

# **REGULAR MEETING OF THE MONTVALE PLANNING BOARD**

## **Minutes**

**Tuesday, December 19, 2023**

**Municipal Complex 12 DePiero Drive, 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.

Chairman called the meeting to order at 7:35pm

ROLL CALL: Mr. Culhane, Councilman Koelling, Mr. Lintner, Mr. Ryan, Mr. Stefanelli, Mr. Teagno, Mr. Zitelli, and Chairman DePinto

Also Present: Darlene, Green, Borough Planner; Jamie Giurintano, Board Engineer; Robert Regan, Board Attorney; Lorraine Hutter, Land Use Administrator.

Absent: Mr. Gruber, Mr. Huseynov, and Mr. Tsai

MISC. MATTERS RAISED BY BOARD MEMBERS/BOARD ATTORNEY/BOROUGH ENGINEER/BOROUGH PLANNER: no

ZONING REPORT Chairman read Mr. Gruber's report into the record as he had emailed the board secretary his report in his absence. AR Landmark is still without permanent power due to the back log of equipment from the manufacturer and cannot get final inspections. It could be Spring 2024 before they can open.

Village Springs by Toll Brothers have all their buildings completed for the site. Finals are being scheduled with the building department. They have 9 unsold units as of December 2023.

The building department has released the permit for MSK Fit Out as per DCA plan review.

Building 400 is moving along with Pottery Barn and William Sonoma' permits being released this month.

ENVIRONMENTAL COMMISSION LIAISON REPORT:

SITE PLAN COMMITTEE REPORT: Mr. Stefanelli gave his report. An applicant came regarding 5 Wortendyke Avenue, he is interested in purchasing the property for a moving company for small trucks. He is going to need a use variance. Montvale Estates, 50 Chestnut Ridge Road came in for EV Chargers. They are looking to put in 12 Tesla chargers. There is no parking overnight and they would need bollards. . They are going to revise the report and come back.

MASTER PLAN COMMITTEE REPORT: The final review of the Open Space and Recreation Report. The five parks were identified with field maps and environmental features and assessed with its capabilities and a recreation questionnaire will be going out.

CORRESPONDENCE: On back table

APPROVAL OF MINUTES: October 17 minutes to be carried.

**DISCUSSION: Proposal for Professional Planning Services**

OR Zones Permitted Use & Bulk Standards Analysis-Ms. Green gave a brief description of her proposal. A motion to have Ms. Green prepare the document was made by Mr. Lintner and seconded by Mr. Teagno with all present voting aye. Ms. Green will have the document ready in 90 days. Proposal No.: MPP-0226P

USE PERMITS:

**Block 3004 Lot 2-Rokowsky Realty Organization**-50 Chestnut Ridge Road, Suite 103-(1795 sq. ft.)- Chairman read the application into the record. Suite will be marked on door with name. Signatures were identified. A motion to approve was made by Councilman Koelling and seconded by Mr. Stefanelli. A roll call vote was taken with all stating aye.

**Block 403 Lot 4**-Koscusko Consulting, Inc. d/b/a Umaid Products-Chairman read the application into the record. Clarification was given of what the business is and that no products will be stored there. A motion to approve was made by Councilman Koelling and seconded by Mr. Stefanelli. A roll call vote was taken with all present stating aye.

**Block 1102 Lot 1**- Brooklyn Financial Group-1 Paragon Drive Suite 125- 5580 sq. ft.- Chairman read the application into the record. Signatures were verified. It is advising company for insurance. A motion to approve was made by Mr. Culhane and seconded by Mr. Stefanelli with all present stating aye.

**Block 402 Lot 4**-MK Coaching, Inc. 72 Summit Avenue Suite 110-(550 sq. ft.)- Chairman read the application into the record. Mr. Roth building owner was sworn in. Concern was for enough parking as the building is full. Mr. Balson assure the board as well as the owner Mr. Roth, there is one more space to be leased, that there was enough parking to accommodate all the tenants. Mr. Roth has taken pictures of his parking lot. It is a firm that coaches other business on how to be successful. A roll call vote was taken with all present voting aye.

A five-minute break was taken.

PUBLIC HEARINGS (NEW):

1. **Block 1102 Lot 8**-Gray Capital, LLC-100 Summit Avenue-Site Plan Review and Variance Application and Major Soil Movement Application-  
Testimony in support of the application was provided by David Altman, Esq. came forward for the applicant. This is an application for an amendment to a resolution that was issued in September of 2022. They are seeking to put in a partial basement, a new generator pad, and a staircase. Also a soil movement application. The application proposes a 5,265 square foot partial basement under the northeast wing of the three-story nursing home portion of the building, which includes 2,205 square feet of a mechanical/equipment area and 3,060 square feet of storage space. Additional site improvements include a 15 by 35-foot concrete pad for a generator, a 20 by 10 foot concrete pad for a transformer, a new exterior staircase to access the partial basement, landscaping to screen the proposed generator, and modifications to the improved sidewalks on the north and south sides of the building. Testimony in support of the

application was provided by Steven Napolitano, a licensed professional engineer who was qualified in this field and who was sworn as a witness, together with Borough Planner Darlene A. Green and Board Engineer Jamie Giurintano. Marked into evidence as Exhibit A-1 was a set of plans prepared by Mr. Napolitano consisting of eight sheets and revised to August 1, 2023. Commencing his testimony, Mr. Napolitano described the property as the former Western Union site comprising a land area of approximately 14.5 acres. He referenced the 2022 approval, noting that no construction has taken place to date. He referenced existing site conditions depicted on Drawing Y-1 and the Site Plan, Drawing Y-2, and described the existing two-story building to remain and the new three-story nursing home building, as well as details pertaining to parking, lighting, ingress and egress, handicapped and visitor parking, the proposed dumpster area, and walkways.

Continuing his testimony, Mr. Napolitano described the proposed partial basement at the northeast section of the "X-shaped" building, the three-story nursing home, which will have space for a mechanical room, electrical equipment room and storage, with the storage space comprising 3,060 square feet. The building will have an elevator to the three stories and the basement area. He described the two staircases, one interior and an exterior staircase on the east side of the building which provides a second means of egress. He stated that the additional area was not included in the calculation of the floor area ratio ("FAR") with the inclusion of the 3,060 square feet of the basement area for storage. The FAR will continue to be in compliance. The Engineer described the proposed generator on the easterly side of the building and the transformer to be located next to it. An existing generator on the westerly side of the property will remain, which only serves the existing two-story building for administrative offices. He stated that the nursing home building with 180 beds requires its own generator, which will have a height of 16 feet from finished grade. He stated that a portion of the walkway is being removed to accommodate the generator. The removal of the walkway area results in no increase to impervious coverage. A total of 27 Green Giant arborvitae with a height of 12 to 15 feet at planting would surround the generator area. The Engineer referenced the comment in the Borough Planner's report that the generator and arborvitae trees may conflict with previously approved landscaping, including three ornamental dogwood trees, which Mr. Napolitano stated would be relocated along with a single pear tree. He confirmed that the generator will have a height of 16 feet to finished grade, with the pad having a height of six (6) inches and the generator 15½ feet.

Marked into evidence as Board Exhibit 1 was the report of Borough Engineer Andrew R. Hipolit of Colliers Engineering & Design dated September 11, 2023. He confirmed that there are no changes to the number of parking spaces and that the lot coverage breakdown will result in no change to lot coverage. He also stated that with respect to parking, handicapped spaces are not being removed and he described the walkway with a ramp from the walkway into the building. Mr. Napolitano stated that the applicant had received conditional approval from the Bergen County Planning Board, and Mr. Giurintano stated that the Soil Movement Application indicates the quantity to be moved is 2,000 cubic yards and he requested that there be confirmation that the soil movement for the proposed generator, transformer, and electrical utilities be included in the calculation, which he

estimated at 2,500 cubic yards. Mr. Napolitano stated that the proposed landscaping having a height of 12 to 15 feet at planting will ensure that the generator will not be visible.

Marked into evidence as Board Exhibit 2 was the report of the Fire Department dated November 20, 2023, and as Board Exhibit 3 the report of the Fire Department dated June 30, 2022. Mr. Napolitano addressed the items in Board Exhibit 3 together Fire Chief Jeffrey Gibson. It appears the water flow test has been performed, although Chief Gibson stated that the Fire Department has not addressed the items detailed in the report. Mr. Napolitano stated that recommendations by Veolia pertaining to upgrades pertaining to fire protection are under review, and that there will be a separate eight (8) inch water main looped around the building for fire hydrants. He also stated that there would be separate mains for fire and domestic services.

Mr. Napolitano stated that the applicant will coordinate with the Fire Department the location of FDCs, which will have two and one-half (2½) inch inlets. The location of hydrants will depend on FDC locations, and reflective whip markings will be shown pertaining to fire zones and the security fence will have a Knox padlock. There will be two Knox boxes (one for each building) and the center island at the Summit Avenue entrance will be made mountable. The height of the porticos will be 12 feet 6 inches, and Mr. Napolitano stated that rooftop units are currently being designed and drawings will be provided. In addition, upon completion of the project and prior to occupancy, the applicant will provide an 11 by 17 inch copy of floor plans showing room numbers and fire alarm device locations, as well as an emergency evacuation plan.

Planning issues were the next subject of discussion, and the report of Borough Planner Darlene A. Green of Colliers Engineering & Design dated September 11, 2023 was marked into evidence as Board Exhibit 4. Testimony in support of the application was provided by Kathryn Gregory, a licensed professional planner who was qualified in this field and who testified on behalf of the applicant during the hearing on the 2022 application. She referenced the variances implicated by the plan, noting that the height of the generator at 15.5 feet plus a six (6) inch pad exceeds the twelve (12) foot limitation pertaining to accessory structures and thus a variance is required. In addition, the number of parking spaces to be credited to the applicant will increase, although still non-compliant.

Continuing her testimony, Ms. Gregory stated that the providing of the generator is required by State regulation, and she stated that the variance relief may be justified under the c(2) standard and that approval will promote the public health, safety and general welfare, a purpose of the MLUL as set forth in N.J.S.A. 40:55D-2a. She also stated that the relief may be justified as promoting the Objective of providing adequate light, air and open space, another purpose of the MLUL as set forth in N.J.S.A. 40:55D-2c. Ms. Gregory stated that the relief may be granted without causing any substantial detriment to the Zone Plan and Zoning Ordinance. Borough Planner Green confirmed that two variances are required pertaining to the generator height and the number of parking spaces. She referenced paragraph 8 (at page 6) of her report pertaining to submission of Resolution Compliance Plans in connection with the 2022 approval, and Mr. Napolitano stated that this would be accomplished in a matter of days. Ms. Gregory also noted that the provision of fifteen (15) EV spaces permits a two for one credit, increasing the credited spaces to 378. Mr. Napolitano described the location of the EV spaces, which he stated would be at a distance

of between 65 and 200 feet from the building entrance. A condition of approval will require the placement of bollards proximate to the EV spaces, subject to the approval of the Board Engineer.

The applicant indicated that it would agree to the majority of the recommendations in the Police Department report dated August 23, 2023 (Board Exhibit 5) which include the enforcement of Title 39 on the property, ALPR cameras (license plate readers), a plan for Police response to medical calls, and an evacuation plan in case of emergencies. While the applicant indicated that it has a contract with a private ambulance service, it declined to agree to having an ambulance on the premises 24/7.

Testimony was provided by Jonathan Rhoades, a representative of the applicant, who agreed to the items in the report, except as to the provision of an ambulance on the premises 24/7. It was noted that an emergency evacuation plan would be provided, which must also be approved by the Fire Department.

In response to concerns of Board members pertaining to ambulance service, the applicant provided testimony from Thomas Martin Kilcourse of Health Consulting Services who advised that his company has a contract with the applicant. He stated that in cases of an emergency, a resident would call the applicant's emergency services number and that residents will be unable to dial 911, with such calls being received by the operator on the premises. The issue of the generator and its testing was next discussed, and Mr. Rhoades stated that the Level 2 generator proposed would have no muffler on its top, with noise levels being at 75 decibels at a distance of 23 feet. He stated that the applicant would have no difficulty in complying with applicable noise regulations. The generator will be tested during hours of approximately 11:00 a.m. to 12:00 noon for intervals of 30, 45, or 60 minutes. The fuel tank for the generator will be located above-ground, and the applicant will provide evidence of issuance of an air quality permit.

At the conclusion of the hearing, the applicant's counsel and the engineer indicated that revised plans would be submitted prior to approval. Mr. Regan stated he could not prepare the resolution without the revised plans. Plans would be resubmitted and Mr. Regan said he would have the resolution prepared for the February 6<sup>th</sup> meeting as long as he received the plans. A motion was made by Mr. Ryan and seconded by Mr. Teagno to have the board attorney prepare a resolution of approval. A roll call vote was taken with all present stating aye.

2. C3002-Sweetgreen-340 Market Street-Variance Application to install a sign bearing the trade name of the applicant on top of an existing structure. Mr. Antimo Del Vecchio represented the applicant. The property which is the subject of the within application is known as North Market, which is located in the Mixed-Use Planned Unit Development District ("M-PUD"). Building No. 2 which has been completed, contains 40,500 square feet of office space and 11,500 square feet of retail space.

By resolution dated October 19, 2021, the subject property received amended preliminary and final site plan approval and variance relief relating to signage at the site, which constitutes a comprehensive plan pertaining to permitted signage within the development.

By resolution dated December 5, 2023, the applicant received approval for a use permit and signage in connection with occupancy of an area comprising 2,864 square feet in the

front corner unit of Building No. 3. This approval permitted the establishment of a “fast casual restaurant”. This approval also permitted a building elevation sign parallel to De Piero Drive which would have an area of 18.88 square feet. The approving resolution notes, at paragraph 6, that the applicant will be seeking a second sign over the awning which will require a variance.

The additional sign proposed by the applicant, an awning or roof sign, requires the following variances:

A. Section 400-42H(1)(k)[2] – Variance for type of sign. The Ordinance permits a primary monument, sign, entrance monument sign, wall signs for tenants (including projecting signs not to exceed five space feet), window signs, and pedestrian wayfinding directories. The applicant proposes a roof sign on the canopy structure that projects outward from the building over the tenant’s entrance on the south side of Building 3, which contains the text “Sweetgreen”.

B. Section 400-42H(1)(k)[3] – Variance for sign illumination. The Ordinance only permits external illumination for non-wall mounted signage. The applicant proposes the “Sweetgreen” sign on the canopy to be internally illuminated.

C. Section 400-70A(7) via Section 400-42H(1)(k)[1] – Variance for sign type. The Ordinances does not permit roof signs anywhere in the Borough. As noted, the applicant proposes a roof sign.

The applicant was represented by Antimo A. Del Vecchio, Esq. Marked into evidence as Exhibit A-1 were notice documents pertaining to the public hearing, and as Exhibit A-2 the Sign Plan prepared by Ruggles Sign consisting of ten sheets, revised to October 18, 2023. In an opening statement, Mr. Del Vecchio noted that the applicant has previously received approval for a use permit and a façade sign facing De Piero Drive, which approval was granted by resolution of the Board dated December 5, 2023. Counsel advised the Board that a variance is required for a second sign due to the architecture of Building No. 3, noting that the material over the awning is glass which makes it impossible to place a wall sign, and as a result the sign needs to be placed either on the roof or awning. He referenced the variances noted in the report of the Borough Planner and stated that a waiver pertaining to sign lighting is not required as relief pertaining to temperature had previously been granted for signage within the complex in connection with a prior application. He stated that the proposed second sign would be white in color as reflected on Exhibit A-2.

Testimony in support of the application was provided by Kathryn Gregory, a licensed professional planner who was qualified in this field. She testified that she had visited the site, and in particular the unit to be occupied by the applicant, as well as having reviewed the Ordinance and Master Plan provisions. In her opinion, the proposed roof or awning sign will meet the intent of the Ordinance, and she stated that the variance may be granted under the c(1) standard in view of the existing structure and glass panels which makes it impossible to place the sign on the window, with the design and architecture of the building permitting a finding of hardship. The proposed awning sign would be 18.88 square feet,

the exact area of the sign previously approved for the façade. In her opinion, there would be no substantial detriment to the public good by the granting of the variance relief. Marked into evidence as Board Exhibit 1 was the report of Borough Planner Darlene A. Green dated December 14, 2023. Ms. Green referred to paragraph 4 on pages 3 and 4 of her report, noting that Sheet 7 of Exhibit A-2 depicts window signage on the doors of the east façade of the building and that the “text and/or graphics are unreadable” and that the text/graphics do not match the text and graphics on Sheet 10 of the same Exhibit. She stated that the applicant should submit clearer plans illustrating the proposed window signs.

In addition, the Borough Planner stated that the last Sheet (Page 10) of the plans includes symbols rather than letters and that a clear, legible copy of this Sheet is required. Furthermore, revised plans should be submitted to include the total area of window signage compared to the total window area to ensure compliance with §400-42H(1)(k)[2].

The Planning Board based upon the above findings of fact, made the following conclusions are determined:

The Planning Board has considered the within application which seeks variance relief pertaining to a second sign proposed by the applicant at its location, being the front corner unit of Building No. 3. The applicant previously received approval for a façade sign facing De Piero Drive. The within application seeks approval for a roof or awning sign on the canopy structure that projects outward over the tenant’s entrance on the south side of Building No. 3. Variance relief is sought for this sign, as well as for sign illumination and for sign type as outlined in paragraphs 1, 2 and 3 of Section B of the report of the Borough Planner dated December 14, 2023 (Board Exhibit 1).

The Board is of the opinion that the variance relief may be granted pursuant to N.J.S.A. 40:55D-70c(1) in that the architecture of the building and the glass area over the entranceway precludes the placement of the sign on the glass area. The Board accepts the testimony of the applicant’s Planner that the variance may be granted under the c(1) standard in that the existing structure and its architecture results in a hardship to the applicant preventing a second sign consistent with the Ordinance.

The Board is also of the opinion that the variance may be granted pursuant to N.J.S.A. 40:55D-70c(2) in that purposes of the Municipal Land Use Law (“MLUL”) will be advanced by the granting of relief. More particularly, the placement of the second sign will permit the appropriate identification of the applicant’s business which will be in the interest of public safety and general welfare permitting operators of motor vehicles and pedestrians to access the business. See N.J.S.A. 40:55D-2a.

In addition, the granting of the variance for the second sign will be consistent with providing sufficient space in an appropriate location for a commercial use as set forth in N.J.S.A. 40:55D-2g. The Board also notes that the complex in which the applicant is located is a Planned Development, thereby promoting the objective of the MLUL pertaining to Planned Unit Developments on a particular site. See N.J.S.A. 40:55D-2k. Finally, it appears that the second sign is attractive in appearance and will not be obtrusive, thereby consistent with the Goal and Objective of the MLUL of promoting a desirable visual environment through creative development techniques and good civic design and arrangement. See N.J.S.A. 40:55D-2i.

The Board is of the opinion that the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance. The proposed second sign is of a design consistent with signage elsewhere within the development and will not result in a more intrusive use of the property nor create any visual conflict with nearby properties. It is noted that the subject site comprises a land area in excess of 32 acres, and the development complies with the overwhelming majority of standards applicable to the M-PUD District. The Board is also of the opinion that the granting of the variance will promote Goals and Objectives of the Borough Master Plan.

Compliance with the requirements detailed in the report of Borough Planner Darlene A. Green of Colliers Engineering & Design dated December 14, 2023 (Board Exhibit 1), which compliance shall include the submission of clearer plans illustrating the proposed window signs, the correction of an error on the last Sheet of the plan, submission of a clear and legible copy of this Sheet, and submission of revised plans depicting the total area of window signage compared to the total window area. These conditions are enumerated in paragraphs 4, 5 and 6 on pages 3 and 4 of Board Exhibit 1. In addition, the applicant shall comply with any future letter requirements of the Borough Planner.

The size of 18.88 square feet and the color the awning sign shall be consistent with the representations made during the public hearing. There shall be no neon signage visible on the exterior of the premises.

Signage shall be required to be in accordance with the details and conditions enumerated in the resolution of the Planning Board dated October 19, 2021.

A motion to open to the public was made by Mr. Teagno and seconded by Mr. Stefanelli, no one from the public wishing to be heard a motion to close the meeting to the public was made by Councilman Koelling and seconded by Mr. Stefanelli. Chairman asked for a motion to have the board attorney prepare a resolution of approval for the variance to install a second sign. A motion was made by Councilman Koelling and seconded by Mr. Stefanelli. A roll call vote was taken with all present voting aye.

PUBLIC HEARINGS (CON'T): None

#### RESOLUTIONS:

1. Block 1301 Lot 1-Brett Unger-45 Akers Avenue-Resolution granting Minor Subdivision Approval and Variance Relief to Bret Unger- Chairman read by title only. A motion to approve was made by Mr. Lintner and seconded by Mr. Culhane with all present voting aye.
2. Block 1601 Lot 7-Nouvelle, LLC- 26 N. Kinderkamack Road-Resolution Granting Preliminary and Final Waiver from the Requirement of Submitting an Environmental Impact Statement to Nouvelle, LLC for Premises Designated as Block 1601 Lot -Site Plan Review and

Variance Relief for Veterans Affordable Housing-Chairman read by title only. Mr. Regan went over changes. A motion to approve was made by Mr. Teagno and seconded by Mr. Zitelli. A roll call vote was taken with Mr. Ryan and Councilman Koelling abstaining and all others present voting aye.

3. Block 2802, Lot 2-(C001B)-Resolution Granting a Use Variance and Variance Relief Pertaining to signage to Montvale Development Associates II, LLC and a Use Permit to New York Blood Center, Inc. d/b/a New Jersey Blood Services for Premises Designates as Block 2802, Lot 2 (C001B)-Chairman read by title only. A motion to approve was made by Mr. Stefanelli and seconded by Mr. Lintner. Mr. Regan went over the changes. A roll call vote was taken with Councilmember Koelling and Mr. Ryan abstaining and all others voting aye.

4. Resolution for years of Service for Mr. Zitelli- chairman read Resolution acknowledging his years of service to the Borough of Montvale Planning Board. Chairman thanked Mr. Zitelli for his service. A motion to introduce was introduced by Mr. Lintner and seconded by Mr. Stefanelli. A roll call vote was taken with all present voting aye. Mr. Zitelli stated thank you and how professional the board is and he is very happy he got to serve.

OTHER BUSINESS:

OPEN MEETING TO THE PUBLIC: none present

ADJOURNMENT: A motion to adjourn was made by Mr. Zitelli and seconded by Mr. Lintner all in favor stating aye.

**Next Regular Scheduled Meeting and Reorganizational Meeting:** January 2, 2024