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ZONING BOARD OF APPEALS VILLAGE OF CHESTNUT RIDGE

NARRATIVE SUMMARY

GOLDLAND INDUSTRIAL PARK Tax Lot 57.17-2-38

Goldland Industrial Park will be a new, two-building industrial park. The site is in a PI zoning district, located on the West side of Chestnut Ridge Road (N.Y.S. Route 45), at the Northwest corner of its intersection with the New York State Thruway Main Line right of way.

The subject parcel is vacant. It has a gross lot area of 409,774 sf (9.40 ac), and a net lot area, after deducting for steep slopes in the West and wetland areas in the North, of 361,850 sf (8.31 ac). It has extensive frontage on New York State Route 45, a major North/South thoroughfare.

The site is served by all public utilities.

The site is in an industrial/warehousing area of the Village. Immediately north of the site is Central Plumbing Specialties, a large plumbing supply contractor that also maintains a retail showroom. The building was formerly an automobile dealership. To the Northeast is the garage and headquarters of Rockland Mobile Care, a paramedic service. This building, too, is a former automobile dealership.

The land directly across Route 45 to the East is undeveloped. Adjacent to the South is the New York State Thruway Main Line, beyond which are other industrial uses.

Immediately West, sitting on a bluff approximately 20 feet above the development area, is a small residential development. Only two residential properties actually abut the subject site.

The site has a small wetland area in its Northeast corner, a portion of which is proposed to be filled and mitigated with the creation of new wetlands in an adjacent area. The site also has steep slopes in its Western portion, which will help to form a buffer to the residences beyond.

Proposed Development

The applicants wish to build an industrial park consisting of two buildings. One building will be divided and rented to various tenants for flex space/warehouse use (Building 1, closest to Route 45). The other (Building 2, to the rear of the site) will be occupied and used by one of the owners for its food processing and packaging facility. Each building will have approximately 82,000 sf of indoor space (including mezzanines). The proposed uses are permitted as of right in the PI district.

Vehicles will enter the site from one of two proposed curb cuts along Route 45. All incoming trucks will be limited to the northerly driveway. Vehicle directions and turning movements are shown on the site plans.

There will be a driveway with parking spaces along the easterly frontage of Building 1. Between Buildings 1 and 2 will be a second driveway providing access to loading docks for Building 1 tenants. These docks are located along the central driveway in order to be hidden from Route 45, as required by the Zoning Code.

A third driveway will circle past the rear of Building 2, and provide access to additional parking spaces and to the Building 2 loading docks. These docks face the New York State Thruway.

Proposed Uses

Building 1 (closest to Route 45) is to be a multi-tenanted flex space building. Flex space incorporates office, distribution and warehouse uses. The amount of space within the building devoted to such uses, and to each tenant, can be configured to each tenant's needs. The site plan drawings currently project three tenants, but interior space can be merged or broken up as needed.

Building 2 (rear building) is intended as a single occupant food preparation, packaging and distribution facility for Golden Taste foods. Golden Taste currently operates from a facility in Spring Valley. It was established in 1966 and continues to prepare kosher salads, hummus, dips, spreads, herring, pickled products and other appetizers. Golden Taste sells to national and regional retailers such as Shop-Rite, Stop & Shop, and Costco. Product will be prepared, packaged and distributed from the site. Administrative offices will also be located in the building. Golden Taste has its own fleet of distribution trucks, which will be parked at the site overnight and on weekends.

Golden Taste currently employs approximately 50 people in its operations. The facility will be open Sunday through Friday. Under existing conditions in its Spring Valley location, trucks leave the facility with product at about 4:30am each day, and return in the evening. Internal facility operations run from 8:00am to 8:00pm, although refilling of trucks for their next morning run continues until 10:00pm. Golden Taste anticipates that the Chestnut Ridge facility will operate on a similar schedule.

Wetlands

There is a small wetland area in the northeastern portion of the site. The wetlands extend into the property to the North. These wetlands have been determined to be of low quality.¹ A portion of proposed Building 1 and the driveway will encroach on an isolated salient of these wetlands, approximately 15,600 sf in area.

To mitigate the impact of this encroachment, the applicant proposes to create new wetlands, twice the size of the area to be disturbed. These new wetlands will be contiguous to, and consistent with, the main body of the existing wetlands running along the boundary between the subject and its northerly abutter.

By letter dated October 17, 2019, the proposed disturbance and mitigation were found to be consistent with U.S. Army Corps of Engineers Nationwide Permit 39, and no individual wetlands permit is required from the Corps.² Village wetlands review is part of the site plan review.

Visual Impact

There are two areas with sensitivity to visual impact: Route 45 and the residential neighborhood to the West.

The Route 45 impact will be mitigated by locating all loading docks away from Route 45. A planted slope will extend along most of the Route 45 frontage, between the two access driveways. Additional landscaping will be added to break up the visual impact of the building façade facing Route 45.

The residential impact is mitigated by existing natural features that will remain in place and will be augmented as needed. The two affected houses are approximately 20 feet above the existing grade of the development site, and approximately 42 feet above the finished first floor elevation of Building 2. A 50 foot rear buffer combined with a 45 foot rear yard (95 feet total horizontal distance) contain existing vegetative screening which can be augmented as needed. The combined horizontal and vertical distances mitigate the visual impact of Building 2.

SEQR and GML status

The project proposes a new non-residential facility with approximately 150,000 sf of floor area. The project is therefore a Type I action under SEQRA:

(6) activities, other than the construction of residential facilities, that meet or exceed any of the following thresholds; or the expansion of

¹ Letter from Peter D. Torgersen, dated September 23, 2018, attached hereto as Exhibit 1.

² Attached as Exhibit 2.

existing nonresidential facilities by more than 50 percent of any of the following thresholds:

- (v) in a city, town or village having a population of 150,000 persons or less, a facility with more than 100,000 square feet of gross floor area;³

The Chestnut Ridge Planning Board, as lead agency, granted a negative declaration at its meeting of November 23, 2020.

The project is located adjacent to New York State Route 45 and the New York State Thruway. It is therefore subject to review by the Rockland County Planning Department pursuant to NY General Municipal Law §§ 239-l and -m.

However, the project is located more than 500 feet from the Village's border with the Town of Ramapo,⁴ and is therefore *not* subject to review under NY General Municipal Law § 239-nn.

Needed variances

Based on the site plan drawings submitted herewith, the project will need bulk variances:

1. Rear Yard of 45' required (30' standard, add 50% when abutting residential lot - Article IV, § 3.D). Provided 25'.
2. Driveway located in rear yard (Article V, § 1).

Criteria for Variance

One of the purposes of a zoning board of appeals, and of the ability to grant variances, is to provide a "safety valve" where the strict application of a zoning code cannot allow an otherwise appropriate use of property because of the peculiar circumstances applicable to that property. For this reason, any municipality that adopts a zoning code must also establish a board of appeals. *See*, 2 Salkin, *New York Zoning Law and Practice* (3d ed.), §§27:07 – 27:10; *McKinney's Town Law*, Practice Commentary to § 267-a; Town L. § 267.2; *McKinney's Village Law*, Practice Commentary to § 7-712-a; Village L. § 7-712(2).

In making a determination to grant an area variance, a board of appeals "shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant." Town L. § 267-b.3(b); Village L. § 7-712-b.3(b). The board must also consider five questions when engaging in this balancing test. The questions, and the applicant's responses, are set forth below:

³ 6 N.Y.C.R.R. § 617.4(b).

⁴ It is approximately 623 feet distant, according to the Rockland County GIS maps.

(1) “whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance”:

Both requested variances involve reductions of, or intrusions into, the required rear yard. In this case, the rear yard abuts a residential area, so the Zoning Code imposes an additional restriction in the form of an increase in the depth of the rear yard. The purpose of this additional depth is to provide greater separation between the residences and the PI use.

In the PI district, the required rear yard is 30 feet (Use Group J). When abutting a residential district, as here, the required rear yard depth is increased by 50%.⁵ The resulting required rear yard is thus 45 feet.

The Code, however, envisions flat, or relatively flat land. That is not the case here. Here, the driveway will be at elevation 472. The adjacent residential lots, however, are at elevation 498-500. Thus, there is a grade difference of 26-28 feet (about two and one-half stories) from the rear of the residential lots to the driveway. The adjacent Building 2 is set even lower, with a first floor elevation of 459.

The driveway is located 75 feet from the rear lot line. It will be hidden from the residences by the natural grade, and by a series of retaining walls. Significant evergreen landscape screening will be added on top of the retaining walls and on the terraces between the walls. This landscape screening, together with the grade differential, will mitigate the impact of the reduced rear yard.

(2) “whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance”:

The applicant has worked extensively with the Planning Board to develop the proposed plan. Among the issues that needed to be addressed were the requirement to hide loading berths from Route 45 and the Planning Board’s further desire to create a visual screen along Route 45. Placing loading berths for Building #1 away from Route 45 required the creation of an interior courtyard that forced Building #2 closer to the residential district. It was felt, however, that the grade difference and the additional evergreen screening would effectively mitigate the impact of this arrangement.

(3) “whether the requested area variance is substantial”:

Whether a requested variance is “substantial” is more than simple arithmetic. It requires an understanding of the general area and of the existing conditions. *See*, 2 New York Zoning Law and Practice, § 29:15.

⁵ Zoning Code, Art. IV, § 3.D.

The impacts of the requested variances are mitigated by the proposed screening and the grade differential, rendering their impact non-substantial.

(4) "whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district":

The Planning Board, as lead agency under SEQR, reviewed visual and noise analyses to determine the impact of the proposed project on, among other places, the adjoining residences. That Board found that the impacts were adequately mitigated, and granted a negative declaration.

(5) "whether the alleged difficulty was self-created":

The difficulty results from the requirement to provide screening and buffering along N.Y.S. Route 45 and the need to provide a central courtyard for truck movements into Building #1. The Zoning Code prohibits placing loading berths in locations that are visible from the road.

In addition, the lot is not squared. Route 45 creates an angle that restricts placement of the buildings on the lot.

On balance, therefore, the requested variances are beneficial to both the applicant and the community.

Relief requested

Accordingly, the applicant requests the following variances:

1. Rear Yard of 45' required (30' standard, add 50% when abutting residential lot - Article IV, § 3.D). Provided 25'.
2. Driveway located in rear yard (Article V, § 1).

Dated: December 21, 2020
New City, New York



Ira M. Emanuel, P.C.
Attorneys for Applicant