

**MONTVILLE TOWNSHIP
ZONING BOARD OF ADJUSTMENT
MINUTES OF MARCH 3, 2021**

**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=m4ca5ea4469d8d412507323308e4f987d>

Meeting number: 132 931 5915

Password: P9PpPHxFv38 (79777493 from phones and video systems)

Join by phone +1-415-655-0001 US Toll Access code: 132 931 5915

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

https://drive.google.com/drive/folders/1tcse1Z3VdY6bbz3wg43RhAL_YMW3VeBx?usp=sharing

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 - AE

Ron Cain - Present
James Marinello - Present
Owen Weaver (Alt #1) - AE
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. - Present

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

Russ Lipari from the Planning Board sat as an eligible voter on the following application:

ZSPP/FD04-19 H.G. Martin – 289 Changebridge Road – B: 160.2 , L: 12 – pre/final site plan & 'd' and 'c' variances - subdivision of an existing office/warehouse building into two separate leasehold spaces, one of the spaces to contain existing office/warehouse use and the other space to contain a Wine Outlet retail store - I-2 Zone - retail use is not permitted - d(1) use variance relief. 'C' variances for parking setbacks, lack of curbing, number of wall signs. Carried with notice from 9/4/19 & 11/6/19 – Eligible: Mooreⁱ,

Shirkeyⁱⁱ, Miller-Sanders, Pierceⁱⁱⁱ, Cain, Lipari, Giordano^{iv}, Marinello^v - carried with notice from 1/16/20 –
New Notice provided June 2020 – carried with notice from 8/12/20 & 11/4/20

ACT BY: 4/7/2021

Present on behalf of the applicant: John Wyciskala, Esq; Charles Osterkorn, PE; John McDonough, PP; John Peel, Environmental Expert; Tom Albien, Operations

Mr. Wyciskala – Did a reap of the previous meeting. Revised the site plan as per Mr. Omland and Mr. Burgis’ reports.

Charles Osterkorn, PE – previously sworn

No longer need an impervious coverage variance. Impervious coverage to be removed will be put back to its natural condition. Loading area was made smaller. Cart area was designated. Bench is now shown. Bollards are now shown.

John Peel, Environmental Expert – sworn – reviewed credentials

Inspected the site for wetlands. There is a very narrow area of wetlands. The DEP map was not accurate as you go off site on either side of this property. There is some material that should be pulled back and it has been shown on the plan. The plan shows the wetlands accurately, and the applicant will replant some natural plantings and a permit from DEP will not be required.

John McDonough, PP – sworn

Reuse of an existing building. The use in the back is moving from a contractor business to a construction management office. The proposed use will be easily retrofitted in the front of the building. Industrial zone can allow for a wide variety of uses. Reviewed permitted uses for this zone and the increased amount of traffic generation and parking requirements for said uses. No substantial adverse impact on the public. Microbreweries are soon to be permitted in this zone which would have the same product sold. This application meets the test as it relates to the Medici requirements. No substantial detriment to the zone plan or zoning ordinance.

Mr. Omland – Sheet 4 shows removable bollards. The board would prefer permanent bollards. Mr. Osterkorn – No objection. Mr. Omland – Are the wetlands shown on the site plan representative to what exists on site? Mr. Peel – Yes. Mr. Omland – Restoring the area proposed permitted? Mr. Peel – Permitted as per right.

Mr. Behrens – The monument sign is conforming but the architectural plans and site plan are not consistent. Mr. Osterkorn – The Architectural plans and site plans will be revised to be consistent. Mr. Behrens – The bench should be moved near the sidewalk or a walkway should be added. Mr. Osterkorn – Will comply. Mr. Behrens – The contractor yard will remain? Mr. McDonough – The landscape contractor will be gone and the contracting yard area has been reduced. Mr. Behrens – Has there been any consideration to having just 1 use on site? Mr. McDonough – The 2 uses work well together on site, if either wishes to expand, the applicant would have to return to the board.

Mr. Lipari – Is the Secaucus site the same as the one proposed? Mr. Wyciskala – I believe it is a larger operation but I will get that answer. Mr. Lipari – How many wine tasting members do you have at that site and how often do they come to the site.

Mr. Shirkey – How will the contracting yard be limited to its physical space? I would prefer permanent bollards.

Mr. Omland – The best method to contain outdoor storage would be a concrete barrier or bollards. There is currently an 8’ chain link fence. Permanent bollards are the best bet. Mr. Marinello asked about the use to the rear of the building. Mr. McDonough – It is a contracting management office. Mr. Wyciskala – There will be vehicles associated with the use but no heavy machinery. Mr. Marinello – What does this do to Changebridge Road? Would this be the first choice for this spot? Mr. McDonough – Changebridge Road has already had a comingling of uses along its length. The interplay of uses makes good use of planning sense. There is some recognition that retail could be good in this zone. There is the possibility of residential in the area. There is a potential for walkability and connectivity because it is in close proximity to residential uses. Good planning evolves, it changes with time. Mr. Marinello – Part of good planning is not to oversaturate uses, how do we put that in the balance. Mr. McDonough – Just because there are similar stores down the street, the board should not shut out the idea. The applicant is taking a

building that is existing. It will improve the visual appearance to the site. Mr. Marinello – There could be an improvement to the building without a use variance. Mr. McDonough – We have an applicant ready, willing and able to update the site right now. Mr. Marinello – Bike lane? Mr. Wyciskala – We are not proposing a bike lane because there is a shoulder there and we are adding sidewalks.

Tom Albien, Operations for Wine Outlet – previously sworn

The wine tasting is regulated by a card. Once a customer reaches 4 oz. in a day they are cut off. There is no seating at the tables. Mr. Lipari – How many people are allowed in at one time, how do you control the amount of people that are there at any certain time? Mr. Albien - The machines are monitored at all times and there are very seldom more than 2 people around the machine at any one time. It is a convenience for the customers, there are no crowds. That is the norm for all of our stores, it is not a place where crowds come to meet. The wine consultant will always be in the vicinity of the machine when it is turned on.

Open to the public –

Mr. Evans – There are 3 variances requested for parking, making this use not particularly suited for this site. Mr. McDonough – Those variances would be required for any use on this property. Mr. Evans – What about the variance for 2 signs? Mr. McDonough – That is site specific, not use specific, I would make the same argument for a non-retail use. Mr. Evans – The town did not allow for retail in their recent review of the Master Plan. Mr. McDonough – The re-exam was a town wide review not site specific. Zoning is not meant to be absolute. This is a good use for this location. Mr. Evans – The product is not manufactured on site and it exceeds the 5,000 s.f. requirements.

Bhrupa Patel – 24 Springbrook Rd. - sworn

Does not want another liquor store in Montville.

Ashish Patel – Previously sworn

Owns a similar business down the street. Chronic loss to me especially during the pandemic.

Mr. Wyciskala – Summed up testimony. Reviewed previous uses on the site. Large trucks and equipment were used previously on site. Level One has changed its business to construction management. Less number of employees. Less equipment. The wine outlet would occupy most of the space in the building. The focus is on wine with this use which sets it apart from other liquor stores. Reviewed surrounding uses in the area. Reduction of outdoor storage area. Permanent bollards are to be proposed. Reduced overall impervious coverage to bring it into compliance with the ordinance. Will pull back any historic debris in the wetlands area and will replant. Adequate sight distance. No impact to Stiles Lane or any local residential streets. No impact on levels of service on Changebridge Road. Building height conforms. Benefit to the Township. Vast aesthetic improvement to the area. Positive ratable to the community.

Mr. Shirkey – What are the proposed hours of operation? Mr. Wyciskala – Mon-Sat 10am to 10pm and Sundays 12 to 7pm.

Closed to the public

Mr. Marinello – This board does not take change of use lightly. This has been looked at recently by the Planning Board and the Township Committee. We are highly in favor of repurposing existing structures. Ms. Pierce – The permitted use is continued there, there is still a need for the permitted use. Blue Nail Construction down the road is just office and maybe they will need this type of property to expand their use. The site can be beautified without the need of a use variance. Mr. Lipari – The Master Plan Re-examination subcommittee made recommendation to the Planning Board. This parcel was a part of this re-examination and there was no request to make changes in this area. There is still good potential for what the zone is zoned for. Mr. Shirkey – The retail aspect of the Bader Farm is part and parcel of what their use is which is farming. Christine Valmy has retail as a special permit in a limited scope at the holidays. Industrial uses are usually Mon-Fri type uses. There is residential across the street. This has been looked at multiple times. Not sure this particular retail use is good for this particular zone. Mr. Giordano – I do not understand what will happen to this site if this application is not approved. There is an applicant looking to upgrade the property now.

Motion to deny the application as a whole, reasons stated above, will change the atmosphere of the neighborhood, the site has been looked at numerous times by the Township, made by: Shirkey; Second by: Lipari; Roll call: Yes – Shirkey, Pierce, Lipari, Marinello; No – Moore, Cain, Giordano

NEW BUSINESS

None

MINUTES

Minutes of February 3, 2021 – Eligible: Moore, Driscoll, Shirkey, Miller-Sanders, Pierce, Cain, Marinello

Motion to adopt made by: Moore; Second by: Shirkey; Roll call: Yes – Moore, Shirkey, Pierce, Cain, Marinello

INVOICES

Burgis Associates - Trust for: \$ 1,387.50 (Augustus Automotive); \$112.50 (Boonton Properties); \$37.50 (H.G. Martin); \$1,050.00 (Monarch); \$75.00 (Morris Animal Inn)

Omland Associates - Trust for: \$968.75 (Augustus Automotive); \$262.50 (Augustus Automotive); \$262.50 (Dika); \$562.50 (H.G. Martin); \$825.00 (Monarch);

Pashman Stein PC - O/E: \$165.00 (Board Business, December 2020) **Trust for:** \$ 255.00 (Augustus Automotive); \$30.00 (Boonton Properties); \$345.00 (Dika); \$855.00 (Monarch);

***Invoices carried to March 18, 2021**

RESOLUTIONS

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 – Approved – Eligible: Moore, Driscoll, Shirkey, Miller-Sanders, Pierce, Cain, Marinello

Motion to adopt made by: Moore; Second by: Shirkey; Roll call: Yes - Moore, Shirkey, Pierce, Cain, Marinello

OTHER BUSINESS

None

CORRESPONDENCE

None

ADJOURNMENT

Respectfully submitted,

Jane Mowles, Land Use Administrator

ⁱ Certified to 11/6/19 hearing

ⁱⁱ Certified to 8/12/20 hearing

ⁱⁱⁱ Certified to 9/4/19 hearing

^{iv} Certified to all meetings held

^v Certified to 9/4/19 hearing