

TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

TOWN HALL, 225 COLUMBIA TURNPIKE, RENSSELAER, NY 12144 (518) 694-4011 FAX (518)477-2386

MEMORANDUM

EAST GREENBUSH ZONING BOARD OF APPEALS MEETING MINUTES February 28, 2017

Members

Matt Ostiguy, Vice Chairman
Domenico Pirrotta
Joyce Lapham
John Conway, Jr
Kurt Bergmann

Also Present:

George Hoffman, Attorney
Kateri Rhatigan, Stenographer
Alison Lovely, ZBA Secretary

CALL TO ORDER / DETERMINATION OF QUORUM

Vice Chairman Ostiguy called the meeting to order and determined a quorum of five (5) members were present. Introductions were made. Jeff Pangburn & Bob Seward III were absent.

OLD BUSINESS:

PUBLIC HEARINGS:

Reconvene ZBA Appeal #2015-14 – Regeneron Pharmaceuticals –Mill

Creek/Tempel Lane -Area Variance for building height and Special Use Permit for construction of warehousing building

Vice Chairman Ostiguy gave the history of this project, stated that the project was first before the Board back in February of 2016 and at that time; a Special Use Permit was requested as well as an Area Variance. The Town Board was identified as the Lead Agency from a SEQR perspective for the project and the public hearing was held, all documents at that time were read into the record, including public comment and has been documented in the minutes. Vice Chairman Ostiguy stated that for tonight's meeting, there are two changes. The first is that the request has changed from a Special Use Permit & Area Variance to just a Special Use Permit & SEQR has been taken care of from the Town Boards perspective. Vice Chairman Ostiguy reopened the public hearing and referenced the letter from the applicant officially withdrawing the Area Variance which is now part of the file. Vice Chairman Ostiguy invited the applicant's representative up to discuss the project with the Board.

Steve Hart of Hart Engineering presented the application to the Board on behalf of Regeneron Pharmaceuticals. Kyle Cherry, Jerry Underwood & Eric Rose from Regeneron & Ray Darling from SMRT were also present. Steve Hart stated that the project has been reduced and gave a handout to the Zoning Board. The applicant previously proposed approximately 470,000 square feet of warehouse/manufacturing, office and lab space and a parking garage. Steve Hart stated that the only proposal now is for a warehouse building. Warehousing falls under a Special Use Permit for the OC zone. Steve Hart stated that the original intent of the applicant was to run the road (Tempel Lane) to Third Avenue but have since revised that so Tempel Lane will be a dead end.

Water/sewer/gas/electric was all shooting out through to Third Avenue via the extension of Tempel Lane, now it will all run out to Third Avenue Extension closer to Mabey's Moving and Storage right near I-90.

The warehouse building consists of approximately 167,000 square feet which requires the Special Use Permit. Steve Hart stated that the supplemental environmental impact statement contained a lot of information and from this the Town Board issued a findings statement which is a summary of all the concerns associated with the project and how they have been addressed. Steve Hart read the Special Use Permit required and his responses. Steve Hart asked if anyone had any questions. Vice Chairman Ostiguy asked the Board if anyone had any questions.

- Kurt Bergmann asked what the hours of operation would be. Gerry Underwood stated that primarily they will be 8am to 5pm but there will be some smaller trucks after hours.
- Domenico Pirrotta asked if the above information could be repeated.
- John Conway Jr. asked how many parking spots there would be. Ray Darling stated that there would be 264 parking spaces with 11 visitor spaces and 18-20 loading docks. There will be approximately 100 employees.

Tony Manfredi stated that the Clinton Heights Fire Chief had made about 10 design suggestions and they have all been implemented.

Vice Chairman Ostiguy asked if there was anyone present who wished to speak in favor of or opposition to the appeal tonight. No one was present to speak in favor or opposition.

Motion by John Conway Jr to close the public hearing. Seconded by Domenico Pirrotta. Motion carried by a 5-0 vote.

SEQR DETERMINATIONS & RECOMMENDATIONS:

ZBA Appeal #2015-14 – Regeneron Pharmaceuticals –Mill Creek/Tempel Lane - Special Use Permit for construction of warehousing building

Vice Chairman Ostiguy stated that for SEQR, a coordinated review was done and the Town Board was Lead Agency for this project. Vice Chairman Ostiguy read into the record a brief statement as the Town Board approved the project from a SEQR perspective at their meeting on Monday, February 27, 2017. Previously by resolution dated March 18, 2016, the Town Board declared itself Lead Agency under the State Environmental Quality Review Act for the environmental review of this project. In that same resolution, the Town Board determined that the project may have a significant adverse impact on the environment and adopted a SEQR positive declaration which required an environmental impact statement be prepared. By resolution dated February 15, 2017 the Town Board adopted the supplemental Final Environmental Impact Statement, on February 27, 2017 after a comprehensive review the Town Board adopted the SEQRA findings which have been circulated for the Board's review.

WORKSHOPS:

**ZBA Appeal #2015-14 – Regeneron Pharmaceuticals –Mill Creek/Tempel Lane -
Special Use Permit for construction of warehousing building**

WHEREAS, SMRT Architects, on behalf of Regeneron Pharmaceuticals, LLC (the “Applicant”), has submitted an application proposing the construction of a warehouse facility for a project on Tempel Lane in the Town of East Greenbush, consisting of the construction of the Applicant’s Mill Creek Campus (the “Project”). Pursuant to the Town’s Comprehensive Zoning Law and Town Code of the Town of East Greenbush: Section II, Sub Section 2.7.6.C, the proposed use as a warehouse facility in the OC Zoning District requires a Special Use Permit.

WHEREAS, The applicant has filed an application requesting a Special Use Permit at the property located on Tempel Lane, East Greenbush, NY and embodied in the Site Plan dated February 6, 2017; and

WHEREAS, after coordination with other potentially involved agencies, including the ZBA, by resolution dated March 18, 2016, the Town Board of the Town of East Greenbush (the “Town Board”) designated itself as lead agency under the State Environmental Quality Review Act (“SEQRA”) for the environmental review of the Project; and

WHEREAS, the Town Board, in its March 18, 2016, resolution, also determined that the Project may have a significant adverse impact on the environment and adopted a SEQRA positive declaration requiring that an environmental impact statement be prepared; and

WHEREAS, in its March 18, 2016, resolution, the Town Board also directed that a draft scoping document be prepared and scheduled a public scoping session and written comment period on the scoping document, which were duly held, and a final scoping document was prepared; and

WHEREAS, the Applicant subsequently submitted a supplemental draft environmental impact statement (the “SDEIS”), which was reviewed by the Town Board, Town staff and the Town’s consulting engineers; and

WHEREAS, the Applicant revised the SDEIS, responding to various comments by the Town, and resubmitted the SDEIS to the Town Board; and

WHEREAS, the revised SDEIS was reviewed by the Town Board and was determined to be adequate for public review.

WHEREAS, the Town Board scheduled a public comment period on the SDEIS, to run until January 24, 2017, and a public hearing, which was duly held on January 11, 2017; and

WHEREAS, the Town Board considered the SDEIS and the public comments thereon, and completed a supplemental final environmental impact statement (“SFEIS”), which was adopted by the Town Board in a resolution dated February 15, 2017; and

WHEREAS, the Town Planning Board, at its February 22, 2017, meeting made a favorable recommendation, with conditions, to the Town Board regarding the proposed site plan; and

WHEREAS, the Town Board, at its February 27, 2017, meeting, adopted SEQRA Findings, thereby concluding the SEQRA process with respect to the Project, and approved a site plan application, conditioned upon the conditions recommended by the Planning Board and approval of a special use permit by the ZBA; and

WHEREAS, the Town Planning Board, by resolution dated January 13, 2016, recommended to the ZBA that a special use permit for the Project be approved; and

WHEREAS, Notice of the Public Hearing was duly published in The Record on January 13, 2016 and was provided by Certified Mail to the owners of all property within 200 feet of the land involved in the application, to the Town Planning Board, and to the Rensselaer County Bureau of Economic Development and Planning; and

WHEREAS, a public hearing was held by the ZBA on February 9, 2016, and was reconvened on February 28, 2017, to consider the application for a special use permit; and

WHEREAS, the ZBA has considered the applications and all related documentation including, but not limited to, the SFEIS, Town Board's SEQRA Findings and the criteria set forth in Section 3.11 of the Town's Comprehensive Zoning Law.

now, therefore, be it

RESOLVED, that the application has been reviewed and is determined to be in compliance with the seven criteria set forth in Section 3.11 of the Town's Comprehensive Zoning Law; and be it further

RESOLVED, that the application for a Special Use Permit hereby is granted, subject to the conditions set forth in the Town Board's site plan approval dated February 27, 2017.

*See attached.

The foregoing resolution was duly moved by Matt Ostiguy and seconded by Domenico Pirrotta and brought to a vote resulting as follows:

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Absent</u>
Domenico Pirrotta	<u>Yes</u>
Bob Seward III	<u>Absent</u>

Motion carried 5-0

NEXT MEETING: The next time the Board will meet is March 14, 2017.

APPROVAL OF MINUTES:

Motion by Kurt Bergmann to approve the meeting minutes from the January 24, 2017 meeting. Seconded Joyce Lapham. Motion carried by a 4-0-1 vote. Domenico Pirrotta abstained.

MOTION TO ADJOURN

There being no further business before the Board, the meeting was adjourned upon a motion by Joyce Lapham. Seconded by Kurt Bergmann. Motion Carried by a 5-0 vote.

Respectfully Submitted

A handwritten signature in cursive script, appearing to read "Alison Lovely".

Alison Lovely, ZBA Secretary

**TOWN OF EAST GREENBUSH
RESOLUTION 52-2017**

A Resolution to Issue Site Plan Approval For Regeneron's Mill Creek Project

WHEREAS, SMRT Architects, on behalf of Regeneron Pharmaceuticals, LLC (the "Applicant") submitted a site plan review application and related documentation for a project on Tempel Lane in the Town of East Greenbush, consisting of the construction of the Applicant's Mill Creek Campus (the "Project"); and

WHEREAS, after review of the application and related material and coordination with other potentially involved agencies, by resolution dated March 18, 2016, the Town Board designated itself as lead agency under the State Environmental Quality Review Act ("SEQRA") for the environmental review of the Project; and

WHEREAS, the Town Board, in its March 18, 2016, resolution, also determined that the Project may have a significant adverse impact on the environment and adopted a SEQRA positive declaration requiring that an environmental impact statement be prepared; and

WHEREAS, in its March 18, 2016, resolution, the Town Board also directed that a draft scoping document be prepared and scheduled a public scoping session and written comment period on the scoping document, which were duly held, and a final scoping document was prepared; and

WHEREAS, the Applicant subsequently submitted a supplemental draft environmental impact statement (the "SDEIS"), which was reviewed by the Town Board, Town staff and the Town's consulting engineers; and

WHEREAS, the Applicant revised the SDEIS, responding to various comments by the Town, and resubmitted the SDEIS to the Town Board; and

WHEREAS, the revised SDEIS was reviewed by the Town Board and was determined to be adequate for public review; and

WHEREAS, the Town Board scheduled a public comment period on the SDEIS, to run until January 24, 2017, and a public hearing, which was duly held on January 11, 2017; and

WHEREAS, the Town Board has considered the SDEIS and the public comments thereon, and has completed a supplemental final environmental impact statement ("SFEIS"), which was adopted by the Town Board in a resolution dated February 15, 2017; and

WHEREAS, the Town Planning Board, at its February 22, 2017, meeting made a favorable recommendation, with conditions, to the Town Board regarding the proposed site plan; and

WHEREAS, the Town Board, at its February 27, 2017, meeting, adopted SEQRA Findings, thereby concluding the SEQRA process with respect to the Project; and

WHEREAS, the Town Comptroller confirms this resolution has no material impact on the Town's Finances;

now, therefore, be it

RESOLVED as follows

1. The Town Board hereby approves the proposed site plan, as embodied in the site plan set submitted by SMRT Architects dated February 7, 2017, subject to the conditions set forth in the Planning Board's February 22, 2017, resolution, to wit:
 - (A) Satisfying outstanding technical details and third party permits and approvals as determined by the Designated Engineer and Town Planning Department; and
 - (B) All remaining fees and escrow are paid to the Town, including GEIS fees as detailed in the attached GEIS fee statement prior to issuance of building permit; and
 - (C) Applicant shall establish an escrow account to cover the costs of any necessary third party inspection services as determined by the Town Planning Department prior to issuance of building permit; and
 - (D) Any water and sewer main installed in contemplation of future use shall be installed in accordance with all applicable standards, including those of NYS DEC, Rensselaer County Health Department and Town of East Greenbush Department of Public Works, prior to issuance of a Certificate of Occupancy, and shall be made available for future extension and use by the Applicant upon consideration and approval of the Town; and
 - (E) The main access road to the site, Tempel Lane, shall be paved in accordance with the approved plans and all drainage shall be inspected and replaced as necessary by the Applicant subject to the satisfaction and approval of the Town Department of Public Works and Planning Department prior to the issuance of a Certificate of Occupancy; and
 - (F) Consistent with the recommendations contained in the EIS, the applicant shall conduct a traffic monitoring program for the Town of East Greenbush that will monitor site traffic generation on the site access road (Tempel Lane) in order to verify actual project generated traffic volumes of the Project. If, for example, it is found that the site trip generation exceeds the projected traffic volumes estimated in the EIS, a traffic signal warrant evaluation shall be conducted at the NY Route 151/Tempel Lane intersection. It may be necessary to re-evaluate mitigation as it specifically relates to the actual traffic impacts of the project. If inadequacies in the present traffic mitigation plan are revealed in the traffic monitoring analysis, the Town reserves the right to demand that the Applicant install reasonable traffic mitigation measures at sole cost to the Applicant. Implementation of said monitoring shall be subject to the following:
 - i. Check existing traffic volumes and distributions after the opening of the warehouse and concluding no sooner than one year after the granting of a Certificate of Occupancy.

- ii. Install an Automatic Traffic Recorder on Tempel Lane prior to the site driveways to count hourly traffic volumes over the course of an entire day associated with the proposed warehouse.
- iii. Determine the existing trip generation of the site and compare with the EIS projected traffic volumes, recognizing that a 10% variation in site generated traffic at the site entrance shall be considered reasonable and not require additional study or mitigation.
- iv. If the site trip generation exceeds the projected trip generation by 10%, then the Applicant will install automatic traffic recorders (ATRs) to count hourly traffic volumes over the course of an entire day on each approach of the NY Route 151/Tempel Lane intersection and conduct a signal warrant evaluation at this location.
- v. Recommend alternative or additional mitigation measures if deemed necessary. In no event shall any mitigation required hereunder cause the Applicant to construct off site traffic improvements greater than what is necessary to address the excess traffic actually generated by the project or to bring the project traffic distributions back to those levels projected in the EIS.
- vi. The annual traffic monitoring plan will no longer be necessary if the site trip generation assessment conducted in two consecutive years after the site is completely occupied indicates that the proposed warehouse does not generate more traffic than projected in the EIS.
- vii. Applicant to provide suitable escrow as determined by the Town Planning Department to allow for the Town to retain the services a traffic consultant for technical review.

(G) Any and all comments received from the Clinton Heights Fire Department and marked as satisfied via email dated October 16, 2016, and accompanying letter dated October 18, 2016, shall be incorporated into all Project plans prior to the issuance of a building permit; and

(H) Owner shall enter into a Stormwater Facility Maintenance Agreement with the Town to ensure proper maintenance of all stormwater facilities in perpetuity prior to issuance of a Certificate of Occupancy.

2. The Town Board's approval is further conditioned upon issuance by the Town Zoning Board of Appeals of a Special Use Permit for the Project

Tom Grant made a motion and was seconded by Councilor Tierney to amend this resolution for 1A to now read: Satisfying outstanding technical details and third party permits and approvals as determined by the Designated Engineer and Town Planning Department prior to the issuance of a building permit:

Councilor Grant	VOTED:	YES
Councilor Tierney	VOTED:	YES
Supervisor Conway	VOTED:	YES
Councilor DiMartino	VOTED:	YES
Councilor Matters	VOTED:	YES

The foregoing amended resolution was duly moved by Councilor Grant and seconded by Councilor Tierney and brought to a vote resulting as follows:

Councilor Grant	VOTED:	YES
Councilor Tierney	VOTED:	YES
Supervisor Conway	VOTED:	YES
Councilor DiMartino	VOTED:	YES
Councilor Matters	VOTED:	YES

Dated: February 27, 2017