

**BOARD OF ADJUSTMENT
MEETING MINUTES
JULY 25, 2007**

Meeting called to Order by Chairman Novellino at 7:31 p.m.

Reading of Adequate Notice by Vice-Chairman Barthelmes.

Salute to the Flag.

Roll Call: Present: Barthelmes, Curcio, Devine, Morelli, Novellino, Bailey and Conoscenti. Absent: Lambros and Iradi.

APPROVAL OF MINUTES: June 27, 2007.

Mr. Curcio made a Motion to approve and Mr. Barthelmes offered a Second. Roll Call Vote: Curcio, Barthelmes, Morelli, Devine, Conoscenti and Novellino voted yes to approve.

RESOLUTIONS:

Z05-03 CHARLES NOREIKA - Block 50, Lots 1.01, 1.02, 1.03 & 2. Located on Paint Island Spring Road and Millstone Road. 30.1 acres located in the R-80 Zone. Preliminary Major Subdivision to develop an (11) lot subdivision consisting of (1) existing residential building lot, (8) new single-family residential lots, (1) lot dedicated for drainage and (1) existing non-conforming commercial lot. Use variance and (6) bulk variances requested. Applicant returns to the Board for Use Variance, Bulk Variance and Preliminary Major Subdivision approval. Approval granted 6-27-07.

Mr. Morelli Made A Motion to Memorialize the Resolution and Mr. Curcio offered a Second. Roll Call Vote: Morelli, Curcio, Barthelmes, Devine and Novellino voted yes.

Z07-03 KAPOULER – Block 16.01, Lot 2. 3.26 acres the BP Zone located off of Rike Drive in the Moto Industrial Park. Applicant seeks use variance approval to utilize 14,000 s.f. of a partially occupied building to use as a gymnastics academy. Deemed Complete: 6-1-07. Date of Action: 9-29-07. Approval granted 6-27-07.

Mr. Barthelmes made a Motion to Memorialize and Mr. Devine offered a Second. Roll Call Vote: Barthelmes, Devine, Morelli and Novellino voted yes.

WAIVER HEARING:

Z07-04 CKV REALTY, LLC – Block 57, Lot 16. 53.39 acres located in the BP Zone Located at 33 Burnt Tavern Road. Transferred from the Planning Board. Application is for a construction of a garden center and nursery related facility including construction of a 15,000 s.f. building. Application is not deemed complete and applicant is seeking waivers from providing checklist items. No noticing required for waiver hearing.

Mr. Vella read the following Exhibits into Evidence:

- A-1 Application dated 5-17-07
- A-2 Resolution Transferring Application to Zoning BOA dated February 12, 2007
- A-3 Site Plan prepared by JKR Engineering & Planning Service, LLC dated 4-4-07
- A-4 Survey/sketch prepared by Charles B. Rush, dated 5/15/06
- A-5 Phase 1 Environmental Audit Report of Findings prepared by Donald A. DiMarzio, P.P., dated June 2007
- A-6 Statement of Environmental Impact & Assessment Prepared by Donald A. DiMarzio, P.P., dated June 2007
- A-7 Soil Sample Report prepared by EMSL Analytical dated 7/16/07
- BOA-1 Report of Board Engineer dated 7/10/07
- BOA-2 Millstone Township Environmental Report date 7/25/07

Mr. Edward Rosen appeared representing the applicant on the waiver hearing. He advised that the applicant would be submitting the soil sampling items as addressed in Engineer's Shafai's letter. The applicant is seeking a waiver from providing them at the Use Variance portion of the bifurcated application. He offered that if the Use Variance is granted, then at the Site Plan portion of the application, the waived items would be submitted.

Engineer Shafai advised that the applicant prepared a Phase I report showing that more testing is required. Mr. Shafai feels the Phase I is asking for more testing around the barrels and tanks. Mr. Rosen feels that could be a condition of the site plan if use variance is approved.

Rich Deface, applicant's engineer is sworn in. He offered that the site consists of 50 acres. The five acres nearest the street are part of the application and the 45 acres to the rear are not part of this application.

Planner Richard Coppola advised that the use variance is for only a portion of the tract. It was noticed and submitted as a use variance for the entire property. Mr. Rosen clarified the application. Engineer Shafai stated that the applicant will perform a wetland study for the entire property and clean up the barrels that are there. Attorney Greg Vella advised that the entire property is subject to the Board.

There is no public testimony since this is a waiver request. The Board offered its comments on waiving the information until the site plan phase and make that a condition of approval.

Mr. Morelli made a Motion to waive those items until the Site Plan portion of the bifurcated application and Mr. Barthelmes offered a Second. Roll Call Vote: Barthelmes, Morelli, Curcio, Devine, Bailey, Conoscenti and Novellino voted yes.

NEW APPLICATIONS:

Z07-05 SACCO, MICHAEL – Block 12, Lot 1.12. Located at 208 Disbrow Hill Road. 5.8 acres located in the RU-P Zone. Applicant seeks to construct a single-

family, 2-story, 3900 s.f. dwelling. Variance needed for lot size. Deemed Complete 7-12-07. Date of Action 11-9-07.

Applicant was scheduled before the Board but did not provide proper noticing and would be placed on the Agenda in August.

Z07-06 353 SWEETMANS LANE, LLC – Block 39.01, Lot 2.01. 1.88 acres located in the NC Zone at 353 Sweetmans Lane. Applicant seeks preliminary site plan approval to construct a two-story, 3,818 s.f retail building with an existing 6,750 s.f. retail building. “D” variance is required for Block 39.01, Lot 7 (for proposed stormwater management) which is located in the RU-P Zone. Bulk variances needed. Deemed Complete 6-29-07. Date of Action 10-26-07.

Z07-06 D. MORGAN TRACEY – Block 39.01, Lot 2.02 4.33 Acres located in the NC Zone located on Sweetmans Lane. Applicant seeks preliminary site plan approval to construct a 9,600 s.f. retail building, 1,098 s.f. office space and 2,056 s.f. retail building with adjoining 2,016 s.f. bank. “D” variance needed for Lot 7 (proposed stormwater management area) which is located in the RU-P Zone. Bulk variance needed. Deemed Complete 6-26-07. Date of Action: 10-23-07.

The applicant did not provide proper noticing and will re-notice on both applications. Noticing did not include residents within 200 feet of Lot 7 where the proposed stormwater management would be located. Only residents within 200 feet of Block 39.01 lots 2.01 and 2.02 were noticed.

CARRIED APPLICATION:

Z06-05 537 ABR, LLC - Block 60.01, Lot 15.01. 4.02 Acres located in the HC Zone at 490 Monmouth Road. Applicant seeks use variance to construct a two-story 9,820 s.f. building for car wash and service area and a 10,000 s.f. storage warehouse. A design waiver requested. Deemed Complete 6/1/07. Date of Action 9/29/07.

Mr. Kenneth Pape representing the applicant. Entered into evidence is Exhibit A-15, unopened certified letter addressed to Jan and Joan Marasak. Mr. Pape advised that the post office tried to deliver the certified letter three times and was returned to Mr. Pape.

Mr. Pape advised variance relief is sought for three uses: Auto lube facility and a tunnel-style car wash. The Warehouse request has been withdrawn. Mr. Pape advised that they have been to Monmouth County Planning Board who issued a conditional approval. The MCPB asked that this applicant work his driveway with the driveway of the Jackson Township project across the street.

Mr. Pape advised that the applicant went to Township’s Environmental Commission and made a presentation to them.

Attorney Vella Swore in Michael Geller, P.P., P.E. who presented credentials at the June 25, 2007. Marked into Evidence is Exhibit BOA – 5, the report of the Township Environmental Commission dated 7/24/07. Mr. Geller makes reference to A-13 and explains the site depicted on the aerial. Entered into

Evidence is Exhibit A-14, color rendering of the car wash. He explained that currently the property is developed with two dwelling units, an accessory garage and several out buildings. The property is located on Rt. 537, a County highway, located 1/4 miles from the Rt. 526/537 intersection north. The property consists of 3.9 acres, which he described as narrow and deep. Mr. Geller explained that the property is developed both sides of the site. Jade Plaza is located down the street. The site is in HC zone and he explained the permitted uses. He stated that a small strip of wetlands is located to the north of the site and does not encumber the site.

The applicant proposes to construct a one-story with small office building to contain a tunnel-style car wash on easterly side of the property and a lube area on the westerly side. A small 500-foot area is planned for owner's office and is not for lease.

Mr. Geller explained the site improvement as roadway frontage widening along Rt. 537, 28 parking spaces, a septic system, and wet detention pond to hold water that would be in compliance with State and Township stormwater management rules and regulations. The property is serviced by private well. The site would be landscaped. Mr. Geller went over setbacks. He stated that the location and design of the site is laid out in consideration of the potential ordinance that the Township ultimately did not adopt. The building has been moved back to allow for the preservation of the mature trees on the front. There would be two-way ingress, egress access to the property. Mr. Geller explained Monmouth County Planning Board has jurisdiction over the driveways.

The scenic corridor would be preserved because mature trees at the front of the lot would remain. Mr. Geller advised that the 29 parking spaces meet the standards. The stormwater management area meets the standards and serves as fire protection purposes (250,000 gal in recharge pool). He explained how the stormwater management functions on the site. He explained the benefits of the wet basin. Mr. Geller described the septic system. Car wash is not included in that and it is a recycling facility. The daily water usage for the septic system at the facility is 725 gallons in addition to the use of water by the car wash system.

Engineer Matt Shafai commented on the testimony of Mr. Geller. He agrees that the wet pond contaminants can be controlled. The applicant can have a fire hydrant with a wet pond. The wet pond is one option. Regarding the septic, Engineer Shafai agrees with site septic calculations.

Planner Coppola asked about access with County improvements on the roadway. He advised the Board that no occupancy of the structure should take place until the County improvements are made concerning center lane. Mr. Pape advised that right in and right out would be the pattern until the center lane is in place.

There was discussion regarding concerns about the water draining to the back of the property and not onto Rt. 537. The manner in which the water is used and replenished in the pond was discussed. Two wells are planned to service

property. Mr. Pape offered several examples of wet basins for the Board to look at in various places in town. The MCBOH has those records.

Architect Greg Clark of Bach and Clark was previously sworn in and credentials previously offered. He explained that the car wash tunnel is located on the easterly portion of the property. The Oil lube facility is located on the westerly side and explains the two functions of the car wash, with detailing area. Mr. Clark explained the proposed architectural materials, the location of the windows, flat roof, HVAC would be shielded using the same color of building, and signage directly correlates the colors of the building. The building element would be of cultured stone and columns and synthetic stucco. Mr. Clark offered that the building would be of high-end materials with architectural features throughout. The colors scheme of the project would be earth tones.

Attorney Vella swore in Jonathan Szap, of McDonough & Rae, who is applicant's traffic expert. He presented his credentials and was accepted as a traffic engineer. Mr. Szap prepared a traffic study of this site. He prepared a report (Exhibit A-8) and recorded traffic flows on Rt. 537 during weekday and weekends. He presented his findings. He offered that they used the NJDOT criteria in their findings. He explained how the driveway functions. He explained the exit delays without any traffic signal in place. Referring to the aerial, he pointed to the location of the existing roadway of Woodbury Lane. As part of another project on route 537 in Jackson, Woodbury Lane would be the intersection where a traffic signal would be located. The County requested that the applicant contribute to the funding of the center lane, allowing left turns to be made onto the site as a condition of their approval.

The trip generations were discussed. Two stacking lanes would feed into the facility (23 cars); 20 cars are serviced by the car wash in morning and 29 on a Saturday afternoon. Mr. Szap stated that 27-35 cars are serviced at a car wash/per hour. There is space for 23 cars, which is sufficient for this use. He stated that the lube portion of the facility would not require stacking, just the car wash portion.

Mr. Szap stated that the application meets the site requirements. Mr. Szap reported that with other uses, more traffic would be developed and he gave examples. He explained how the parking space number was arrived at. Mr. Szap is comfortable with a mix number of 10 spaces because the facility is fully automated. He stated that a long, deep property is good shape for a car wash facility and he explained. He testified that 23 queuing positions are adequate for a single tunnel car wash. A by-pass lane is necessary. Each car spends 2-3 minutes in the car wash tunnel. Engineer Shafai asked about traffic during the middle of winter on a Saturday afternoon with all of the sand and salt, etc. Mr. Szap testified that there is good circulation around site and generous lane width. Mr. Coppola made a suggestion that cars go out one way referring to Exhibit A-14 has a concern about safety. Mr. Bailey asked if two queue lanes are stacked. Mr. Pape advised that no lefts can be made on this road. There was concern about patrons performing an illegal left to enter the site.

The Board took a break at 9:37 p.m. returning at 9:47 p.m. The applicant would provide to the Board and its professionals, revised reports within the next fourteen (14) days.

Attorney Vella swore in applicant's next witness, Mr. Leo Zona. Mr. Zona resides in Massachusetts. He has familiarity with car washes. He has no ownership in the proposed facility. He will assist in the car wash design. He is currently the President of Posh Car Wash. He is a partner of the "Z" Wash System. He has been a member of International Car Wash Assoc 1975. He testified that he has designed and constructed car washes. The Posh Wash runs on a well system, no sewer. Water for his tunnel-style car wash, is used by well water and using recycled water.

Mr. Zona explained how the car wash facility works. It is a full service car wash. The greeter offers the different services, the patron steps out of the vehicle and walks through the designated patron area. The car is vacuumed, washed, inside windows are cleaned. Referring to the Exhibit, Mr. Zona felt there could be improvement at the site's vehicle drying area. Mr. Pape would have that part of the car wash addressed. The water usage is addressed. Mr. Zona advised all that water use, including wash and rinse is reclaimed and used after filtered through the filtration system. Rinse water is clean fresh water. Water that includes waxes/polishes is recycled. Even water dripping off of car is recycled. Eighty-nine (89) gallons of water is from the reclaim system, 5 gallons of fresh water is well water. He offered that according to industry studies home washing of cars uses 180 gallons. This information is provided by the American Water Works Association, using 3/4" hose without nozzle. He stated he believes the real number to be closer to 60 gallons.

Mr. Zona explained how the reclaim system functions. Water comes from car, flows into a two-compartment pit to separate water from sedimentation. Process tanks help filter water by multiple passes. He explained the process of filtration. A machine backwashes with its own water. The primary backwash tank helps separate oils from water. On a dryer day with more evaporation, he explains how the water is used. The solids settle to the bottom of the tank and eventually, the tank (2-5,000 gallon concrete septic tanks) would be cleaned and the solids hauled away and disposed of by a licensed waste hauler in accordance to the regulations. Mr. Zona clarified that this system has no connection to the septic system and the stormwater management system. He described how his system works. Mr. Zona pumps his tanks 4 times per year. If not pumped, he stated that the water quality diminishes.

Mr. Pape offered to the Board that the MCBOH's concern is limited to septic system volume and not the car wash. Mr. Zona advised that if tanks are not pumped, the quality of water is washing cars with dirty water. The rinse water would be clean. The final rinse has a washing, drying agent or clean water. Mr. Zona pumps his tanks every three months. Sobrite Technologies, Inc. is a reclaim system. Mr. Zona's water comes out of his well. Mr. Zona assessed the system size the applicant is to use. Mr. Pape asked the witness if a car washed is contaminated with farm material, chemicals, etc. how is the filtering handled and he explained.

The Board has concerns regarding the sufficiency of the proposed traffic queuing. Mr. Zona feels it is overkill. He offers that if there is a long line of cars, it would dissuade patrons from waiting in that line. Mr. Conoscenti voiced his concerns regarding queuing. He had concerns regarding Rt. 537 where cars would be exiting the facility, causing a build-up of traffic on site. Engineer Shafai asked if a license is needed in order to operate the facility? Mr. Zona does not know.

Mr. Zona has a maintenance schedule and program to train owners/operators on the system. He stated that it takes one day to train. The daily maintenance is emptying a swimming pool skimmer that collects leaves and other debris. Mr. Pape advised that there is no legal requirement that states a car wash must have a reclaim system. He explained why this system has a reclaim system. Mr. Pape explained how the applicant found this company to assist in this design.

Mr. Zona advised 6 staff are needed to operate the car wash. He offered that 35% of cars coming in would want full service. The average time to go through car wash start to finish, Mr. Zona advised (just wash) one minute. Full service is approximately 7 minutes. Mr. Zona anticipates that the facility would be open 280-days/per year.

Mr. Novellino asked if there is available an MSDS data sheet for any chemical used in car wash operation. Mr. Zona indicated that every chemical comes from the manufacturer with an MSDS. Mr. Novellino indicated that the board would like to see the MSDS sheets for chemicals planned to be used at the car wash.

At 10:33 p.m. the application is opened to the public. Mr. Barry Frost of the Environmental Commission is sworn in. He is opposed to this type of business citing this is a rural community. He clarified that he does not want to block business, but has concerns about a business that impacts residents. Mr. Pape asked if Mr. Frost was representing his own opinions or those of the Environmental Commission's? Chairman Novellino asked if the applicant addressed the EC's concerns stated in their report? Mr. Frost advised that they did. Mr. Frost feels the members of the BOA have asked good questions concerning this application. He offered concerns that all materials cannot be removed in the car wash and filtration system. Mr. Frost offered that this is not a permitted use for a reason. The EC feels the application represents a risk to the water supply and to the residents. He feels it is a good business but not for Millstone. He stated that it represents too many environmental risks including shortage of water. Mr. Novellino asked if the environmental risks are addressed in their report.

Sworn in. Joan Marasek, 463 Monmouth Road, Jackson. She lives directly across the street (60 feet directly across the street) from the proposed project. She is opposed to the car wash. She has problems getting out of her driveway due to the back up of traffic on 537. She offered that it is a serious problem. She is concerned about the noise the car wash would generate.

Due to statements being made by the public related to the site plan, Chairman Novellino clarified to the public that the Board is discussing only the use variance at this time. The Board must decide if this is an appropriate use before addressing the site plan and the use variance is the only thing the Board is considering tonight. He asked that questions regarding the application be directed accordingly.

James Toporek 15 East Squan Road, Millstone. Mr. Toporek voiced his concerns regarding the location of the project and the Toms River tributary. He is concerned that this proposed uses are overcrowding the lot. Mr. Toporek was concerned regarding the traffic backing up. He stated that there are houses located behind the HC Zone. The noise issues are also his concern and he explained that during the winter, the trees are barren and there is no natural buffer to the highway noise. There was some discussion of moving the project back further on the lot. Due to the noise concerns, he suggested that the applicant leave the project closer to the front and not move back closer to his home.

At 11:01 p.m., the Chairman closed the public portion. The application is being carried to the August 22, 2007 meeting, which will begin at 7:30 p.m. and there will be no further noticing required.

The Board's anticipating having a quorum for August was discussed and it was determined that the board secretary would contact all the members to check their availability.

The Architectural Design Standard will be discussed at the next meeting.

Mr. Curcio made a Motion to Adjourn, Chairman Novellino offered a Second and by unanimous vote the meeting adjourned at 11:05 p.m.

Respectfully submitted,

Pamela D'Andrea