

REGULAR MEETING OF THE MONTVALE PLANNING BOARD

MINUTES

Tuesday, April 5, 2016 7:30pm

Council Chambers, 12 Mercedes Drive, 2nd Floor, Montvale, NJ

Please note: A curfew of 11:15 PM is strictly adhered to by the Board. No new matter involving an applicant will be started after 10:30 PM. At 10PM the Chairman will make a determination and advise applicants whether they will be heard. If an applicant cannot be heard because of the lateness of the hour, the matter will be carried over to the next regularly scheduled meeting.

PLEDGE OF ALLEGIANCE AND OPEN MEETING ACT STATEMENT: Chairman DePinto opened the meeting at 7:34pm and led everyone in the Pledge of Allegiance. He read the open meeting act statement.

Mr. Regan swore in the two new board members. Annmarie Russo and James D 'Agostino, Jr.

ROLL CALL: Mr. Culhane, Mr. Fette, Ms. Russo, Mr. D 'Agostino, Mr. Lintner, Mr. Teagno, Mr. Stefanelli,
Absent: Councilmember LaMonica, and Mayor Ghassali

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

MISC. MATTERS RAISED BY BOARD MEMBERS/BOARD ATTORNEY/

BOROUGH ENGINEER: Ms. Hutter stated that there is a Cheezin mobile truck that is advertising on the internet that it is going to be at certain location within the Borough of Montvale. Ms. Hutter gave the flyer to Mr. Fette. Mobile trucks are not permitted. Mr. Fette will follow up.

Mr. Teagno stated that the tree committee met to discuss the comments that they received on the tree ordinance. Ms. LaMonica will be bringing it to the Mayor and Council at their next meeting.

ZONING REPORT: Mr. Fette stated that he has had some ongoing issues with 25 Philips Parkway. He has had some conversations with Mr. Sokolovich. He has a prospective tenant coming in that provides executive office space. They provide secretaries, conference rooms. He asked how do we treat the use permit. Is it the main company or each individual tenant? Chairman stated that they had something like this in the past. The main company is the user and they have needed to make sure that their sublets comply. The primary tenant on a monthly basis had in the past supplied a list of the name of the tenants, emergency contact names, and telephone numbers. Place the burden on them to supply the report. He did have a meet at the building with the owner, Mr. Sokolovich. Mr. Sokolovich assures Mr. Fette that he is working on removing the illegally parked cars from Mercedes. Mr. Fette stated he has been going around updating handicapped parking requirements. 28 W. Grand Avenue is a multi-tenant building. The new owner doesn't like coming into for use permits. He did a visual inspection of the building compared to the list. He will have a report at the next meeting. Mr. Fette stated that he has been getting calls from satellite tenants for the buildings at the Shoppe's at DePieros. They want permanent signs during construction. There is a sign for the lender out right now. The understanding is that any perspective tenant needs to comply with coming to the site plan review committee. We were very specific to what the signs would be. To date the only one that has appeared is Ulta. The site plan review committee had found that one accessible. Anything else would be inconsistent. They are not prepared to list the names of the other tenants at this time. They did permit the builder to put a sign up of Shoppes of DePieros and the lender. Those are the only two approved signs.

SITE PLAN REVIEW COMMITTEE: none

ENVIRONMENTAL COMMISSION LIASION REPORT: On March 21st, they spent the time going over tree ordinance comments. The Mayor had chaired the committee as they are in absent of the chairman. There will be a tree expert from Maser coming to the next meeting.

CORRESPONDENCE: placed on back table

DISCUSSION:

1. **Proposal from Darlene Green in regard to Master Plan Review and 1 and 3 Mercedes Drive-** A motion to approve was made by Mr. Stefanelli and seconded by Mr. Teagno. A roll call was taken with all stating aye.
2. **Proposal from Darlene Green for Professional Planning Services and Affordable Housing Services-**A motion to approve the proposal was made by Mr. Stefanelli and seconded by Mr. Teagno. A roll call vote was taken with all stating aye.
3. **Ordinance No 2016-1412-**An Ordinance of the Borough of Montvale, County of Berge, State of New Jersey, Amending and Supplementing Chapter 128, "Zoning", of the Borough Code in Order to Specify Various Zoning Requirements for Schools and Houses of Worship-Chairman stated that the Mayor and Council has determined that the Schools are better located within the residential areas so that children can easily get to them. Chairman DePinto gave a brief description of the ordinance. In all of our commercial zones it is not permitted. It is prohibited. The council believes that building new houses of worship in non-commercial mainly residential areas. In order to create such a facility the governing body believes that standards be established so if one wants to put a house of worship in a R40 zone or R15,R30, the land must display a minimum area. So you couldn't put a house of worship on a 100x 100 conforming in an R10 zone. This ordinance proposed that good planning would dictate that you should not build a new house of worship on less than a 3 acre parcel of land in a residential zone. Chairman stated he has difficulty with the propose ordinance. It was introduced for first reading and then sent to the Planning Board for their review and comments. It is schedule for final reading on April 26th. They have limited the creating of house of worships in not all of the residential zones. Mr. DePinto asked Ms. Green why is it limited, to 40, 15, and 10 and R1-10 when there are a number of other residential zones. Currently Ms. Green stated that churches are only permitted within those residential zones. They wanted to expand the definition of churches and include all other houses of worship so that they are comprehensive in their characterization of religious facilities. The council did not ask the borough attorney to expand the zone where the houses of worships is permitted today. They wanted to broaden the definition. Ms. Green stated that he was right someone could potentially build on an R10. Many churches would not be able to fit the building, the parking and the associated features on a R10. He stated that he had spoken to the borough attorney and to the Mayor and they really do want to restrict all houses of worships in all residential zones. It is good that the definition is being expanded. He believes that the standard should be applied to all residential. The challenge that we are facing, that we do have zones of much greater density and you could do an assemblage of property to meet the standard. He believes that the ordinance should be crafted in such a way. If it is the desire of the Mayor and Council not to create new construction in a residential zone of houses of worship it should be inclusive all residential zones stated Chairman DePinto. He also believes the board should be looking at the minimum land area of the three acres being sufficient or should it be raised. After a discussion of board members it was recommended that they should include all residential zones and change it to 5 acres. The bulk standards were discussed. The land use administrator will prepare a memo to the governing body that the recommendation of the planning board that the land area should be increased to 5 acres or greater, it should be prohibited in all residential zones and the bulk standards of the OR zones. Mr. Regan stated it makes it more defendable. This is going to be going out to over 6 thousand property owners, certified and regular mail stated the chairman in and around Montvale we would not want to repeat this type of mailing which is going to cost the borough some \$30,000. A motion was made by Mr. Stefanelli and seconded by Mr. Lintner to have the board secretary prepare a letter stating what was discussed. A roll call vote was taken with all stating aye.
4. **NJ Turnpike Authority –Salt Shed-**Mr. Regan stated he wrote a letter to the NJ Turnpike Authority letting them know that there is a requirement on December 8th. He cited Mr. Fette a 1955 case and it was prior to the MLUL rules. The attorney didn't care what it said and that the Turnpike had no intention of coming before the board. Another letter stating that they will send us a courtesy copy with a report from their engineer company. The worst case scenario is that Jeff gives him a summons to see if they come. Mr. Regan stated that over the years that they have had the school board, and even the municipality and the fire house. The statute specifically states that they should appear for any capital project. Chairman stated that the Mayor has set up a line of communication with the Lt. Governor and she is desirous with coming to Montvale to discuss with us what is happening to Montvale to office development and residential development and most importantly a potential ramp

for the north bound access ramp off of Summit Avenue. Let's see how cooperative the state wants to be stated the Chairman.

APPROVAL OF MINUTES:

March 1, 2016 a motion to approve was made by Mr. Stefanelli and seconded by Mr. Culhane. Mr D'Agostino and Ms. Russo abstained with all others voting aye.

March 15, 2016 A motion to approve was made by Mr. Lintner and seconded by Mr. Teagno with a roll call vote being taken and Mr. D'Agostino and Ms. Russo abstaining and all others stating aye.

USE PERMITS: none

PUBLIC HEARINGS (New) :

1. **Block 1607 Lot 7-Susie Robinson Frazelle- 21 Waverly Place-Variance Application-incorrect notice will not be heard! Chairman made an announcement of the carry.**

2. **Block 3103- 2- Collectis-100 Philips Parkway-Amended Site Plan Application**—Ms. Gail Price from Price, Meese and D'Armino came forward representing the applicant. Notice was in order. Ms. Price stated that there were representatives from Paris, Maryland and New York City. Collectis is a biopharmaceutical company that is in the business of cancer research and development. They are based in Paris, France and they are looking to occupy a portion of the building at 100 Philips Parkway which is in the OR4 district. It presently houses 2 other research development tenants. It was approved back in the 1990 for a single tenanted research building. Right now two of the other tenants will be remaining. They are looking for amended site plan approval with a waiver of EIS. The changes are minor in nature Ms. Price stated. They are looking at interior demolition to allow for the labs and research areas for the tenant be built out.

There are some outdoor modifications that they need to do as well. They need a chiller and nitrogen tank on an extension of the building by the loading area. A backup generator to the rear of the building will be installed. The within applicant is a biopharmaceutical company focused on developing immunotherapies and research with a mission, according to the submitted application, of developing a new generation of cancer therapies based on engineered cells. In connection with the applicant's occupancy of the premises, it seeks the addition of certain at grade and rooftop mechanical and related equipment, and the addition of a second floor or mezzanine area comprising 3,044 square feet of floor area. A new loading dock with a canopy is proposed. In addition, a new first floor tenant access door, concrete pad, canopy and sidewalk would also be constructed. In addition, on the exterior of the premises a LN2 (liquid nitrogen) tank would be constructed on grade in front of the building adjacent to the loading dock area, as well as a chiller for the LN2 system which would be adjacent to the liquid nitrogen tank. The chiller would be enclosed with a concrete masonry wall, with the tank enclosure and chiller enclosure extending eighty-seven (87) feet from the front wall of the building. In addition, new HVAC equipment is proposed on the roof above the space to be occupied by the applicant, which would be below the thirty-five (35) foot maximum and would replace some existing mechanical equipment which is in excess of the thirty-five (35) foot height limitation applicable to the OR-4 District. The applicant presented as its first witness Arjan Roozen, the Vice President of Global Clinical Activities of the applicant who was sworn, together with Acting Board Engineer Chris Doer and Board Planner Darlene A. Green, both of Maser Consulting. Commencing his testimony, Mr. Roozen stated that the applicant is a biopharmaceutical company engaged in "cutting edge technology" relating to cancer research and clinical trials. The applicant's activities require FDA compliance in connection with the importing and exporting of materials and supplies. He noted that two (2) loading areas exist on the premises and that a third would be added which would be dedicated solely to the applicant's use. He anticipates that fifty (50) employees will initially work on the premises. Presently the applicant has eighty-one (81) employees in Paris and sixteen (16) in New York City and anticipates that between \$25 and \$30 Million will be invested at the premises in connection with its operations. They are looking to occupy by the end of the year.

Testimony in support of the application was provided by William Gaudreau, a licensed architect who was qualified in this field. Plans prepared by him dated March 17, 2016 were marked into evidence as Exhibit A-1. In addition, there was marked into evidence as Exhibit A-2 a colorized version of Exhibit A-1, with photographs of site improvements. Commencing his testimony, Mr. Gaudreau described the proposed addition encompassing approximately 3,000 square feet intended to house office and administrative space, and this addition would match the height of the existing building. He also provided testimony pertaining to the chiller and liquid nitrogen tank and described the photographs on Exhibit A-2 depicting the existing and proposed conditions. Focusing on the loading dock area, he noted the existing two (2) loading docks and the addition of a third loading dock on the right in this area. He described proposed new rooftop exhaust and air fans to be located above the space to be occupied by the applicant depicted on Drawing A204 of Exhibit A-2. The same screening which exists would be utilized, with the equipment located behind the screen. Mr. Lintner

asked that the rusty stack that is visible from the parkway be part of the renovations. The need for the third loading door area pertains to the requirement that the applicant's activities be separate from the other tenants, and he described the proposed renovation of the existing canopy and the new overhead doors in the loading area. Since ample lighting exists at this location, no new lighting is proposed. The chiller will be added next to the loading dock area and will be enclosed by an eiffs material. Between the chiller and the building would be located the nitrogen storage tank situated on a ten (10) foot by ten (10) foot impervious surface. The architect stated that the applicant had retained an acoustical engineer to ensure that noise levels will comply with applicable standards. The engineer next referenced the location of the new generator which would be located on a concrete pad in a courtyard on the Garden State Parkway side of the property. He also described the new door and canopy and walkway area. He referred to the first page of photographs on Exhibit A-2 and described the aerial view of the premises and the photograph denoting the roof equipment to be removed. The lower right photo is the courtyard facing the west and the Garden State Parkway where the new generator would be sited. He stated that no outdoor storage of materials would occur, and that all new equipment would be secured and locked.

The architect next described the interior floor plan, describing the laboratory area and first floor depicted on Drawing A101 which, in the aggregate, will contain 24,954 square feet, and the new second floor space consisting of office and meeting/conference rooms comprising 3,044 square feet, with the total area being 27,998 square feet. Drawing A105 of Exhibit A-2 depicts the roof plan with an existing air handler to be removed and a new one to be installed. The architect also described the building elevations depicted on Drawings A201 and A202, with the easterly elevation being the main entrance to the applicant's area. Drawing A203 is an enlargement of the various building elevations. Mr. Gaudreau stated that no new signage is planned and that little waste will be generated and discharged from the proposed use.

Testimony was provided by Steven Napolitano, a licensed professional engineer and professional planner who was qualified in these fields. A plan prepared by him entitled, "Minor Site Plan Modifications" (Drawing Y-1), revised to March 17, 2016, was marked into evidence as Exhibit A-3. Addressing the plan, Mr. Napolitano described the site modifications depicted, none of which would implicate changes to stormwater management or drainage conditions. He described the new door and canopy area, as well as the new stair and walk area located in a four hundred (400) square foot area. A waiver is sought from the requirement of submitting an EIS, and Mr. Napolitano indicated that the work to be performed on the existing pavement relating to the chiller and storage tank will be located on existing gravel or impervious areas. He addressed the issue of the variance pertaining to the loading dock situated in the front yard, indicating that there are no alternate locations and that siting the new loading door would only be appropriate in the already existing loading area. In his opinion, this fact justifies variance relief under *N.J.S.A. 40:55D-70c(1)*. In addition, the improvements to the site proposed by the applicant would permit variance relief under *N.J.S.A. 40:55D-70c(2)* in that Goals and Objectives of the Municipal Land Use Law ("MLUL") and Borough Master Plan would be promoted by the granting of the one item of variance relief.

Marked into evidence as Board Exhibit 1 was a report of Borough Engineer Andrew R. Hipolit of Maser Consulting dated March 29, 2016, and Acting Board Engineer Chris Doer summarized Mr. Hipolit's report. He described the location of the proposed new generator and noted that the proposed location for the chiller is already in a paved area which would not impact landscaping. It was noted that the location of the liquid nitrogen tank would require removal of a tree, and Mr. Gaudreau indicated that the intent of the applicant is to relocate the tree elsewhere on the property. Board Planner Green's report of March 29, 2016 was marked into evidence as Board Exhibit 2, and she referenced the sole variance pertaining to the new loading door in the front yard. In addition, she referenced the two (2) preexisting nonconforming conditions relating to height of rooftop equipment and excess of parking in the front yard, neither of which will be exacerbated by the plan. She stated that the four (4) issues in the "Comments" portion of her report had all been addressed.

Marked into evidence as Board Exhibit 3 was a report of the Fire Department dated March 29, 2016 indicating "No Comments", and as Board Exhibit 4 a report of the Police Department dated March 23, 2016 which indicated no public safety concerns being presented by the application. A discussion also ensued concerning existing landscaping, and representatives of the owner agreed that landscaping would be upgraded so as to improve site conditions.

The Board also considered a use permit application submitted by the applicant to occupy space within the structure, and it was noted that the building area to be occupied by the applicant was previously occupied by Memory Pharmaceutical and the Ferolie Group, with the total area to be occupied, inclusive of the second floor, to be 27,998 square feet.

The Board also finds that an exception or waiver pursuant to *N.J.S.A. 40:55D-51b* may be granted pertaining to the requirement of submitting an EIS. In this regard, the Board recognizes that the site is fully developed and that none of the criteria governing an exception as set forth in §128-17.10 will be contravened. In addition, the Board notes that its engineer voiced no objection to the granting of this waiver.

The board moved on to the applicant also seeking an approval of a use permit to occupy a total of 27,998 square feet in the building. The Board finds that the proposed use is permitted and that the testimony and information submitted in the

use permit application permits a finding that the use permit may be granted. A motion to have the board attorney prepare a resolution and the approval of the use permit was made by Mr. Stefanelli and seconded by Mr. Teagno. A roll call vote was taken with all stating aye.

PUBLIC HEARINGS: (Con't) an announcement was made that the below are carried to April 19th and no further notice be required.

Block 203, Lot 6-Steve and Dawn Valko-8 Foxhill Road-Variance Application-carried to April 19th, 2016-
Block 2405-Lots 1, 2 and 26-NJ Energy Corporation-28-30 Kinderkamack Road-Site Plan & Variance
Application- carried to April 19th, 2016

RESOLUTIONS: none

OTHER BUSINESS: Chairman asked that Ms. Russo and Mr. D'Agostino listen to the tapes so that they would be eligible to vote when they come back. They both agreed to listen to the recordings. The Chairman stated that the agendas within the next two months will be getting busier.

OPEN MEETING TO THE PUBLIC: no one from the public.

ADJOURNMENT: A motion to adjourn was made by Mr. Lintner and seconded by Ms. Russo.

Next Regular Scheduled Meeting - April 19, 2016 at 7:30pm

Respectively submitted by:

R. Lorraine Hutter