

**MONTVILLE TOWNSHIP
ZONING BOARD OF ADJUSTMENT
MINUTES OF JUNE 7, 2023
7:30pm
In Person**

NOTE: No New Business to be conducted past 10:00 P.M.

STATEMENT OF COMPLIANCE

As required by the Open Public Meetings Act, adequate notice of this meeting has been provided which notice specified the time and place of the meeting to the extent known at that time. The notice was posted on the bulletin board at the Municipal Building, sent to the Daily Record, and the Citizen, posted on the Township's website calendar, and placed on file at the Township Clerk's office. This meeting has been properly noticed to the public in accordance with the Open Public Meetings Act.

ROLL CALL:

Richard Moore - Present
Annabel Pierce - AE
Jake Kovalcik - Present
Ray Giordano - Present
Margaret Miller-Sanders - Present

Ron Cain - Present
James Marinello - Present
Victor Canning (Alt #1) - AE
Larry Lomrantz (Alt #2) - AE

PLEDGE OF ALLEGIANCE

Swearing in of Professionals

Jamie Giurintano, PE
John Szabo, PP

Also present: Michael Carroll, Esq.

OPEN PUBLIC COMMENT

The Chairman opens the session to public comment for items not listed on the agenda related to land use matters.

The Board Chairman stated that we would be going out of order this evening starting with the extension request and then Board Business before Old Business.

RESOLUTIONS

ZEXT05-23 Guzman, Stephanie – 9 Millers Ln – B: 72, L:3 – request for extension of approvals to 8/4/23 – Granted - Eligible: Moore, Pierce, Miller-Sanders, Giordano, Cain, Marinello

Motion to adopt made by: Moore; Second by: Miller-Sanders; Roll call: Yes - Moore, Miller-Sanders, Giordano, Cain, Marinello

MINUTES

Minutes of 5/3/23 Eligible: Moore, Pierce, Miller-Sanders, Cain, Giordano, Marinello

Motion to adopt made by: Moore; Second by: Miller-Sanders; Roll call: Yes – Moore, Pierce, Miller-Sanders, Cain, Giordano, Marinello

INVOICES

Bowman – Trust for: \$560.00 (Abbatista), \$80.00 (Bain), \$960.00 (Diversified 55+), \$283.00 (Muller), \$449.00 (Newmark), \$80.00 (Senatore), \$240.00 (Stager),

Board of Adjustment

6/7/23

Burgis – Trust for: \$1,280.00 (Abbattista), \$880.00 (Diversified 55+), \$40.00 (Guzman), \$80.00 (Monarch), \$80.00 (Muller), \$120.00 (Newmark), \$360.00 (Stager)

Carroll – Trust for: \$120.00 (Diversified 55+),

Suburban – Trust for: \$155.00 (Monarch),

Motion to adopt made by: Moore; Second by: Miller-Sanders; Roll call: Unanimous

NEW BUSINESS

None

CORRESPONDENCE

ZC02-23 – Abduramani, Jeton – 118 Jacksonville Rd. – B: 28, L: 12.02 – application withdrawn by applicant

The board secretary let the members know that the applicant withdrew their application.

ZEXT07-23 Cafe Club Real Estate (Boonton Properties) – 67 Boonton Ave – B: 3, L: 47.26 request for extension to March 4, 2024.

Motion to grant made by: Moore; Second by: Miller-Sanders; Roll call: Unanimous

OTHER BUSINESS

Reminder next regular meeting is June 15, 2023 and there will be a Special meeting on June 20,2023

OLD BUSINESS

ZSPP/FDC/ZSOIL02-22 – Diversified Properties (55+) – 259 Main Rd (245 Rt. 202; 263 Rt. 202; Daldunn (Rear); River Rd; 6 Daldunn; 4 Daldunn; 12 River Rd) – B: 59, L: 13, 15, 17, 18, 19, 20, 22 - preliminary and final site plan approval, as well as ‘d’(1), ‘d’(6), and ‘c’ variance relief 266-unit age-restricted residential community consisting of both apartments and townhouses- Carried with notice from 10/20/22, 11/17/22, 2/1/23, 3/1/23, 4/20/23 & 5/3/23 - Eligible: Mooreⁱ, Pierceⁱⁱ, Miller-Sanders, Cain, Giordano, Kovalcikⁱⁱⁱ, Marinello^{iv} ACT BY: 6/30/2023

Present on behalf of the applicant: Nick Minoia, applicant; Steven Schepis, Esq; Mark Walker, PE; Mark Parker, Healthcare and Senior Housing consultant; John McDonough, PP; Jessica Caldwell-Dykstra, PP; Jeffrey Otteau, Valuation expert; Jack Raiker, Arch

Mr. Schepis – Introduced Mr. Otteau.

Jeffrey Otteau - previously sworn

Exhibit marked in – A-41 Mr. Otteau’s report dated 5/26/23.

Mr. Otteau – Target age for this project is 55-74. There are approximately 3,500 households in Montville that meet that target age range. 73% of these households can afford to live in this development. The demand is continuing to increase. The vacancy rate in senior rental housing has declined. Families are coming back to live near their families since COVID.

Mr. Otteau - Reviewed migration pattern for New Jersey. Because of Cohort aging and migratory trends there is enough to fill all of the 266 units proposed plus an additional 5,000 units within a 20-minute radius. More people are coming into New Jersey instead of leaving.

Mr. Marinello – Do you have the demand numbers for single family houses. Mr. Otteau – Did not know. Mr. Moore – When did you verify last the migration pattern? Mr. Otteau – Several weeks ago. Mr. Szabo – Multifamily

Board of Adjustment

6/7/23

non-age restricted market has a lower vacancy rate than senior rental housing. Mr. Otteau – Demand has increased for both family and age restricted housing.

Mr. Schepis called forward Ms. Caldwell-Dykstra – previously sworn

Mr. Szabo – We questioned the calculation for the number of affordable housing units. Ms. Caldwell-Dykstra – The numbers included the bonuses (1.3). The number I came up with of 82 would still be credible. Ms. Caldwell-Dykstra explained the Vacant Land Assessment and unmet need. The unmet need of 87 units stays with the community. They have to be met at some time. If Monarch gets built, they have 25 units that would go toward the 87 units bringing the unmet need to 62 units. Mr. Szabo – How would bonus credits be applied if this application was approved now? Ms. Caldwell-Dykstra – In the 4th round there will be a recalculation. Mr. Szabo – That would be a whole new number, the credit would not be applied to 3rd round. There is also a senior cap. The focus of COAH was on families.

Mr. Marinello – The obligation of affordable housing to a municipality falls with which board? Mr. Carroll – The Township Committee. There is a mandatory set aside ordinance that required affordable housing within Montville Township. Mr. Szabo – You are not obligated to approved Use variances. You have to apply the law that the criteria is met. Mr. Carroll- Just because there is affordable housing within a proposed development does not make it an inherently beneficial use. Discussion ensued on how a Vacant Land Assessment is developed.

Exhibit marked in: A-42 – Dolan & Dean report dated 4/10/23

Gary Dean, Traffic – previously sworn

Reviewed his report on 4/10/23. Discounted the Sterling Properties data because it was done during the height of COVID. Our numbers prior to COVID gave a more accurate traffic projection. My estimate of 8,000-10,000 cars per day was consistent with the County's numbers. The County endorses the skid pavement treatment that the applicant proposes to install in the vicinity of Valhalla Road. Reviewed traffic counts for a development with 268 units in Basking Ridge. The actual counts are 50% lower than the projected numbers. Mr. Giurintano requested the traffic counts from the Basking Ridge project. Mr. Dean will provide.

Mr. Marinello – How would the trip generations differ if it was 11-12 single family homes. Mr. Dean - The proposed project would be 3 times higher. Mr. Giordano – In the Basking Ridge project, is it walkable where people can walk to get coffee or something, because they could not do that at this proposed project? Mr. Dean – The community itself is walkable, but I do not know if it is walkable outside of the community.

Jack Raiker, Arch -previously sworn

Added backup generators for the 3 multifamily buildings and the clubhouse to provide for emergency lighting, elevator functionality and common area outlets in instances of power outages, and 2 additional pickle ball courts. Provided similar developments if the board wishes to visit including ones close to highways. Spoke of noise attenuation for the proposed project. The project was reviewed by the Design Review Committee.

Exhibits marked in

- A-43 Minno & Wasko report dated 3/20/23
- A-44 Required reports summary dated 5/31/23
- A-45 Negative Criteria memo
- A-46 Positive Criteria memo

John McDonough, PP – previously sworn

Discussed inherently beneficial uses, positive criteria and negative criteria. No detrimental impact to the neighborhood and the zoning ordinance. This is a piece of land that development is inevitable. This is a well thought out plan and this project has not met the tipping point. Trees will create a screen to surrounding area. The applicant achieved an effective balance between the scarcity of housing and the scarcity of land. Historic preservation being integrated into the development.

Mr. Schepis – The ordinance that was initially drafted but not adopted has a higher number of density than proposed and the Planning Board found it to be consistent with the master plan. Mr. Schepis revised master plan consistency procedures. This application is consistent with the master plan. Mr. Szabo – Is the governing body required to take

Board of Adjustment

6/7/23

the recommendations of the Planning Board? Mr. McDonough – No. Mr. Szabo – Is it unusual for a governing body to table ordinances? Mr. McDonough – No. Mr. Szabo – What is the effect on the area as it relates to the R-27 zone vs the multi family proposal. Mr. McDonough – This parcel will not breakup any neighborhood pattern. It is well isolated from the neighboring properties. Mr. Szabo – Is specialized care services being given for this project like the case study that you used at the last hearing? Mr. McDonough – No but that was not the reason why they were considered an inherently beneficial use. It was because of the senior aspect of community.

Mr. Marinello – Do you have projects that are not adjacent to assisted living units. Mr. Schepis – There is in my June 1, 2023 letter which also includes mobile homes. Mr. Szabo – Inherently beneficial uses are churches, schools, hospitals, solar units. These uses are not market demand driven. I do not find a market driven multi family rental project limited to 55 and older as inherently beneficial. The Board needs to consider the testimony intimately to determine if this an inherently beneficial use or not. The negative criteria has to be met whether the Board finds this to be an inherently beneficial use or not.

Mr. Carroll – Have you had a chance to review the case Advanced at Branchburg case? Mr. McDonough – No. Mr. Carroll – Counsel, perhaps you can address it in your summation later on. One of the members testified an affordable housing site that they have reviewed an affordable housing project and ultimately chose not to include it because of public reaction and the site was not encouraging and the Township determined to leave the exiting zoning in place. Is it not just as possible that they wanted to leave it as is for single family homes and not be sent to the Zoning Board for a Use variance? Mr. McDonough – It is speculation.

Mr. Carroll – Is this project consistent with the Master Plan? Mr. McDonough – Yes. Mr. Carroll – Is it consistent with the ordinance? Mr. Schepis – We wouldn't be here if it was. Mr. Carroll – If the Governing Body does not adopt an ordinance does that not mean they do not want that particular use in that zone? Mr. McDonough – They made no comment as to why they did not adopt the ordinance. Discussion ensued on other case law.

Mr. Schepis – If you look at the project as a whole and see what is going on in town, that alone can make it universally beneficial. Mr. Marinello – Do you opine that this is an inherently beneficial use? Mr. McDonough – Based on legal opinions yes. Mr. Marinello – You said there was a scarcity of land what is that based on? Mr. McDonough – The Pinelands, wetlands regulations, etc.

Mr. Marinello – How high is too high and how many units is too many units? Mr. McDonough – Once the development pierces the tree tops it causes a significant visual impact. I saw a yield of 500 units at one point. Mr. Schepis – When the governing body was looking at this previously, they went from 300 units to 275 and it went back to the Planning Board for consistency review. Based on the master plan 275 units was found to be consistent.

5 minute break

Mark Walker, PE – previously sworn

Mr. Walker supplied a plan with additional landscaping between lots 14 & 16 along the proposed property. 38 additional evergreens to be planted between 10-12' in height. Exact location will be located in the field.

Exhibits marked in

A-47 - Landscaping exhibit.

A-48 – Zoning Comparison Chart

Mr. Walker – There will be a natural tree area to remain. The applicant spoke with the owner of lot 14 and propose some evergreens on the neighbor's property to enhance the landscape buffer. Mr. Walker compared the proposed building heights and setbacks with other overlay and affordable housing zones. The parking underneath the building does not count toward stories. Compared setbacks vs building heights between proposal and the R-27A zone.

Open to the public

Eileen Jones – 21 Virginia Rd – sworn

I do not object to this kind of community. I object to the location of this proposal. With the amount of variances requested maybe it would be better suited for a different location. More traffic will be put into this area.

Board of Adjustment

6/7/23

Holly Cox – previously sworn

Concerned with expanded development and effect on the habitat. The applicant cannot meet the public good requirements. Site not particularly suitable since asking for 18 variances. Concerned with more flooding. Detrimental to the public good. Will affect the water supply. Increase in noise from Rt 287 when the trees are taken down. Effect on wildlife in town.

Ralph Fredericks – 240 Main Rd – previously sworn

Wanted to confirm the next hearing date. Mr. Marinello – June 20th.

John Necissi – previously sworn

No longer lives in Montville because of over construction. The applicant did 56 days of traffic counts for Basking Ridge but did 1 day for this application. There was no pictures of lighting superimposed so we can see what effect it would have on the neighboring properties.

Steve Giudice – sworn

Do we know the cost of the skid resistant pavement? Mr. Walker – I do not know. Mr. Giudice – Who gets to use the pickle ball courts? Mr. Schepis – The residents in the community, not open to the public.

Sharon Couchlin – sworn

Would the town still have access to the historic home? Mr. Schepis – It will be opened twice a year for tours to the public. Ms. Couchlin – Will an archeologist be on site? Mr. Schepis – Yes during certain times of construction.

Shari Steffer – sworn

There are many affordable units vacant in Montville Chase and Longview. Ms. Mowles – Please contact my office with the addresses of these units.

Neil Boyle – previously sworn

Mr. Boyle stated that Mr. Dean did a traffic report for Cranberry that was many more pages than this project's report. Mr. Dean – Explained that he did 3 reviews on this project. The project studies were equivalent.

Dan Grant – sworn

The HPRC cannot approve anything. They can only make recommendations. Mr. Schepis – The applicant went before the HPRC for a Certificate of Appropriateness and the HPRC recommended it to the Planning Board and the Planning Board ratifies the recommendations. Mr. Carroll – The HPRC is not an advisory board to the Board of Adjustment, that is why there is no communication between the two.

Adrian Gil – previously sworn

Was the County's report about accidents based on police reports? Mr. Dean – I do not know if the County did their report based on police reports but my report was based on police reports.

Neil Boyle – previously sworn

Does the sight distance meet AASHTO? Mr. Dean – It meets the County requirements which is higher standards than AASHTO. Mr. Walker – The sight distance in this area was through the County of Morris.

Mr. Schepis – The public had the chance to ask questions of the witnesses so these witnesses will not be at the next hearing. Mr. Marinello reviewed protocol for the next meeting.

The application was carried with notice preserved to 6/20/23

CLOSED SESSION

None

ADJOURNMENT

There was a motion to adjourn was made by: Miller-Sanders; Second by: Giordano; Roll call: Unanimous.

Board of Adjustment

6/7/23

Respectfully submitted,

Jane Mowles, Secretary.

Certified true copy of minutes adopted at Zoning Board meeting of June 15, 2023 hearing

ⁱ Certified to 3/1/23

ⁱⁱ Certified to 10/20/22 hearing

ⁱⁱⁱ Certified to 5/3/23 hearing; Certified to end of 1/1/23 & 3/1/23 hearing

^{iv} Certified to 10/20/22 hearing