

**MONTVILLE TOWNSHIP
ZONING BOARD OF ADJUSTMENT
MINUTES OF APRIL 6, 2016
Montville Municipal Building, 195 Changebridge Road
8:00PM**

NOTE: No New Business to be conducted past 10:30 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 - AE
Annabel Pierce – AE
Deane Driscoll - Present
Kenneth Shirkey - Present
Margaret Miller-Sanders - Present

Kurt Dinkelmeyer - Present
James Marinello - Present
Shelly Lawrence (Alt #1) - Present
Ron Soussa (Alt #2) - Present

PLEDGE OF ALLEGIANCE

Swearing in of Professionals

Stanley Omland, PE – present
Sean Moronski, PP– present

Also present: Bruce Ackerman, Esq. & Brendan Walsh, Esq

OPEN PUBLIC COMMENT

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

None

OLD BUSINESS

Mr. Marinello indicated that there was counsel for the opposition in the audience.

Daniel Steinhagen, Esq. – represents Ted and Janine Moustakis – 6 Brook Ln.

Mr. Marinello indicated that those represented by counsel cannot speak. Only the counsel can speak and counsel can ask questions of each witness after they testify. Mr. Steinhagen indicated that he did not have any witnesses this evening based on the applicant having 4 witnesses this evening.

Mr. Soussa certified to the 12/2/15 and 2/3/16 hearings. Mr. Driscoll certified to the 2/3/16 hearing.

ZSPP/FDC/ZMSP/F12-15/ZSOIL13-15 Towaco Station (Shops on Main II)-652 & 662 Main Rd - B. 40 L. 48 – prelim/final site plan/ prelim/final major subdivision; 'D' and 'C' variance relief, for two adjoining lots located on Route 202/Main Road for mixed use building and 23 Townhome units - 'D'(1) variance for the proposed townhouse use (not permitted), 'D'(6) variance for the proposed height of the townhouse buildings by more than 10% (27.87-30.66' where 25' allowed); 'C' variances for impervious coverage (61.6% proposed where 50% allowed), lack of public open space, number of parking spaces (21 proposed/22 required), location of vehicular access on same lot, setback of entryway steps (6' required/0' proposed), setback of institutional sign (10' proposed/15' required) and number of wall signs per tenant (2 proposed/1 allowed). – carried with notice from 8/5/15 – new notice acceptable for 10/7/15 – carried with

notice to 12/2/15, carried with new notice required to 2/3/16- new notice acceptable – Eligible: Driscollⁱ, Shirkeyⁱⁱ, Miller-Sandersⁱⁱⁱ, Dinkelmeyer, Pierce^{iv}, Lawrence, Soussa^v, Marinello

ACT BY: 4/10/16

Present on behalf of the applicant: Steven Schepis, Esq.; Vincent Uhl, Hydro geologist; Robert Gannon, Real Estate; Mark Walker, PE; Frank Mileto, PP, AICP

Mr. Schepis – Introduced Mr. Vincent Uhl, Hydro Geologist for the Board. Mr. Uhl wrote the Uhl Report for the Township back in 1998.

Mr. Vincent Uhl – sworn

Reviewed the 2 production wells on the site. Reviewed the Prime Aquifer Boundary for the area. The aquifer is the prime source of drinking water for the Township. Described the 3 components of the recharge back into the aquifer. Back in 2002 the aquifer was about 70' below ground level where now it is around 20' below ground level, so the recharge is much better now. In 2004, under the Wellhead Protection survey with the Board of Health, we discussed permitted and non-permitted uses within the aquifer area. He was an independent contractor back then for the Township. A Piezometer is a well or boring used to determine water levels in the locations where the recharge was supposed to take place. Did not hit any ground water within 10'. There is fractured bedrock and unconsolidated silts and clays overlaying the bedrock on the property. Reviewed Dykstra Walkers storm water management and recharge treatments and they meet the requirements of DEP. Post development would add an additional 10% of recharge than pre development. There should be no detriment to the aquifer as it relates to recharge or water quality if this project is constructed.

Mr. Omland – Mr. Uhl responded to most of my comments in his response dated 3/23/16. Mr. Omland described the difference between groundwater and seasonal high water table. The Storm Water Management Rules do not use groundwater, they use the seasonal high-water table. There were no tests done previously on the seasonal high water tables. Why was there not a consistent correlation between the groundwater in the piezometers? Mr. Uhl – There was a thicker sequence of silt and clay over rock, so that makes perch water and not true ground water table. Mr. Omland – Is it your opinion that this project would protect the aquifer as it relates to recharge and water quality, as it is represented does it meet the goals of the ordinance? Mr. Uhl – There is a 4' separation of materials that is met and there is the 2' separation required that is also met. Mr. Omland – What concerns would you have if the system failed or became in disrepair. Mr. Uhl – I am not sure I am the right person to answer those questions.

Mr. Steinhagen, Esq. – I have a couple of questions, but I think they are more geared to Mr. Walker. Is it PZ1 that you said there was perch water table? Mr. Uhl- Yes. Mr. Steinhagen – Do you know the depth of the bedrock in the area of the recharge facilities? Mr. Uhl – The facilities are set into bedrock.

Mr. Shirkey – How is there a 10% additional recharge post development. Mr. Uhl – When you add impervious coverage to the property there will be storm water management constructed on site that will capture the runoff into a basin which will receive the runoff and infiltrate it into the rock. Mr. Shirkey – If your Total Suspended Solids on a natural site are leaves dirt, etc., what becomes a part of your Total Suspended Solids post developments once there are paving materials, roofing materials, pesticides, motor oils, etc.? Mr. Uhl – Question is better answered by Mr. Walker. Mr. Marinello – Would the as of right application or the proposed application better fit as it relates to the aquifer? Mr. Uhl – There would be no difference. Mr. Soussa – If there are larger detention basins would it allow for more water to be recharged back into the aquifer? Mr. Uhl – Yes. Mr. Omland – The homeowners association must be made aware of how much money will be required for upkeep and repair of the storm water management facility so they can be prepared fiscally. Mr. Ackerman – With this proposed recharge system, any development constructed would increase the recharge into the aquifer? Mr. Uhl – Yes.

Open to public for those not represented by counsel for this expert - none

Mr. Schepis – Previously the fiscal expert indicated a price amount of \$600,000 for the sale of the town houses so we requested a local realtor to address how he came to this number. Mr. Ackerman indicated that this witness is just a follow-up of assertion by applicant as to what these units would sell for if constructed.

Mr. Robert Gannon – sworn

The location of the project is for young professional commuters and local empty nesters. The target buyers would be couples working in the city. Most of the town house developments in Montville are 20-30 years old. He found a community in Morris Township at James Place, and East Hanover, the North Ridge Project, which are similar to Montville.

A16 – colored rendering of town house units

Mr. Schepis – The applicant has submitted materials to the DRC of the external finishes on the town homes. Mr. Gannon – This is indicative of high end construction due to the materials used to finish the dwellings. The average prices in Morris Township were over \$600,000; they were larger units but did not have basements. One of the issues with multifamily developments is storage. Walk out basements will have decks and patios, which are more desirable and the price point will be higher. From this section of the town, you can walk to the train and the bus as well as local shops and restaurants. The Briar Hill development is individual standalone condo units that are smaller than these units and they sold for approximately \$600,000. The fact that there is no pool or tennis courts hurt the development, because some people want that but it would help on lowering the maintenance costs for the residents.

Mr. Moronski – Does the size of the development have any effect on the pricing? Mr. Gannon – Yes, it can go either way, those who want a smaller development would like it and those that want a bigger development would not. Mr. Omland – Do you think a 2 car garage as opposed to a 1 car garage is a value related concern? Mr. Gannon – A basement is more desirable than a 2nd car garage.

Mr. Steinhagen – Do you have any licensing for appraising? Mr. Gannon – No. Mr. Steinhagen – Have you done any appraisal testimony before any board. Mr. Gannon – No.

Mr. Dinkelmeyer voiced his concern on limited parking on the proposed site and the lack of a pool and clubhouse as it relates to its marketability. Mr. Gannon indicated that he did not see a lack of parking on this site and stated that most townhouse developments do not have ample parking on site; he is not appraising this site, but just giving the general sale price as it relates to other developments. Discussion ensued on marketability in relation to amenities.

Open to public for those not represented by counsel – none

Mr. Gannon – The uniqueness of this area will bring people to this site.

Mr. Ackerman – Mr. Schepis will you be bringing back your traffic expert since he submitted an additional report? Mr. Schepis – It was not a revised count it was additional information. Mr. Ackerman – He set forth new traffic counts that would require new testimony if it is to be considered part of the application.

Break in testimony where Board reviewed board business on the agenda.

Application resumed. Mr. Walker, PE – previously sworn

We have obtained DEP permits, submitted Mr. Uhl's report and responded to the most recent professional reports. From DEP, we received a Transition Area Averaging Plan for encroachment into Buffer, General Permit #2, and Freshwater Wetland General Permit #11 as it relates to outfall structures and Transition Area Waiver for Linear Development. In order to install sidewalk area with sign, a permit was required from DEP and has been obtained. DEP must review and approve our storm water plan. The townhouse development will be on a separate lot and will be on a 7 ½ acre lot. About 1.52 acres will be developed and 6.3 acres would remain as lawn area and open space. A conservation easement will be granted for the open space area.

A-17 – Colorized plan showing a conforming development within the 3 acres of developable area of the 9 acre site.

Using A-17, Mr. Walker compared a conforming development against the proposed development. Mr. Walker – The As of Right Conforming Plan would have limited retail space along Main Road. Limited parking in front of the building, majority of parking would have to be located to the rear of the site. 33,350 s.f. retail space for as of right where proposed has 8,000 s.f. of retail space. 29 apartments above the retail space for conforming plan where the

proposed has 5 apartments and 23 town homes. Impervious coverage as of right plan has 103,884 s.f. where proposed development has 81,288 s.f. All of the roadways surrounding the proposed development far exceed the impervious coverage and do not have storm water management or water quality. This development is miniscule for this area. We have done soil logs on site. There is a low area behind Building 'B' and those soils exhibit perch ground water conditions. Further excavation showed suitable soils though a thin veneer. Last month we conducted a basin flood test and the bottom of the storm water basin has the more than the 2' separation as required and will infiltrate and function properly in this location. We have 2 separate systems for water quality. Using a Jellyfish system or equal system which meets DEP's requirements. System to be inspected 4 times a year and after every rainstorm of 1" or more. System to be cleaned out once a year. There are also infiltration systems which have been sized to the amount of impervious coverage that will be going toward them.

Mr. Walker – We can change the plan to allow for picnic tables and patio. Mr. Omland – It is your belief that this system meets all of all the requirements of the ordinance and DEP requirements? Mr. Walker – Yes. Mr. Omland – Would you agree to a condition of resolution of approval? Mr. Walker – The likelihood of the system failing is minimal and I do not see it happening in our lifetime nor our children's lifetime. Mr. Omland- Is there a different type of system that would require less inspection and who does the inspections and how is it monitored? Mr. Walker – The homeowner's association can hire a maintenance crew to inspect and reports can be submitted to the Township Engineer.

Open to public to those not represented by counsel –

Alexander Nesterok – sworn

Will the taxes be shared with the commercial section with residential above? Mr. Walker – The taxes are a separate issue.

The Chairman asked for questions that could be responded to next meeting for this application.

Open to public to those represented by counsel –

Mr. Steinhagen – My client asked me to pose the question about UPS or Fed Ex trucks delivering to the front building on 48.01 and how is that circulation planned? Where is the location of the runoff draining into the wetlands? How does the manual account for the 1" rain event and who enforces if the maintenance people do not come out?

Mr. Shirkey – Who is the proprietor of the operation manual that will be telling the maintenance crew to go out and inspect? What if there is a 3 day period with which we receive over an inch of rain? Ms. Lawrence – Estimate of yearly maintenance costs? Mr. Soussa – Can you submit an operating history of this system? Can you sketch the limits of the size of the unit that will be underground? How is it maintained underground? Mr. Walker – A manhole cover with a tube that sucks the water out and the jellyfish can be removed and the structure can be cleaned out.

Due to the late hour the application was carried with notice preserved to 6/1/16 and an extension of time to act to: 6/30/16.

NEW BUSINESS

None

MINUTES

Minutes of March 17, 2016 Eligible: Moore, Pierce, Shirkey, Dinkelmeyer, Lawrence, Soussa, Marinello

Motion to adopt made by: Dinkelmeyer; Second by: Soussa; Roll call: Yes –Shirkey, Dinkelmeyer, Lawrence, Soussa, Marinello

INVOICES

Burgis Associates – Trust for: \$945 (Towaco Station)

Pashman Stein – Trust for: \$155.25 (Forge Hill)

Bowman Consulting – Trust for: \$236.25 (Forge Hill); \$573.75 (In Creations); \$33.75 (Kirk); \$135 (Leone); \$202.50 (Masella); \$573.75 (Towaco Station); \$877.50 (Towaco Station); \$135 (Velez)

INVOICES CARRIED FROM 3/17/16

Burgis Associates – Trust for: \$405 (Morris Animal Inn); \$505 (In Creations); \$303.75 (Avalon Bay)
Bowman Engineering – Trust for: \$101.25 (Morris Animal Inn); \$708.75 (Towaco Station); \$607.50 (In Creations);
\$228.75 (Bott); \$135 (12 Main)

Motion to approve all invoices made by: Driscoll; Second by: Shirkey; Roll call: Yes - Driscoll, Shirkey, Miller-Sanders, Dinkelmeyer, Lawrence, Soussa, Marinello

RESOLUTIONS

ZC21-15 – Leone, Sigismundo – 17 Douglas Dr – B: 90, L: 1 – side setback (16.4’ where 25’ required); rear setback (50’ where 75’ required); building coverage (16.3% or 2,460 s.f. where 12% or 1,811 s.f. is allowed); impervious coverage (26.45 % or 3,991 s.f. where 24% or 3,621 s.f. allowed) – Approved – Eligible: Moore, Pierce, Shirkey, Dinkelmeyer, Lawrence, Soussa

Mr. Ackerman – Mr. Ackerman indicated that Mr. Schepis indicated that the storm water management should be reviewed by the Township Engineer and not Mr. Omland. Mr. Omland – We have concerns and would like to be involved with the review but if the Board wants to have the Township Engineer to have it that is fine as well.

Mr. Shirkey – I would like Mr. Omland’s input. Mr. Dinkelmeyer – Me as well. Mr. Dinkelmeyer – I did not see the rear roof gutter being part of the storm water management in the resolution. Mr. Ackerman – The testimony was that he would tie in the leaders to the drainage system and that the beneficial recharge be better than zero runoff so that would be up to Mr. Omland’s review.

Motion to approve as presented made by: Shirkey; Second by: Dinkelmeyer; Roll call: Yes – Shirkey, Dinkelmeyer, Lawrence, Soussa

OTHER BUSINESS

Planning Board Liaison report – Nothing significant to report.

DRC Liaison report – No report

Mr. Marinello requested that the Board members review the article in the magazine for NJ Municipalities on how to deal with vacant properties in town.

Mr. Marinello – Thanks to Pashman Stein for having Mr. Walsh appear since Mr. Ackerman was going to be late.

CORRESPONDENCE

None

Respectfully submitted,

Jane Mowles-Rodriguez Assistant Secretary.

Certified true copy of minutes adopted at Zoning Board meeting of May 4, 2016.

ⁱ Certified to 8/5/15 & 2/3/16 hearings

ⁱⁱ Certified to 8/5/15 hearing

ⁱⁱⁱ Certified to 10/7/15 hearing

^{iv} Certified to 10/7/15 hearing; Must certify to 4/6/16 hearing

^v Certified to 12/2/15 & 2/3/16 hearing