

**MONTVILLE TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
MINUTES OF JANUARY 5, 2022  
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 - Present  
Deane Driscoll - AE  
Kenneth Shirkey - Present  
Margaret Miller-Sanders - Present

Ron Cain - Present  
James Marinello - Present  
Ray Giordano (Alt #1) - Present  
Ed Kadushin (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 Shirkey;  
Second by: Moore; Roll call: unanimous.

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

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

Appointment of Additional Temporary Vice Chairman - Motion to appoint Rich Moore as additional Vice Chairman  
made by: Shirkey; Second by: Miller-Sanders; Roll call: unanimous.

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

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

## Board of Adjustment

1/5/2022

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: Shirkey; Second by: Moore; 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: Shirkey; Second by: Moore; 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: Shirkey; Second by: Moore; Roll call: unanimous.

1st Wednesday of every month at 7:30PM virtually or in person:

|                            |                               |
|----------------------------|-------------------------------|
| January 5, 2022            | August 3, 2022                |
| February 2, 2022           | September 7, 2022             |
| March 2, 2022              | ^October 20, 2022             |
| *March 17, 2022 (Thursday) | November 2, 2022              |
| April 6, 2022              | *November 17, 2022 (Thursday) |
| May 4, 2022                | December 7, 2022              |
| June 1, 2022               | January 4, 2023               |
| *June 16, 2022 (Thursday)  |                               |
| July 6, 2022               |                               |

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

^ changed due to holiday

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

Adoption of By-Laws

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

Adoption of Annual Report

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

Invoice Review Subcommittee (Shirkey, Driscoll, Marinello)

Motion to appoint made by: Shirkey; Second by: Moore; Roll call: Unanimous.

Design Review Committee Liaison (Pierce, Giordano)

Motion to appoint made by: Shirkey; Second by: Moore; 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

**The following application was carried with notice preserved to 2/2/22:**

**ZC/ZSOIL04-21– LaScala** – 28 Capstick Rd – B: 33, L: 44 – variances for unimproved road; wall height and slopes; soil movement - carried with notice from 10/6/21 – Eligible: Moore, Shirkey, Pierce<sup>i</sup>, Miller-Sanders<sup>ii</sup>, Cain, Giordano, Marinello  
ACT BY: 2/28/22

## NEW BUSINESS

Ms. Pierce recused herself of the following application:

**ZC07-21– Megaro** – 14 Marguerite Ln – B: 40, L: 18 – pool in side yard; slopes & impervious coverage – Notice Acceptable  
ACT BY: 1/31/22

Present on behalf of the applicant: Matthew Capizzi, ESq. ; Jeff Egarian, PE

Mr. Capizzi –The applicant is requesting a variance for the location of a pool in the side yard; steep slope disturbance and impervious coverage (over by approximately 400 s.f.). The lot is located in the CWR zone which has more restrictive requirements.

Mr. Egarian, PE – sworn

Lot area 36,000 +/- s.f. lot size where 80,000 s.f. required. Corner lot. 7,760 s.f. impervious coverage requested where 7,351.4 s.f. permitted. Removing a paver patio and a gravel area near the existing shed. Slope disturbance to slopes 20%-24.9% 33.35% permitted where 43.4% proposed; slope disturbance 25% or greater 0% allowed where 63% proposed. Pool will be located in a side yard since the property is a corner lot which requires 2 front yards. There is a mature arborvitae screen along the side and rear of the property so the pool will be screened.

Mr. Szabo – Explain how you have tried to reduce the impervious coverage. Mr. Egarian – We have reduced the pool patio; the proposed patio is the minimum it can be to be functional, removing concrete deck and replacing with pavers, removing gravel area near shed and removing an existing paver area. No issues with the arborvitae spacing outlined in Mr. Szabo’s report dated 12/23/21. Will revise plans as it relates to inconsistencies with impervious coverage numbers on the plan. Storm water will be managed by piping and 1,000 gallon seepage pit. Runoff will be minimal.

Mr. Giurintano – Will the paver patio be at the same elevation as the existing deck to be removed? Mr. Egarian – Yes, no retaining wall will be required. Mr. Giurintano – Will you put railings along the retaining walls that reach 3’ in height? Mr. Egarian – Yes. 4’ fence along Marguerite and 6’ for the remaining rear yard. Mr. Giurintano – Infiltration testing will be required by the Township Engineer.

Open to the public

Annabel Pierce, neighbor – sworn

In favor of the application. I will not be able to see the pool from my house.

Mr. Shirkey – Is there a credit for pavers if they are on a concrete wall? Mr. Szabo - In my opinion it would be impervious coverage. Mr. Giurintano – If it is elevated but on soil it would be pervious. Discussion ensued on storm water management. Mr. Shirkey – How tall will the new arborvitae be? Mr. Egarian - 6’.

Mr. Marinello – Asked if the applicant can reduce the impervious coverage to allowable number. Pool surfaces can stop water but they do not recharge water into the soil.

Mr. Shirkey asked for the height of the slide. Mr. Egarian – no more than 6’ in height. Mr. Shirkey asked for the colors of the fence. Will make the arborvitae 8’ in height. Reducing the bump outs from 13 s.f. to 10 s.f. and a small slate patio off the side of the house will end at the building which will reduce it by approximately 50 s.f.

Board of Adjustment  
1/5/2022

Ms. Carey indicated that the 20% reduction does not apply to the elevated patio. Mr. Giurintano – Can you reduce the 15’ wide walkway to 6’ and landscape either side?

The applicant needed more time to do the calculations as it relates to impervious coverage. Must return with fence color and material for wall.

Carried with notice preserved to 2/2/22 with an extension of time to act to 2/28/22.

Ms. Pierce returns

**ZD10-21– Schroth** – 339 Main Rd – B: 59.02, L: 21.01 – use variance massage therapy – Notice  
Acceptable

ACT BY: 3/13/22

Present on behalf of the applicant: Mark Brancato, Esq; Win Schroth, applicant

Mr. Brancato – Requesting a use variance for a massage therapy use within the office building on the Schroth Jewelry store site. Massage therapy is considered to be personal service which is not in this zone but is permitted in the surrounding zones.

Win Schroth, applicant – sworn

The second floor of the building is rented to an attorney and an accountant. The first floor has been vacant since the bank moved out. Montville Massage Therapy is currently located on Horseneck Road. Proposed unit 740 s.f. Remaining 2,100 s.f. will be vacant until a new tenant is added. There will be a placard change on the existing monument sign with the name of the new tenant. The ground floor is totally handicapped accessible. The Jewelry store has its own parking lot. The hours of operation will be 8am to 9pm Mon-Sat.

Mr. Szabo – Why is this site suitable for this use? Mr. Schroth – It is in a great location. There was a chiropractor in this building for more than 15 years. There are 47 parking spaces and the current tenants only use around 8. The new tenant will be a 1-person operation and a secretary. No change in the unit with the exception of removing carpet, adding two sinks and a washer and dryer. By appointment only. The use is very low impact. Mr. Szabo – A lot of communities separate this (massage therapy/physical therapy) type of use out from personal service, because they are different from the normal personal service uses. Mr. Szabo – will there be any negative impacts. Mr. Schroth – None.

Mr. Giurintano – Will you be restriping the lot? Mr. Schroth – Once we get the building filled we will repave and stripe the lot.

Open to the public – none – closed

Mr. Moore asked for and received clarification on the tenant layout that was submitted previously. Mr. Marinello – Any changes to the lighting onsite? Mr. Schroth – No. Mr. Marinello – Does the master plan promote the adaptive reuse of underutilized properties. Mr. Szabo – Yes. Mr. Shirkey – Are there signs on the building? Mr. Schroth – Yes there are 2 signs on the façade 1 by each of the access doors. Mr. Shirkey – The parking lot in the front side of the retail building only with the 2 handicapped spots should be striped with a stop bar added. Mr. Giurintano – subject to spot leveling of the grade between the handicapped stall and the entry to be done by Bowman. Mr. Schroth – The grade was done by the County when the expanded Route 202.

Mr. Brancato summed up testimony

Ms. Carey the use variance would relate to this specific unit within this building.

Motion to approve subject to the following: the Board Engineer’s review of the parking lot and the owners agreement that the front side of the retail building only, with the 2 handicapped spots, to be striped with a stop bar added; subject to spot leveling of the grade between the handicapped stall and the entry if required by Board Engineer after inspection ; hours of operation 8am-9pm M-Sat and up to 6 hours on Sunday; no additional lighting.

Board of Adjustment

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Motion made by: Pierce; Second by: Moore; Roll call: Yes - Moore, Shirkey, Pierce, Miller-Sanders, Cain, Giordano, Marinello

**MINUTES**

Minutes of December 1, 2021 – Eligible: Moore, Shirkey, Miller-Sanders, Cain, Giordano

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

**INVOICES**

**Burgis Associates - O/E for:** \$225.00 (Board Business Sept 2021)

**Pashman Stein PC – O/E:** \$285.00 (Board Business Oct 2021), \$270.00 (Monarch Litigation Oct 2021)

Motion to approve made by: Shirkey; Second by: Moore; Roll call: Unanimous.

**RESOLUTIONS**

None

**OTHER BUSINESS**

A hearing has been scheduled for this month on the Monarch litigation.

**CORRESPONDENCE**

None.

**ADJOURNMENT**

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

Respectfully submitted,

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Jane Mowles, Secretary.

Certified true copy of minutes adopted at Zoning Board meeting of February 2, 2022.

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<sup>i</sup> Must certify to 10/6/21 hearing

<sup>ii</sup> Certified to 10/6/21 hearing