asked if the Board members were ok with it? Everyone was ok with it.

**Mr. Olley** said, that is what they would propose.

**Chrm. Conero** said, they are going to provide screening.

**Mr. Olley** said, they want to maximize the screening.

One thing that they will, even though the owner was not happy about it, they will also add a few more trees that will supplement along the property line with the Ramos property. The reason is, they went back and walked it and there are a number of hemlocks that are right on the property line and the hemlocks are dying off. It's an actual occurrence that is happening now, all over region, so they would propose to plant spruces in there to help provide additional screening, especially now because the hemlocks have lost a lot of their low branches because it's pretty dense in there.

**Chrm Conero** asked it they were going to berm that at all?

**Mr. Olley** replied, no, they aren't going to berm it but because they run the risk of damaging the existing trees that are there by berming them. They will just plant those trees in some of the gaps that are along there.

**Eng. Sicina** asked, is that just in that area where the tree line gets right to the property line, or are they suggesting that for the whole site?

**Mr. Olley** replied, no, just the right side, the east side. The neighbor's property is fairly open, as far as a lawn in this area, they have some larger trees around the perimeter but this will help provide some additional screening for them along that side.

**Chrm. Conero** asked how tall the trees would be that they are going to plant?

**Mr. Olley** replied that they will stick with the Fat Alberta Spruce which the airport said was consistent with the height. They grow to 15-20ft. They can't plant very high growing trees because of the proximity to the airport.

**Chrm. Conero** said, #9 is about the federal wetlands?

**Mr. Olley** said, after they received the email from the DEC, they went ahead and filed a pre-construction notification with the ACOE. That's in process but they request that be a condition of any approval.

**Chrm. Conero** asked Scott if they delineated the wetlands.

**Eng. Sicina** replied, yes.

**Mr. Olley** said they dealt with a private consultant who submitted to the ACOE. The AC will make a determination whether they want to come out and look at it themselves, or accept that.

**Chrm. Conero** asked if they made the application to the ACOE and how long ago.

**Mr. Olley** replied, yes, just this past week. After they got the signoff from the DEC about the storm water, they felt comfortable going ahead with that.

**Chrm. Conero** asked Mbr. Steed if he had anything to add to that.

**Mbr. Steed** replied, no.

**Mr. Olley** said this all falls within the parameters of the Nationwide 39 Permit. They are less than a tenth of an acre of disturbance; they are actually .022 acres of disturbance or 1/5 of what they would be permitted to do without any other mitigation or anything.

They will add compaction specifications for the fill on the site.

**Mr. Olley** said to Scott, since you weren't here last month, you missed the whole discussion. He went out and spoke with Frank Hoeffner, who lived on this property for the last 80 years and he was able to give them information about the approximate location of that. He's not sure exactly how the surveyor determined, the location of that buried manhole, but Frank confirmed it and they also contacted Ed Magryta over at the airport, who put them in touch with his engineering consultants and they have no map of it. What he can tell him is that when you make a left into the airport, there is a 30" or 36" culvert

that cuts diagonally across the road that is fed by this. There's probably another culvert that, according to Frank, up here that drains the pond on the corner. Then, it goes under some hangars, it goes under aprons, it goes under taxiways, and the new runway and discharges out to the Wallkill River. They can't get on the property. They won't give them permission to go on the property to try to trace it down. They've actually tried to go through their records to find as much information and pretty much, anybody knows about it is the entrance and the fact that it goes under hanger B; right under the building and heads straight out to the Wallkill River. They will write it up so they (Eng and PB) have it.

**Eng. Sicina** replied but was inaudible.

**Mr. Olley** continued, Scott had mentioned it once before and they said they would do it; they would pick up a catch basin in this area (indicates on site plan) that will tie into the existing storm drainage.

He will speak offline with Scott, specifically about what contour you were looking at. They didn't provide contours over on the east side of the building because they weren't doing anything there, they provided it on the western  $\frac{3}{4}$  of the site where all of the site activity would be going on.

**Mr. Olley** said, in reference to the Orange County Planning comments, their first comment was that they should make the application to FAA, which they did and Monday they got that back and they've made the determination that there is no hazard to the air movement. They are requiring that the ridgeline be lit just like the other building.

**Chrm. Conero** asked how many lights, two?

**Mr. Olley** replied, one on each end, they are a twin; they are a double-fixture so that if one burns out, the other burns.

**Chrm. Conero** confirms which County letter Mr. Olley is referring to; the August one. You filed with FAA and received a response?

**Mr. Olley** replied, the date on the letter is August 25<sup>th</sup>. It was after the last meeting. They filed with the FAA, so they have their signoff. They talk about working with the airport; they actually met with Ed Magryta, sat down before the last meeting and went through the plans. He was comfortable with everything. They are sticking with the same plantings that they had before that the airport had recommended.

**Chrm. Conero** said the County recommended that you provide a vegetated buffer on the eastern side of the Ramos house and that's what you are doing. They also talk about the traffic on 211; that tractor trailers only travel south on 211 & 416 rather than going through the Village to minimize the negative impacts on traffic trailers, right?

**Mr. Olley** said, the Village should require that which is difficult because you really can't specify where trucks go on a state highway. Again, they have a low volume of truck traffic here.

**Chrm. Conero** said they also request that Zafir tell the truck drivers to make a right instead of a left right down through the Village.

**Mr. Olley** replied, you can't tell them not to make a left because they can make the left to get on 416. They will gladly do that. The Board needs to understand that there's limited control that he has because he's dealing with contract haulers, it's not somebody that's inhouse.

**Mr. Olley** said, he doesn't own his own trucks. He deals with the different companies, Yellow, SAI, FedEx, or whoever may come in.

**Atty. Midler** said, so understanding the limitations, obviously, she thinks the condition of the approval, the Board can consider some type...or even an agreement between the Village and Zafir to understand the limits of where, or what his obligations are in regard to where his trucks/independent contractors ultimately coming off his property can go. It's something the Board can consider.

**Mr. Olley** said, he's not saying it's not to be considered, he wants them to understand that it's not that simple as putting up a sign saying, "No Left Turns."

**Atty. Midler** said that maybe an agreement would be appropriate. She will work with their attorney as it would be an appropriate way to handle the Board's concerns.

**Mbr. Romano** asked for a reminder on the fire access around the building.

**Mr. Olley** said, it's not required under the state building code because of the size and type of construction. And the occupancy of the building.

**Mbr. Romano** said the occupancy doesn't matter because if they leave, something new goes in there. They are approving the building, not the person.

**Mr. Olley** said, when it comes to the building, occupancy means something a little bit different; it's the product that's in there...

**Mbr. Romano** interrupted...maybe someone else comes in and they have a different product in there.

**Mr. Olley** replied, at that point it becomes a building code enforcement issue.

**Chrm. Conero** said, at their last meeting, Bob Reynolds brought up the fire department concern of whether the plans went to the Fire Department.

**Bob Reynolds** said, he wanted to correct that he wasn't representing the fire department.

**Chrm. Conero** said, no, you were a resident.

**Mr. Olley** said they were mailed to the fire department.

**Mbr. Romano** asked if he got a response?

**Mr. Olley** replied, no response.

**Atty. Midler** said, you sent it based upon Notice of Intent?

**Mr. Olley** said, he sent it with all of the plans.

**Chrm. Conero** asked Mr. Reynolds, unofficially, if he could respond.

**Mr. Reynolds** replied, yes, absolutely. He doesn't know if they had been made aware of it. He doesn't know what address it was sent to.

**Atty. Midler** said it was part of the Notice of Intent.

**Mr. Olley** said the entire application package was sent to them.

**Atty. Midler** said, Montgomery Fire Department, 136 Ward Street?

**Mr. Reynold** said, it's PO Box 8. It doesn't always get there when you mail it to the street address.

**Chrm. Conero** asked if it came back.

**Mr. Olley** replied, no.

**Atty. Midler** said, Tom, your position is that, she wants to understand this correctly, your state fire code does not require access from the back because of the certain type of product your producing?

**Mr. Olley** replied, no, there are several factors, size of the building, type of construction of the building and what the occupancy is.

**Mbr. Romano** asked if there are sprinklers?

**Mr. Olley** said, no. There is no water system out there. The state building code has different thresholds for where sprinklers are required.



**Mbr. Romano** said she's telling him again, it doesn't matter what goes in there, she doesn't care who the owner is and what he's doing. I care what the building...what if he sells it next month and they start storing tomato sauce. She has no idea.

**Chrm. Conero** said, the future use.

**Atty. Midler** said, the NYS fire code which is more technical; she would like to get a better understanding of how the occupancy affects what you have to do for fire. Obviously, the concern is valid because if it's vacated by Zafir tomorrow that building still stands.

**Mr. Olley** said, according to the state fire code, there may be certain uses, such as hazardous uses that could not go in there...

**Atty. Midler** said, without getting sprinklers installed...

**Mr. Olley** said, exactly.

**Atty. Midler** said, that could be...I understand your position. If the use changes hands, they have to come back.

**Mbr. Romano** asked, what if there's an accidental fire?

**Mr. Olley** said, not every building has to be sprinkled.

**Chrm. Conero** said, in the building code, the side building does not...

**Mr. Olley** said, this falls under the threshold so it would require that. It happens to be a steel building, non-combustible materials so it's a 2B because it won't be protected steel. The 2B type of construction, the type of use is a manufacturing use, an F for factory use, the 2 is the designation and when you go into the code, it tells you how many square feet you're allowed to have under those manufacturing or storage. Whatever the designation may be, it's a chart that you go in and it tells you how many square feet you're allowed to have before sprinklers are required.

**Chrm. Conero** said, we talked about traffic, truck traffic, traffic study but the number of trucks that are coming out of here is minimal, really to have a traffic study done, I don't know if it's really warranted but he worries about the future use of the building and how it will affect any of the traffic patterns down there.

**Atty. Midler** said, she was going to ask the Board whether they considered; she knows he submitted a traffic summary, if you wanted that submitted to the Village Traffic Consultant to review it and pinpoint those specific concerns and see what they have to say in response.

**Mr. Olley** said, they're making that suggestion that it be referred to Village's Traffic Consultant.

**Chrm. Conero** asked Eng. Sicina to refer.

**Eng. Sicina** said Collier's would be good.

**Atty. Midler** asked Mr. Olley for an affidavit of regularity for the NOI's.

**Mr. Olley** said, okay.

**Chrm. Conero** opened the public hearing for public comment at 8:03pm.

**Don Berger** said, you're talking traffic here. He suggests that you go to the Medline Findings Statement and see what they put in there. He did supply a Findings Statement to the Village of Montgomery so you might want to look at that and see how it was addressed with Medline. He thinks it's a necessary part of this agreement, whether it's one truck or five trucks or then trucks or whatever. But it's a necessary part and if you can come up with an agreement like that, he believes that trucks should not travel through the Village. The Village is clogged up as we all know. He would suggest that you look into the Medline Findings Statement and it might give you some ideas of how they put it in to protect the Village of Montgomery. In fact, at the last Village board meeting, the warehouse that's being talked about by Bodine, Steve was concerned, when he brought it to his attention for the same thing. We hear this an awful lot, well, we only have one truck, we only have two trucks. You know, when you accumulate all those trucks, it becomes a problem and it's not for you to do the traffic study, its for them to do the traffic study. He doesn't see where it hurts. He thinks they should consider that.

**Mr. Berger** asked, Kevin, you asked about the size of the trees and he said 20ft. What he is interested in is what size are the trees that he is going to plant?

**Chrm. Conero** said, that's right.

**Mr. Berger** said, he didn't answer that. He's very interested in the size of the trees when they go in the ground. So, if we could have an answer to that, it would be very nice.

**Mr. Olley** replied, they are generally 6-8 ft at the time of planting and the size that he's referring to are at maturity.

**Chrm. Conero** asked, they are mature at 6ft?

**Mr. Olley** replied, no, they'll grow to 20-25ft.

**Mbr. Romano** confirmed, you plant them at 6ft?

**Chrm. Conero** said, what the County has recommended, and what they have recommended, we wanted to protect the Ramos property.

**Mr. Berger** said the whole idea with the trees and all that kind of stuff, it really goes into the respect of what the Village has been talking about that he's learned in this past year, is that this is, again, the gateway into our Village, so we don't want, or he would not like to see, what the first building that Zafir; they had these little things in there. Go look at it, they're all little things. He's worried that that could possibly happen again. He wants to make sure, that it's our gateway, and Kevin, I think you really are involved in the gateway aspect, that you really, really have to make sure and do the right thing to make that building look really good. The building and the landscape. Which brings him, he thought that all these projects, the Village was supposed to have a landscape design group to review it. It sounds to him, that the applicant's telling you what the landscape is. He thought that what they talked in the years, a year in all the public hearings was that the Village was going to make sure that we had the landscaping; we tell them what we want.

**Chrm. Conero** said, when the Local Law was adopted in 2021 there was some landscaping designs that he thought they gave to Lanc & Tully to look over for them. At the time, they didn't have a landscaping architect.

**Eng. Sicina** said he didn't remember.

**Chrm. Conero** said, he would look into it.

**Mr. Berger** said, Kevin, to be fair, you brought it up a number of times at Planning Board meetings of the two criteria's that were adopted.

**Chrm. Conero** said, the warehouse design and the landscaping design.

**Mr. Berger** said, so we all know that it exists. He would hope that that happens again and he has no problem with Lanc & Tully but he doesn't think that Lanc & Tully is a landscape design artist. He thinks that they're supposed to go out and get people that do that for a living.

**Chrm. Conero** agreed that the landscaping on the original building was not ideal.

**Mr. Berger** said absolutely and he doesn't want to see that again. Again, it's supposed to be the gateway into the Village so whenever, whether you approve it or not, that has to be concrete of how they want this Village to look like. He doesn't want to see what previous actions happened.

**Chrm. Conero** said he would look into that.

**Mbr. Romano** asked, doesn't this design go to someone? The one that was just submitted.

**Chrm. Conero** reiterated, he would go through the Local Law to find it. The one that was adopted in 2021; the warehouse criteria and landscaping criteria. He's not specifically sure that it needed to go to a landscape architect, whether they hired one yet or they have one on staff on contract, so he needs to look into that.

**Mr. Berger** said, he doesn't know if they hired anyone or anything like that but he can assure them that they talked about a landscape design crew to do this.

**Chrm. Conero** repeated that he would look into it.

**Mr. Berger** said to Mr. Olley, go back to your conceptual, the rendering. Now, he knows during the course of these Planning Board meetings with Zafir, he's looking at that and sees that the new building looks taller than the existing building. Is he wrong there?

**Mr. Olley** said, they are not proposing that the new building be taller. The perspective that the architect used, where he tried to view it from an elevation and emphasize the rear building. They've committed to their dimensions on the plan. It's actually 1-2 feet lower than the existing building. The height of the building is 30ft and the existing building is 32ft.

**Mr. Berger** asked, so it's not going to be higher? It's not an issue of the way the landscape is, a hill there...

**Mr. Olley** said, no, the first floor here is only one foot higher than the other. (inaudible).

Mr. Berger said, the last thing, he's going to bring up the curbing again to correct the Board and Mr. Olley, it was not done at the last meeting, it was done at a previous meeting on July 27<sup>th</sup>, when they talked about curbing.

**Chrm. Conero** asked the Board if they recall, it was in the minutes.

**Mr. Berger** said, his question to them about curbing was, part of that property is Town property, did anyone reach out to the Town?

**Chrm. Conero** said, the road is the Town.

**Mr. Berger** interrupted, no, it goes into the property line.

**Chrm. Conero** said he is not aware of that.

**Mr. Berger** said, according to the Village maps. He thinks...(inaudible).

**Mr. Olley** said, no, that's not true. What he said was Dunn Road is a town road.

**Mr. Berger** said, right and you said it was 15ft. You said the number 15ft.

**Mr. Olley** said he didn't say 15ft.

**Chrm. Conero** said, 15ft from the road and setback.

Inaudible

**Mr. Berger** said, the town goes into...it's not Dunn Road. It's inside Dunn Road, onto that property.

**Chrm. Conero** asked what his concern is with Dunn Road and the town property and this piece of property?

**Mr. Berger** asked, did you consult the town to waiver the curbing?

**Chrm. Conero** said no, he doesn't think there's a regulation for curbing there. It's a town road.

**Mr. Berger** said, the inside curbing.

**Chrm. Conero** said, we asked them to do that; they're paving it.

**Mr. Olley** said, the discussion was there would be no curbing on the inside. It was waived.

**Chrm. Conero** said, if the Board decided, and he doesn't recall, the Board decided no curbing, it should say that in our minutes.

**Mr. Berger** said he has it in his notes. Mr. Olley is correct; you waived the curbing in the July meeting.

**Chrm. Conero** said, because there was no curbing on the existing site.

**Mr. Berger** said he discussed it with the town and they have no knowledge of this or anything.

**Chrm. Conero** asked, who at the town did you discuss this with?

**Mr. Berger** said, the Superintendent of Highways.

**Chrm. Conero** said, Meres. We don't really refer this stuff to the town.

**Mr. Olley** replied, we did under SEQRA.

**Atty. Midler** said, agreed.

**Mr. Berger** asked if they were notified.

**Atty. Midler** said they were in her list of agencies. She doesn't have the green cards.

**Mr. Olley** said they did a certification of mailing in that submission.

Atty. Midler said according to the mailings that Tom provided, they were sent out August 25<sup>th</sup>.

Inaudible

**Mr. Berger** said that he knew because he asked the town. But...the lot...SEQRA before they received it. So, the timing to him seems a bit off.

**Mbr. Romano** said, it's not.

**Mr. Berger** said, it's not? You waived it on July 27<sup>th</sup>, they received notification of SEQRA in August.

**Chrm. Conero** said, if our Board decided at that meeting...I'll have to get back to you, Don, because we can't go back and forth all night with this, he'll find out and if their Board decided no curbing, there's a reason why we voted that way.

**Mbr. Steed** said, the reason they did, there would be no continuation.

**Mr. Berger** said, he just asked if the town was notified.

**Mbr. Romano** said the town is always notified.

**Chrm. Conero** said, the Notice of Intent is how the town was notified.

**Mr. Berger** said he would think they would notify them before you made a vote. He said he was done.

**Steve Snyder** – you said it was a steel building. Is it all steel or is it like the one next to it; pole construction?

**Mr. Olley** said, no, it will be all steel. It will be a pre-engineered steel-frame building.

**Chrm. Conero** asked, this steel building, he's changing the design based on the design you showed before.

**Mr. Olley** said that was a wood pole barn with steel siding and roof, where this will be an all-steel building.

**Chrm. Conero** said, just for the record, they received a letter from the neighbor regarding, she can't be here tonight because of a COVID situation, so she did send them a

letter and he gave it to all the Board members. They received this on the 28<sup>th</sup> of September, which is today.

**Chrm. Conero** asked Atty. Midler if she recommend that they adjourn the meeting for next month.

**Atty. Midler** replied, yes, she said there's a question as to looking at the minutes for the July minutes, as to waiving the curbing and how the Board wants to proceed on that. Her notes indicate July 27<sup>th</sup>. They should say what the minutes say about that. The traffic consultants need to respond.

**Mbr. Romano** interrupted, and the fire department.

**Chrm. Conero** asked that the fire department be renoticed because sometimes there's a discrepancy in what NYS Fire Code and the Building Code say. He doesn't know what happened to the packet, whether it got lost, no offense to the Fire Department at all. We've sent things there before, in the 30 years he's been doing this, and never got a response back.

**Atty. Midler** asked if the Board would like her to send a letter?

They said yes.

**Chrm. Conero** said, what else was there? The traffic, the size of the trees, we're saying they're 6ft tall and the landscaping plan. We're going to look up that part of the law that was adopted in 2021.

**Atty. Midler** added, and sending to a design architect and landscape design firm, so we'll take a look a that.

**Chrm. Conero** said, the one thing that didn't come up on this design, what colors, do you have any colors yet?

**Mr. Olley** said the color is the primary color on three sides and half of the front would be the same as the color that is there and then the accent band above it would be a darker beige.

**Chrm. Conero** asked, and the bottom?

**Mr. Olley** responded, yes, the bottom would be exposed concrete that can be treated with stucco material and they can add any color to that.

**Chrm. Conero** asked Atty. Midler, they need to submit this to the architectural firm?

**Atty. Midler** said, when they approved the concept plan in July, she had a note that it was all settled and should have been referred to the design architect then. If she recalls, it

was submitted at that point with just the side of the building; there were no colors or anything. She doesn't know if it was sent.

**Ms. Murphy** said, no.

**Atty. Midler** said, if it did not get sent with this, then it should get sent.

**Mr. Olley** asked who the consultant was.

**Chrm. Conero** said, it is Johnson & Schmidt. Tina's got the information; you can get that from her.

**Atty. Midler** said, she believes that this is settled on, so you should do that.

**Chrm. Conero** said all warehouses go there.

**Atty. Midler** said, so the question remains on the landscape. The last thing is, Tom, she knows he indicated that he met with the Orange County Airport, but being that it was a comment, a binding comment in the County's response, just ask for something in writing.

**Mr. Olley** said there is no binding comment. It was a recommendation with his modification. It didn't fall under the binding. The recommendation was approval with subject to modification for comments 1 and 2. Technically, it's not binding but it's which was the FAA and the Village and applicant should pay close attention to how the proposed project could impact the Orange County Airport as the site is adjacent to the airport, particular attention should be paid to the height of the proposed building. The height of the proposed plantings should be at maturity, proposed lights, type of lighting with the proposed lighting. They have addressed all of those things.

**Atty. Midler** said, you may want to consider something in writing from the Orange County Airport.

**Mbr. Romano** said, they were just going to require the lights on the top.

**Atty. Midler** said, yes, the FAA.

**Mr. Olley** said he would reach out to Magryta.

**A MOTION was made to ADJOURN THE PUBLIC HEARING FOR ZAFIR – DUNN ROAD - 213-3-4.22 TO OCTOBER 26, 2022, AT 7:30 PM, at 8:22pm by Chrm. Conero, seconded by Mbr. Steed and carried 3 Ayes 0 Nays.**

**PUBLIC HEARING**

**RE: 76-78 WEAVER STREET 208-1-49 & 208-1-50**



Chrm. Conero said, this is Bob Reynolds. This is a two-lot subdivision. He also asks if we received the mailings back.

Bob Reynolds handed them to Ms. Murphy, who gave them to Atty. Midler to confirm there were enough to continue.

**A MOTION was made to OPEN THE PUBLIC HEARING FOR 76-78 WEAVER STREET 208-1-49 & 208-1-50 AT 8:23PM by Chrm. Conero, seconded by Mbr. Steed and carried 3 Ayes 0 Nays.**

Atty. Midler asked for the list of residents for the mailing from Ms. Murphy.

**Chrm. Conero** said, this is basically a two-lot subdivision. He has a comment letter from Lanc & Tully from August 18<sup>th</sup>, and asks Eng. Sicina if all items have been satisfied.

**Eng. Sicina** replied, yes, they went back and forth a couple of times with the EAF, finally got it down; Tina...to that. He doesn't know the exact date that she got that.

**Ms. Murphy** said it was August 29<sup>th</sup>.

**Mr. Reynolds** thanked Ms. Murphy for her help on that.

**Chrm. Conero** asked what type under SEQRA?

**Eng. Sicina** isn't sure.

**Atty. Midler** apologized; she is looking for the EAF.

**Ms. Murphy** asked Atty. Midler if she wanted the copy and gives her the file.

**Atty. Midler** said, they are not doing any construction. She tells the Chrm. to continue while she confirms the type of action.

**Chrm. Conero** opened up the public hearing for public comment. If you have a comment about 76-78 Weaver Street, state your name and address.

**Chrm. Conero** observed, there is no public comment.

**A MOTION was made to CLOSE THE PUBLIC HEARING FOR 76-78 WEAVER STREET 208-1-49 & 208-1-50 AT 8:27PM by Mbr. Romano, seconded by Mbr. Steed and carried 3 Ayes 0 Nays.**

Ms. Reynolds asked if they could have copies of the green cards that were returned, for their files. Ms. Murphy offers to email them to the Reynolds.

Atty. Midler believes this is a Type 1 Action.

**A MOTION was made to APPROVE ATTY. MIDLER TO PREPARE A NEGATIVE DECLARATION AND APPROVAL RESOLUTION FOR THE PLANNING BOARD'S CONSIDERATION FOR 76-78 WEAVER STREET 208-1-49 & 208-1-50 AT 8:29PM by Mbr. Steed, seconded by Mbr. Romano and carried 3 Ayes 0 Nays.**

Atty. Midler said, this is a minor subdivision so they can do a Conditional Final and if they want to come back the night they consider the approval, it's up to them. There is no public hearing and can be done without them there. She doesn't recommend drafting the documents beforehand because she can never guess what public input, if any, will be presented.

Chrm. Conero said he probably doesn't need to be there.

### **OLD BUSINESS**

#### **RE: KSH ROUTE 211 DEVELOPMENT 211-1-29.22**

Ross Winglovitz, Zack Szabo and Stosh Zamosky are representing the applicant. They were before the Board in July and they've made revisions and updates based on comments, the lot line change and revisions to the entrance. That small change required changes to the SWPPP that were minor, changes to the traffic that were significant; it was submitted to the DOT, as well. DOT did ask for additional information. He will circulate them to Scott and everyone else. With the proposed expansion on 211, left turn lane, the DOT would like the project to include a small left turn lane to Chandler, not just a left turn into the project.

Chrm. Conero asked, isn't that what the traffic study also suggested? Mr. Winglovitz replied, the traffic study only provided for a left turn lane in; their saying you created that space, give us a small left turn onto Chandler, as well. Chrm. Conero said, he misunderstood; he thought it said northbound and southbound on 211.

The proposal keeps the driveway as the preferable location across from Chandler provides further details. The emergency entrance and exit will need to be gated and have signage. On the next site plan, showing tree removal necessary for site distance and provide truck turning diagrams. Chrm. Conero asked, so they are in favor of the secondary entrance? Mr. Winglovitz replied, yes, they just want it gated. Chrm. Conero asked, there is no traffic light proposed for that intersection or the at 211/416? Mr. Winglovitz replied, no. It goes to an exercise showing a roundabout at that intersection, which has been provided to DOT. They did not come back requiring any mitigation at that intersection.

Mr. Winglovitz said they are questioning truck generation from their consultants and they will provide additional information. He will forward these to Scott and everybody; this just came in.

In addition, they submitted, with the expanded EAF updates, the FAA had provided their signoff on the building location and that there would be no impact to the airport approaches. The other item that they brought forward was the landscaping plan. Scott had some comments. Hearing the previous conversation, his question is, if the Board is going to submit to a landscape architect, to please do that right off the bat. Scott can refer internally to somebody they work with; he'd rather make sure they get that done now instead of have a public hearing and having to go back on that issue. Chrm. Conero agreed.

Stosh Zamosky is representing Anderson Design Group. There are two 60,000 sq ft warehouses and two 80,000 sq ft warehouses and they are both set up basically the same with offices on one side and the loading docks on the other. All of the loading docks face each other so they aren't seen from the road. Both 60 and 80 are built the same way just different square footage. The front elevation of the buildings were modified from what was originally presented to create a little more division. They added additional windows above the banding with divided lights to look similar to a turn of the century warehouse vs. some of the large glass that we had in the previous submission. It's broken up and quantity of glass was reduced. The 60,000 sq ft warehouses are proposed 35ft tall and the 80,000 sq ft warehouses are 45ft tall. This is the 35ft tall warehouse (indicates on site plan) and you can see the banding there, how that vindicates the roof. On the 80,000 sq ft warehouse, you can see the difference in the height there. The other items that they did was to create color renderings of the warehouses, which, as you can tell is the 35 ft by the banding. You can see the windows that were added, as well, and the reduced, modern look of the building. The 45ft tall warehouse, you can see the banding difference. Chrm. Conero said, there are earth tone colors. Mr. Zamosky replied, that is correct based on the Board's recommendation and the owner, as well. In this view, all the offices face south and back inside, the other buildings face in, those are the loading docks so truck traffic is kept in. They also created a color board, showing the colors for the Board and the Board's architect's review, as well as the glass detailing.

Another big update to the submission package was the view shed renderings that were created. There is a key plan that shows the four warehouses; this is route 211 as you are coming from the airport into the Village. Weaver Street is here (indicates on site plan) and Chandler. There is view shed there. First view shed is the existing; coming down 211. The photos were taken in the spring to show what it would look like without leaves. Here's the existing with the warehouse in the back. As you progress down, this is existing and proposed. You can see a dashed line; that is where the warehouses would be behind the existing tree line. They are shrouded by the existing trees. Chrm. Conero asked if they are maintaining the trees. Mr. Zamosky said they are maintaining some of the trees there, obviously, where the pad plates are going, they're going to be removed.

Mr. Winglovitz said, the dotted line represents where the building would be behind the trees and you wouldn't be able to see it. Mr. Zamosky said, this is the existing, coming across from Chandler Lane and here is the proposed new. The dotted lines will be hidden and you can see a slip of the building when you are coming down to 211 and the new proposed driveway.

This is Weaver Street from the furthest point down on Weaver that they created the view shed for, this is the existing. What they are showing here, the dash line is where the building is behind the trees but you would not see it, so it gives an understanding of the perspective from the street that the existing trees would be screening that building. You can see all of the dash lines throughout this.

The Board looks at the pictures up close.

Mr. Winglovitz asked if the Board is sending the plans for architectural review, to please send as soon as possible, as to not hold up the project. Mr. Zamosky said they have the color palate and everything ready to go to architectural review. Chrm. Conero said, she likes it in digital form so what you sent is fine.

Mbr. Romano stated that she doesn't feel it looks historical. Mr. Zamosky said they tried to break the lines like you would see in a brick pilaster or old warehouse. Chrm. Conero asked if they could show them what the difference would be between the 35ft buildings (3 & 4) coming into the Village vs the 45ft buildings? Mr. Winglovitz said that is pretty easy to pick off the drawings. The 45ft vs the 35ft; that banding is at 35ft. Mr. Zamosky said you can see in this line, there is that band. That would be the difference. Chrm. Conero asked, you wouldn't see that from Weaver Street? Mr. Winglovitz said it would be behind the 35ft building, which is behind the trees. Chrm. Conero asked, what is the visual impact from the neighbors across the street at 45ft vs 35ft on 211? Mr. Winglovitz said, looking down from Chandler, you really didn't see the buildings; they were just barely visible beyond the trees. If you get on 211, east of Chandler, you would be looking through the woods. Chrm. Conero asked, would you be maintaining the vegetation when you come into the property? Mr. Winglovitz replied, yes, even more so now that the driveway is being moved a little. Mr. Zamosky said, that's what you would see here; Chandler is over here, you're catching just a glimpse of the edge of the building, all these dotted lines are the buildings hidden behind the existing. All that vegetation there is staying. Mr. Winglovitz said the most visible would be from the airport and the parking lot. Chrm. Conero said that would be coming into our Village, into our gateway. Mr. Winglovitz said they welcome any recommendations on colors and so forth. Mr. Zamosky said the difference between 35ft and 45ft is about 40% additional storage.

Mr. Winglovitz said, Scott had noted it in the comments. They submitted in part, the expanded EAF about an alternative plan. If there was an inability to get the height variance, the owner would be looking to make the two 60,000 sq ft buildings into 80,000 sq ft buildings on the Weaver Street side to pick up that storage that they would lose. Chrm. Conero asked if they had visuals on the alternate plan and what they would look like from Weaver Street? Mr. Winglovitz said they certainly could. Chrm. Conero said that would be significant change. Mr. Winglovitz said, visually it won't because it would be behind the trees, it's not going any closer to Weaver Street; the building will be wider. Mbr. Romano asked if there are potential tenants for all four of them? Mr. Winglovitz replied, no. Chrm. Conero said they met with the residents on Weaver Street and they had genuine concerns about that project and what it's going to look like in the back of their houses. They looked at leaving the vegetation and the buffer between there and it was

pretty significant, that's why, when he saw the alternate plans there is a retention pond there...Mr. Winglovitz said, it would take away some or more of the buffer there. The buildings would be in the same location but the ponds needed to move into the front of the building, which they are able to avoid with the preferred layout. Chrm. Conero asked if that would cut down some of the vegetation there? Mr. Winglovitz said the building would not move but some of the buffer would be cut down because of the pond. Chrm. Conero said this would be a bigger impact to the residents on Weaver Street, without getting your 10ft variance for the 45ft height. Mr. Winglovitz replied, yes.

Atty. Midler suggested sending the current submission to the architectural firm. The pond needs to move into the front of the building and send both to the architect, as per the planning board. Their input is on the architecture itself. Chrm. Conero said, they want make them look good from Weaver Street. He thinks it will help the ZBA make a determination, as well. Mr. Winglovitz said, Stosh's group developed includes both the 35ft and 45ft building elevations so they have enough there. Eng. Sicina asked if the buildings are 80,000 sq ft would they extend lengthwise if you're trying to pick up 20,000 sq ft? Mr. Winglovitz said they would go lengthwise and a little deep, but into the loading area. Eng. Sicina asked, they wouldn't get any closer to the residents on Weaver Street? Mr. Winglovitz replied, no. By making it wider they lose the volume for retention so they have to put the pond. Chrm. Conero said there is a natural berm there that has the height so it really does block the visual from Weaver Street.

Chrm. Conero will find out who would be the landscaping design architect.

Atty. Midler asked, you're proposing hooking into municipal water/sewer? Mr. Winglovitz replied, yes. Atty. Midler said, you will need to provide a usage and suggested he speak with Buddy. She said the County commented, regarding the Village require that any tractor trailers travel south on Route 211 or Route 416 rather than north through the Village to minimize negative impact from tractor trailers in the rural neighborhoods within the Village. With regard to Zafir, would the Board consider a condition in approval in addition a written agreement between the Village and KSH so there is an understanding to what their obligations are, in that regard. Mr. Winglovitz said they would look at something like Medline did; they would propose something to you guys as far as how they can restrict, because you really can't restrict all of it. Medline has a permissible percentage of the traffic. Chrm. Conero said, the big difference between Medline and this is that they don't own their own trucks. Medline owns their own trucks and they can tell their truck drivers not to make a right into the Village but Zafir and this project are hard to do that. Also, they should note that if there are any alternate routes out of the project, they need to take that route once it's been constructed. For instance, if Dunn Road was modified to allow it to come the back way into the property, that they use the other entrance and exit instead of going right out on 211. The town's comprehensive plan has that in their plans because that's supposed to be an airport related business. Atty. Midler said, her last question is, the DEC's 5-acre waiver, you reference that the authority to have that is under the General SPDES Permit but if she looks through the General SPDES Permit, she doesn't find any waiver permission in that, so how do you find the authority to get that waiver and what does it look like? Mr. Winglovitz said it's

only through the DEC; he doesn't know if they have a procedure spelled out. Atty. Midler asked how that works; do you send a letter to the DEC? Mr. Winglovitz replied, yes, we send a letter saying that they cannot comply with the 5-acre waiver, 5-acre provision, here's why. They either .... or they don't, or they ask for more information and ultimately, he would have to produce that waiver for the Board prior to final approval. Eng. Sicina said exceeding 5 acres would also require them to do (inaudible) to the site for inspections (inaudible) they'll have to contact the state and the state will have to approve it and let them know what measures they would like to see taken. Atty. Midler asked, any measures would be included in (inaudible).

Eng. Sicina referred to his comment letter, #2; previously it was discussed that portions of the warehouse would be for a showroom for playground equipment, which is what the use was going to be. The Village of Montgomery Code, permitted uses: professional offices, classroom, conference room, employee breakrooms, dining areas and showrooms are allowed provided such usage does not occupy more than 20% of the total building area of the principal warehouse. He knows there was discussion about that, it wasn't shown on the architectural floorplans. Mr. Winglovitz said the floorplans comply; your concern was if there was a showroom will it still comply with the 20% requirements. In his initial presentation, he neglected to mention, the property has been sold. There is a new owner; it's no longer KSH. KSH after many years decided not to pursue it and the property has been purchased. KSH may potentially lease, but are no longer the owners of the property. Chrm. Conero asked what we call the project now. Mr. Winglovitz said it will remain the same. Atty. Midler said they need a new application. Mr. Winglovitz said it was sent and hasn't been received back yet. They wouldn't need the showroom area for these specific uses. They will put a map note on the plan.

Mr. Winglovitz said the next few comments are regarding landscaping and the Board is going to refer it to the landscape architect. #7 is regarding architecture. #8 is the waiver they just discussed. #9 is the linework on the plan. #10 is additional concrete washouts with each phase is no problem. Eng. Sicina said all the OCD of Planning comments from June 28<sup>th</sup>, 2022 letter, have been addressed and SHPO has provided a letter and no archeological investigation is warranted.

## **RE: PATHWAY PLACE 203-1-1**

Atty. Midler said, consulting with the Chairman, the last time this was before the Board a big part of it was waiting for SHPO to respond. They did receive a response on August 25<sup>th</sup> and they noted certain aspects; they had comments that they feel are essentially architectural or archaeological resources. Now, she feels it is appropriate for the Board to have a discussion about which of these they want to address and they can ask the Planner, through Lanc & Tully, to prepare a response back to the applicant, what further considerations they want.

Taylor Palmer is representing the applicant. He provided proof of NOI mailing, which occurred on Friday, September 23, 2022, and the green card receipts. He wanted the

Board to speak with SHPO on a call, at SHPO's suggestion; following the letter, SHPO met with their consultant, Beth Selig, their Cultural Resource Consultant, to have a conversation with your Board and staff just to be able to discuss what their comments are. This is a different type of review; you mentioned a couple of different applications tonight, mentioned no impact letters and other reviews. Those are projects that have State or Federal or other involvement like DEC permits, or otherwise Beth can speak directly to those and some of those comments will be important to review tonight, the nature of their review, SHPO's review in context is they are under 1 acre; there's no DEC or other permitting so they do not require a 1409 review where you go through a more detailed process. The comments here are what they are but they haven't even submitted to SHPO the rendering that they have with them this evening. SHPO is not aware that they are an 8-unit building, now; 20 had originally been proposed.

Atty. Midler continued, the August 25<sup>th</sup> letter starts off by, "...The Crabtree House at 15 Factory Street is listed on the State and National Registers of Historic Places, is located adjacent to 20 Factory Street which currently is Undetermined but could be determined as eligible, and is near 19 Factory Street which could be determined eligible and 17 Factory which is currently not eligible but could be determined eligible. They have reviewed the response letter and included documents dated August 3, 2022. Therefore, under SEQRA have reviewed the project and off their following comments regarding potential impacts to architectural or archaeological resources:

1-They understand the sloped terrain and the Wallkill River offset makes it difficult to push the development further back from the street. They remain concerned about the visibility of the development from the surrounding historic resources, especially the John Crabtree House at 15 Factory Street.

2-The existing berm is taller than planned berm, which is being shown as 1'-3' tall. The lower berm combined with the multiple driveway entrances along Factory Street removed most of the opportunities to screen the development. Even with the planned landscaping, it will take years for the plantings to mature and there will be no way to screen the development at all eight driveway openings.

3-Can you confirm that this project will be more than one acre and require permitting through NYSDEC? She has it as a disturbance of .608 or .603? Mr. Palmer replied, it's over .6 but under 1 acre.

Chrm. Conero said, it further states the potential impacts on the architectural resources that may be eligible for the registers. Chrm. Conero said, again, SHPO has made it pretty clear, based on numerous letters, that there is visual impact problem and he doesn't think that the latest submission, and he doesn't know about this one, but the latest submission you submitted really addresses the adverse effects to the neighboring properties. Mr. Palmer said, their consultant is here and can address that. They did prepare a report to you about what is being proposed. This rendering is new, you haven't seen it. It hasn't been submitted, that's why they asked to be adjourned. They are here with it tonight, developed in response to SHPO's comments.

Beth Selig said, they have identified the potential impacts, because of the way that SEQRA is and the fact that SHPO's a state agency, they cannot make a determination for

SEQRA. That is the role of the lead agency. They have been not been able to issue a no impact or an adverse impact letter because it's beyond the prevue under SEQRA; not to weigh in with an opinion and they have provided the opinion that there is potential impact. Adverse impact are things that diminish the historic integrity of a property. They diminish the historic significance. The introduction of a visual into a neighborhood does not necessarily present a negative because you have to look at the context of the historic property that we are talking about. Does it diminish the historic significance of that property. Under 1409 when you do a state permit, they're reviewed under 1409 of the state historic preservation act. When there is an adverse impact found, the next step is to examine alternatives. The suggestion has been to move the building back so you can build a giant berm in front of the building. This project has been before the Board for a while. One of the earlier reviewers on the project, John Bonafide, didn't like the idea of the berm and one giant parking lot out front. Whether he thought that was a negative and he thought it should all be broken up into individual parking spaces. In the time when this project was not in front of the Board because of the moratorium and because of COVID, the zoning changed, the building had to be pushed forward. The only way to accommodate the building and the parking, is to have the individual driveways. These are different alternatives that have all been presented to SHPO. If this was a State review, SHPO could then make the determination that all of practical improvement alternatives have been explored and they would move into a letter of resolution to identify mitigation strategies, either onsite or offsite. Because of the role that SHPO plays in SEQRA they are not in a position to make a determination about whether or not the applicant has explored all practical alternative to the design or the placement of the project. They can't come back to you with a letter saying...

Atty. Midler said, ultimately, the decision is yours (to the Board). Mbr. Romano said they already know this. Ms. Selig said she had a conversation with Beth Cummings, the head of the department at SHPO and Sarah MacGyver, who is the reviewer on September 6<sup>th</sup>, Jay from Engineering Properties was also on the call and they had the conversation with them to get their input on whether or not there were any other strategies that the applicant could put in place that would reduce any negative or visual impacts. They did not have any other suggestions, other than move the building closer to the river, do a single driveway and put a berm up. That was the extent of what they had to offer and they reiterated, they would not be able to offer a determination because it is not their role. They did indicate that the changes that had been made to the design, the gables, the articulated façade, the materials that are being incorporated, are all within the character of the neighborhood. The gables reflect the 19<sup>th</sup> century architecture elements that currently exist on Factory Street. She has updated photographs to illustrate the location of the neighborhood context of Factory Street. (She passes them out to the Board) The context photos illustrate that once you turn on Factory Street, you move through a variety of different buildings. You go from commercial, storage building and factory buildings into multi-family, into residential and then you hit City Winery and if you loop around to Crabtree Lane, you have even more multi-family buildings. This is not out of character for the overall neighborhood. There have been things done to reduce the overall mapping, reduce the scale of the building and articulate the façade so that it does blend in with that neighborhood context.



Chrm. Conero said, again, the visual, it does not address the visual impacts of this property. You're taking the natural berm out, that's high enough already, and you're planting this closer to the road, the driveways are into the road and at this time, he can't tell the Planning Board to move forward without having this addressed. He appreciates her coming to do this, but he's not totally convinced that that is a mitigation to the property next door. He's not sure what would be for this. Atty. Midler asked, what do you think of SHPO's comments? Do you agree with it? Chrm. Conero said, the main concern about the visibility to the development and surrounding historic resources and they also specifically talk about this berm. Combined with multiple driveways, along Factory Street removes most of the opportunities to screen the development. He understands the Local Law was changed to protect ... zones on the Wallkill River, which increased moving the building up forward. What other mitigation facts do you have beside what you've done so far? What would you do to minimize the visual impacts to the neighboring properties, other than what's been proposed and what SHPO has already commented on?

Ms. Selig said the only other thing she could suggest would be to reduce the overall mapping of the building, but she doesn't know how that works within the goals of the applicant's project. Mr. Palmer said, there other strategies that they would employ if it were a 1409 review, which often involves offsite mitigation or also other contributions that can relate to it. Beth can speak to why the Crabtree House was listed and where the most impact would have been generated from, which is not the viewshed toward their property, but actually where the gardens are from. Ms. Selig said, according to the National Register listing nomination form, the Crabtree House is considered eligible for listing and listed as, due to its Queen Anne Style 19<sup>th</sup> Century architecture, the gardens and landscape, which are on the east side of the house going down to Crabtree Lane were a contributing element to the listing. The other area of significance was the Crabtree family's contribution to local history. In terms of impacts to the characteristics that make the property historic, the Wallkill River side of the property is not part of that initial setting that's considered eligible for listing. Mr. Palmer said the nature of what they are proposing, they're next to an existing multi-family apartment building, one of the four sides of the "box," that they call it for the Crabtree is a warehouse which wasn't there when the Crabtree House was there, there's also an existing heavy multi-family and City Winery; this area has changed and this is being designed to be consistent with that development. Producing a building on the property, which is permitted under your zoning, is also refined with the aesthetics of it, the colors of it, to address what SHPO has said; their July letter says, "the proposed matching reduction, color scheme are helpful revisions of reducing the potential visuals impacts to the surrounding historic resources. They are addressing their comments. They can't provide, and they are going to ask for their take-away from this is that the Board agree to have its consultants on a call with SHPO to address. They've done an alternative analysis; they've looked at being able to look at the building; they proposed a 22-unit building to start with until the zoning change. They can't move the building back and SHPO knows that. SHPO says not to incorporate the uniform driveway in the front, in the berm design. These are the things that have been considered throughout the process and the building has been refined to

reflect that. Just by saying the building has a potential visual impact, they are mitigating it with through landscaping plans and building designs and the structure, so it hasn't just been this. It's proposed and its done. They've worked with their comments to incorporate it and significantly reduce the scale of the project that's before you and their report from their expert in the area, has identified that what has been done has been worked into the fabric, similar to the comments from SHPO that it is consistent with that area...Mbr. Romano said, but this hasn't been sent there. Chrm. Conero said to Ms. Selig, you mentioned other potential mitigation steps that you could take to reduce the visual impact of the neighboring properties? Ms. Selig said other things she's seen in her experience, applicant's offer to put screening on the opposite side of the road. Because they have limited space here to try to incorporate, offer to put it on this side. Obviously, they would need permission from that land owner to do that, but she's seen that come into play as a mitigation strategy. Mr. Palmer said if Crabtree House had interest in that, there may be an opportunity for that. Mbr. Romano said that would hide the Crabtree House. Mr. Palmer said you can't see the river from the Crabtree House as is, the change has been done by the growing vegetation. They are being consistent with the character of the developed neighborhood and its protecting and doing all that it can to mitigate the potential impacts and that's the part of the review, right now, SHPO has commented prior to the circulation of SEQRA. Their comments are proceeding your referral. Chrm. Conero and Atty. Midler said you have referred it. Mr. Palmer said they referred it on Friday, SHPO's comments from July and August...Atty. Midler said she's not sure, maybe their submissions (inaudible). Mr. Palmer said, right now, they are in their SEQRA review process; it's only just been initiated. Mbr. Romano asked if this building has fire access in the back? Mr. Winglovitz replied, yes, it meets fire code. Ms. Selig said Jay had mentioned on the call with SHPO that was another concern; the structure of the driveway was to make sure there was appropriate fire access. The old plan with a berm and long giant driveway still needed fire access. Chrm. Conero asked where guests would park. They cannot park on the street. Mr. Winglovitz said there will be parking in the garage and in front of the building. The property itself was surveyed; there was a prior SHPO consultation done with the original building. There were comments tonight in that current letter; the original proposal looked at it for historical context and cultural resources. Ms. Selig said in 2001, Joe Diamond did an archeological review of the property; none were found and SHPO signed off on archeology. In 2019, Derek Brody, at SHPO reviewed it again and there were no archeological concerns for the property and no need for additional work. They have a letter stating that.

Atty. Midler asked the Board if they were interested in a phone call with SHPO? The kind of mitigation offered, what is your opinion? Chrm. Conero said he has no problem having a conversation with SHPO. Again, he feels they are bouncing back and forth between SHPO and they're becoming our personal consultants. That's what your job is and ultimately, it's the job of the Planning Board to whether this addresses the concerns of the character of the neighborhood. Ms. Selig said, if this had been a state level review, a 1409, the SHPO indicated that they would have considered the alternative complete and that all practical and good alternatives had been explored and they would've moved into the mitigation strategies. They can't do that because of their parameters; that is the what the Board would be looking at to do. Mr. Palmer said, Kristen O'Donnell, has done a

number of environmental impact statement and reviews, would be able to express and identify all of the application measures that the applicant has done that would be consistent with what would be required of an applicant that would have to go through an environmental impact statement.

**RE: ROWLEY – RAILROAD AVENUE 202-13-1.123, 202-13-5.21 & 5.22**

Mr. Winglovitz is representing the applicant. He goes through Lanc & Tully's comment letter:

- 1- The existing culvert can accommodate the 50 year or larger storm. There are issues downstream and feel they it's the Village's responsibility; Mr. Rivenburg says they are creating less stormwater and it's not his problem.
- 2- They are looking for a waiver from the Planning Board for the reduction of parking for the commercial spaces. Atty. McKay stated they should remove the note; it is waived under a different code.
- 3- This is an unlisted action under SEQRA and is a Negative Declaration.

The Board was happy with the architectural. Atty. McKay provided a draft Resolution and said the Board could schedule a public hearing.

**A MOTION was made to APPROVE THE DRAFT RESOLUTION PROVIDED BY ATTY. MCKAY TO SCHEDULE A PUBLIC HEARING ON ROWLEY DEVELOPMENT – RAILROAD AVENUE 202-13-1.123, 202-13-5.21 & 5.22 ON OCTOBER 26, 2022 AT 7:30PM, at 9:48pm by Chrm. Conero, seconded by Mbr. Romano and carried 3 Ayes 0 Nays.**

Mbr. Steed said, regarding the railroad right-of -way, you said the surveyor and the title company stated there wasn't any right-of-way, could you please provide a copy of the documents that states that? Mr. Winglovitz replied, yes.

**RE: CITY WINERY 204-1-1**

Todd Zwigard, Hayyim Danzig and Brad Cleverley of MJS Engineering are representing the applicant. They refer to Lanc & Tully's September 23<sup>rd</sup> comment letter:

- 1-The daily demand is being prepared. Atty. McKay advised them to get a Will Serve letter from the DPW Supt.
- 2,3,4,5,6 are graphical comments regarding drainage sewage. He didn't combine the old site plan with Brad's work. They are not eliminating it.
- 7- Proposed plans? It's not on either site plan, it is being pumped up hill to a "T" in a pipe from the winery with a check valve. They will provide it in the next submission.
- 8-They are still proposing the viewing platform. It is still in the project; they will combine it.
- 9-This is graphical regarding the contour label.

- 10-The flared end section, he will respond to location ES16.
- 11-They will provide the proposed walkway width.
- 12-The coverage is an error. The coverage has not decreased; it is 16.1. They will recalculate.
- 13- The wetlands permit. Hayyim said it was for pole put in for the deer fence. Everything else was done outside of the wetlands. Atty. McKay advised them to get the proper permit with the DEC.
- 14-After construction is complete, they will provide a letter stating the site meets all requirements.
- 15-The “north wall” exists. It is not on the original plans. They will clarify it in on the plans. Eng. Sicina asked what the height of the wall is? Mr. Danzig replied 9 ft. Chrm. Conero asked if there is going to be a fence on top of the wall. Mr. Danzig replied, yes.

Mr. Danzig asked about the existing pool requirements; he was advised by Eng. Sicina to send them to Bruce.

- 18- Mr. Cleverley said the stormwater will come off the patio and pool thru drainpipes to a manhole. He will confirm the size of the pond.
- 19-Regarding the swale.
- 20-He will confirm the erosion and sediment controls; possible sill fence around there.
- 21-Can they be referred to OC Planning?  
Mr. Danzig said he spoke with DOH regarding the pool; initial comments were regarding safety and the perimeter path. They originally wanted an infinity edge but because the perimeter path needed to be 5ft for safety. They also need a responsible person on site.
- 23-They will provide a letter from SHPO stating they will not require further review.

Atty. McKay and the Board discussed the applicant coming back to the Planning Board next month to confirm all changes are made before going back to the Village Trustees to amend the PPD. It was agreed that at the time of the Planning Board submission, they would submit to the Village Board, as well. Atty. McKay advised completing a long EAF.

### **RE: MINUTES**

**A MOTION was made to APPROVE THE MINUTES OF AUGUST 24, 2022, at 10:30 PM, By Chrm. Conero, seconded by Mbr. Steed and carried 3 Ayes 0 Nays.**

### **RE: ADJOURNMENT**

**A MOTION was made to ADJOURN THE MEETING AT 10:30 PM by Mbr. Romano, seconded by Mbr. Steed and carried 3 Ayes 0 Nays.**

---

Tina Murphy, Deputy Village Clerk