

**MONTVILLE TOWNSHIP
ZONING BOARD OF ADJUSTMENT
MINUTES OF FEBRUARY 3, 2021
VIRTUAL
7:30PM**

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	James Marinello - Present
Deane Driscoll - Present	Owen Weaver (Alt #1) - Present
Kenneth Shirkey - Present	Ray Giordano (Alt #2) – AE
Margaret Miller-Sanders - Present	

PLEDGE OF ALLEGIANCE

Swearing in of Professionals

Stan Omland, PE – Present
Tom Behrens, 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.

The following application was carried with 200' notice required to 5/7/21:

ZMS/D/C15-20 - Lakeland Bank - 166 Changebridge Road – B: 139.03, L: 7.02 – minor site plan with variance for generator in the front yard
ACT BY: 5/31/2021

OLD BUSINESS

ZMSP/F/D/C09-19– Boonton Properties – 83 Boonton Avenue– B: 3, L: 47.01 – 3 lot prel/final major subdivision/D variance/ c variance – 2 single family residential lots and 1 commercial (retail/restaurant) – variances for minimum lot width; vehicular access required on site; minimum lot area; minimum lot width at setback line; minimum parking setback from building; curbing in parking areas/driveways; chain-link fence in front and side yard; hanging sign – rescheduled from 8/12/20 – Carried with notice from 10/7/20 – Eligible: Moore, Driscoll¹, Shirkey², Miller-Sanders, Pierce, Cain, Weaver, Marinello

ACT BY: 2/28/20

Present on behalf of the applicant: Mark Brancato, Esq.; Marc Walker, PE; Anthony Garrett, PP; AIA; Laura Brinkerhoff, Applicant

Mr. Walker – Previously sworn

¹ Certified to 10/7/20 hearing

² Certified to 10/7/20 hearing

Zoning Board

2/3/21

Recapped the existing conditions for the Board. 7.9 acres. Existing gas station. Existing bar and dilapidated home.

A-4- proposed subdivision rendering 2/3/21

Mr. Walker – Pull off area added near Boonton Avenue. Added a turnaround for emergency vehicles on lot 46.25. Lot width variance required at setback line. On 47.25 lot width at setback line required. Will require a modification to the Highlands Exemption. Shared driveway shown.

A – 5 – Proposed site plan rendering 2/3/21

Mr. Walker – On the commercial site we added a PVC picket fence and additional evergreens. Added 30” wall along the outdoor seating area with additional landscaping. 1 lighting fixture along Boonton Avenue and 1 along Taylortown Rd. emit more than the allowable foot candle spillage off the property so a variance is required. The existing notch in the building will remain, it will not be squared off. 10.2 parking spaces required where 12 parking spaces are proposed. If the Board has an issue with the angle of 2 parking spaces a variance would need to be requested for 9’ from the right of way where 10’ is required. Would like to volunteer adding in a bike rack since Pyramid Mountain is right up the road.

Mr. Behrens – Do you have any testimony on loading? Mr. Walker – The Building is 1,318 s.f. and we do not have a tenant yet but it will be a small retail/café use. The delivery use we do not anticipate to be a big issue since the building is small.

Mr. Omland – The residences will have to bring their garbage/recycling all the way down to Boonton Avenue and voiced concerns with the turnaround area for the garbage trucks. Mr. Omland suggested more landscaping between the commercial property and the residential property. Mr. Walker indicated that the adjacent homeowner wanted it to be left open. The turnaround area in the driveway must be maintained at all times. Discussion ensued on the right of way easement from Boonton Ave to lot 46. Lot 46 has now been developed along Masar Rd. Mr. Walker indicated that the easement ends right by where the homeowner on the adjacent lot has his septic system. The functionality of the right of way is that it will never be used. Mr. Omland – As long as the homeowner of lot 47.24 understands that there is a right of way that can be used by the neighboring property owner to build a road through his lot or just to walk through at any time.

Mr. Shirkey voiced concerns about the outdoor seating area and the safety of the location. Ms. Miller-Sanders concerned with maintenance of the easement.

Anthony Garrett, PP and Architect – previously sworn

Repurposing existing building. 2 levels in the building. 2 discreet areas separated by a wall. Not proposing a restaurant with wait service.

Mr. Garrett - Described façade as stone veneer and brick accents. Building height 17’ above ground. No change to building height. Sign to be bracketed to the southwest elevation, which is a variance. Feel that this is a better option than a wall or pylon sign. 2 sided sign approximately 12 s.f. Wood with no more than 4 colors. Deliveries to the building will come through the door at the south side. Will have drop curb for the wheelchairs that will allow for easier delivery. ADA accessible. Small delivery vehicles that will fit into a regular passenger parking space.

Open to public - none

Mr. Garrett – Planning testimony. 3 lot subdivision. Split zone. R-120 & R-43. The site is environmentally challenged and has been remediated for the most part. Consider there is an existing plume monitoring well that would be on the site—not great for a residential home.

There used to be a bar on the property. That building is beyond repair. On lot 47.24 there is a dilapidated single family structure. The former service station will be repurposed. Proposing to reconstruct the garage area which is in poor condition. D1 Use variance. Commercial uses are not permitted in the residential zone. There is not a retail/café type use in the area. De-intensifying the site from the service station use. Variances: lot area on 47.26; lot setback; driveways not contained on one lot; no loading zone; signage.

Mr. Garrett – A house could be built on the commercial site but it does not make sense to have a home on a busy corner. Consider there is an existing plume monitoring well that would be on the site—not great for residential home. More trees would need to be removed. Attempting to keep the historic value of the property. No significant detriment to the surrounding area. Mr. Garrett - More beneficial use to continue the commercial property as commercial. Unique building. Would be a terrible loss to tear that building down. A landmark would be lost. Would serve the residential and recreational properties in this area. Not proposing significant impervious coverage. Not proposing additional curbing. No need for a large loading area. Small operation. Design exceptions: common driveway; light spillage; dumpster setback. No detriment to health safety and welfare, nor the zoning ordinance or zone plan. This is a great redevelopment idea for this site.

Mr. Behrens – There are no cooking facilities or storage shown. Mr. Garrett – I would expect refrigeration but no cook area. Mr. Garrett – The tenant would have to file a waiver of site plan for tenancy and it would be up to the town to approve or not. Mr. Behrens – Any roof mounted mechanical equipment that warrants screening. Mr. Garrett – Maybe a vent but no equipment. Mr. Behrens – Single-family use would be even less intensifying for this site.

Mr. Marinello - What are the times that the lights would be off on site. Mr. Walker – All main lighting to be turned off at close of business; 2 security lights to remain on. Mr. Ackerman – No commercial kitchen on site? Mr. Garrett – No, but maybe a small grill to heat up a sandwich. No servers. 12 seats inside and 12 seats outside. Pre-manufactured goods brought to site. Not a service facility. Not a rental car use or nail salon. Mr. Marinello – Should we restrict this to a food establishment? Mr. Garrett – No, maybe a bike rental place would be a good use. Mr. Marinello – That changes the whole vision. It has been presented as a food establishment, if we are digressing significantly from that we should give our professionals time to review that and carry to another date. Mr. Brancato – We expect it to be food service, would like to leave it open to the owner to change the use. Coffee machines, small grill, microwave, not a full commercial kitchen. Mr. Marinello – Consistent with a convenience store.

Mr. Ackerman – Do you have a problem with a sight triangle easement? Mr. Walker – No problem.

Mr. Marinello – Creating a flag lot? Mr. Garrett – No. Mr. Weaver - Single tenant for commercial building? Mr. Garrett - Yes. Mr. Weaver - constraints on delivery times? Mr. Garrett – Whatever tenant goes in there will have to seek some sort of approval before the town. Mr. Garrett - Deliveries would have to be during regular business hours. Mr. Shirkey – How are we to be sure that the shared driveway use will be maintained. Mr. Brancato – The deed for the common driveways provides that the lot to the left has the responsibility to maintain the driveway from Boonton Avenue all the way onto their property. Mr. Omland – Can the applicant beef up the driveway base? Mr. Walker – Will have a 4” base increased to a 3” top coat, substantial enough for a driveway.

Mr. Behrens – The Township has a definition for retail food establishment that seems to fit this nicely.

Open to public –

Steven De Palma – attorney – counsel for Marrotta Controls
The corner of Taylortown and Boonton is hazardous. Concerned with traffic in the area.

Closed to public.

Mr. Shirkey – Does the 12 seats in the retail food establishment definition include the 12 seats outdoors. Mr. Behrens – You get bonus 12 seats for free and 15% for outdoor seating which is seasonal. There is adequate parking for the proposed seating.

Mr. Marinello suggested dealing with the D variance first. Bifurcated the discussion of use and site plan. Board does not often give change of use but favors repurposing an existing building on a unique site; common driveway is not favored, so this is a major exception because of unique environmental restraints. Therefore, this matter should not be a precedent, being based upon the unique environmental issues facing development. Board consensus: In favor in including a bike rack; slightly angled parking for the 1 spot is acceptable. Mr. Cain – Should restrict use to retail food establishment and any other use must return to the board. No issue with ½ foot candle spillage or sign proposed.

Motion to approve the application for site plan, subdivision and use variance for single user deli/café type use, c variances as discussed; and all other limitations discussed in testimony, dedication of sight triangle easement; design exceptions; no umbrellas on tables in front seating area; lighting to be turned off from 9pm to 6am, bike rack required, made by: Driscoll; Second by: Shirkey; Roll call: Yes - Moore, Driscoll, Shirkey, Miller-Sanders, Pierce, Cain, Marinello

NEW BUSINESS

MINUTES

Minutes of January 20, 2021: Pierce, Driscoll, Shirkey, Miller-Sanders, Cain, Weaver, Marinello

Motion to adopt made by: Driscoll; Second by: Pierce; Roll call: Yes – Pierce, Driscoll, Shirkey, Miller-Sanders, Cain, Weaver, Marinello

INVOICES

Burgis Associates - Trust for: \$ 75.00 (Augustus Automotive); \$1,012.50 (Boonton Properties); \$150.00 (Dream Home); \$637.50 (H.G. Martin); \$412.50 (MDP); \$2,212.50 (Monarch); \$637.50 (Monarch); \$487.50 (Mutts on Main); \$337.50 (Pool Town)

Pashman Stein PC - Trust for: \$ 60.00 (Augustus Automotive); \$120.00 (Boonton Properties); \$30.00 (Boonton Properties); \$630.00 (Dream Home); \$45.00 (Dream Home); \$240.00 (H.G. Martin); \$1,050.00 (MDP); \$675.00 (Monarch); \$45.00 (Monarch); \$1,815.00 (Mutts on Main); \$30.00 (Mutts on Main); \$765.00 (Pool Town)

Motion to adopt made by: Driscoll; Second by: Shirkey; Roll call: Unanimous

RESOLUTIONS

None

OTHER BUSINESS

None

CORRESPONDENCE

None

CLOSED SESSION

None

ADJOURNMENT

Motion to adjourn made by: Driscoll; Second by: Moore; Roll call: Unanimous

Respectfully submitted,

Jane Mowles, Secretary.

Certified true copy of minutes adopted at Zoning Board meeting of March 3, 2021.