

**MONTVILLE TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
MINUTES OF JUNE 1, 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 – Present  
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) - AE

**PLEDGE OF ALLEGIANCE**

Swearing in of Professionals.

Stan Omland, PE – present.  
Joseph Burgis, PP– present.

Also present: Bruce Ackerman, 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.

**NEW BUSINESS**

**ZC24-15 – Sabatino, John** – 8 Kokora Ave – B: 51, L: 50.02 – C variance for extension of deck into a rear yard by 40% where 25% is allowed - Notice Acceptable ACT BY: 8/10/16

Present on behalf of the applicant: John Sabatino, applicant

Mr. Sabatino – sworn

Requesting a variance to construct a new deck off the rear of our house. The deck is proposed to be constructed into the rear yard by 40% where 25% is permitted. We are asking for a 7½' variance from the ordinance. A deck on the ground level will be better for my wife since she has back problems and it is hard for her to carry the children up and down stairs. There will be no detriment to our neighbors or the zoning ordinance.

Mr. Burgis – Is there any physical separation to the property to the rear? Mr. Sabatino – Yes we have a retaining wall and 6' fence with landscaping. Mr. Burgis – It appears from the aerial that the neighbor's deck is similarly located as the proposed deck on this property. Would suggest an additional landscape feature in relation to the property in the rear. Mr. Omland – No significant comments. Deck proposed over existing patio that is being removed.

Open to public – none

Closed to the public

Ms. Miller-Sanders – Is there going to be a railing around the deck. Mr. Sabatino – Yes, at normal railing height. Mr. Marinello – Do your neighbors to the right or the left have decks? Mr. Sabatino – Yes, the neighbor to the left recently put on a deck. Mr. Burgis – How many steps up will the deck be? Mr. Sabatino – 3 steps. Mr. Burgis – Then I do not see the need for the additional landscaping.

Mr. Shirkey – Is there an encroachment width requirement or just into the depth of the rear yard? Mr. Burgis – No. Mr. Shirkey - If the deck could be built less than 30” tall a variance would not be required. Mr. Sabatino – The safety factor is that it meets the level of the house. Mr. Shirkey – Will the patio under the deck remain? Mr. Sabatino – It is removed.

Mr. Driscoll – In favor of the application being granted. Mr. Shirkey – Would he accept for a motion to give them a deck with a depth of 15’ instead of 20’ to the rear and let them build the deck out wider along the house for same overall square footage? Or, the applicant could build it lower, under 3’, and build it where they want it without a variance. Discussion ensued as to having less depth for the deck proposed and therefore less encroachment into the rear yard setback.

Motion to approve the application for a deck with a depth at 15’, no additional landscaping required, no detriment to neighbors, still a reasonable sized rear yard, usual conditions, made by: Driscoll; Second by: Shirkey; Roll call: Yes – Driscoll, Pierce, Miller-Sanders, Shirkey, Dinkelmeyer, Lawrence, No - Marinello

#### **OLD BUSINESS**

Ms. Pierce stepped down for the following hearing.

**ZSP/P/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; carried with notice from 4/6/16 – Eligible: Driscoll<sup>i</sup>, Shirkey<sup>ii</sup>, Miller-Sanders<sup>iii</sup>, Dinkelmeyer, Lawrence, Soussa<sup>iv</sup>, Marinello  
ACT BY: 6/30/16

Present on behalf of the applicant: Steven Schepis, Esq; Marc Walker, PE; Dan Furia, Applicant; Frank Mileto, AIA; John Desch, Traffic PE

Mr. Schepis – New traffic counts were done

John Desch, PE – previously sworn

We did new traffic counts and found that there was no reason to change the original traffic analysis because it would still be valid. Counts done on March 2, 2016. My testimony remains the same. Mr. Omland – My memo of April 5, 2016 agrees with Mr. Desch’s updated traffic counts.

Marc Walker, PE – Previously sworn

Updated exhibit marked in.

A18 – colored rendering of plan dated 5/19/16, revised to June 1, 2016, entitled site plan exhibit.

Mr. Walker – 3 changes that took place for the exhibit. We added 4 parking spaces along the boulevard for a total of 62 parking spaces where 53 spaces are required. Employee parking sign designating a space by the loading space. Shifted the parking lot away from building 4 to create more space between the lot and the building. There will be 23

parking spaces on 48.01 and, for lot 49.01, 21 parking spaces are proposed. Propose sidewalks to the ice cream shop down to Indian Hill Road. All permits required from N.J. Department of Environmental Protection have been obtained.

Mr. Burgis – Why are the benches so far removed from the retail space on the corner? Mr. Walker – There are benches in front of the building. Mr. Burgis – Can you relocate them to closer to the side of the building? Mr. Walker- Yes. Mr. Burgis requested clarification on impervious coverage. Mr. Walker - The impervious coverage is 86,000+ s.f.

Mr. Omland – Concerned with the construction and maintenance aspect and future homeowners association to have a reserve fund for the replacement/repair of the storm water management system. Mr. Ackerman – Would it be better that the 3 property owners be responsible? Mr. Omland – Yes the 3 property owners and the HOA together. This issue needs careful attention. Mr. Burgis – Has the affordable housing obligation been discussed or met yet, a 20% set aside is required? Mr. Ackerman – The units should also be distributed throughout the development and not clustered in one location on site. Mr. Schepis – We will address it.

Mr. Dan Furia, applicant – sworn

I am the owner of the property. The first building is up. We are proposing a twin building. The townhouses in the rear are a key component for the town center. You need residents to support the shops and restaurants in the area. To have the commercial and residential above in the rear of the property there would be no visibility. There would be too many shops and stores which would be unsuccessful. The current building is full. Japanese restaurant, nail salon and financial planner. Proposing “for sale” units not rentals to best support the commercial aspect in the Town Center.

Frank Mileto, PE AIA – sworn  
Reviewed credentials.

Exhibit marked in  
A19 - 6 photo array

Mr. Mileto – Reviewed the photos for the board. Propose the future build out to be basically the same type of architecture as the existing building. Stone, brick and hardy plank facade. Gooseneck lighting proposed. High quality materials. The front of the building has steps to the units and the rear of the property has at grade entrances which are barrier free. Variance requested for each tenant to have 2 signs, one in front of the building and one in the rear of the building. The 2<sup>nd</sup> floor residential units are all rented at good market rents. The dumpster enclosure is roofed with doors on it and is bear proof. The trash enclosure on the other lot will be the same construction to match the existing one. The closest structure from Brook Lane is 300’. The residential structure along Brook Lane will not have any negative impact from our residential proposal.

Mr. Mileto – Reviewed the architectural plans to show the various shapes and sizes of the roof, so it is not one big flat wall. Timberline shingles for the roof, the color will be different on the residential component than on the commercial component per the DRC. Barn looking doors for garages. Stonework on the front. Anderson windows. The hardy plank siding is similar to the commercial material. Low maintenance materials. Approximately 1,800 s.f. living area. There is the capability to add an elevator in each unit if the buyer would like, otherwise there can be an additional closet. Trash cans can be lined up against the back of the garage near the door and still fit cars. The basements are about 800 s.f. There will be a sufficient amount of storage space for these units. There are partial attics above the bedroom which can be used as a play area or den. The attic level shall not be used for bedrooms. There is a staircase going up to the attic. Intention is to have owner occupied dwelling units, not rentals.

Mr. Burgis – What is the floor to ceiling height for the attic area? Mr. Mileto – 8’ ceiling at the center and down to 5’ on the sides. Mr. Burgis – What percentage would be 6’-8’? Mr. Mileto – 50% would be 8’. Mr. Omland- Are you aware of the new code that 60% of a building needs to be accessible where it used to be 50%? Will there be any front access that is barrier free? Mr. Mileto – It would be barrier free in the rear of the building. Mr. Omland- Does the trash enclosure have ventilation? Mr. Mileto – No. Mr. Schepis – We can add louvers or vents. Mr. Omland- Will there be privacy screens on the decks or will they be open? Mr. Mileto – They will be open. Mr. Schepis –

The applicant would leave it up to the Board's discretion whether to install privacy screening between decks. Mr. Mileto – could put in one screen wall per unit starting at 6' and sloping down to 4'. Mr. Omland- Can a screen wall or landscaping be put between the patios?

Mr. Omland- The garages are 17' deep and don't depict the stairs from the finish floor to the garage floor. Mr. Mileto – 3 steps which will encroach 3' of width. Mr. Omland- Request that the garages were dimensioned along with the steps, not sure that they are 19' as you testified. Mr. Mileto – The garages are different sizes but the minimum is 19'. Mr. Omland- Will the applicant agree to having in the HOA rules that the attic areas will not be used as bedrooms. Mr. Mileto – Yes.

Open to the public for the witnesses that testified this evening.

Kim Bott – 22 Hewlett Rd – previously sworn  
Will the commercial stores have patios and outdoor seating. Mr. Burgis – I think you are talking about the Master Plan which we will discuss under planning testimony.

Mr. Marinello requested traffic questions. Being none Mr. Desch left the hearing.

Ms. Lawrence – How many affordable housing units will be provided? Mr. Schepis – Propose the 3 units over the commercial space to be affordable housing rental units. The ordinance requires a 10% set aside according to the Highlands. The Court is currently reviewing the declaratory judgment request from Montville as to its Mt. Laurel obligations. Awaiting the decision of the courts. Rentals receive a density bonus of 2 to 1. Mr. Ackerman – What about the 20% from the Fair Housing Act? Mr. Schepis – Will submit in writing to Mr. Ackerman prior to the next hearing the applicant's legal arguments. Mr. Burgis – In addition to distribution there is a 1, 2 and 3 bedroom requirement to be distributed throughout the development. Ms. Lawrence – Did you comply with the ADA requirements? Mr. Walker – We have provided a handicap space in the most centrally located area. Crossing areas cannot exceed 2% grade. Mr. Omland – Could the sidewalks be flipped to the other side of the road to make it easier for handicapped access? Mr. Walker – Yes. Ms. Lawrence would like the driveways and garages dimensioned.

Mr. Marinello – Do the height of the town homes meet the ordinances? Mr. Mileto – Yes. Mr. Marinello – Could you give me an example of a project such as this so I can get a visual as to the height of these buildings? Mr. Schepis - We will get that for you. Ms. Miller-Sanders – Outside of the driveway and garage area there are only 16 available parking spaces. During holidays that may be an issue, is there another place for people to park? Mr. Schepis – NJDOT policy is that the parking lot can be used after 5pm.

Mr. Shirkey – Can you scale the garage, driveway, steps and add a car in that driveway and garage? Mr. Schepis – Yes. Mr. Shirkey – Where in the Towaco Master Plan does it show dwelling units not related to commercial? Mr. Burgis – It does not and it states no more than 45 dwelling units within the TC-1 & TC-2 zones.

Carry with notice to 7/6/16 with an extension of time to act granted to: July 31, 2016

## **MINUTES**

Minutes of May 4, 2016 Eligible: Shirkey, Moore, Dinkelmeyer, Lawrence, Soussa; Driscoll

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

## **INVOICES**

Bowman Engineering – Trust for: \$540 (Leone); \$945 (Towaco Station); \$236.25 (Towaco Station); \$168.75 (Kirk); \$67.50 (AMJM); \$202.50 (In Creations); \$33.75 (Kirk); \$135 (Sabatino); \$708.75 (Towaco Station)

Burgis Associates – Trust for: \$135 (Kirk); \$135 (Leone); \$202.50 (Masella); \$135 (Towaco Station); \$472.50 (Towaco Station); \$101.25 (In Creations); \$506.25 (Leone); \$303.75 (Kirk); \$506.25 (Towaco Station); \$356.25 (Sabatino); \$33.75 (Stonybrook Boutiques)

Dorsey & Semrau – Trust for: \$195 (In Creations)

Motion to approve with the exception of the Leone bill for Bowman Engineering to clarify the phone conference time, made by: Driscoll; Second by: Shirkey; Roll call: Yes – Unanimous

## RESOLUTIONS

**ZC9-15/ZSOIL10-15 – Kirk, Newton** – 8 South Rd – B: 27, L: 1 – impervious coverage variance for pool - 24% (3,909 square feet) allowed 31.5%, proposed which is 408 square feet in excess of the already nonconforming impervious coverage on-site, for an overall excess of 1,224 square feet– Approved – Eligible: Driscoll, Moore, Dinkelmeyer, Lawrence, Soussa

Motion to adopt made by: Driscoll; Second by: Dinkelmeyer; Roll call: Yes –Driscoll, Dinkelmeyer, Lawrence

**ZEXT01-16 Stonybrook Boutiques** – 9 Main Rd – B: 47, L: 2 – request for extension of approvals until December 3, 2016 – Granted – Eligible: Shirkey, Moore, Dinkelmeyer, Lawrence, Soussa

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

## OTHER BUSINESS

Planning Board Liaison report. – 6 waivers were for existing tenants expanding their space.

Ms. Pierce returns

DRC Liaison report – (Pierce, Soussa, Lawrence) – no meeting

## CORRESPONDENCE

**ZSPP/FDC25-15– AMJM Holdings** – 21 Hook Mtn Rd – B: 159, L: 18 – dismiss without prejudice

Motion to dismiss without prejudice made by: Driscoll; Second by: Shirkey; Roll call: Yes –Unanimous

Mr. Marinello – Mr. Ryan Conklin requested to go into full RFP process to allow him to review for Planning, Engineering and Attorney firms. Requested an RFP Subcommittee. We can address this at the July hearing.

Mr. Marinello asked legal counsel to review again the limits on communicating with emails or social media. Mr. Ackerman – I have cautioned you in the past to not email or communicate to any more than 2 board members at a time, because that is effectively a quorum of the board and could be considered a violation of the Sunshine Law. No discussions of a pending matter should ever occur. Board Members should not email groups of people or express any opinions on any issues that could be used against the Township.

## ADJOURNMENT

Respectfully submitted,

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Jane Mowles-Rodriguez Assistant Secretary.

Certified true copy of minutes adopted at Zoning Board meeting of July 6, 2016.

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

<sup>ii</sup> Certified to 8/5/15 hearing

<sup>iii</sup> Certified to 10/7/15 hearing

<sup>iv</sup> Certified to 12/2/15 & 2/3/16 hearing; Must certify to 6/1/16 hearing