

**MONTVILLE TOWNSHIP
ZONING BOARD OF ADJUSTMENT
MINUTES OF JANUARY 4, 2023
7:30pm
In Person**

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
Annabel Pierce - AE
Deane Driscoll - AE
Ray Giordano - Present
Margaret Miller-Sanders - Present

Ron Cain - Present
James Marinello - Present
Jake Kovalcik (Alt #1) - AU
Victor Canning (Alt #2) - AE

PLEDGE OF ALLEGIANCE

Swearing in of Professionals

Jamie Giurintano, PE
John Szabo, PP

Also present: Kelly Carey, Esq.

REORGANIZATION

Appointment of Temporary Chairman - Motion to appoint Jane Mowles as temporary chair made by Moore; Second by: Miller-Sanders; Roll call: unanimous.

Appointment of Chairman - Motion to appoint James Marinello as Chairman made by: Moore; Second by: Miller-Sanders; Roll call: unanimous.

Appointment of Vice Chairman - Motion to appoint Deane Driscoll as Vice Chairman made by: Miller-Sanders; Second by: Cain; Roll call: unanimous.

Appointment of Alternate Vice Chairman - Motion to appoint Rich Moore as alternate Vice Chairman made by: Miller-Sanders; Second by: Giordano; Roll call: unanimous.

Appointment of Secretary - Motion to appoint Jane Mowles as Secretary made by: Moore; Second by: Giordano; Roll call: unanimous.

Appointment of Recording Secretary - Motion to appoint Jane Mowles as Recording Secretary made by: Moore; Second by: Giordano; Roll call: unanimous.

Appointment of Board of Adjustment Attorney & execution of Professional Service Agreement - Motion to appoint Pashman Stein for Board of Adjustment Attorney & execution of Professional Service Agreement made by: Moore; Second by: Miller-Sanders; Roll call: unanimous.

Board of Adjustment

1/4/2023

Appointment of Board of Adjustment Engineer & execution of Professional Service Agreement - Motion to appoint Bowman Engineering for Board of Adjustment Engineer & execution of Professional Service Agreement made by: Moore; Second by: Miller-Sanders; Roll call: unanimous.

Appointment of Board of Adjustment Planner & execution of Professional Service Agreement - Motion to appoint Burgis Associates for Board of Adjustment Planner & execution of Professional Service Agreement made by: Moore; Second by: Miller-Sanders; Roll call: unanimous.

Appointment of Board of Adjustment Conflict Engineer & Conflict Planner & execution of Professional Service Agreement - Motion to appoint Ferriero Engineering for Board of Adjustment Conflict Engineer & Conflict Planner and execution of Professional Service Agreement made by: Moore; Second by: Miller-Sanders; Roll call: unanimous.

Meeting dates 2023

January 4, 2023	August 2, 2023
February 1, 2023	September 6, 2023
March 1, 2023	October 4, 2023
*March 16, 2023 (Thursday)	November 1, 2023
^April 20, 2023	*November 16, 2023 (Thursday)
May 3, 2023	December 6, 2023
June 7, 2023	January 3, 2024
*June 15, 2023 (Thursday)	
July 5, 2023	

*additional meeting if needed to accommodate any back load of residential applications

^ changed due to holiday

Motion to adopt made by: Moore; Second by: Giordano; Roll call: Unanimous.

Designation of Official Newspaper for Legal Purposes

- a) The Daily Record & The Citizen of Morris County
- b) The Star Ledger

Motion to adopt made by: Moore; Second by: Giordano; Roll call: Unanimous.

Adoption of By-Laws

Motion to adopt made by: Moore; Second by: Giordano; Roll call: Unanimous.

Adoption of Annual Report

Motion to adopt made by: Moore; Second by: Miller-Sanders; Roll call: Unanimous.

Invoice Review Subcommittee (Moore, Driscoll, Marinello)

Motion to appoint made by: Moore; Second by: Miller-Sanders; Roll call: Unanimous.

Design Review Committee Liaison (Pierce, Giordano)

Motion to appoint made by: Moore; Second by: Miller-Sanders; Roll call: Unanimous.

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

None

NEW BUSINESS

ZC10-22 – Jusino, Eric & Maria – 4 Prospect Place - B: 173, L: 15 – front setbacks, side setbacks, chain link in the side yard variances for single family home addition – Notice Acceptable
ACT BY: March 9, 2023

Present on behalf of the applicant: Eric Jusino, Applicant; Joseph Donato, PE

Mr. Jusino & Mr. Donato – sworn

Mr. Jusino – My parents lived on John Street when I was younger. I want my son to take advantage of the school system. Asking for variances to add a 2nd floor and an attached garage.

Exhibit marked in:

A1 – 5 sheets modified site plan/arch plans last revised 1/4/23

Mr. Donato – Building and impervious coverage changed slightly but did not affect any variances. Current structure is located in the front yard 24.9’ where 35’ require. The side yard is located 3.17’ to the right side of the property. R-15 zone. The existing structure is pushed to the right side and toward the front. There are 3 existing accessory structures, shed, carport and garage. Shed and carport are to be knocked down. Keeping shed toward the back of the property. The front wall of the home will remain, the porch will remain but will be extended. The portion at 3.17’ on the side will be removed but the side setback to the structure will be 7 1/2’. The addition will meet the front setback but the 2nd floor addition will be 30’6” from the front yard so that is still a variance. Keeping existing basement; any new addition will be crawl space not living space. Reviewed the interior renovations for the Board. Most of the surrounding homes are even closer to the street than this home. Larger lot for the zone. Less impervious coverage proposed from what exists. Porch will remain open. Keeping existing chain link fence.

Mr. Szabo – The setback for the screened in porch? Mr. Donato – The new covered porch will be 9’ from the side property line. Mr. Szabo – The inconsistencies noted in our report have been taken care of with the applicant’s exhibit. Mr. Giurintano – Try to get the water to work its way around the house. The sewer lateral at .18%, code requirement is 2%. Mr. Donato – The pipe will be replaced and code compliant. Mr. Giurintano – You should look at your grading, you may have to drop the basement floor. Mr. Giurintano – There is a 22” tree in the front yard. The plans shall reflect the tree will be protected during construction. Mr. Donato – Agreed and will comply with all remaining comments.

Ms. Miller-Sanders – Can a driveway turnaround be installed? Mr. Donato – Yes. Mr. Szabo – They are well within the impervious coverage. Mr. Marinello – Because of the width of Prospect, is there the toppling effect? Mr. Szabo – I do not believe so. Mr. Marinello – Explain the chain link fence. Mr. Jusino – The fence is in good condition so we would not like to change it. Mr. Jusino – Chain link exists in the rear the variance is for the chain link that exists in the side yard. Mr. Jusino – I can change that section to vinyl so no variance would be required.

Open to the public – none – closed

Motion to approve the application subject to porch to remain open, tree protection, driveway turn around to be installed, piping to be code compliant, chain link in the side yard to be changed to vinyl: Miller-Sanders; Second by: Moore; Roll call: Yes – Moore, Miller-Sanders, Cain, Giordano, Marinello

ZC/ZSOIL03-22 Newmark – 6 W. Serafin Way – B: 39.7, L: 2.4 – soil movement, distance between water surface and accessory structure variances
ACT BY: March 9, 2023

Present on behalf of the applicant: Antimo Delvecchio, Esq; Jenn Newmark-Kaplan, Applicant; Victor Lehmann, Pool Design; Joseph Vince, PE; Katherin Gregory, PP

Board of Adjustment

1/4/2023

Mr. Delvecchio - Proposing cabana as part of the pool so 0' setback proposed where 10' is required.

Exhibits marked in:

- A1 – affidavit of notice
- A2 – Engineering set 3 sheets last revised 11/29/22
- A3 – 1 page Architectural plan 12/4/22
- A4 - Letter 11/29/22
- A5 - Groundwater recharge spreadsheet 11/29/22
- A6 – Mr. Lehman's resume
- A7 – topography exhibit
- A8 – Katherin Gregory resume

Jenna Newmark-Kaplan – sworn

I moved to Montville 2 years ago. My husband grew up in Montville.

Victor Lehmann, Pool Design and Construction- sworn

Reviewed the pool improvements for the Board. The covered area over the swim up bar area needs a variance. Small bathroom and storage/change room off that. The shower was withdrawn. The pool is 800 s.f. of surface area.

Joseph Vince, PE – sworn

Lot is irregularly shaped. Curved front yard since it is at the cul-de-sac bulb. PSE&G right of way goes through the rear of the property. Useable area of the rear yard restricted. Rear of the property slopes down. R-27A CWR zone. Combined side yards deficient, existing condition. The pool is conforming but the swim up bar structure needs a variance. Limited space in rear yard so a separate pavilion would not work. Export 269 cy soil; 13 trucks; importing 42 cy or 2 trucks of stone. Truck route Serafin Way to Old Lane. Will comply with the Bowman report dated 12/28/22.

Katherin Gregory, PP - sworn

Requesting a variance from accessory structure not being 10' from a pool. 30% of the property is encumbered by slopes. The pitch of the roof is such that no one will be able to climb on. The perimeter of the building does not allow for access to the roof. The accessory building is part of the pool. This is a better zoning alternative. Taking up less lot coverage. Less land disturbance. No neighbors will see the area. Safety enclosure will meet the standards to pools. No detriment to zoning plan or zoning ordinance. There is no 2nd story structure that would allow anyone to reach the roof. A ladder would be needed to access the roof.

Open to the public – none

Mr. Giurintano – No excavation of soil within 4' of the ground water. Prior to construction Mr. Marucci will need to go out on site and view test pits to be done by the applicant. Mr. Giurintano – How will this area be drained? Mr. Vince – We will have a floor drain and will have a pump; it will not be put into a detention system.

Mr. Marinello – Which way are the trucks going off Old Lane? Mr. Vince – We do not know currently. Will work with Mr. Marucci during construction. Mr. Marinello – How high is the lowest beam in the pavilion? Ms. Gregory – 12'6". Mr. Marinello – Why is no gazebo not a better plan? Ms. Gregory – No detriment. Mr. Szabo – This is a unique design. Mr. Delvecchio – If we were to remove the roof structure, we would have a patio which would be code. Ms. Gregory – Correct, but this structure is mostly open so it is not your typical accessory structure.

Closed to the public

Mr. Moore- I am concerned with the 0' setback. Mr. Giordano – Would they still need a variance if it was a retractable roof? Ms. Carey – Whatever it is attached to would have to be back 10'. Mr. Marinello – I feel that would be easier, retracted to climb on and swing into the pool.

Board of Adjustment

1/4/2023

Motion to approve subject to never being closed in made by: Cain; Second by: Miller-Sanders; Roll call: Yes – Miller-Sanders, Cain, Giordano - No - Moore, Marinello

ZC11-22 Senatore, Robert – 33 Hewlett Rd.– B: 113, L: 4.01 – variance Section 36 lot not abutting approved/improved street - Notice Acceptable ACT BY: March 15, 2023

Present on behalf of the applicant: Mark Walker, PE; Steven Greenberg, Esq

Mr. Greenberg – Addition to single family home not located on approved street.

Mark Walker, PE – sworn

Existing house on property. No frontage on an improved road. Sanitary sewer easement must be crossed to access the property. Adjacent lot is an open space lot with a conservation easement owned by the Township. 10.2-acre lot; 3.3 acres outside of the conservation easement. R-43 zone. 1 acre zone. Proposing 105 s.f. portico; 293 s.f. garage expansion and a larger addition to the rear 982 s.f. Increasing impervious coverage slightly, proposing a drywell to mitigate the runoff. Gravel area to be removed from the conservation easement area. Will comply with the CWR zone requirements. The large turnaround area in the driveway has a diameter of 90' so it will be able to handle any emergency vehicle that may have to access the site. Bowman report 12/23/22 will comply with the report, minor modifications will be taken care of and test pits will be done and monitored by the Engineering Department. Mr. Giurintano – Tree removal permit not to be issued until construction.

Exhibit marked in:

A1 – turning exhibit mark up sheet 2 of 2 of the plans dated 2/16/22 revised 12/13/22

Mr. Walker - We have not done a turning template, but the pavement is very wide, it is 25' at the front of the building and gets wider as the driveway extends out. Mr. Giurintano – Where the 80 is drawn the tires of a fire truck may come off the pavement. Mr. Walker – The curve is wider than a 40' radius. Mr. Walker will provide a template for emergency access. Mr. Marinello – Is this variance due to safety and emergency access? Mr. Szabo – Yes. Mr. Marinello – Did you get a report from the Fire Department? Can a fire be fought? How far is the closest hydrant? Mr. Walker – No. It is an existing house on an existing lot. The water system is put in to serve each dwelling. We are just adding an addition. Mr. Marinello – I do not feel like I have enough information. Would like to know if the fire department would give input on the height of the curb. Mr. Moore – My road is a 15' paved road and Santa Claus came down it on a fire truck. Mr. Marinello – Your road is a township approved road.

Robert Senatore, Applicant – sworn

There are no shared maintenance requirements. My neighbor and I both plow the road. Santa Claus came by fire truck up our road as well.

Open to public – none

Mr. Greenberg – If the house is building an addition these regulations do not apply if it remains suitably improved. Mr. Szabo – There is more to the reading of that statute. Mr. Greenberg was reading from the Cox book, not the actual language in the statute. Mr. Szabo read the actual law for the Board. The additions need to demonstrate that the additions do not exacerbate the current access to the property. Ms. Carey – They can get a report from the Fire Department and if they do not object to the conditions they can proceed. If they object to what the fire department says they will have to come back before the board.

Closed to public

Motion to approve the application, residence exists for many years; subject to fire department approval including curb heights; no tree removal until construction; made by: Moore; Second by: Miller-Sanders; Roll call: Yes - Moore, Miller-Sanders, Cain, Giordano - No - Marinello

MINUTES

Minutes of December 7, 2022 – Eligible: Moore, Pierce, Giordano, Miller-Sanders, Cain, Canning, Marinello

Board of Adjustment

1/4/2023

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

INVOICES

Bowman – Trust for: \$430.50 (Bain), \$760.00 (Diversified 55+), \$141.50 (Gupta & Patel), \$590.50 (Jusino), \$529.00 (Jusino), \$160.00 (Muller), \$652.00 (Newmark), \$369.00 (Senatore)

Burgis – O/E for: \$80.00 (Bd. Business Oct. 2022) **Trust for:** \$2,880.00 (Diversified 55+), \$320.00 (Gupta & Patel), \$40.00 (Jones), \$240.00 (Muller), \$440.00 (Patel, Ambar), \$440.00 (Ryan), \$640.00 (Stager), \$480.00 (Wallizadeh)

Suburban – Trust for: \$1,212.50 (Diversified 55+), \$1,492.50 (Diversified 55+)

Motion to approve made by: Moore; Second by: Miller-Sanders; Roll call: Unanimous.

RESOLUTIONS

ZC05-22– Patel, Ambar – 38 Windsor Dr - B: 163, L: 43 – slopes; side yard setback and sides combined for 2nd story addition – Approved - Eligible: Moore, Pierce, Giordano, Miller-Sanders, Cain, Canning

Motion to approve made by: Moore; Second by: Miller-Sanders; Roll call: Yes – Moore, Giordano, Miller-Sanders, Cain.

Professional Services Agreement Resolution

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

OTHER BUSINESS

None

CORRESPONDENCE

None.

CLOSED SESSION

Pending Litigation

ADJOURNMENT

Upon return from closed session Ms. Carey summarized the status of the Monarch Litigation decision by the court.

Motion to authorize Pashman Stein to file an appeal on the Monarch Litigation decision made by Miller Sanders; Second by Moore; Roll call: Yes – Moore, Miller-Sanders, Cain, Giordano, Marinello.

There was a motion to adjourn was made by: Moore; Second by: Miller Sanders; Roll call: Unanimous

Respectfully submitted,

Jane Mowles, Secretary.

Certified true copy of minutes adopted at Zoning Board meeting of February 1, 2023.