

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
MAY 28, 2008**

The Meeting is called to Order by Chairman Novellino at 7:35 p.m.

Reading of the Adequate Notice by Mr. Morelli. (Mr. Barthelmes arrived during reading)

Salute to the Flag.

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

APPROVAL OF MINUTES: April 23, 2008. Mr. Morelli made a Motion to approve and Mr. Curcio offered a Second. Roll Call Vote: Morelli, Curcio, Bailey and Novellino voted yes to approve.

RESOLUTIONS:

Z08-02 CHEER UNIVERSITY – Block 16.01, Lot 1. Located at 400 Rike Drive consisting of 4.34 acres in the BP Zone. Applicant seeks a use variance for a cheerleading academy. Applicant proposes to utilize 9,000 s.f. of a fully constructed 11,900 s.f. building. Application granted 3-26-08.

Attorney Vella clarified the hours of operation and student capacity on weekends.

Mr. Barthelmes made a Motion to memorialize and Mr. Devine offered a Second. Roll Call Vote: Barthelmes, Devine, Morelli, Bailey and Novellino.

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. Application dismissed without prejudice.

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 6-26-09. Date of Action: 10-23-07. Carried from 9/26/07. Application dismissed without prejudice.

Attorney Greg Vella stated that the Board dismissed the above applications without prejudice or ill-will toward the applicants in order to clear out the docket. He advised that the applicant could file again if the Township removes the Deed Restriction. Mr. Vella clarified that no further application fees would be required but any required escrows would need to be paid.

Attorney Pape representing the applicants agrees to remove the applications from the active agenda until the Township matter is concluded. Attorney Pape asked the Board to table the memorialization of the Resolutions until he and Attorney Vella have had the opportunity to discuss the present language in the Resolution. Mr. Pape felt that in the Resolution, the fourth paragraph "Whereas" clause should be deleted or rephrased. Mr. Pape advised the Board that the applicants are providing information that the governing body has requested and that there is no negotiating involved with the governing body.

Chairman Novellino indicated that the resolution would not be tabled and that any discussions regarding the language will occur at this hearing to enable the board to participate.

There was discussion over the term "negotiating". Mr. Pape advised that the applicant is not negotiating with the Township. The applicant is presenting information to the Township regarding the deed restriction.

Attorney Vella advised that this action gets the application off of the record. Mr. Pape is concerned about the language in the Resolution. The applicant is waiting a determination from the Township as to the deed restriction and he reiterated that they are not negotiating with the Township.

Mr. Pape explained his concerns. He reiterated the sequence of events of the application. A deed restriction did not show up on a title search. The applicant is awaiting a ruling or determination from the Township or its attorney. He feels that the way in which the Resolution is drafted reflects things that are not accurate.

Mr. Vella advises that the Resolution is a summarization of what the Board decided. Mr. Vella read the Resolution in detail and there was discussion. The Resolution language was revised to more clearly reflect the applicant's situation in order to address Mr. Pape's concerns regarding accuracy.

Both Resolutions were amended and the Board accepted the changes.

A Motion was made by Mr. Morelli with a Second offered by Mr. Curcio to memorialize both Resolutions. Roll Call Vote: Morelli, Curcio, Bailey, and Novellino voted yes to the memorialization as changed.

NEW APPLICATION:

Z08-01 SHELLY'S SCHOOL FOR DOGS – Block 57, Lot 33 – Located at Burnt Tavern Road consisting of 56.47 Acres in the BP Zone. Applicant seeks use variance approval to construct a 30,565, two-story building to operate a school for dogs. Bifurcated Application. Variances needed. Deemed Complete 4-3-08. Date of Action 8-1-08.

Attorney Kenneth Pape appearing on behalf of the applicant. Mr. Pape explained that the applicant seeks to develop 56 plus acres in the BP Zone as an animal kennel and school for training. The Zoning Ordinance does not permit this activity in that zone.

Mr. Pape reported that in March 2008, Mr. Coppola advised him that he had instruction from the governing body to draft an ordinance to permit kennels in the BP Zone.

Mr. Pape indicated that he believes that Mr. Coppola has put together a draft ordinance that, if adopted by the Township Committee, would take this application to the Planning Board. Mr. Pape further indicated that pursuant to the request of the planner and engineer the applicant has put a site plan together and will be providing this to the Board Secretary by the end of the week.

The matter is carried to the June 25, 2008 meeting and the applicant is to re-notice for the application.

EXTENSION OF TIME:

Z07-02 CARDINALE – Block 16, Lots 3 & 4. 143 acres in the RU-P Zone Located at Disbrow Hill Road. Applicant seeks to construct a single-family dwelling on the premises. Two variances needed: no frontage on a public street and steep slopes. Approval granted 5-23-07. Applicant seeks an extension of time.

Attorney Kenneth Pape representing the applicant. Mr. Pape explained that the applicant has a 140-acre parcel of land that is landlocked. Access is through a driveway easement. There is a stream that travels through the property and the applicant must go over the stream to place the single-family dwelling. Mr. Pape advised that they had filed application with the NJDEP. As originally filed, the applications are not the correct ones. The correct applications have been filed and are pending.

Mr. Pape explained that the language of the Resolution requires the applicant to return to the Board to seek an extension of time if conditions of the Resolution could not be met within one-year and that is why they are before the Board.

Attorney Vella explained the area of disturbance on the property. The Horse trail is not impacted. No new ordinances are in place that would affect this application. Mr. Vella spoke to Engineer Shafai before the meeting and he was advised by Mr. Shafai that no changes are in place that would affect this application.

Mr. Vella advised the Board that if the NJDEP makes a change, the Board's engineering department will review it. If the change is minor, the applicant does not have to come back to the Board. If the change is substantial, or creates another variance, then the applicant would have to return to the Board.

The Board granted an extension of time through December 26, 2008. Mr. Curcio made a Motion to grant the extension and Mr. Morelli offered a Second. Roll Call Vote: Curcio, Morelli, Devine, Barthelmes, Bailey and Novellino voted yes to the extension.

NEW BUSINESS:

Chairman Novellino advised that the draft Landscape Ordinance has been received. Mr. Lambros would be the designated party to review the Ordinance and report to the Board. Mr. Lambros is absent and that discussion was tabled to the next Board of Adjustment Meeting in June.

The Board asked about what to do when a commercial property does not keep up with their landscaping. An application is bonded for their landscaping for a two year period. After that, there is not much that can be done to have them maintain the landscaping.

The Board requested that the Board Secretary address their concerns to the Zoning Officer/Code Enforcement Officer of business advertising signs being posted.

By Motion of Mr. Curcio and a Second offered by Mr. Devine, and unanimous vote, the Meeting adjourned at 8:25 p.m.

Respectfully submitted,

Pamela D'Andrea