

**MONTVILLE TOWNSHIP
ZONING BOARD OF ADJUSTMENT
MINUTES OF SEPTEMBER 6, 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 - Entrance noted

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.

None

Mr. Marinello indicated that Board Business would be done first.

RESOLUTIONS

ZC07-22 – Bain, Robert – 216 Brook Valley Rd - B: 24, L: 16.2 – accessory structure height; accessory structure front yard and unimproved road variances – Approved – Eligible: Moore, Pierce, Miller-Sanders, Cain, Lomrantz, Marinello

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

ZC/SOIL12-22 – Kucko, Barbara – 36 Lenape Drive – B: 10, L: 5 – slope variances for new single family residence -Approved – Eligible: Moore, Pierce, Miller-Sanders, Cain, Lomrantz, Marinello

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

ZEXT10-23 Ries, Edward – 9 Crane Dr – Request for Extension of approvals to 9/7/2024 – Granted – Eligible: Moore, Miller-Sanders, Cain, Lomrantz, Marinello

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

MINUTES

Minutes of August 2, 2023 – Eligible: Moore, Pierce, Miller-Sanders, Cain, Lomrantz, Marinello

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

INVOICES

Bowman – Trust for: \$320.00 (Kucko), \$560.00 (LaScala), \$326.00 (Schroth), \$480.00 (Teresa)

Burgis – Trust for: \$520.00 (Teresa)

Carroll – Trust for: \$160.00 (Diversified 55+)

Pashman – O/E for: \$32.00 (Bd. Business June 2023) **Trust for:** \$32.00 (Bain), \$80.00 (Café Club – Boonton Prop.), \$624.00 (Crespo), \$304.00 (Monarch),

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

NOTE - Ms. Pierce enters

Mr. Marinello explained how the meeting will move forward this evening.

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 & 6/20/23 - Eligible: Mooreⁱ, Pierceⁱⁱ, Miller-Sanders, Cain, Giordano, Kovalcikⁱⁱⁱ, Marinello^{iv}
ACT BY: 9/7/2023

Present on behalf of the applicant: Nick Minoia, applicant; Steven Schepis, Esq; Mark Walker, PE

Mr. Schepis – Marked additional exhibits into the record

Exhibit

A-54 – Schepis letter 8-2-23 re: Morris County Planning Board Report 7-26-23

A-55 – Mr. Schepis letter 8/30/23 Statutes & Ordinances

A-56 - Otteau May 19 2021 report

A-57 – zoning history

Mr. Walker – Previously sworn

Have received NJDEP permits and Morris County Planning Board approval. We meet all of the State stormwater management regulations. Only 2 locations where the lighting levels exceed the property lines but neither are near residential property lines. No impact onto the highway system either.

Exhibit A-58 – Modified aerial drone view exhibit taken by John McDonough on 4/27/23 revised 8/30/23

Mr. Walker explained the amount of trees in the area and the limit of disturbance. Ballon test was done to show where trees above 90’ high exist and would remain. Exhibit 58 also shows the area of vegetation to be removed as well. Shows distance from limit of disturbance to existing residential homes. Reviewed the buffers that have been

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approved by NJDEP. Mr. Walker distinguished between the proposed NJDEP conservation easement and the Montville Township conservation easement. Mr. Giurintano pointed out a discrepancy on the exhibit handed out to board members vs the exhibit shown on the screen. Mr. Schepis conferred with Mr. Walker before testimony continued. Mr. Giurintano – Is your Morris County approval final? Mr. Walker – It is a conditional approval, we need to make a few tweaks. Mr. Moore – Has the intersection been approved by Morris County? Mr. Walker – Yes.

Nick Minoia, Applicant – previously sworn
Completed a balloon test to establish the height of the tree canopy on site.

Exhibit A-59 - Ballon exhibit - 4 pages

Mr. Minoia – Reviewed A-59 for the board. The trees near the 287 ramp are 90 to over 100 feet in height. These trees are in the buffer area and will not be removed. Explained that there is a need for senior housing within Montville Township. No school age children allowed. No PILOT program or tax abatement program is requested. Reviewed the historic structures on site and reviewed the conditions of said structures. The renovated building will be open to the public twice a year otherwise it is for the residents of the development. To be used as a mini clubhouse to hold tennis racquets, balls and the sort. The property has been zoned for single family homes for over 70 years and no one has developed it. Senior housing is the fastest growing sector in the country. There is no other site in Montville that is more suitable for this use than this site. The Master Plan was written around our proposal for this site. Reviewed his experience with the Master Plan subcommittee meetings as well as the Planning Board meetings during the Re-examination of the Master Plan hearings. Reviewed the sound attenuations and energy efficacy products that would be used in the proposed development.

Open to the public for these 2 witnesses

John Nacissi – previously sworn
55 and older people do not stay in New Jersey they move to Florida.

Lucy Tullo – previously sworn
Why was the balloon test only focused on Route 287 where there are sound walls and not near residential properties. Mr. Minoia – The closest residential property is over 400' from Main Road. Mr. Marinello – About 300' of that is not on the applicant's property.

Julie Ballentine – previously sworn
Why was the balloon test done. Mr. Minoia – Mr. Boyle indicated that there were no trees that were 90' in height when many of them are over 100' in height. Ms. Ballentine – Will the apartments be built on a rise which would be higher? Mr. Minoia – The building will be built at a higher location but the gazebo will be located on the highest part of the property. The buildings will not be 100' in height.

Devin Trombley – previously sworn
What happens when there are no leaves on the trees in the winter. Mr. Minoia – You will see more of the property.

Dante Necissi – previously sworn
Isn't your project the same environment as the GI Auto site. Mr. Minoia – GI Auto is in a lowland and is not anything like the proposed property.

Anjana Kapur – sworn
There is noise from development that was done on Kokora behind my property and Catbridge. What can be done after the fact? Mr. Carroll – There is a noise ordinance that the Township will enforce if there is a noise issue. Ms. Kapur – If you cut all the trees down it won't be good. Mr. Minoia – The conservation areas will not be disturbed.

Anthony Angiolini – previously sworn
Did Morris County come out on site to see the traffic pattern in that area? Mr. Minoia – Morris County does their own site visits periodically.

Scott Estrin – sworn

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How much light would the spillage be along Main Road? Mr. Walker – It is less than a streetlight. All lights are downward lit.

Lucas Van-Schaik – previously sworn

Are the yellow lines the closest distance to the structure from the limit of disturbance? Mr. Walker – Yes, structure to structure. Mr. Van Schaik – noted that the disturbance for the entryway distance to closest structure was not shown.

Adrian Gil – previously sworn

Asked questions about stormwater management and construction timelines and soil movement which were not discussed this evening.

Holly Cox – previously sworn

Asked questions about traffic and several other topics which were not testified to this evening. Asked questions about the light spillage and other locations that the project could be built.

Janice Necissi – previously sworn

Is the Mutts on Main Building still 333' away since it has been added onto? Mr. Minoia – Yes, the addition was to the right.

Ralph Fredericks – previously sworn

Asked about the historic structures on site. Mr. Minoia -The Husk house is beyond repair and the other structure, the main part of that structure, will be moved and restored.

Eileen Strasser – sworn

Who is going to pay for when the properties around here flood. Mr. Carroll – We can only comply with a standards that the State requires.

Mr. Schepis – Summed up the application for the board.

Closed to the public

Mr. Marinello – We do not have the authority to rezone. If it was a rezoning application in 2019 than it seems it would still be a rezoning application now. Mr. Minoia does great work and is committed to the Township. I do not think it is a good use for this site. There is no multifamily development in the immediate area. It's a gateway property. Many of the professionals that testified bent over backwards to minimize the negative impact. Struggle with this being an inherently beneficial use. If every multifamily development with affordable units was inherently beneficial or every property with a historic home on it was inherently beneficial then we would not have to be here. We should not be acting out of fear because of COAH numbers, they could go down. The burden of proof is on the applicant. We cannot take into account the amount of school children and the burden on the schools. It feels to me like it is a rezoning. Did not hear testimony on the negative impact to the neighborhood on the entryway and the gate and sign. People come here for the schools and stay for the views.

Ms. Pierce – I agree with you Mr. Chairman. Do not see the positives outweighing the detriments for this application. Historic buildings are not on the National List.

Mr. Moore – The application before us is a “D” use variance. Mr. Carroll explained the procedure for reviewing a “D” variance. As a board you have to assess if you are usurping the governing body’s decision on their right to zone. Mr. Moore reviewed a legal decision regarding elderly persons and rental housing units. Mr. Marinello – I have read the case and it did not change my opinion as to whether this is a rezoning or not. Mr. Carroll – That is a legislative finding about age restriction, and this is not the question before the board for this application.

Mr. Moore – There are several different property owners that came together for this proposal. The property is not being taken care of; there is a tree fallen in Crooked Brook which is probably raising water levels today; the pond is full of algae; the historic homes are falling apart. I believe that this application is particularly suited for this site. I do not think this group of properties is appropriately zoned. Mr. Marinello – That is a decision that the Planning

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Board and Township Committee should make. Mr. Marinello – Since the property is located close to the highway the potential residents will not be shopping in local businesses. Ms. Miller-Sanders – I disagree that Montville retail will not be used. I believe that this is a brilliant use of this property. I believe it is an inherently beneficial use and it also includes an affordable housing element which is also beneficial. Ms. Pierce - The size of it creates an impact to the surrounding area and the character of the community. If there were 10 homes on the property would there be less of an impact to the community. In my opinion this is rezoning of the property.

Motion to approve the application, the applicant has proven the negative and positive criteria, subject to all conditions that have been testified to including the rumble strips to be installed on Main Road prior to Certificate of Occupancy; no lights on the exterior building after 11pm except for safety lights River Road only access for emergency vehicles; made by: Moore; Second by: Miller-Sanders; Roll call: Yes - Moore, Miller-Sanders, Cain, Giordano, Kovalcik; No – Pierce, Marinello

NEW BUSINESS

None

CORRESPONDENCE

None

OTHER BUSINESS

None

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 October 4, 2023 hearing

ⁱ Certified to 3/1/23

ⁱⁱ Certified to 10/20/22 & 6/7/23 hearing

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