The Planning Board of the Village of Montebello held a meeting on Tuesday, May 10, 2016 at the Montebello Community Center, 350 Haverstraw Road, Montebello, New York. Chairman Caridi called the meeting to order at 7:17 p.m. and led everyone in the Pledge of Allegiance.

PRESENT	OTHERS
Anthony Caridi, Chairman	Ira Emanuel, Assistant Village Attorney
Thomas Ternquist, Member	Robert Geneslaw, Village Planner
Donald Wanamaker, Member	Martin Spence, Village Engineer
Michael Iatropoulos, Member	Regina Rivera, Planning & Zoning Clerk
Jane Burke, Member	
Stan Shipley, Member	

Member Ternquist made a motion to approve the minutes of April 12, 2016, seconded by Member Iatropoulos. Upon vote, the motion carried unanimously.

Loren Ware – Public Hearing
3-Lot Subdivision
10 Wilbur Road, Montebello, NY
40.20-1-5

> Application of Loren Ware, 5 Cragmere Road, Suffern, New York, for a 3-Lot subdivision at 10 Wilbur Road, Montebello, New York 10901. The applicant is proposing 3 separate lots each with a single-family dwelling with driveway access from Wilbur Road. The property is located on the South side of Wilbur Road, approximately 700 feet west of the intersection of Haverstraw Road (Route 202) in the Village of Montebello, which is designated on the Ramapo Tax Map as Section 40.20, Block 1, Lot 5 in an RR-50 Zone.

In attendance were the applicant, Mr. Loren Ware, and Rachel Barese, Engineer with Civil Tec Engineers, P.C.

Mr. Ira Emanuel, Assistant Village Attorney, in the interest of full disclosure informed the Board that he is the legal representative of a non-profit organization for which Mr. Ware, the applicant, is a member of the board of trustees. Mr. Emanuel explained that he represents the organization and not Mr. Ware personally. He conferred with the Village Attorney prior to this meeting who does not believe there is a conflict of interest in this matter.

Chairman Caridi thanked Mr. Emanuel for the disclosure and noted that all members of the board have considered this prior to the meeting and all consented that there is no conflict of interest.

Ms. Barese gave an overview of the proposal, stating that the property is 5.61 acres and containing an existing single-family residence. 1.64 acres of the land are wetlands, which were flagged by a wetland specialist.

Ms. Barese noted that there are two types of plans being presented for the proposal. The first a conventional sketch plan and the second a cluster plan. Both plans, she explained, would involve improvements upon the existing cul-de-sac, making it wider than it is currently thereby allowing for fire truck and school bus turnaround.

In presenting the conventional plan, Ms. Barese showed that it would be comprised of 3 compliant lots over 50,000 square feet, with two lots losing some area due to onsite wetlands. Each lot would contain a single-family residence with a driveway leading to Wilbur Road. A sewer main extension and wells would service these lots. Directing the Board members to the site plan, she explained that the conventional proposal would not allow for the existing residence to remain due to its location and the allotted square footage per lot. The plan would put the new residences closer to the wetlands than they would like and that, although all three lots would be able to provide the proper area with setbacks, a variance for street frontage in conjunction with a waiver for lot widths would be needed.

Ms. Barese then presented the alternative cluster plan which, she explained, would allow the preservation of the existing home and as such would be able to meet the required setback while keeping the new residences further away from the wetlands. Only one variance would be needed for the one lot containing less than 50,000 square feet.

For both plans, Ms. Barese stated that they have received permission from the Town of Ramapo to connect to the sewer main via an extension, and that there would be some minimal wetland disturbance during the installation of said extension.

Ms. Barese concluded her presentation and Martin Spence, Village Engineer, summarized his memo dated May 9, 2016. (Copy on file) Mr. Spence noted that the plans are preliminary and that the next step would be to delineate the drainage plans and to perform drainage pit tests to determine suitability of the drainage system.

Member Burke asked why they were not connecting to United Water. Ms. Barese explained that there is no current water main connecting to Wilbur Road from Route 202 and would require a 700 foot extension from the Route 202 water main just to get to the edge of the property. Ms. Barese noted that there is already an existing well on the property with plenty of room for two additional wells.

Member Burke then asked who flagged the wetlands and noted that there is still so much detail missing from the site plan. Ms. Barese explained that Mr. Robert Torgersen, Landscape Architect, flagged the wetland areas using the United States Army Corps of Engineers Wetland Delineation Manual criteria, as stated in Mr. Torgersen's report of May 9, 2016. (Copy on file)

Chairman Caridi reminded everyone that this is an initial presentation, that various county and town agency reviews and directives were received, and said that there is still more work to be done. Ms. Barese agreed and asserted that they are still attempting to get guidance from the Board particularly regarding which type of proposal would be more preferable.

Mr. Emanuel explained to the Board that both proposals were discussed during CDRC and that the applicant was advised to consider the cluster, a technique successfully used in Montebello in the past. The point of a cluster treatment of a subdivision, he explained, is to preserve and protect environmental features, in this case the wetlands, manipulating the lot lines and setbacks to keep the number of lots but reconfigured in a way the zoning code had not contemplated. Mr. Emanuel explained further that the applicant is here mainly to see, before all the engineering is done, if the Board would be willing to consider a cluster.

Member Iatropoulos asked for clarification as to whether or not there is a permanent stream on the property, having recalled that one existed during his previous visits to the area within the last decade. Mr. Spence said he was on the property several times recently and though he did see some wet areas he did not notice a well-defined swale. He added however, that water on the property drains from west to east and the existing driveway is slightly raised, a matter worth exploring. Ms. Barese promised to look into the matter.

Member Wanamaker said he was in favor of the cluster plan provided the applicant obtains a pre-construction notification from the district engineer as per Mr. Torgersen's May 9, 2016 report. Member Wanamaker also expressed concerns over the private wells and asked the applicant to be mindful of the wellhead protection zone.

Chairman Caridi opened the Public Hearing.

Steve Sorillo, 12 Coe Farm Road, Montebello, New York asked about the west to east water drainage mentioned by Mr. Spence and said his property lies east of that flow. Stating that the portion of his property that abuts the applicant's property is wetland "that stays wet", he expressed his concerns over drainage from the subdivision flowing into his wetlands and spilling into his yard. Ms. Barese responded that they would not be touching the wetlands in that area and that, working in conjunction with Mr. Spence, they would make every effort to ensure that never happens. Mr. Spence noted that preventing drainage into other properties is part of their process no matter the project.

Debra Seidman Munitz, 5 Rose Hill Road, Montebello, NY, asked the date of the Torgersen delineation (wetlands flagging), and asked when they could expect the "eco confirmation jurisdiction determination" of the wetlands. Ms. Munitz also stated that she thought that running sewer through wetlands is prohibited. Ms. Barese said that the wetland delineation was done last summer, and explained that once they settle on a plan, they would be starting the process with the Army Corps of Engineers.

No one else wishing to speak, Mr. Emanuel advised Ms. Barese to include the date on which Mr. Torgersen conducted the wetland delineation as it was not included in his May 9th report. He also advised her to indicate the extent of the regulated area so the Board could see the extent to which the regulated area will be encroached upon, and also asked her to show the math in computing the net lot area for each lot.

Chairman Caridi stated that the Cluster Plan seems to be favored by the Board at this point and polled the Board on their proposal preferences. All members said they favored the cluster plan. Member Burke reminded the applicant that there will need to be a tree survey, as per Mr. Spence's memo, and that all of Mr. Spence's directives must be followed carefully.

Chairman Caridi announced that the matter will be adjourned until the July 12th Planning Board meeting when the applicant will present a more detailed cluster plan.

Member Iatropoulos made a motion to continue the Public Hearing on the Application of Loren Ware for a 3-lot subdivision to the July 12, 2016 Planning Board meeting, seconded by Member Wanamaker.

William Oster – Public Hearing
Preliminary Site Plan
133 Spook Rock Road, Montebello, NY
41.17-1-65.1

> Application of William "Zev" Oster, 5 Voyager Court, Monsey, New York 10952 for approval of a Site Plan entitled "Osterberry Blueberry Patch", 133 Spook Rock Road, Montebello, New York, to grow blueberry bushes and keep bees. The subject property is located on the West side of Spook Rock Road, approximately 182 feet from Linda Drive in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 41.17, Block 1, Lot 65.1 in an RR-50 Zone.

In attendance were the applicant, Mr. Zev Oster of Inkberry Properties, Inc. and his attorney Ms. Susan Shapiro.

Ms. Shapiro opened her presentation with overview of the property, which is 1.3 acres of vacant land. She notes that this land has been an open field for a very long time, possibly forever, and that her client's plan is very simple: to use the land to plant blueberries and keep bees. Ms. Shapiro explained that it is Mr. Oster's hobby for him and his family. Living only a few miles away, his own backyard is full and he would like to use this as an extension of his primary residential property. Ms. Shapiro asked for site plan approval to allow Mr. Oster to erect three sheds, a small parking area and to put a fence around the bee hives. She also asked that he be allowed to put in a small well for irrigation. Ms. Shapiro made it clear that they are not asking for any variances, the transition will be paved as required by the county highway department, and noted that while the blueberry bushes bear fruit, they will put temporary netting over them to keep birds and insects from eating the berries.

Chairman Caridi asked Martin Spence, Village Engineer, read from his memo dated May 9, 2016. (Copy on file) In summarizing his review, Mr. Spence noted that all comments were based the point of view from usage of a single family use, and pointed out that the plan submitted is not to scale. Mr. Spence noted that no sanitary facilities are shown, a function of not having a principal dwelling and worth further consideration if the family is to spend extended periods of time there. Also missing from the plan are sources for proposed electricity for the well.

Mr. Bob Geneslaw, Village Planner, summarized his memo dated May 6, 2016 (copy on file). Referring to a memo by the Village of Montebello Building Inspector dated February 2015, Mr. Geneslaw notes that items on the property were not in compliance according to Village Code Sec. 195-45, which states that all other principal uses and all accessory uses shall require a site development plan approval.

Mr. Geneslaw then stated that he found some inconsistencies between written and verbal statements made by the applicant and his representatives. He first asked Mr. Oster how long it would take to harvest 750 blueberry bushes, and how many people will it take to prevent fruit from rotting on the bushes.

Mr. Oster said that he's not sure that all the berries are picked, asserting that the ones that are not picked will fall to the ground to become fertilizer.

Mr. Geneslaw repeated his question as to how long it would take to harvest the berries from 750 bushes, and asked if it can be done solely by family members? Mr. Oster noted that there are 250 plants in his backyard right now and that last year they were all picked out within the growing season of June and July.

Mr. Geneslaw stated that in previous communications with Mr. Oster and during this presentation that he was led to believe that this is a hobby for him and his family. But, he noted, Facebook pages belie this fact, as evident in several postings, some as recently as May 2016, announcing that people are welcome to come to this address to pick blueberries. These postings, Mr. Geneslaw stated conflict with Mr. Oster's promise to the Village to take down from social media all advertising of honey for sale and blueberry harvesting at the property address.

Mr. Oster assured the Board that nothing new was posted and that he took down his page. Regarding the sale of honey, Mr. Oster, said that he has hives at other locations, including one at his house, and two at a location in Pomona.

Mr. Geneslaw reiterated that the Mr. Oster posted sale of honey and blueberry picking to social media recently, to which Mr. Oster answered that he has nothing to hide, and that it is very difficult, if not impossible, to remove postings from Facebook.

Mr. Geneslaw claimed Mr. Oster did not answer his question and that he does not believe that Mr. Oster removed the posting. Mr. Geneslaw ended by saying that he did not want to take up any more of the Board's time trying to ferret out the answer.

Member Wanamaker asked if there are trees on the lot to which Ms. Shapiro answer there are trees only in periphery.

Mr. Geneslaw interjected noting that there are two very big piles of woodchips on the property, and that the Village Building Inspector has been making various observations. Ms. Shapiro stated that the woodchips were brought in.

Mr. Oster said he did create the woodchips using the chipper on the property, but that there were no trees taken down more than four inches wide or four feet off the ground. Mr. Oster went on to say that the Building Inspector, Mr. Larry Picarello, was on the property many times and that he never received any tree law violations and cited his respect for the village tree laws.

Member Wanamaker expressed concern for black bears visiting the bee hives. Mr. Oster agreed that black bears are a possible hazard saying that, should it become an issue, he will install an electrified fence.

Member Burke asked the applicant to describe the appearance of the netting to be placed over the blueberry bushes. Mr. Oster explained that it is very elastic, and not very visible, and offered to show pictures of the netting to board members.

Member Iatropoulos mentioned the fact that Mr. Oster is not a resident of the Village and then noted that on his application and site plan, there are three different entities mentioned:

Osterberry Farms, Osterberry Blueberry Patch and Inkberry Farms, Inc. Mr., Iatropoulos asked which entity was correct? Mr. Oster claimed that he goes by a lot of names and that they are all works in progress, but that Inkberry Farms is the owner of the corporation that bought the property.

Mr. Iatropoulos then brought up the issue of the site plan, first noting that though the applicant appeared before the CDRC three times, this is the first site plan he has seen. He noted further that the site plan submitted does not contain enough detailed information to allow the Board to come to any thoughtful conclusions. Member Burke concurred and said the site plan is not sufficient.

Mr. Emanuel interjected, stating there was an application submitted March 1, 2016 for CDRC, and that there were drawings submitted which required certain improvements. He stated that it is not unusual in smaller applications for certain provisions of the site plan regulations to be waived, but conceded that it would be up to the Planning Board to determine if a site plan was appropriate. Mr. Emanuel explained further that he does not want to leave the Board, the public or the applicant with the impression that the materials that were submitted were not received by the board members. They were received and distributed. They may not be sufficient, but there was a submission.

Member Iatropoulos, reading from the applicant's narrative that characterized this application as a minor use said that he did not agree that this is a minor use application and that he feels this is not an accessory to a primary use.

Ms. Shapiro stressed that this is a very low-intense and simple use of the land and noted that there is nothing in the village code preventing them from using the land as proposed here. She offered to re-submit the application in a different way according to Board specifications, and said that she is confused as to why the Village would be against this use as it is a low-intensity, simple use with no plans to build any residential structure.

Ms. Shapiro then explained the history of the past violations and gave an overview of past discussions, stating emphatically that they were advised to put together a very simple site plan and in the meantime the violations would be held in abeyance until all outstanding issues will be resolved.

Mr. Iatropoulos noted that the applicant went to court over this at which point Mr. Emanuel clarified the reasons for past violations, noting the Village Building Inspector alleged that Mr. Oster was carrying on commercial activities at the site, which has not been adjudicated.

Chairman Caridi addressed Mr. Oster directly, stating that he has muddied the waters by coming here before the Planning Board after appearing before the Village Board, the Village Court, and the CDRC. The Chairman said that Village Codes are specific and if this is not the primary use of the land then it is not allowed. He further stated that Mr. Oster continues, through social media, to invite the public to support a commercial operation, and noted that Village Code indicates a principal use requirement for this zoned area. Accessory uses in Village Codes to date, he explained, do not constitute primary use.

Ms. Shapiro apologized for the confusion, saying the content was taken down from Facebook and that they have no idea how to permanently remove the content, and reiterated that her client has

spent a lot of money and effort to try to work with the village to come to a mutually beneficial resolution.

Chairman Caridi suggested they start over before the Village Board and request an amended use of the property, noting that the Planning Board hears applications based on existing code. He noted further that primary use of the property is not being discussed here and that there is nothing in the Village Code for alternative uses. He then stated that, at this point, he does not foresee the Planning Board approving this proposal.

Chairman Caridi opened the Public Hearing.

Gary DiMatteo, 124 Spook Rock Road, Montebello, New York, asked what credentials one needs to be a bee keeper, what type of chemicals, such as pesticides, would be used on the blueberry bushes, and what kind of facilities will be put in place so people can be educated. He then asked if it was legal to take large amounts of wood chips from other areas and placed on the property, expressing concern over the spread of foreign tree diseases and beetles.

Harrison Russell, 13 Auger Road, Airmont, New York agrees with preserving the spirit of the neighborhood and wondered how a possible increase of black bear presence and the possibility of bee swarms will impact the residents.

David Rose, 129 Spook Rock Road, Montebello, New York pointing at Chairman Caridi asserted that he does not have permission to deny rights, and residents of the Village do not need permission to do something they want to do unless there is a law specifically prohibiting it. It's not the other way around.

Zsuzsanna Neff, 15 Linda Drive, Montebello, New York stated the property abuts hers and said the first violation was issued because they built a driveway without a permit. She was told by Mr. Oster and Ms. Shapiro that there was indeed a permit. Ms. Neff asked if Mr. Oster planned to sell his blueberries on his property, to which Ms. Shapiro responded no, it's a family hobby only. She then noted that there is a huge can on the property visible from Spook Rock Road and asked what it was. Mr. Oster said that it is a container that crushes blueberries for pies.

Kacper Tokarski, 3 Margaret Ann Lane, Montebello, New York, hearing throughout the course of this hearing that this is a family business and that he has two other blueberry farms, one of which is in Pomona. Mr. Tokarski asked how many family members it would take to harvest all the blueberries on all the properties. Mr. Oster responded simply that the other village has no problem with bees or blueberries.

Jamie Walter, 3 Caroll Drive, Montebello, New York said he lives across from the property and wondered about the danger of having bees in a residential area where people with bee allergies may live. Mr. Oster explained bees travel three miles in every direction and asked how he knew there weren't other bees out there.. Bees swarm and create hives, he continued, and it's part of nature. There are bees in the world and we need them to pollinate our crops.

Chairman Caridi interjected it is understood that bees are part of nature and that they will migrate, stating that he believes Mr. Oster has every intension of not letting his bees migrate.

Heide Farrar, 4 Margaret Ann Lane, Montebello, New York asked what crushing blueberries on the property involve, stating that this is the first time she's heard of any intentions to process blueberries on the site. She went on to point out that Spook Rock Road is a very busy road and expressed her concerns about Mr. Oster's family parking on surrounding roads thereby causing unsafe conditions.

Dee Oster, 15 Underwood Road, Monsey, New York expressed her confusion about the controversy of keeping blueberries and bees, stating that this use would provide something of beauty, would be educational and would be good for the environment.

Karen Kinsley, 395 Haverstraw Road, Montebello, New York said that, with all the talk about bees, and bears, there should be some sort of wildlife study given this is an unoccupied piece of land that may be in need of monitoring, citing possible dangers of which we may be unaware.

Anne Walter, 2 Caroll Drive, Montebello, New York expressed her concern over the fact that Mr. Oster announced his intensions on Facebook and other social media to distribute blueberries and honey from the address, wondering why he would even attempt a blueberry patch in Montebello given the high taxes, and believing his intentions to indulge a simple hobby are suspect.

Cindi Paul, 14 Linda Drive, Montebello, New York noted Mr. Oster has been before several Village Boards and wondered aloud why he keeps moving forward with this petition despite continued opposition. Ms. Shapiro responded that there have been discussions with Village Board members and Village Attorneys to find a solution, and that much thought and care has been given throughout. She emphatically stated that her client is not doing this alone and that the village is allowing him continue to keep bees and grow blueberries until this is resolved.

Debra Seidman Munitz, 5 Rose Hill Road, Montebello, New York stated that her home is adjacent to the 133 Spook Rock Road and said she was happy with Mr. Oster's purchase the of property and plans to maintain the open space, saying she prefers it to, for example, a subdivision that would change the overall density of the village. Regarding bee keeping, she notes that there are no restrictions and that no one has heard anything adverse about the bees being kept on the properties. Further, she notes that there have been no complaints regarding residents keeping livestock such as pigs and chickens, or extensive gardens with upwards of 200 tomato plants. Wrapping up, Ms. Munitz cited her concerns regarding the water source for the property, which would require a well and electricity, and the unsightliness of the containers on the property, feeling that both should be shown in the site plan.

Chairman Caridi interjected that these issues were delineated in Mr. Spence's comments earlier in the meeting.

Scott Goldman, 6 Cottage Lane, Suffern, New York New York State addressed the issue of land use, stating that this is a primary use of land rather than an accessory use as stated throughout the meeting, explaining that the property previously was a horse farm. Mr. Goldman further asserted that the site is not a farm but a garden, and said he applauded Mr. Oster's use of the land and feels that since he is not asking for a tax exemption or reduction, he should be allowed to continue growing blueberries.

Justin Davidson, 45 Ridge Road, New Hempstead, New York stated that honey bees are not aggressive and do not attack people unprovoked. Commenting on Mr. Oster's alleged commercial

endeavors on the property, he said he believes Mr. Oster has no designs as such and that he only wants to educate others as he had done previously with some groups. He further stated that he believes fears of tour busses clogging the street and the property are unfounded.

No one else wishing to speak, Chairman Caridi announced that the planning board needs more time to review this matter before making any decisions and suggested the matter be adjourned until the next planning board meeting.

Member Ternquist made a motion to continue the Public Hearing on the Application of Zev Oster for Site Plan to the June 14, 2016 Planning Board meeting, seconded by Member Burke. Upon vote, the motion carried unanimously.

New Business

Member Ternquist made a motion to adjourn the meeting to the June 14, 2016 Planning Board meeting, seconded by Member Iatropoulos. Upon vote, the motion carried unanimously. The meeting adjourned at 9:20 p.m.