

**MONTGOMERY TOWNSHIP ZONING BOARD**  
**MONTGOMERY TOWNSHIP, SOMERSET COUNTY, NEW JERSEY**  
**REGULAR MEETING**  
**MAY 17, 2016**

**MINUTES**

Chairman DeRochi called the meeting to order at 8:12 p.m. and read the opening statement which affirmed that adequate notice of the meeting had been posted and sent to the officially designated newspapers.

**BOARD MEMBERS PRESENT:** Chairman DeRochi; Vice Chairman O'Brien; Mr. Fedun; Mr. Post; Mr. Voitach, Mr. Kristjanson, Alternate #1; Mr. Wu, Alternate #3

**ALSO PRESENT:** Mr. Drollas, Board Attorney; Ms. McManus, Board Planner; Mr. Cline, Board Engineer; Mr. Palmer, Zoning Officer; Mr. Conforti, Township Committee Liaison

**I. SALUTE TO THE FLAG**

**II. APPLICATIONS**

**Case BA-07-15**                      **Applicant: Shatrughan Sinha**  
Block 7019 Lots 61.31 and 62  
Submission Waivers and Minor Subdivision and Use Variance  
Expiration Date – 120 Days from Submission Waiver Approval  
Affidavit of Notification and Publication Required

Notice was found to be in order. Dino Spadaccini, Esquire represented the applicant.

Mr. Spadaccini explained the application is to consolidate the two lots and re-subdivide them to create two reconfigured residential lots. Proposed Lot 62.01 will contain approximately 6 acres and will have the existing 2,600 square foot two story multi-family dwelling remain. Proposed Lot 62.02 will contain approximately 9.61 acres where an approximately 5,900 square foot single family residence will be constructed. In January of 1957 the property received approval for the alteration of the existing residence into a three family dwelling. Since that time, the dwelling had been converted by the prior owners, to a four family dwelling. In 2000 the Planning Board granted a minor subdivision application which was never perfected and the approval expired.

Mr. Spadaccini discussed the submission waiver from providing plans of proposed improvements and utility layouts.

A motion to approve the submission waiver was made by Mr. O'Brien and seconded by Mr. Voitach. The motion carried unanimously.

Ted Pivovarnick was sworn in. He gave the Board his qualifications and was accepted as an expert surveyor. Mr. Pivovarnick described the existing conditions of the site. The rear portion of the property contains state open waters, wetlands and wetland buffers, floodplain and steep slope. The entirety of the area will be encompassed in a conservation easement. There is a sewer easement that runs east to west. The proposal is to combine the two existing lots and resubdivide into two new lots. Lot 62.01 will be approximately 6-acres after right-of-way dedication and will contain the existing multi-family dwelling and a few sheds. On the north portion of the lot there will be a 4.14 acre conservation easement. Lot 62.02 will contain 9.6 acres and will have the new dwelling, the farm stand, the windmill and a 4.22 acre conservation easement. The proposed dwelling will be setback 250' from the new right-of-way of River Road and will be buffered with landscaping in accordance with the architectural plans. A waiver from planting 14 trees per acre is being requested. The applicant proposes to plant 14 trees per disturbed area of 1.7 for a minimum of 24 trees to be planted. The old block building and concrete foundation will be renovated into the farm stand and the windmill is to remain. There are three existing driveways on River Road that are proposed to remain. The driveway to the west serves the multifamily unit. The driveway in the middle will serve the new residence and the driveway to the right will serve the farm stand. All the driveways will be upgraded in accordance with the County standards. The existing driveway between the two lots will be removed and replaced with grass. The existing parking area will be reduced and renovated to provide the required amount of parking needed for the multi-family building. The project requires Delaware and Raritan Canal Commission review and an application will be submitted.

Mr. Pivovarnick discussed Mr. Bartolone's memo dated May 2, 2016. The location of the landscape buffer area and the quantity of trees to be planted are shown on the architect plan. The plan will be revised to show the species and size of the proposed trees. The applicant is not proposing to remove any trees from the site so they are requesting a waiver from showing the location of the trees of 6" caliper or larger. The difference in the configuration of driveways between the engineering plans and architectural plans will have to be balanced to satisfy DRCC regulations. The applicant is requesting approval for the circular turn around but may have to amend the application to remove it based on DRCC review. The applicant is not proposing evergreen buffers between the contiguous residences since it is already heavily wooded and there is an existing conservation easement. No existing landscaping is proposed to be removed in front of the barn or existing house. The driveway will be upgraded to County standards including sight standards. Any signage will comply with the ordinance.

Mr. Cline noted that the limits of disturbance may need to be revised to include the removal and reseeded of the gravel area. Mr. Pivovarnick agreed.

Chairman DeRochi suggested the applicant consider using some of the proposed landscaping to screen the multi-family parking area.

Mr. Fedun was concerned that the parking area for the multi-family would be sized too small for fire-fighting apparatus. Mr. Pivovarnick agreed to make the size of the parking area subject to the Fire Official and Board Engineer.

Mr. Pivovarnick discussed the Remington Vernick and Vena memo dated May 13, 2016. The section of the multi-dwelling unit shown to be removed is an old porch that was enclosed. It is being removed to maximize the frontage on Lot 62.02. The existing paved area in front of the block building will be renovated and expanded to hold 8 cars, including 1 handicapped space. The property has already been cleaned up. The steep slopes may be disturbed in the area of the walkout basement. The applicant proposes to raise the building up 1'-2' to minimize the disturbance or possibly eliminate it but that may change in the DRCC review. Mr. Pivovarnick referenced a colored rendering of the subdivision plan which was marked as Exhibit A-1. There are state open waters along the stream and wetlands and 50' buffer in the corner that is not impacted by the proposed development. Even if the required buffer was 150' there would still be no impact the proposed development. The note on the plan regarding the wetlands delineation will be amended to include the date of the inspection. The applicant received approval from the Landmarks Commission in April. Mr. Cline noted that the prior minor subdivision approval required conservation deed restrictions along the frontage of the property. He opined that might not be appropriate along the lot frontage due to the required road dedication to the County. The landscaping outside any sight triangles will be preserved. There is an existing sewer trunk line that runs through the floodplain within an existing sewer easement. There is a proposed sewer easement from the existing easement to River Road. The existing house is connected to the sewer and the new house will be connected. The applicant will enter into a Sewer Capacity Agreement and pay the appropriate fees. If the fourth unit is approved, the applicant will be required to enter into a Sewer Capacity Agreement and pay the appropriate fees for that unit. Both houses will be served with wells, not public water. The barn and produce stand will be served with well water and electric. During the topographical survey they could only find the uphill side of the 15" pipe and they do not know where it goes. The applicant agrees as a condition to find where it goes and then re-route it to either the ditch along the front or the rear. Earthwork calculations will be provided. Metes and bounds descriptions for the various easements will be provided for review. The applicant will delineate the conservation areas with pins and/or monuments subject to the approval of the Open Space Coordinator. The applicant will comply with the stormwater management comments because they need to meet the DRCC regulations. The applicant is requesting a waiver from sidewalk along the frontage of the property.

Mr. Pivovarnick discussed the Clarke Caton Hintz memo dated May 13, 2016. The chicken coop will be moved so a variance will not be needed. A waiver is requested from installing trees on Lot 62.01 since there is no new development on this lot. The trees to be planted, based on the area of disturbance, will be planted on Lot 62.02. The Board requested that some planting be installed on Lot 62.01 to screen the parking area. The applicant will work with the Township Landscape Architect. A waiver is being requested from planting street trees since the frontage is wooded except where the driveways are.

In response to Mr. Cline, Mr. Pivovarnick testified there will be a well on each lot subject to the approval of the Health Department.

Chairman DeRochi opened the meeting to the public for questions.

Mike Irving, 71 Hills Drive, was sworn in. He asked about the use of barns on the property and whether the property is being used for residential or for commercial. Ms. McManus testified there are multiple existing uses on the property. One of the uses on the lots will be farming and associated with that will be the accessory buildings and the farm stand where the owner can sell produce grown on the property. The Zoning Board needs to determine if each of the individual uses are compliant. The farm standards permit livestock. Mr. Irving asked about River Road. Mr. Cline testified that River Road is a County road and the applicant is dedicating some of their property to the County for the widening of the road if needed for the future. The County is requiring sight triangles at each of the driveways to be cleared to ensure safe sight distance when exiting the driveways.

Elizabeth Palius, River Road, was sworn in. Ms. Palius discussed how the County would not be able to widen River Road.

Mr. Fedun asked about the number of units in the multi-family dwelling. Mr. Spadaccini responded that there was approval granted for three units and there are now four. The applicant is requesting approval to continue with four units.

Peter Wasem was sworn in. Mr. Wasem gave the Board his qualifications and was accepted as an expert architect. The plan dated 5-13-16 revised to include a rear photo of the property was marked as Exhibit A-2. The applicant is proposing to construct a new barn on the existing footprint of the old barn. The applicant is requesting a variance to remove the existing foundation and construct the new foundation in the same location. The applicant proposes to construct the new house setback from the road and hidden from view by the new barns. As the proposed planting buffer matures, the new house will disappear from view as seen from River Road. The Landmarks Commission has reviewed the latest architectural plans and issued their approval. The smaller portion of the barn is the customer area where people pick up

the produce and the larger portion will house equipment and be a staging area for the farming operations. All lighting will be shielded.

Candy Willis, Knickerbocker Drive, was sworn in. Ms. Willis is on the Landmarks Commission. She confirmed that Landmarks Commission was satisfied with the plan as long as the house was not visible from River Road. The Commission asked that the trees be required to be maintained in perpetuity. She was concerned with the testimony that the house might be raised and therefore visible over the landscape buffer.

Mr. Spadaccini confirmed that the property is currently being farmed.

Mr. Sinha was sworn in. Mr. Sinha has owned the property for approximately one year. When he purchased the property it had the 4-unit dwelling and he does not know how it was converted. There is livestock on the farm. He plans to sell the vegetable produce that is grown on premises as well as eggs. There will be no animals housed in the front buildings. All structures that house the livestock will be 100' from other structures and all property lines.

Ava Irving was sworn in. Ms. Irving asked where the goats would be housed. The area shown by the applicant was within the conservation easement and steep slope area but if they are not allowed they will be moved. Mr. Cline referenced the existing conservation area that allows for grazing of animals but no structures and to maintain the sewer line.

James Kyle was sworn in. Mr. Kyle gave the Board his qualifications and was accepted as an expert planner. Mr. Kyle discussed the D1 variance for the additional unit in the multi family dwelling. Approval was granted in 1957 for three and at some point a fourth was added. The bulk variances relate to the construction of the barn on the footprint of the prior structure that burned that is within the front yard setback. The property is within the R-1 zone and multi-family dwellings are not permitted. There site is particularly suited for the proposed use. A multi-family dwelling has existed for some time. The subdivision does not affect the area that is utilized for it. The fourth unit can be accommodated without enlarging the structure and it appears as if it is a single family dwelling from the street. The site is fairly isolated from surrounding neighborhoods and buffered. There is adequate area for parking and public sewer is available. It provides sufficient space in appropriate locations for a variety of uses. It provides a housing option not currently available in this part of the Township in a way it can be easily integrated with the surrounding properties. The positive criteria can be met. In terms of the negative criteria, the use has existed for some time and has had little impact. It is similar in scale and size to the surrounding neighborhoods. It is well buffered and additional landscaping will be provided. There won't be a substantial impact to the surrounding properties. Mr. Kyle listed the goals and objectives of the Master Plan that are promoted. He discussed the justification for the design waivers. He opined that the waivers are reasonable and justified.

Chairman DeRochi opened the meeting to the public.

Liz Palius spoke on behalf of the Millstone Valley Preservation Commission. Ms. Palius said she is pleased with the applicant's proposal. The older house has magnificent trees that should be marked on the plan. This is a working farm and some of the trees that are required to be planted could be fruit trees. The embankment along River Road was disturbed a few years ago and is very unstable. Trees and/or vegetation should be planted along the embankment to help stabilize it. She would prefer to see a farmhouse in keeping with the area constructed rather than the proposed modern home but the proposed landscaping will buffer the view.

The Board discussed the fourth unit.

As a Montgomery firefighter, Mr. Fedun was concerned with the additional unit. There are no fire hydrants in this area. It is an additional life hazard that shouldn't be there. If they want the fourth unit the building should be brought up to Code and sprinklered.

Mr. Spadaccini asked if the Board could separate their vote on the fourth unit and the minor subdivision.

A motion to approve the use variance for the fourth unit was made by Mr. O'Brien and seconded by Mr. Voitach. The motion carried on the following roll call vote:

Ayes: O'Brien, Voitach, Kristjanson and Wu

Nays: Fedun, Post, DeRochi

The use variance for the fourth unit was denied.

Chairman DeRochi asked about the request for landscaping on the eastern side of the property. Mr. Pivovarnick said that area is heavily wooded and protected by a conservation easement. The applicant agreed to work with the Board Landscape Architect.

Mr. Drollas said the conditions include each lot having its own drinking water well, locate the stormwater pipe and extent of drainage on the property and re-route it as necessary once located, adding landscape buffering near the rear yards of the adjoining properties along Hills Drive to the satisfaction of the Landscape Architect, no livestock in the new farm buildings along River Road, any livestock buildings or shelters will be located so they will conform to zoning, review of the landscape buffering in front of the existing multi-family dwelling, review and possibly landscape the embankment

along River Road and coordination of the parking area in front of the multi-dwelling unit with the Fire Official, Board Engineer and Landscape Architect. The applicant will work with Mr. Bartolone who will identify the trees on the property that require protection during construction and the buffering of the Hills Drive residents.

A motion to approve the minor subdivision, bulk variances and waivers subject to the conditions was made by Mr. Post and seconded by Chairman O'Brien. The motion carried on the following:

Ayes: Fedun, Kristjanson, Post, O'Brien, Voitach, Wu and DeRochi

Nays: None

### **III. MINUTES**

#### **April 26, 2016 – Regular Meeting**

A motion to approve the minutes was made by Mr. Voitach and seconded by Vice Chairman O'Brien. This carried on the following roll call vote:

Ayes: DeRochi, O'Brien, Fedun, Post, Kristjanson and Wu

Nays: None

There being no further business to come before the Board, the meeting was adjourned at 10:20 p.m.