

**MONTVILLE TOWNSHIP
ZONING BOARD OF ADJUSTMENT
MINUTES OF AUGUST 3, 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	Kurt Dinkelmeyer - Present
Annabel Pierce – AE	James Marinello - Present
Deane Driscoll - Present	Shelly Lawrence (Alt #1) - Present
Kenneth Shirkey - Present	Ron Soussa (Alt #2) - Present
Margaret Miller-Sanders – Present	

PLEDGE OF ALLEGIANCE

Swearing in of Professionals.

Stan Omland, PE – present.
Edward Snieckus, 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

The following applications were rescheduled to 9/7/16 with notice required:

ZSPP/FCD03-16– Outfront Media 1 Rt 46 E – 1 Rt 46 E – B: 182, L: 1 - preliminary/final site plan Use variance and c variances for removal of a billboard and construction of LED billboard

ACT BY: 10/14/16

ZSPP/FCD02-16– Outfront Media 86 Rt 46 W – 86 Rt 46 W – B: 167, L: 33 1 - preliminary/final site plan Use variance and c variances for removal of a billboard and construction of LED billboard

ACT BY: 10/14/16

OLD BUSINESS

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 (66% proposed where 40% 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 & 6/1/16 & 7/6/16; new notice acceptable 7/28/16 - Eligible: Driscollⁱ, Shirkeyⁱⁱ, Miller-Sandersⁱⁱⁱ, Dinkelmeyer, Lawrence, Soussa^{iv}, Marinello
ACT BY: 8/31/16

Present on behalf of the applicant: Steven Schepis, Esq; Marc Walker, PE; PP; Frank Miletto, Arch

Mr. Driscoll certified to the 7/6/16 hearing.

Mr. Schepis – We have a few open items we wish to address tonight.

Mr. Melito – previously sworn

Mr. Melitto – Cars are 16’ 6” the garages are between 19’ 8” and up with 2 large trash cans the cars can still fit. The depth of each driveway is also shown on the plan and still have room to get out of the car and into the building.

Exhibit A-23 – photo of project in East Hanover that has the same footprint as proposed. The East Hanover project had 18 units and did not have decks or basements.

Mr. Shirkey – In one of the buildings it does not show steps and 2 steps would be required. Mr. Melitto – Yes. Mr. Shirkey – A railing would be required? Mr. Melitto – No. Mr. Shirkey – If steps were required it would be hard to get into the house from the passenger side of the car? Mr. Melitto – You can angle the car to give more space. Mr. Shirkey – The information on the plan is not accurate. Mr. Omland – There are 2 units that have 2 ½’ where 4 steps would be required so you have less area to get into the house. In some cases it is shown there is 1’ between the bumper of the car and the steps and the garbage cans would not be able to be moved past that step. Do not think 16.6’ sized car is efficient because most luxury cars are larger than that. The stairs do impinge on accessibility. Mr. Melitto – I can push the garage wall back but the kitchen would become smaller. Mr. Omland – The issue is, if the residents cannot park in their garages they will take up the visitor parking. Luxury units should allow for luxury type cars.

Open to public for this witness.

Terry Cavanaugh – 108 Pine Brook Rd – sworn
I have not heard the effects of the aquifer and the drinking water.

Mr. Miletto – That would be a question for the engineer. Ms. Cavanaugh – With the proposed garage steps, it is not easily accessible for the handicapped.

Mr. Schepis – Would Mr. Omland’s concerns be alleviated if the garages would be 22’ deep? Mr. Omland – Yes.
Mr. Schepis – The applicant agrees to have each garage at a minimum interior of clear space 22’ in depth.

Marc Walker, PE previously sworn

Created a plaza area. The first plan was not acceptable to the Board Planner, and applicant has revised the plan for this area and presented the plan, which now contains a gazebo. The Board and Planner had not previously been provided with a copy of this plan.

A-24 – public pedestrian and open space exhibit

Mr. Walker- There are 2 access points. Walkway, 4 park benches, landscaping theme, gazebo, two picnic tables and benches.

A-25 – 4 photos of Briar Hill Gazebo

Mr. Walker – The gazebo has internal benches and is made of non-maintenance materials and there will be a paver patio around the gazebo. The proposed area is to be 3,425 s.f. which is in excess of the ordinance. Easement to be

granted to allow public use. A public easement to walk in the rear of the property and use this area. Impervious coverage was increased to 65.8%. The overall coverage on all lots is 22% where 50% is permitted. Reviewed the amount of commercial and residential space approved or pending currently.

Mr., Marinello requested engineering testimony, not planning testimony. Mr. Walker – I did the study. Mr. Schepis – Mr. Melitto will testify as to the Planning aspects.

- A-26 – photo array of surrounding properties.
- A-27 – photo array of bridge to Rails Steakhouse
- A-28 – list of proposed variances for the project

Mr. Walker- -Reviewed the list of variances and related them to his site plan of the project.

- A-29 – Alternate public area plan revised 8/3/16

Mr. Walker – Due to the increased impervious coverage, the storm water management plan has been updated to collect the storm water runoff for the additional impervious coverage. Water quality, infiltration, rate of runoff all meet state and local requirements. Due to the size of the property on lot 49.01 there is no place for a loading space, there is also no need for it on that lot. There will be a cross access parking agreement between the commercial buildings. Mr. Walker reviewed the design exceptions requested for the Board, using exhibit A-28.

- A-30 – highlighted line showing limits of the applicants property revising exhibit A-5 dated 9/18/15

Mr. Walker – Every building except the school in the back would have to be removed in order to make the plan as required by the master plan. We meet the RSIS standards for number of parking spaces for the overall site.

Mr. Snieckus – What size is the proposed gazebo? Mr. Walker – 15' wide. Mr. Snieckus – Will it meet the setback requirements for accessory structures? Mr. Walker – Yes. Mr. Ackerman – I don't believe it is fair that a new plan is submitted without the opportunity for our planning consultant to review prior to a hearing and you having to do measurements on the fly. Mr. Schepis – This a conceptual plan that we can work out with Mr. Burgis' office on the details as a condition of approval. Mr. Ackerman – The Board needs to see a plan and approve a plan. Mr. Marinello – Do you need more time to review? Mr. Snieckus – I would need more time than tonight to review the plans and exhibits submitted tonight. Would need the distance of green space and dimensions as well.

Open to public for this witness – none

Mr. Marinello – You indicated that this is the last chance for residential in the Towaco District, can you elaborate?

Mr. Walker – There is a daycare center without residential, to the south of the that is 3 residential houses, then Towaco Village center with no residential, the Van Schaik property with no residential units proposed, the ice cream shop is too small for residential. There are no other opportunities in the TC-1 zone to provide for residential units.

Mr. Shirkey – That is based on the current owners of those properties. Mr. Walker – Correct.

Mr. Ackerman – Would you agree that each lot once subdivided would have to independently meet all legal requirements? Mr. Schepis – Yes, absolutely.

- A-31 – resolutions with Exhibits A-F of what has been approved and proposed in the Towaco Center Area.

Mr. Schepis reviewed exhibit A-31 for the Board.

- A-32 – proposed conditions

Mr. Schepis – Reviewed proposed conditions of approval that the applicant would accept.

Mr. Melitto – Unless retail has street visibility the retail units will be difficult to fill. The master plan indicates a range of housing types, it does not say all has to be residential above and retail below. Whatever COAH requires at

the time we will comply with the requirements of COAH. Mr. Snieckus reviewed the ordinance for the TC zone for the applicant as it relates to tightly compact residential and commercial and prohibits townhomes.

Mr. Dinkelmeyer – Where would the affordable housing units be located? Mr. Melitto – It has not been decided yet as to location. Mr. Marinello - We want to avoid corralling all units into one building. Mr. Ackerman – If you are subdividing into 3 lots, each lot would have to have affordable housing. Mr. Schepis – The affordable housing issue is in flux currently and once the supreme court makes their decision we will meet whatever the courts, highlands, etc. would allow. He requested a condition that applicant will comply with the legal requirements, nothing more. Mr. Ackerman – That would not be acceptable to the Board. The Board will require a 20% set aside for each of the subdivided lots and the legal support has been provided already and confirmed by the Highlands Council offices. Mr. Schepis- What if we keep it one lot? Mr. Ackerman – That is not what you are proposing. Mr. Schepis – We can work with the Highlands Council. Mr. Ackerman – You can do that after, but the Board will not grant a condition that is so general as requested, when we know the legal requirement now is for 20%. Mr. Schepis – I am unaware of any regulations that would not allow us to have the affordable units over the commercial. Mr. Ackerman – If you find legislation that shows that you did not have to comply with the low and moderate income requirements for each lot, which is what you are proposing, submit it and we will review it accordingly. Mr. Marinello – Based on the fact that you supplied a plan this evening that our professionals did not have the opportunity to review you will not be finished this evening.

Mr. Soussa – In your opinion what type of resident stays longer, rental or owner occupied? Mr. Melitto – Owner occupied. Discussion ensued on the zone change requested before the Township Committee in February 2015 that was deadlocked and denied by a 2-2 vote. Mr. Melitto indicated that commercial uses will not succeed 250' back on the lot with no visibility from the road.

Open to the public for questions for this witness – none

Mr. Snieckus – I need more information on the design standards that call for various things on the plan received this evening. Mr. Schepis – Can you comment on what we proposed? Mr. Marinello – Can the document be completed by the 8th of August to give the public 10 days prior to a hearing? Mr. Marinello – Who will be here on the 18th? Mr. Dinkelmeyer and Mr. Soussa indicated that they will not be available for the 18th.

The Board took a 3 minute break

Mr. Ackerman – Was there soil movement testimony? Mr. Schepis – Yes about 8 months ago. Mr. Schepis – The issue of affordable housing is hard to testify on because there are no regulations at this time and we have the ability to apply to the Highlands Council for a hardship exemption. Mr. Ackerman – You can go to the Highlands Council if approved by the Board. Mr. Schepis – It is also difficult to get all 7 board members in this room at once. Mr. Soussa – Could this be voted on with conditions of approval. Mr. Marinello – I am not confident that a full review of the revised plan will not bring up other issues. Mr. Ackerman – You also just presented a new exhibit A-31 with six attached resolutions that no one has read tonight and on which the public has not had time to comment.

Discussion ensued on alternate hearing dates. Mr. Dinkelmeyer – Requested information on what was requested during the rezoning request at the Township Committee with the amount of town houses after 2-2 vote "which was not included in exhibit 31. Testimony on slope disturbances and soil movement would also be required.

The application was carried with notice preserved to: October 5, 2016 with an extension of time to act to 10/31/16.

MINUTES

Minutes of July 6, 2016 Eligible: Shirkey, Miller-Sanders, Dinkelmeyer, Lawrence, Soussa, Marinello

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

INVOICES

Bowman Engineering Trust for: \$371.25 (In Creations); \$67.50 (Kirk); \$371.25 (Leff); \$776.25 (Outfront Media 1 Rt 46); \$675 (Outfront Media 86 Rt 46); \$67.50 (Sabatino); \$472.50 (Towaco Station)

Burgis Associates – Trust for: \$573.75 (Kirk); \$288.75 (Leff); \$202.50 (Towaco Station)

Pashman Stein – O/E for: \$202.50; \$222.75; \$216; Trust for: \$3,321 (Towaco Station)

Motion to approve made by: Driscoll; Second by: Shirkey; Roll call: Yes – Unanimous

RESOLUTIONS

ZC04-16 – Leff, Scott– 1 Birch Rd – B: 152, L: 3 – front setback of 36.3’ where 38.1’ exists and 45’ is required for proposed roof overhang – Approved – Eligible: Shirkey, Miller-Sanders, Dinkelmeyer, Lawrence; Soussa, Marinello

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

OTHER BUSINESS

Planning Board Liaison report. (Mr. Driscoll) – The Planning Board reviewed the Daughtry subdivision and the application was denied

DRC Liaison report – (Pierce, Soussa, Lawrence) – No report

ADJOURNMENT

Respectfully submitted,

Jane Mowles-Rodriguez Assistant Secretary.

Certified true copy of minutes adopted at Zoning Board meeting of September 7, 2016.

ⁱ Certified to 8/5/15; 2/3/16 & 7/6/16 hearings

ⁱⁱ Certified to 8/5/15 hearing

ⁱⁱⁱ Certified to 10/7/15 hearing

^{iv} Certified to 12/2/15, 2/3/16 & 6/1/16 hearings