

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
JANUARY 23, 2008**

Meeting called to Order by Michael Novellino at 7:35 p.m.

Reading of Adequate Notice by Steve Barthelmes.

Members sworn in by Attorney Greg Vella.

Salute to the Flag.

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

Mr. Novellino welcomed all.

Election of Officers began with a nomination for Chairman. Mr. Morelli made a Motion to nominate Michael Novellino and Mr. Iradi offered a second. Roll Call Vote: Morelli, Iradi, Curcio, Barthelmes, Devine, Lambros and Bailey voted yes.

Chairman Novellino made a Motion to nominate Steve Barthelmes as Vice-Chairman. Mr. Lambros offered a second. Roll Call Vote: Novellino, Lambros, Iradi, Morelli, Curcio, Devine and Bailey voted yes.

The Motion to appoint Pamela D'Andrea as the Board Secretary was made by Mr. Novellino with a second offered by Mr. Curcio. Roll Call vote was taken: Novellino, Curcio, Lambros, Devine, Barthelmes, Morelli, and Iradi voted yes to appoint Ms. D'Andrea.

The Motion to appoint Gregory W. Vella as Board Attorney was made by Mr. Novellino with a second offered by Mr. Morelli. Roll Call Vote: Novellino, Morelli, Curcio, Barthelmes, Iradi, Lambros, and Devine voted yes to appoint Gregory W. Vella, Esq.

The Motion to appoint Leon S. Avakian, Inc. as the Board Engineer with Matt Shafai, P.E. as the principal Engineer was made by Mr. Novellino with a second offered by Mr. Curcio. Roll Call Vote: Novellino, Curcio, Morelli, Barthelmes, Iradi, Lambros and Devine voted yes to appoint Mr. Shafai.

The Motion to appoint Richard Coppola of Coppola and Coppola as Board Planner was made by Mr. Novellino and a second offered by Mr. Barthelmes. Roll Call Vote: Novellino, Barthelmes, Lambros, Iradi, Lambros, Morelli, Devine and Curcio voted yes to appoint Richard Coppola.

The Motion to appoint Angela G. Buonantuono as the Board Court Reporter was made by Mr. Novellino with a second offered by Mr. Curcio. Roll Call Vote: Novellino, Curcio, Barthelmes, Iradi, Lambros, Morelli and Devine voted yes.

The Motion to designate The Asbury Park Press and The Messenger Press as the official Board newspapers was made by Mr. Novellino with a second offered by Mr. Morelli. Roll Call Vote: Novellino, Morelli, Barthelmes, Iradi, Lambros, Devine and Curcio.

The Motion to adopt a regular monthly meeting schedule for 2008 and the first meeting date of 2009 with the meetings to begin at 7:30 p.m. was made by Mr. Novellino with a second offered by Mr. Curcio. Roll Call Vote: Novellino, Curcio, Devine, Barthelmes, Iradi, Lambros, and Morelli voted yes as follows:

Regular Monthly Meetings to be held on the following dates in 2008 and the first meeting date in 2009 at 7:30 p.m. in the Municipal Building located at 215 Millstone Road, Millstone Township, New Jersey.

January 23, 2008	July 23, 2008
February 27, 2008	August 27, 2008
March 26, 2008	September 24, 2008
April 23, 2008	October 22, 2008
May 28, 2008	November 13, 2008(Thursday)
June 25, 2008	December 11, 2008(Thursday)
	January 28, 2009

MINUTES TO BE APPROVED: Mr. Barthelmes made a motion to approve the meeting minutes of November 28, 2007. Mr. Curcio offered a second. Roll call to approve: Barthelmes, Lambros, Devine, Novellino, Bailey and Conoscenti voted yes to approve. There was no meeting in December, since no applications were to be considered or carried.

RESOLUTIONS TO BE MEMORIALIZED:

Z07-10 ALBIVI – Block 30, Lot 2. Located in the R-130 Zone consisting of approximately 35,567 s.f. Applicant seeks a use variance to permit a boutique within the existing restaurant. Bulk variances (7) needed. Deemed Complete: 9-20-07. Date of Action 1-18-08. Approval Granted 11-28-07.

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

NEW APPLICATION:

Z07-06 353 SWEETMANS LANE, LLC – Block 39.01, Lots 2.01 & 7. 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. Carried from 9/26/07. Extension granted through 1/30/08

Z07-07 D. MORGAN TRACEY – Block 39.01, Lots 2.20 & 7– 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. Carried from 9/26/07. Extension through 1/30/08.

Attorney Vella advised the Board that earlier today, there was a meeting between Mr. Coppola, Mr. Pape, the Applicant's attorney and Duane Davison, the Township Attorney to discuss the Agricultural Deed restriction that exists on the property. Mr. Vella offered a brief history of why the application is before the Board of Adjustment. The Applicants proposed detention basin is located in the R-UP zone. The lot where the proposed stormwater management basin is to be located was part of a subdivision that was approved in 1987. A restriction was placed on the property for agricultural purposes per the planning board resolution that created the subdivision. The Lot 7.01 restriction was created by filing a Deed but no restriction was filed in a deed for Lot 7. Mr. Vella explained that Lot 7 has a Deed restriction as a result of a previous approval that restricts it to be used for agricultural purposes, but the applicant's proposed use is not agricultural. The authority that enforces the deed restriction is the Township.

The applicant is thus making a proposal to the Township to remove the Deed restriction in order to enable the Board of Adjustment to consider the proposed use of Lot 7 for stormwater management for these applications.

Mr. Vella explained that the applicants are going to prepare a proposal to the Township. We have a jurisdictional problem presently. If the Township does not release the agricultural restriction, the applications could not be before the Board of Adjustment in their current form. If the Township does release the restriction, then the application in their current form would be the jurisdiction of the Board of Adjustment.

The Applicant purchased Lot 7 not knowing that a Deed restriction existed. Presently, the Applicants have granted an extension of time to April 1, 2008. The Applicants have asked that this matter be carried to the February meeting. The Applicants, as part of Board policy, must re-notice. Attorney Vella offered that it is a prudent policy.

Mr. Coppola felt that it was unlikely that the Applicants would be ready to be heard and the next Township Committee meeting and would need more time. The Board carried the applications to the March 26, 2008 meeting and Applicants must re-notice and obtain a current certified list. Mr. Morelli asked if the Township Committee released the deed restriction, would the applicants come to the Board of Adjustment for use variance consideration. Attorney Vella discussed the circumstances whereby the applications would go to the Planning Board. Planner Coppola explained that it is the detention basin that triggers the "D" variance that is why they are here. The project is in the NC Zone but the detention basin is located in the R-UP which causes the applicants to be before this Board.

The Board Secretary will correspond with Mr. Pape advising of the new hearing date and the re-noticing particulars.

NEW BUSINESS:

Mr. Coppola provided the Board with a COAH update. He explained the issues concerning the newly proposed rules of December 17, 2007 and January 2, 2008 growth projection for residential and nonresidential properties. Mr. Coppola stated that the proposed rules increase the obligation of municipalities far beyond what anyone anticipated. There is a meeting of the Township COAH Task Force next week and both Messrs. Coppola and Shafai would be in attendance. They will go over their strategies and will put together a report for

COAH regarding their concerns by the March 22, 2008 deadline. To be addressed are how those rules would affect Millstone.

Mr. Coppola stated that Millstone is a rural environmental planning area with no water and public sewers but Millstone is being asked to have to provide an exorbitant number of units even with the rural restrictions. Mr. Coppola reported that for Millstone, the number of affordable housing units now obligated to Millstone Township in accordance with COAH's currently proposed "Third Round Substantive Rules" has approximately quadrupled compared to the number of units calculated in accordance with the originally adopted third round rules. The reaction among the planners is that in prior rules, there were still ways to try to get through the process that safeguarded the quality and character of life. Now, if the rules are not modified somewhat, this will not happen. Some towns are in a position that if the new rules are adopted, they are in peril. Mr. Coppola offered that the new rules go against what COAH stands for.

Mr. Barthelmes asked what the driving force behind this change was. Mr. Coppola advised lawsuits against the prior rules. COAH hired outside consultants. Inconsistencies will cause us to be locked in more than ever before. There are several forums in place that Mr. and Mrs. Coppola would be in attendance. Mr. Coppola would continue to keep the Board apprised.

Mr. Coppola stated that this is a challenge for all municipalities. Millstone was in good shape relative to other towns with the previous third round rules. There is a potential down the road for legal challenge. He offered that The League of Municipalities will not challenge the rules now. Municipalities will give their individual comments directly to COAH at this time and provide a copy of those comments to the League for monitoring. The League will hire its own outside counsel and have that law firm get its own experts to refute. At this point in time this is all conjecture. There are a number of plaintiffs and COAH as the defendant. The Builders Association was a plaintiff. COAH Rules dovetail with the state plan and right now they don't.

Mr. Coppola would keep the Board informed.

OLD BUSINESS:

Annual Report 2007. Chairman Novellino asked if everyone has had a chance to review the draft report that was sent. Mr. Novellino gave a bit of background regarding the 2006 Annual report that the Board sent to the governing body.

The Board discussed a potential to adopt landscape architecture standards. Mr. Novellino ran this suggestion by the Shade Tree Commission who felt it would be helpful to have a set of standards.

It was discussed that a landscape architecture standard would complement the physical building architecture standards adopted last year. It would primarily be dealing with non-residential properties and potentially residential subdivisions.. It would be easier for all reviewing landscaping in site plans if those standards were written in an ordinance. The issue needs to be covered a little more comprehensively and thus this would not be a short ordinance. Mr. Novellino read proposed language for the annual report that recommended the township committee consider developing a landscape architecture ordinance.

The Board found the recommendation excellent and agreed it should be included in the Board's annual report. Mr. Novellino ran the idea of a landscape architecture ordinance by the Planning Board Chairman, Mitch Newman who liked the idea as well. The Shade Tree Commission feels it is a good idea and indicated they are willing to participate in developing the standards.

Planner Coppola offered that one of the things that the ordinance should be requiring is that the landscape plan would be drawn by a landscape architect. The Board discussed the potential of members volunteering to participate in reviewing and providing input to any proposed ordinance.. Ultimately, the Governing Body has domain over any ordinance.

Mr. Iradi made a Motion to accept the Annual Report of 2007 to include the additional language as prepared by the Chairman addressing the need for a landscape architecture standard. Mr. Curcio offered a Second. Roll Call Vote: Iradi, Curcio, Devine, Barthelmes, Novellino, Lambros and Morelli voted yes.

Mr. Lambros offered his congratulations to the Chairman Novellino and Vice-Chairman Barthelmes on the job they are doing. He stated that great things are coming out of the Boards. He stated that he is happy that the Board meetings are being televised.

A legal question was asked if an absent member could be certified by viewing the televised version of the meeting in lieu of listening to the tapes. Attorney Vella to research and advise.

Seeing no further business, Mr. Iradi made a Motion to adjourn, Mr. Curcio offered a second and by unanimous vote, the meeting adjourned at 8:48 p.m.

Respectfully submitted,

Pamela D'Andrea