

**MONTVILLE TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
MINUTES OF JANUARY 15, 2019  
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 - Present

Annabel Pierce - AE

Deane Driscoll - Present

Kenneth Shirkey - Present

Margaret Miller-Sanders - Present

Shelly Lawrence - Absent

James Marinello - Present

Ron Cain, Rd. (Alt #1) - Present

Mark Wechsler (Alt #2) - Present

**PLEDGE OF ALLEGIANCE**

Swearing in of Professionals

Stan Omland, PE - presence not required

John Szabo, PP- Present

Also present: Bruce Ackerman, Esq.

**REORGANIZATION**

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

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

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

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

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

Appointment of Board of Adjustment Attorney & execution of Professional Service Agreement - Motion to appoint Bruce Ackerman, Pashman Stein for Board of Adjustment Attorney & execution of Professional Service Agreement made by: Mr. Shirkey; Second by: Mr. Moore; Roll call: unanimous.

Appointment of Board of Adjustment Engineer & execution of Professional Service Agreement - Motion to appoint Stanley Omland, Omland Associates firm for Board of Adjustment Engineer & execution of Professional Service Agreement made by: Mr. Shirkey; Second by: Mr. Driscoll; 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: Mr. Shirkey; Second by: Mr. Driscoll; Roll call: unanimous.

Appointment of Board of Adjustment Conflict Engineer & Conflict Planner & execution of Professional Service Agreement - Motion to appoint Paul Ferriero, Ferriero Engineering for Board of Adjustment Conflict Engineer & Conflict Planner and execution of Professional Service Agreement made by: Mr. Shirkey; Second by: Mr. Driscoll; Roll call: unanimous.

Designation of Meeting Nights for Board of Adjustment as follows:

**1st Wednesday of every month @ 8PM**

**January 15, 2019 (Tuesday)	August 7, 2019
February 6, 2019	September 4, 2019
March 6, 2019	October 2, 2019
*March 21, 2019	November 6, 2019
April 3, 2019	*November 21, 2019(Thursday)
May 1, 2019	December 4, 2019
June 5, 2019	**January 16, 2020
*June 20, 2019 (Thursday)	
July 3, 2019	

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

\*\* changed due to holiday

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

Adoption of By-Laws as presented.

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

Adoption of 2018 Annual Report as presented.

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

Invoice Review Subcommittee (Marinello, Shirkey, Driscoll as members).

Motion to appoint Mr. Shirkey, Mr. Driscoll and Mr. Marinello made by: Mr. Moore; Second by: Mr. Cain; Roll call: Unanimous.

Design Review Committee Liaison (Pierce, Lawrence, Miller-Sanders as members).

Motion to appoint Ms. Lawrence, Ms. Pierce, and Ms. Miller-Sanders made by: Mr. Driscoll; Second by: Mr. Shirkey; 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**

**ZC13-18– Cleffi, Vincent & Diana** – 21 Weiss Dr – B: 82.10, L: 16 – C variance for pool equipment setback – Notice Acceptable  
ACT BY: 1/29/19

Present on behalf of the applicant: Diana Cleffi, Applicant; Vincent Cleffi, Applicant; William Ruggiero, Esq.; and David Karlbach, PP

Ms. Cleffi, Applicant - sworn

The pool equipment was supposed to be to the right of the pool. The engineer took it upon himself to move the pool equipment to the other side of the pool. There was a lot of rock so it took them longer to dig the pool. We did not find out that the equipment was located in the wrong location until after it was constructed and the fence was up. There is no other location on the property to put the equipment.

Vincent Cleffi, Applicant – sworn

The nature of the property does not allow for the equipment to be moved. There is rock within 2” of the surface. There is no nothing else located or to be located at the area where the pool equipment is installed.

David Karlbach, PP – sworn

A1 – sheet from the 2013 Natural Resource Inventory

A2 – aerial photo January 2019

Mr. Karlbach reviewed the property for the Board. Mr. Karlbach indicated that there is a multitude of bedrock on the property using A1. Residential neighborhood. Large lots. To the rear is vacant Township owned property. Pool equipment setback required 10’ where 1.5’ is existing to the rear property line. C1 variance relating to the depth of bedrock being shallow. The equipment does not have any walls or roof. It is just a concrete pad with the equipment on top. Moving the equipment would put a detriment to the owner. No detriment to public good. No hazardous condition is created. There are generous setbacks to the adjacent residential properties. The Township owned property to the rear is preserved open space. No effect on light or air of other properties. No visual conflict. No detriment to the zone plan or zoning ordinance. The pool location was not intentional.

Mr. Szabo – Did you encounter the same difficulties putting the equipment there as compared to the conforming location. Mr. Karlbach – There was a significant amount of drilling and hammering to get to this location. The contractor located the equipment. Varying depths of bedrock are prevalent in this area.

Open to public – none

Mr. Shirkey – What is the Township use for the open space property? Mr. Szabo – It exists as open space to preserve sensitive land, there are issues building on rock. Mr. Shirkey – If hardship was overcome by 8-10 days of hammering the pool why couldn’t the equipment be put in the proper location. Mr. Karlbach – The rear property line was not staked out. Mr. Cleffi – The plumbing for the equipment goes to the pool and then all the way around the pool. The contractor just located it where he saw fit. Mr. Moore – Did the footings to the fence need to be hammered? Mr. Cleffi – I secured a core bit and used epoxy. Discussion ensued on the number of turns required by ordinance for the lines around the pool.

Ms. Cleffi – The pool engineer’s measurements were off from the beginning so we did not find it out until it was completed. We had a lot of inspections but no one told us it was located wrong. Mr. Cleffi – If it was pointed out in

the beginning when I had the machine out there I may have been able to do something, but I found out after it was all done. Nothing was done intentionally. I could not get a machine back there now.

Closed to the public

Mr. Shirkey – The hardship is created by poor contracting. Is this a C1? Seems to be self-created by not knowing property boundaries or how deep to dig. It seems more like a legal issue for the applicant to take up with the contractor. Mr. Ackerman – The topographical issues fall within C1. The Board could also consider justifying it under C2. Mr. Moore – Could damage be done to the drainage off the mountain if this was to be moved? Mr. Ackerman – You have no proof as to drainage, what the drainage is now or as it was previously.

Motion to approve the application based on a C2 variance, benefits outweigh the detriments, no view impact, do not want to have further redevelopment by relocating the equipment, which may cause detriments, the variance condition is mitigated based on the fact that the property to the rear is dedicated open space, and no other construction to occur around the equipment location, made by: Mr. Driscoll; Second by: Ms. Miller-Sanders; Roll call: Yes - Moore, Shirkey, Miller-Sanders, Driscoll, Cain, Wechsler, Marinello.

Committeeman Cook proposed to the Construction Official that the pool companies sign a waiver indicating that the equipment must be 10' from the property line. Mr. Szabo – It is beneficial to require limits of disturbance. Mr. Marinello – Recommend that the property lines be staked. Mr. Shirkey – Recommends that a requirement of as built submission prior to back fill be submitted.

## **MINUTES**

Minutes of December 5, 2018 Eligible: Moore, Miller-Sanders, Driscoll, Lawrence, Cain, Marinello.

Motion to adopt made by: Mr. Driscoll; Second by: Mr. Moore; Roll call: Yes - Moore, Miller-Sanders, Driscoll, Cain, Marinello.

## **INVOICES**

None

## **RESOLUTIONS**

None

## **OTHER BUSINESS**

Planning Board Secretary Report – Masterplan Reexamination subcommittee to meet again the 24th. Last week approved the County Line Pub to be demolished and to be replaced with a new contractors yard/paving company.

DRC Liaison report – reviewed DLS Paving and 29-46 LLC Woodstack

## **CORRESPONDENCE**

None

Respectfully submitted,

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Jane Mowles, Secretary.

Certified true copy of minutes adopted at Zoning Board meeting of February 6, 2019.