

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
APRIL 29, 2009**

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

Vice-Chairman Barthelmes read the adequate notice.

Salute to the Flag.

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

MINUTES: Mr. Curcio made a Motion to approve the 3-25-09 Minutes and Mr. Bailey offered a second. Roll Call Vote: Curcio, Bailey, Morelli, Frost and Novellino voted yes.

NEW BUSINESS: Attorney Vella discussed that there is legislation that has been passed allowing two additional alternate members to serve on the Board. He explained the process. The Board will discuss this further when all members are present.

NEW APPLICATION:

Z09-02 WESTERN MONMOUTH HABITAT FOR HUMANITY – Block 63, Lot 11 – Located at on Monmouth Road (Rt. 537) consisting of .89 acres in the HC zone. Applicant seeks Use Variance and bulk variances to construct a 1,620 s.f. single-family, one-story, three bedroom residential dwelling on vacant land. Deemed Complete 3-31-09. Date of Action: 7-29-09.

Attorney Greg Vella advised that he had reviewed the noticing packet and found same to be in order to accept jurisdiction over the application.

Exhibits as follows:

- A-1 Jurisdictional Packet
- A-2 Web Notice posted 04/06/09
- A-3 Application dated 03/05/09
- A-4 Variance Sketch prepared by Crest Engineering dated 01/10/09
- BOA-1 Township Engineer's Report dated 03/31/2009
- BOA-2 Township Planner's Report dated 04/07/2009

Kenneth Pape representing the applicant. He offered a brief overview of the mission of the applicant that is before the Board. He stated that they provide homes throughout Western Monmouth County. The property on Rt. 537 is adjacent to existing residents. The homes are owned by the Preston Family. A use variance is needed because the property is in the HC Zone and that requires use variance approval. Mr. Pape offered that this section of Rt. 537 is an appropriate place to erect a home.

Attorney Vella swore in both John Yaecker and James Wishbow. They are members of Western Monmouth Habitat for Humanity, an affiliate of Habitat for Humanities

Mr. Yaecker explained their purpose. They are working on their 25th home over a period of 20 years. They deal with working families that fall below 60% of the median income. He explained how they find the families and the properties. The family helps build the home.

Mr. Wishbow is the construction leader for the project. They have raised \$50,000 in a fundraiser for a disabled veteran.

Peter Strong is sworn in as the applicant's professional engineer and planner. His credentials are on the record and he is accepted as the engineer and planner this evening. He advised that the lot is .89 acres. It is located adjacent to a JCP&L easement and residents. The plan is to construct a one-story single family residence. No environmental constraints or wetlands exist on the property. Mr. Strong offered a brief description of the premises. He explained that the HC zone has a 3 acre minimum. Generally, the property is wooded. The proposal is for a three-bedroom, one bath, one-story dwelling. He explained that this is the Habitat for Humanity standard dwelling.

Soil testing has been done with the MCBOH. On 2/13/09, the MCBOH sent a letter finding the soil to be suitable for a septic system.

Mr. Lambros arrives at 7:55 p.m.

The proposed structure is entirely handicapped accessible.

Marked into evidence is A-5 a color rendering of site plan.

Marked into evidence is A-6, Aerial map.

Mr. Strong explained that to the west is an existing residence. There is a single dwelling on the lot that is less than .64 acres (lot 12.01) that is a single family residence. Mr. Strong explained the surrounding area referring to the Aerial Map (A-6)

A use variance request is made since the proposed dwelling would be located in a non-residential zone. He went through the proofs. A Habitat for Humanity home would be in accordance with the COAH requirements in the State of New Jersey in promoting the

general welfare. Uses in this area, despite the zoning , are more residential than highway commercial. This is consistent with the neighborhood. He offered that there would be no negative impact on the adjacent properties. The property has no environmental issues. The woodlands are to be left alone in large part.

Mr. Pape advised that Habitat looks for families that will put in sweat equity. They offer this to the Township as affordable housing and hope that the State will accept this as COAH property but they may not because of the selection process that is involved.

Mr. Coppola referring to A-5, asked if the client would consider having a conservation easement on that land area to be maintained given the fact that it is in the HC zone. Mr. Coppola proposed to the Board that the neighbor has a home set back 70 feet. If this home could be set back 75 feet instead of 100, this would lessen the amount of paved area and allow a back yard for the resident and allow the wooded area to remain and be placed in a conservation easement. Mr. Strong explained that they have some flexibility with the septic fields and can manipulate within the framework.

Mr. Coppola addressed the COAH issue. COAH asks that the Affordable Housing be open to the general public. Habitat wants a family that will be tailored to the house. He wants COAH to acknowledge this house as a COAH qualified household. He asked if there would be a possibility for he and the Habitat group to have conversations with COAH to get a better feel if this would be qualified. Mr. Pape stated that Habitat offers to build this home for a family who could not afford a home otherwise. They have no objection to trying to get COAH approval. They request that this not be a requirement and a prerequisite to getting this Certified by COAH.

Mr. Coppola stated that this one unit could be exempt from the list and earmarked for a Veteran household. He would not like to see to it approved without making the effort in concert with the Township's effort. Mr. Pape stated that there is a commitment from Habitat on the record to participate with the Township and COAH to secure COAH qualification and that would be placed in the Resolution. If they have to go through the open COAH procedure it will not work. They may have to request that COAH issue a waiver.

Attorney Vella asked if this would qualify if it is the household of a disabled veteran who has passed away. Mr. Yeacker explains the process of how Habitat works.

Mr. Coppola advised that the applicant would be bound by the restrictions and commitments that are made here this evening carry through to the construction phase.

Matt Shafai wants to make sure that the fence to the rear is moved past the woods so that the owner behind does not take down those trees. The applicant agreed that encroachments are cured at the time they take title.

Chairman Novellino opened the application to the public 8:40 p.m. William Nurko was sworn in. He is a member of the Vietnam Vets NJ Post #3 here on behalf of that post in total support of the Habitat for Humanity's efforts. He stated that this follows along with the goals that his group has. He explained that they are working on homes for homeless veterans. They fully support the Habitat's efforts.

Seeing no further public comment, Chairman Novellino closes the public portion at portion at 8:42 p.m.

Mr. Pape offers a summarization.

Chairman Novellino offers that he looks favorably on the application and feels it is an inherently beneficial project and use. Given the neighborhood has residential homes already he does not see any impact on the zoning plan. Mr. Curcio offered his support for the veterans. The Board indicates support for the application.

Mr. Lambros is not eligible to vote since he missed some of the testimony.

Attorney Vella read the conditions of approval including, but not limited to the following: the plans are to be revised to move the home forward 20 feet, applicant must make an application in concert with the Township and Planner to receive COAH approval , prior to a certificate of occupancy, the applicant shall provide proof that person selected to live in the home is either a disabled veteran or their survivors, approval subject to a conservation easement with trees remaining along the front, (50 ft. north rear or east side and a minimum in the front east side of the driveway), etc.

Mr. Morelli made a Motion to approve and Mr. Curcio offered a Second. Roll Call Vote: Morelli, Curcio, Barthelmes, Frost, Bailey and Novellino voted yes to approve as conditioned.

CARRIED APPLICATION:

Z09-01 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 25,471, one-story building to operate a facility to include boarding for dogs and cats, pet training school, pet grooming school and pet grooming. Bifurcated Application. Variances needed. Deemed Complete 3-9-09. Date of Action 7-7-09. Heard in part on 3-25-09. Carried to 4-29-09. No further noticing required.

This is a continuation from our last meeting. For the record Board Member Steve Barthelmes has certified that he has listened to the meeting and reviewed the exhibits and is eligible to vote on this application.

Attorney Kenneth Pape representing the applicant. He explained that the application is for a boarding facility and a school for dogs.

Mr. Walter Morris previously sworn in is still under oath. He runs a similar facility to the proposed facility. They just recently went through a major renovation and can house 300 animals now. His facility is considerably larger now than Mr. Leibowitz' proposal but in 1999 his facility was similar in size. He stated at that time there was a total peak of 110 in and 110 out on a Friday in July. 60% of his grooming is from his boarding operation. One vehicle could have multiple animals in it. They had 8 parking spaces for the public. An average stay is 5 minutes. They are a peak and valley business.

Attorney Vella Swore in Mr. James Higgins, professional planner. His credentials are familiar to the Board and he is accepted as a professional planner.

He goes over the proofs. He reviewed the Master Plan, the ordinances and the site. He is familiar with the site since he reviewed the plan that was previously before the Board for a garden center.

This site is allowed to have industrial uses and uses that are more intense. This is a facility that provides a number of services including training, training for dog trainers, grooming, and boarding. Mr. Higgins went over the special reasons stating that the site is suited for the proposed use and that general welfare is advanced by the use. The use is a benefit for the general public, while it does not rise to inherently beneficial use; he stated that it does train dogs for law protection purposes. He explained that they train people who want to train dogs. Mr. Higgins stated that the applicant provides boarding and daycare for dogs especially a two income household that does not want to leave the dog alone during the day.

Mr. Higgins stated that this use is not permitted in any zone. He does not know of any ordinance that permits this type of facility with the variety of uses that caters to the animals. Mr. Higgins offered that it is a uniquely configured site, excessive depth and the non-wooded site portion will be where the facility is built. Mr. Higgins goes over the configuration of the property.

There is State owned property and open space to the west of the site and Mr. Higgins explains why it will be isolated and not an impact to the surrounding areas. It has access to residential areas and commercial areas where people can drop off dogs and get to work. He feels it is an ideally located site. The applicant is willing to develop a small

portion of the site and leave the rest to agriculture and open space and therefore this promotes the intent of the Master Plan.

This site is to make available a bridle trail which is an important part of the master plan.

He feels that the BP zone is the best zone for this facility and he explains.

Mr. Higgins explained adequate light air and open space.

He sees no negative impact of this project. This facility would be a distance away from other properties. The building is to be noise proof. Access is adequate for fire and emergency vehicles. He stated that when you look at what could be built, it caters to larger trucks and corporate offices which would have more traffic impact.

Mr. Leibowitz, the owner is sworn in. He advised that there would be a maximum of 150 dogs and 30 cats boarding. They anticipate 30 day care dogs per day that are indoors and walked outdoors. Both pet training and training of dog trainers will be done on site. Grooming is performed on site. There will be indoor swimming for 20/dogs with no outdoor kennels. No medical facility or veterinary service is provided on site. The retail component would be for dog training equipment only. Certain equipment (leash and collar) is needed, this is part of the training. No display case will be there for display potential sale items. No food or medical supplies are sold. No dog breeding will occur on site.

Mr. Coppola stated that we should clarify the hours as 15 -18/day with an evening shift of 5 employees and 1 overnight and 1 resident care taker.

Mr. Leibowitz advised that there is no breeding of dogs and no schutzen activity at the facility. The existing homes on the property are to be removed. An easement is in place to allow the homeowner (who is landlocked) to get to the home in the back.

Mr. Leibowitz explains how they train dogs to become drug detection and bomb detection dogs. This is done with police supervision. He assures that there is nothing material wise that would explode and you would have to be licensed by the State in order to carry those drugs. He works with different departments that are licensed.

Chairman Novellino opened the application to the public at 10:00 p.m.

Mr. Patricia Butch is previously sworn in. She advised that if the applicant wanted to consider the farming of the blueberries and the possibility of irrigation, the irrigation is allowed to be used for the blueberries. The basin on premises would be preserved for firefighting and could be preserved for irrigation purposes. Ms. Butch explained how the trail would run.

Seeing no other public comment, that portion was closed at 10:02.

Mr. Pape summarizes the application.

Attorney Vella explained that this is a bifurcated application and the applicant is required to come back for site plan approval. Applicant must return with a site plan that is consistent with the condition of the use variance approval.

Chairman Novellino advised that his concerns with the last application have been addressed and there is credible testimony on the record. His issues concerning noise have been addressed to his satisfaction. If it goes anywhere in Millstone, this would be the best place. This is the property for it given the remoteness and buffering. He offered that there is a potential positive benefit of having farming there or having the area preserved as open space without any other buildings on it.

Mr. Frost stated that this is good for Millstone and agreed with the benefits for open space.

Mr. Leibowitz will work with the OEM to have emergency housing and shelter for displaced animals.

Mr. Lambros still has concern with the driveway and sees it a problematic. He hopes to try to make it safer. Mr. Vella advised that the issue of improvements to the roadway in front of the subject property is site plan issue. The driveway is this is the best they can do. Any use that goes on that property would have this driveway. This is a NJDEP jurisdiction. The driveway is what it is.

Mr. Bailey is favorable towards the application presented.

Mr. Coppola indicates that thought Mr. Higgins did a good job in citing the special reasons for approval; he stated that it is a uniquely appropriate use for the property. The problem was the potential adverse impact. Mr. Coppola asked that the Board add a few conditions to the use variance approval. Sound deadening in the wall construction as set forth on page 6 of his memorandum. He asked the Board to consider having this in the approval. No outdoor kennel runs, all four sides same material colors and themes including cultured stone and earth tone colors and the like, no floor drains in the facility. The conservation easement will be provided on all tree lands and wetlands to the extent the easements do not interfere with the proposed farming use.

The COAH obligation would be revisited at the time of site plan review by the Board.

Attorney Vella read the conditions of approval including but not limited to the follows: a conservation easement shall be in place, applicant shall comply with the recommendations of the fire prevention bureau report, the architectural are to be revised, removal of the overhead doors on the site plan, revisit the doors that are in the architectural, double paned windows and acoustic doors, noise deafening detailing, applicant shall comply with

comments of the engineer and the planner, a bridle path shall be in place, the applicant will retire the rest of the property from BP use, study of intersections at site and any improvements that are necessary shall be done, COAH is to be discussed at the site plan, only uses permitted as discussed, detention pond also used for irrigation of the farming aspect, removal of the existing dwelling, applicant shall work with the OEM for displaced animals, retail for training aspect only.

Mr. Curcio made a Motion to approve and Mr. Barthelmes offered a Second. Roll Call Vote: Curcio, Barthelmes, Bailey, Morelli, Lambros, Frost and Novellino voted yes to approve as conditioned.

At 10:35 p.m., Mr. Curcio made a Motion to adjourn with a second offered by Mr. Bailey and by unanimous vote the meeting adjourned.

Respectfully submitted,

Pamela D'Andrea