

**MONTVILLE TOWNSHIP
ZONING BOARD**

July 7, 2021

IN PERSON

195 Changebridge Road, Municipal Building

7:30PM

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

Kenneth Shirkey - Present

Margaret Miller-Sanders - Present

Ron Cain – Present

James Marinello - Present

Owen Weaver (Alt #1) - Present

Ray Giordano (Alt #2) – Present

PLEDGE OF ALLEGIANCE

Swearing in of Professionals

Stan Omland, PE – Present

Tom Behrens, PP - Present

Also present: Scott Lippert, Esq.

Mr. Marinello thanked the Board and the public for their patience during the pandemic.

Mr. Marinello thanked Mr. Weaver for his service.

OPEN PUBLIC COMMENT

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

None

NEW BUSINESS

ZC02-21– Guzman, Stephanie – 9 Millers Ln – B: 72, L: 3 – side setback variance for addition to single family home – notice acceptable
ACT BY: 9/7/21

Present on behalf of the applicant: Stephanie Guzman, Applicant

Ms. Guzman – sworn

Requesting a variance for a 2nd story addition over an existing structure that is not in conformance with the current setback requirements. We are about 16” shy of the 20’ side setback. Just going up not going out any farther in any direction.

Zoning Board 7/7/21

Mr. Behrens – Will there be any detrimental impacts to the surrounding properties? Ms. Guzman – The addition would not be anywhere near my neighbors. There is no alternative to put on the 2nd story addition that would not create a variance. There is a hardship as it relates to the pre-existing non-conforming setback.

Open to the public – None

Mr. Shirkey – Is your house set farther back from your neighbors? Ms. Guzman – Yes. Mr. Marinello – Are the houses adjacent to you 2 story structures? Ms. Guzman – Yes.

Public portion closed

Motion to approve the application, minor request, pre-existing non-conformity made by: Mr. Moore; Second by: Shirkey; Roll call: Yes - Moore, Shirkey, Miller-Sanders, Cain, Weaver, Giordano, Marinello

OLD BUSINESS

ZSPP/FDC0/ZSOIL05-20– Monarch Communities – 205-207 Changebridge Road– B: 131.02, L: 6 & 7 – pre/final site plan/c&d variances and soil movement – carried with notice from 9/30/20, 11/19/20, 1/20/21; 4/7/21, 5/20/21 & 6/2/21– Eligible: Moore¹, Pierce, Driscoll², Shirkey³, Miller-Sanders⁴, Cain, Weaver, Giordano⁵, Marinello⁶

Present on behalf of the applicant: Antimo Del Vecchio, Esq.; Erik Anderson, Architect; James Graber, Senior Housing Appraiser; Brad Bohler, PE; Richard Preiss, PP.

Mr. DelVecchio – We submitted an exhibit where we reduced the footprint of the building which now meets the building coverage and decreases setbacks.

Exhibit – A-46 revised site layout C-301 revised 6/29/21

Mr. Bohler – previously sworn

The building coverage is now in compliance. The setback at the south side is now 96' and the east side is reduced to 110'. The western property line was moved in 14'. Now comply with all of the setbacks. The impervious coverage was reduced to 39%. The drainage system remains the same size.

Mr. Behrens – Was there any impact to the proposed density? Mr. Bohler – There were only internal changes made no change to the density. Mr. Omland – Impervious coverage reduction strictly from the building? Mr. Bohler – Yes.

A-47 – PowerPoint presentation dated 7/7/21

Richard Preiss, PP – previously sworn

Recapped the Sica Test for the Board. Addressed questions from the previous hearing. Selected additional data for comparable developments in the area. These developments have the same 3 level of care (congregate, assisted and memory cares) and excluded others in the area which only had congregate care, only had assisted living and memory care, excluded Continuing Care Retirement Communities and skilled nursing care. We expanded the radius for a larger sample size. The acreage number on Brightview Randolph is accurate according to their site plan. Reviewed density comparison with similar 3-level facilities within 21 miles. 2 additional projects were added from the

¹ Certified to beginning of 9/30/20 hearing and 6/2/21 meeting

² Must certify to 5/20/21 - Certified to beginning of 9/30/20 & full 11/19/20 hearing

³ Certified to 5/20/21

⁴ Certified to 9/30/20 hearing

⁵ Certified to 9/30/20; 11/19/20

⁶ Certified to portion of meeting missed on 11/19/20

Zoning Board 7/7/21

previous table but the average density did not change much in comparison. Reviewed the differences in density between the CBRE Appraisal report and the Density Comparison chart. Stands by the original analysis.

Mr. Preiss – Under part 3 of the Sica test, revisions to the plan have even lessened the impact. There is no maximum density provided since it is in a residential zone. Memory care and assisted living, from a density point of view, is much smaller than your typical single family unit. FAR does not exist in this zone. Described how to figure out the mass of a building that would be permitted in this zone. Weighted the positive impact of the public impact as it relates to inherently beneficial uses. The benefits outweigh any detriment. Reviewed the Fair Housing Act for the Board. Reviewed the different zones that the frail elderly vs the active living adult developments are permitted. There is a significant need within the region for assisted living. The building was pushed forward toward Changebridge Road to increase the rear setback to keep the building further away from the neighbors, the height was reduced to be in compliance; additional landscaping was added to screen the building from the neighboring properties; the building was reduced to be in compliance with building coverage and setback requirements. The applicant made the changes voluntarily along the way. Increased the appropriateness and decreased the impacts.

Mr. DelVecchio – The 8' fence proposed for the memory care garden area can be reduced to 6' if the Board feels strongly. 8' fence is safer but will leave the decision up to the Board. Mr. Preiss reviewed the positive and negative criteria as it relates to the fence height. The density proposed is reasonable based on the use requested. This project is lower in density than most of the other senior living facilities in the area. Significant landscaping. Significant setbacks to the property lines. The project will not make a significant impact to the surrounding area. Limited outdoor activities. Very few residents drive. No school children. No burden on public services.

Mr. Preiss – Reviewed the variances requested. D Variance. Maximum impervious coverage variance 30% permitted where 39% proposed. Complying all NJDEP requirements as it relates to wetlands, drainage and storm water runoff. The benefits of granting the impervious coverage variance outweigh the detriments. The next variance is the number of stories; we have eliminated the height variance but still are requesting a 3 story building where 2 ½ stories are permitted in this zone. Parking setback to building required at 15' proposed at 4.6' to keep the parking further away from the neighboring properties. Measured from the overhang of the building. Parking area and driveway setback to street 50' required 29.3' proposed in the eastern portion of the project to preserve the designated wetlands and steep slopes. Maximum fence height of 8' requested where 6' is proposed can be rescinded but the 8' fence is located at the back of the property around the memory care garden and the refuse facilities. It is not unusual to have an 8' fence since memory care residents may step on a chair and climb a 6' fence. The fence is proposed to be a solid vinyl fence. It is attractive and setback 75' from the property lines and the refuse fence is located 100' from the nearest property line. See no impact to the neighboring residents and see a safety benefit to the residents. Monument sign variance requested, monument signs not permitted in the residential zone. Sign is necessary for proper identification. Tailored and sized the monument sign to meet the requirements of other type uses that are permitted signs in a residential zone.

Mr. Preiss – Believe that using Garden apartment figures for the parking requirements is over estimating the parking requirements and 194 spaces would be inappropriate for a use of this type since most residents give up their vehicles once they move into a project such as this. The assisted living ratio in the RSIS standards is more in compliance with a use of this type. 117 spaces proposed are appropriate in this particular situation. Additional parking spaces will increase the impervious coverage on site. Design exceptions requested. Bikeways along Changebridge Road required, none proposed. Reached out to Morris County Planning Board and they would not approve a bike lane along this site. Streetscape amenities are being provided. Disturbance of steep slopes design exception requested. Minimal impact as it relates to erosion and runoff.

Mr. Behrens – Reviewed the variances for the Board. No longer asking for the fence height variances. Noted that the properties they were comparing that were 8 acres or more had densities of under 20 units per acre. Does not agree that this is a detriment free application. Is there a 30-year deed restriction imposed on this project? Mr. DelVecchio – We agree to deed restrict the affordable units. Mr. Behrens addressed Mr. Preiss' testimony as it relates to zoning for the proposed use, number of stories, parking setbacks, impervious coverage and number of parking spaces.

Mr. Omland – We asked for comparable facilities within Morris County so the Board would be more familiar. Mr. Preiss – We looked at facilities that are comparable to our particular proposed use. Other developments were not taken into consideration because they are not comparable to our particular use. We are congregate care, memory

Zoning Board 7/7/21

care and assisted living. This project is for the frail elderly that need help on a daily basis. Mr. Omland – Will the single family zone to the north need additional landscaping? Mr. Preiss – The bus depot? Mr. Omland – It is a single family zone and may not be a bus depot forever. Mr. Preiss – I believe the project would not affect that property if it was built as single family in the future. Mr. Omland – The applicant should be given credit for the size and amount of buffering proposed. Discussion ensued on the RSIS Standards.

Mr. Moore- How many sites within the Township were considered, if any, before the applicant decided on the Changebridge site? Mr. DelVecchio – I will attempt to get you that answer.

Open to the public

Tim Braden – 12 Green Meadows Rd – Previously sworn

By reducing the height and keeping 3 stories are you usurping the intent of the ordinance. Mr. Preiss – No. Mr. Braden – Can you meet the ordinance by reducing the proposal. Mr. Preiss – It would make the use not viable and variances and design exceptions would still be required. Mr. Braden – By isolating our neighborhood between 2 institutional uses isn't that a negative impact on our neighborhood? Mr. Preiss – This is a residential use not an institutional use and would not have a substantial impact on your neighborhood. Mr. Braden – The applicant has worked with the neighbors but it is a 10lb project in a 5lb bag.

Gary Lewis – 5 Cooks Farm Road – sworn

In the Land Use Element of the Master Plan most recently adopted, this type of use was discussed and a site in a residential zone has been designated within that plan.

Cathy Engle – Previously sworn

If you just meet the drainage standards, what happens if it does not work? Mr. DelVecchio – That was testimony a long time ago. Ms. Engle – Our ambulance services will be used.

Ann Weissman – 3 Cain Ct. – Previously sworn

Not having skilled nursing does not allow the residents to age in place. Any resident that needed skilled nursing care would have to leave to another facility. 18 months is a long time for a project to be constructed. Concerned with the existing high water table. Concerned with possible flooding post construction and the effect it would have on the Meadows. Concerned with over flow parking onto surrounding properties. Concerned with the impact of light for the surrounding properties.

Kathy Gaspar – previously sworn

Reviewed other senior housing developments in the area. All of the developments have availability. Monarch can choose another site that will comply as a permitted use. Quiet residential area will be impacted. Against the application.

Mr. Quia – sworn

Concerned with evacuation procedures for frail and elderly people in a 3 story building.

Shari Bromowitz – 11 Constitution Ct – sworn

What is the minimum age to reside in the facility? Mr. DelVecchio – We did not have an age restriction but the average age of the occupants is 80 to 85. Ms. Bromowitz – How many employees at full staff? Mr. DelVecchio – 30 at peak shift.

Ira Engle – 12 Constitution Ct – Previously sworn

Against the application and sees a detriment to the surrounding neighborhood.

Mr. DelVecchio – Do you believe this proposed site is shown to be over parked? Mr. Omland – It is less than the Garden Apartments and more than the Assisted Living. I believe you are in the ball park. My concern is that there will be shuttle parking for special events. I would prefer 1 space per unit existed but I believe you are in the ball park.

Mr. DelVecchio summed up testimony. Clarified that applicant withdrew the request for an 8' fence.

Zoning Board 7/7/21

Public portion closed

Mr. Marinello – Montville does not discriminate. This board has reviewed many elder care applications deep in residential zones. Voiced concerns on the testimony that this is a market driven use. Likes the location but does not agree with stacking as many occupants into one location. Mr. Moore – Sees a burden on the Township emergency services along with the sanitary sewer system and the water system. 165 unit density is way too high for this site. Would be more comfortable at a lower density. Mr. Shirkey – If there is a shuttle plan from the beginning than there may not be enough parking on a regular Tuesday if all of the beds are full. I believe if the governing body reviewed the master plan and this piece of property is not in it then a decision has been made. Still taking the fact that this is an inherently beneficial use. Does not believe that this application as proposed fits on this piece of land. Counsel clarified that Township Committee inaction on the zoning change request is not a basis for denial.

Motion to deny the application, although it is an inherently beneficial use, the site is not usable for this use in size applied for, lacking proofs for variances sought, made by: Moore; Second by: Giordano; Roll call: Yes - Moore, Shirkey, Miller-Sanders, Weaver, Giordano; No – Cain, Marinello

MINUTES

Minutes of June 17, 2021- Eligible: Moore, Pierce, Shirkey, Cain, Weaver, Giordano, Marinello

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

INVOICES

Burgis Associates - O/E: \$75.00 (Board Business April 2021); **Trust for:** \$150.00 (Augustus Automotive), \$37.50 (Dika); \$187.50 (Donohue); \$412.50 (Guzman); \$75.00 (H.G. Martin); \$787.50 (Klele); \$1,275.00 (LaScala); \$1,462.50 (Monarch); \$112.50 (Mutts on Main)

Omland Associates - Trust for: \$225.00 (Augustus Automotive); \$112.50 (Donohue); \$412.50 (Galezowski); \$262.50 (Guzman); \$337.50 (Klele); \$150.00 (Lakeland); \$300.00 (LaScala); \$337.50 (Monarch); \$112.50 (Morris Animal); \$337.50 (Mutts on Main)

Pashman Stein PC - O/E: \$165.00 (Board Business April 2021); \$210.00 (Board Business May 2021); **Trust for:** \$1,350.00 (Augustus Automotive); \$690.00 (Dika); \$555.00 (Donohue); \$15.00 (Galezowski); \$15.00 (Guzman); \$1,275.00 (H.G. Martin); \$15.00 (Klele); \$105.00 (Lakeland); \$570.00 (Monarch); \$660.00 (Monarch); \$15.00 (Morris Animal); \$660.00 (Morris Animal); \$15.00 (Mutts on Main)

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

RESOLUTIONS

ZMS/D/C15-20 - Lakeland Bank - 166 Changebridge Road – B: 139.03, L: 7.02 – minor site plan with variance for generator in the front yard – Approved – Eligible: Moore, Cain, Shirkey, Pierce, Weaver, Giordano, Marinello

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

ZC12-20– Galezowski – 5 Cedar Rd – B: 117, L: 5 – variances for addition to single family home – Approved – Eligible: Moore, Pierce, Shirkey, Cain, Weaver, Giordano, Marinello

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

OTHER BUSINESS

ZEXT09-21 Jennette, Franca – 6 Montville Ave – B: 51.2, L: 3 – request for 2-year extension of approvals to 7/7/2023

Zoning Board 7/7/21

Motion to grant a one-year extension without prejudice of coming back for another extension made by: Shirkey;
Second by: Moore; Roll call: Unanimous

CORRESPONDENCE

Professional Services Agreement Board Engineer Bowman Engineering remainder of 2021

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

RFP Subcommittee additional volunteer (Marinello, Pierce)

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

CLOSED SESSION

ADJOURNMENT

Respectfully submitted,

Jane Mowles, Land Use Administrator