

**MONTVILLE TOWNSHIP
ZONING BOARD OF ADJUSTMENT
MINUTES OF JUNE 20, 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 - Present
Jake Kovalcik - Present
Ray Giordano - Present
Margaret Miller-Sanders - Present

Ron Cain - Present
James Marinello - Present
Victor Canning (Alt #1) - AE
Larry Lomrantz (Alt #2) - AE

PLEDGE OF ALLEGIANCE

Swearing in of Professionals

Jamie Giurintano, PE - present
John Szabo, PP - present

Also present: Michael Carroll, Esq.

OPEN PUBLIC COMMENT

The Chairman opens the session to public comment for items not listed on the agenda related to land use matters.

Kerry Lorito – Voiced concerns on the special meeting being held during the week of graduations. During the Avalon Bay application they said there would be zero impact on the schools and now the Board of Ed has a referendum for additions for schools. Referendum for new fire truck as well.

OLD BUSINESS

**ZSPP/FDC/ZSOIL02-22 – Diversified Properties (55+) – 259 Main Rd (245 Rt. 202; 263 Rt. 202; Daldunn (Rear); River Rd; 6 Daldunn; 4 Daldunn; 12 River Rd) – B: 59, L: 13, 15, 17, 18, 19, 20, 22 - preliminary and final site plan approval, as well as 'd'(1), 'd'(6), and 'c' variance relief 266-unit age-restricted residential community consisting of both apartments and townhouses- Carried with notice from 10/20/22, 11/17/22, 2/1/23, 3/1/23, 4/20/23, 5/3/23 & 6/7/23 - Eligible: Mooreⁱ, Pierceⁱⁱ, Miller-Sanders, Cain, Giordano, Kovalcikⁱⁱⁱ, Marinello^{iv}
ACT BY: 6/30/2023**

Present on behalf of the applicant: Nick Minoia, applicant; Steven Schepis, Esq; Mark Walker, PE; Mark Parker, Healthcare and Senior Housing consultant; John McDonough, PP; Jessica Caldwell-Dykstra, PP; Jeffrey Otteau, Valuation expert; Jack Raiker, Arch

Ms. Pierce certified to the 6/7/23 hearing

Mr. Marinello – We are in the public comment section of this application.

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Neil Boyle – previously sworn

Do you want a hard copy of my testimony? Mr. Carroll – If I need a copy at the end of the hearing, I will request it. Reviewed his background. The applicant did not prove the negative criteria. Paid experts cannot be objective. The applicant said that the project will always be deed restricted as 55 and older. Turmac vs Ocean County has a deed restriction that the owner had to occupy a property that was 2 family and the court overturned it saying that the zoning board could not restrict who lives on a property.

Mr. Boyle - The zoning board cannot enforce who can live in a multifamily development once the zone is changed. The zoning board can only approve land use, what the land can be used for. If economic conditions change, they can change who can live there. Can no longer be a 55+ community. The applicant did not prove positive criteria. Reviewed positive criteria. Reviewed inherently beneficial uses. This is not an inherently beneficial use project. Read case law Advance at Branchburg II vs Township of Branchburg Board of Adjustment. Just because a development has affordable housing in it does not make it an inherently beneficial use. Reviewed testimony from the May 3, 2023 meeting as the planner spoke of this project as an inherently beneficial use. Mr. Boyle refuted the use of the Weymouth case and that it was related to low-income housing, not just age restricted housing. In the Weymouth case the governing body passed the ordinance for that project where the Diversified application is looking to overturn ordinances.

Mr. Boyle refuted the Jaybar case from the applicant's testimony that is related to congregate care, not an active adult community. Reviewed the Medici test and indicated that Diversified has to prove that the use is peculiarly suited for this site. This project is not peculiarly fitted to this location. The breadth of amenities has nothing to do with this tract. This location is not an appropriate location because of the steep slope disturbances, wetlands and amount of forest cover that will be disturbed. The project requires 18 variances which shows the site is not peculiarly fitted for the location. Removal of 1 historic house and a part of another is in violation of purpose J. The proposed use will be detrimental to the public good. It will create noise pollution; light pollution; increase in traffic; accidents will increase; flood zone expansion; wetlands encroachment; wildlife habitat disturbance; historic homes destruction. Light will be spilling onto the neighboring property along River Road. There will be light spillage across the street onto Mr. Fredericks' property.

Mr. Boyle - The proposed buildings will be 80-100' higher than neighboring homes. There are no tall trees in the area to block the development. The traffic study was done in June of 2019 and the Montville ordinances says it should be done within 1 year of filing the application which was in 2022.

Mr. Carroll – Restrict your testimony to lay testimony that is within the purview of a layman. The regression charts were not done by this applicant's expert, you received it from another traffic engineer. Mr. Boyle – Correct. Any car travelling more than 38 mph will not meet the sight distance. Against the demolition and removal of the historic homes.

5 minute break

O-1 exhibit – Mr. Boyle's Highland's Council Advanced Property Report

Anthony Angiolini – previously sworn

The highway noise I can hear from Virginia road is louder than the trains that go near my property. Not everyone can afford apartments between \$3,000-\$5,000 a month. Lights for recreational activities and headlights will affect the surrounding properties. The rear of the properties from Asa Street will be affected by the light and noise. Concerned with flooding and stormwater management. Concerned with left hand turn movements out of the proposed development. Mutts on Main was not operational at the time of traffic counts and is now being developed. Montville's Natural Resource Inventory marked this land as having protected species.

Devin Trombley – 62 Washington Ct – previously sworn

Concerned with overdevelopment in town. Grandparents, parents and I have lived in Montville for generations. Proposal will put stress on our first responders. Roads are not equipped for additional traffic. Against this application.

Dante Necissi – previously sworn

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Montville is in the Highlands region, which helps protect our sensitive environment. Mr. Carroll – The delineations from the DEP and the Highlands may differ. Mr. Necissi – The project would affect wildlife. Does not want this application to be approved. I took pictures of the Avalon bay project showing flooding after a rain storm.

02 – photos by Dante Necissi of the Avalon Bay project on 5/2/23 flooding.

Ralph Fredericks – 240 Main Rd – previously sworn

This part of town has been neglected for years. The proposed property entrance is across the street from my property, so I am the most affected. This property will be constructed at some point. Age restricted housing, no additional impact on the school systems. A lot of people work from home. This will be a self-contained development. I own 3 historic properties. The Peter Doremus house will be restored. The previous owner wanted to put a hotel on that property. This property has never been maintained. Nothing has been done to this property for decades. Traffic calming road improvements will be installed by the developer. The development will be a noise barrier from my property. With V&V recycling closed it will reduce the truck traffic in the area. Looking forward to a big development.

Lucy Tullo – 9 Old Lane Extension – previously sworn

The project will not enhance the community. Many seniors work and own multiple cars. Blind curve near the entrance. NJ is the 10th worst state for rentals. Concerned with light emanating from the proposed development. It will negatively impact the people in the community. Need to be more active in preserving our history. Not in favor of this application. Mr. Schepis – Have you reviewed any of the HPRC documents as it relates to the Husk house and Doremus house? Ms. Tullo – Yes. Mr. Schepis – Did you see that the report states that the Husk House is not historic? Ms. Tullo – No. Mr. Schepis – Are you aware that these historic homes are in disrepair, and this is the only applicant that has come forward to restore one of the historic buildings.

Truscha Quatrone – sworn

The applicant can come back and change the age restricted units to non-age restricted units.

Milena Cvitana – sworn

Cannot get out of Old Lane Extension and Valhalla. Too much traffic exists. Development will make it worse. I am a senior and I do not want these units.

ShARI Seffer – previously sworn

There has been too much change too quickly in town. The application should be denied. Use is not permitted. Traffic will be dangerous. This application is a zone change not a variance. This is a determination that must be made by the Township Committee. Mr. Schepis – Are you aware of the Master Plan Amendment of 2019 the Planning Board recommended this use with the density proposed. Ms. Steffer - The Township Committee denied it.

Olivia Necissi – previously sworn

My property directly abuts this project. Wetlands and woodlands will be destroyed. We amassed over 3,000 supporter that do not want this project in this location. There will be 932 units that will be coming across the town not including this application and one other. Will destroy 29 acres of our local ecosystem. Already overloaded power grids. Reviewed some of the wildlife in the area. Against the application.

Dan Grant – previously sworn

The HPRC cannot by statute approve anything. The Planning Board is a different body. The application is before you and the zone exist. Afraid that this would set a precedence for more construction in town. This board needs to maintain the balance in the community.

Janice Necissi – previously sworn

The traffic is already bad in town. When there is an accident on 287 there is an influx of traffic in town. There will be a lot of noise from garbage pickup. Changing the demographics of suburbia by adding so many rentals.

Michael Boyle – sworn

Wanted to thank all the fathers and mothers and veterans in the house for being a part of our country.

Mr. Verillo – previously sworn

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Is there enough ambulances to take care of all of these developments?

Diana Cvitan – sworn

If this project is determined to be inherently beneficial then anything can be inherently beneficial. I do not see the demand from the community that this project is needed.

Sharon Couchlin –previously sworn

Would like a traffic light to be installed. Concerned with climate change.

3 minute break

Mr. Schepis – There were a lot of facts raised so we should probably come back. When is the next available hearing? Mr. Marinello – September 6, 2023. You can have the whole night. Mr. Carroll – Your rebuttal witnesses will be subject to questions by the public but will not be permitted to add any more testimony. Mr. Marinello reviewed protocol for the next meeting.

Carried with notice preserved to 9/6/23 with an extension of time to act to 9/7/23.

Moore, Pierce, Miller-Sanders, Cain, Giordano, Kovalcik, Marinello

RESOLUTIONS

None

MINUTES

Minutes of 6/15/23 Eligible: Moore, Pierce, Miller-Sanders, Cain, Giordano, Kovalcik, Marinello

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

INVOICES

NEW BUSINESS

None

CORRESPONDENCE

OTHER BUSINESS

CLOSED SESSION

None

ADJOURNMENT

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

Respectfully submitted,

Jane Mowles, Secretary.

Certified true copy of minutes adopted at Zoning Board meeting of August 2, 2023 hearing

ⁱ Certified to 3/1/23

ⁱⁱ Certified to 10/20/22 hearing

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- iii Certified to 5/3/23 hearing; Certified to end of 1/1/23 & 3/1/23 hearing
- iv Certified to 10/20/22 hearing