

**MONTVILLE TOWNSHIP
ZONING BOARD
JUNE 2, 2021 MINUTES
VIRTUAL VIA WEBEX
7:30PM**

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

Meeting link:

<https://montvilletwp.my.webex.com/montvilletwp.my/j.php?MTID=m4ee8ab5075c74a0d79bc1978809aceef>

Meeting number: 132 051 3615

Password: VJbVpvai854 (85287824 from phones and video systems)

Join by phone +1-415-655-0001 US Toll Access code: 132 051 3615

Meeting materials will be posted online and can be obtained via:

<https://drive.google.com/drive/folders/1NtSMQtmfhBPi68Wzb-DxCujHbEi498qd?usp=sharing>

**ANYONE INTENDING TO PRESENT TESTIMONY MUST TEST THEIR AUDIO AND VIDEO
CAPABILITY PRIOR TO THE MEETING**

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 – AE

Kenneth Shirkey - Present

Margaret Miller-Sanders - Present

Ron Cain - Present

James Marinello - Present

Owen Weaver (Alt #1) - Present

Ray Giordano (Alt #2) – 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.

OLD BUSINESS

ZSP/FDC0/ZSOIL05-20– Monarch Communities – 205-207 Changebridge Road– B: 131.02, L: 6 & 7 – pre/final site plan/c&d variances and soil movement – carried with notice from 9/30/20, 11/19/20, 1/20/21; 4/7/21 & 5/20/21– Eligible: Moore¹

Zoning Board 6/2/21

1/20/21; 4/7/21 & 5/20/21 – Eligible: Moore¹, Pierce, Driscoll², Shirkey³, Miller-Sanders⁴, Cain, Weaver, Giordano⁵, Marinello⁶
ACT BY: 6/5/21

Present on behalf of the applicant: Antimo Del Vecchio, Esq.; Erik Anderson, Architect; James Graber, Senior Housing Appraiser; Brad Bohler, PE; Richard Preiss, PP.

Mr. Preiss – previously sworn

Recapped his previous testimony. Seeking D(1) variance for use not permitted in the zone. Reviewed variances and design waivers requested. Proposed use is an inherently beneficial use. Reviewed the Medici decision and the Sica Test. The Chelsea and Fox Trail do not provide the continuum of care as the proposed facility does. This project is inclusionary and provides services for various levels of income. This adds to the verification of inherently beneficial use. Will provide 25 additional credits for units toward Montville's unmet need. Most of the activities on site cannot be heard by neighboring properties. The daily operation of the facility will not create a large amount of traffic.

Mr. Preiss – The daily operation does not create a great impact as it relates to noise or smell. Substantial screening proposed. No substantial impact on the surrounding land uses. No negative impact to real estate values on surrounding area. The building is particularly attractive and will be in character with surrounding residential area. The setbacks proposed exceed what is required in the zone. Reviewed setbacks from other inclusionary developments in the surrounding area which are similar to that proposed. Less screening on other developments in the area. No substantial impact to the aesthetics of the surrounding area. The county has approved this application as it relates to safety of the entrance/exit and traffic. No substantial impact on the environment. No substantial impact or demand on municipal services. No impact on public schools, library or senior services. Private ambulance and transportation services to be provided. The project enhances the goals of the Master Plan.

Mr. Preiss – Reviewed the zones where this type of use is permitted. Finds this use to be a better fit in a residential community. Mr. Marinello pointed out that there is great beauty in some of the properties discussed and public transportation is accessible. Mr. Preiss – My point is that the permitted zones are not in residential zones where they are more appropriate and bulk standards are not conducive. Very few of the residents drive so they do not require public transportation or the need to visit downtown centers. They are frail and elderly. Reviewed the bulk standards in comparison to the R-20A zone and the OB & I zones. Mr. DelVecchio – The OB & I zones do not have specific standards for assisted living facilities. Mr. Preiss reviewed a comparison of proposed conditions and similar multi-level facilities within 21 miles of the proposed project. This project should be seen as appropriate for this property. The Chelsea has lower density than what is proposed but was built in the 1980s and does not meet the type of facilities that are being built today that have evolved. Greenbriar and Fox Trail are not comparable to the proposed facility.

Mr. DelVecchio requested a 5 minute break. The Board continued with Board business at this time.

Mr. DelVecchio indicated that Mr. Preiss had additional testimony on the Sica Balancing Test. Mr. Preiss – We have taken measures to reduce impact and added them into the design of the project.

Exhibit marked in A-45 – Mr. Preiss' power point presentation part 2

Mr. Behrens – Assisted living and congregate care are not listed as inherently beneficial uses in the MLUL. Mr. Preiss – It is included in case law and does not diminish the fact that they are not in the MLUL. Mr. Behrens – Questioned that the FAR would promote light, air and open space. Mr. Preiss finds the development appropriate for this location and will not diminish light, air and open space based on setbacks. Mr. Behrens – The Township

¹ Certified to beginning of 9/30/20 hearing

² Must certify to 5/20/21 - Certified to beginning of 9/30/20 & full 11/19/20 hearing

³ Certified to 5/20/21

⁴ Certified to 9/30/20 hearing

⁵ Certified to 9/30/20; 11/19/20

⁶ Certified to portion of meeting missed on 11/19/20

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Committee and the Planning Board determined that this site was not appropriate to be added into the Master Plan of 2019 for this type of use. Mr. Preiss – Because the Township Committee did not rezone the property does not make this less of an appropriate use. They just did not adopt the zoning that was in front of them. It still supports the goals of the Master Plan. Mr. Behrens – The FAR and density proposed are higher than any other zone in the Township. Discussion ensued on the Township Ordinances and possible reduction of FAR. Mr. Behrens – This project is not without detriments. Mr. Preiss – Detriments are not substantial and where they could be reduced or ameliorated the applicant has done so. Mr. Omland – 3 of the applicant’s professionals used different properties to compare in their testimony. Mr. Preiss – It depends on the need of the particular testimony and discussed the different needs for each of the professionals as it related to their testimony. Mr. Omland – Some of your testimony on the projects is inconsistent and there are other projects within the Morris County area are close to what Monarch is proposing. Mr. Marinello - You should focus on towns that are comparable to Montville with facilities comparable to the proposed.

Mr. Giordano – Reviewed surrounding projects that all are located on main roads and they use shuttles to get people to other places in town. Do not see why it cannot be put in a zone that allows the use. Mr. Weaver asked what the demand on municipal water and sewer would be. Mr. Preiss - Mr. Bohler would have to answer that question. Mr. Marinello – Understands the inherently beneficial use aspect but voiced concerns over the density of the proposed project. Mr. Behrens – We do not have enough information as to why this application cannot be reduced as it relates to density. Mr. Shirkey – There will be a certain burden on the emergency services of Montville.

Open to public for this witness

Mr. Braden – previously sworn - Asked if Mr. Preiss could find some comparable projects that are surrounded by residentially zone properties.

Carried with notice to 7/7/21 with an extension of time to act to 7/8/21. The meeting is set to be in person subject to changes made by the Governing Body or Governor based on the current pandemic.

NEW BUSINESS

None

MINUTES

Minutes of May 5, 2021- Eligible: Moore, Pierce, Miller-Sanders, Cain, Weaver, Giordano

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

Minutes of May 20, 2021- Eligible: Moore, Pierce, Miller-Sanders, Cain, Weaver, Giordano, Marinello

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

INVOICES

None

RESOLUTIONS

ZSPF/FCD11-15-17-20– Morris Animal Inn - 117 Boonton Ave – B: 3, L: 39.1 – amended site plan with variances – Approved – Eligible: Moore, Pierce, Miller-Sanders, Cain, Weaver, Giordano

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

ZC10-20– Donohue – 35 Buckingham Cr – B: 149.01, L: 3 – front, side & rear setback variances for addition to single family residence – Approved - Eligible: Pierce, Miller-Sanders, Cain, Weaver, Giordano, Moore

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

ZMS/D16-20 – Augustus Automotive – 219-221 Changebridge Road– B: 138, L: 9 – use variance and minor site plan for automotive repair use– Approved – Eligible: Moore, Miller-Sanders, Cain, Weaver, Giordano, Marinello

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

OTHER BUSINESS

None

CORRESPONDENCE

None

CLOSED SESSION

ADJOURNMENT

Respectfully submitted,

Jane Mowles, Land Use Administrator