

**MILLSTONE TOWNSHIP  
BOARD OF ADJUSTMENT  
MEETING MINUTES  
FEBRUARY 24, 2010**

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

Reading of Adequate Notice by Mr. Barthelmes.

Salute to the Flag.

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

Approval of Minutes: January 27, 2010.

The members having reviewed the minutes, Mr. Lambros made a Motion to approve and Mr. Curcio offered a Second. Roll Call Vote: Lambros, Curcio, Barthelmes, Bailey, ,Morelli and Novellino voted yes to approve.

**RESOLUTIONS:**

**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 received 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 in Resolution Memorialized on 6-24-09. Applicant received Preliminary Site Plan approval that was granted and memorialized in Resolution dated 8-26-09. Applicant returned to the Board for Final Site Plan approval that was granted on 1-27-10.

Attorney Vella discussed minor changes to be made to the Resolution. The insertion of language that the existing sheds, which only house the temporary fencing for emergency animal evacuation use, would have an exterior façade that shall match the main building façade.

Mr. Curcio made the Motion to memorialize and Mr. Barthelmes offered a second. Roll Call Vote: Curcio, Barthelmes, Bailey, Morelli, Lambros, and Novellino voted yes to memorialize the Resolution.

**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 one-story, 4,000 s.f. retail building with an existing 6,750 s.f.

multi-use 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 6-16-09. Heard in part on 10-28-09; 1-27-10. Extension of time granted through 2-28-10. Applicant to re-notice.

**Z07-07 - 232 MILLSTONE ROAD, LLC** – Block 39.01, Lots 2.02 & 7– 4.33 Acres located in the NC Zone located on Sweetmans Lane. Applicant seeks preliminary site plan approval to construct a 7,700 s.f. retail building, 1,000 s.f. office space on the second-floor with adjoining 4,000 s.f. bank. "D" variance needed for Lot 7 (proposed stormwater management area) which is located in the RU-P Zone. "D" variance needed for Tower peak and cupola peak. Deemed Complete 6-16-09. Heard in part on 10-28-09; 1-27-10. Extension of time granted through 2-28-10. Applicant to re-notice

Attorney Vella advised that the Board has received the disclosure statements needed by the owners of the respective properties.

Mr. Pape sent an amended notice which directed everyone where to review the prior meetings. All parties who had never received the notice via certified mail have received same. All other parties have received notice via regular U.S. mailing.

Mr. Pape clarified that the shareholders and owners of the properties are Ms. Tracey, her mother and father. Three separate households own the properties.

The first witness to testify was the applicant's landscape architect Sam Melillo who was previously sworn in and is still under oath.

Entered into evidence Exhibit A-32 mounted aerial of subject property.

Entered into Evidence Exhibit A-33 mounted colored rendering of cross section.

Mr. Melillo explained the exhibits. The only real location to supplement the trees would be in front of the existing woods. Hollies could be used and he explained why that would be a suitable choice.

Applicants' architect, Gregory Clark was previously sworn in and still under oath. Referring to the Exhibit, he advised that he changed the color of the rear of the 7,000 s.f. building to blend better. No activity will take place to the rear of the building. The rear of the building has been modified to address the fire department's request to have entrance to the building. The basements are for cold storage and no activity shall take place there. Garbage removal is out front. The only purposes of the rear door is at the request of the fire marshall. Security lights are on a timer. HVAC equipment will be mounted within the roof. The condensers will be located on the sides and partially to the rear. Screening of the sound generated by the condensers was discussed.

The fire lane size as requested by the fire department in their report was discussed. Mr. Greg Valesi, P.E. had spoken with the fire department and he would place that on the record later on this evening. The building design was prepared with the fire department's requests in mind.

Entered into Evidence Exhibit A-35 Architectural trim modifications for 4,000 s.f. building Board Landscape Architect, Daniel Dobromilsky, asked that security lights be shielded so the light will not create glare. The applicant will use shoe boxes lights that emit light from the bottom not the side.

Mr. Clark added white molding on the 4,000 s.f. building located on Sweetmans Lane. He explained the benefit of that change.

Attorney Vella swore in Allison Coffin, P.P. . Ms. Coffin has testified before the Board several times and the Board accepts her as a planner.

Ms. Coffin advised that she had reviewed the application, master plan and zoning plan as well as the application and the Board professionals' reports. She went over the variances requested in the applications.

She advised that the applicants are proposing to redevelop Lot 2.01 consisting of 1.88 acres, and Lot 2.02, consisting of 4.33 acres. She stated that although they are two separate properties, they would function as one site.

Lot 7 would sustain the stormwater basin and serve as an irrigation pond for the agricultural use that exists on Lot 7, as well as serving the fire department as a water source in case of a fire. She stated that this is unusual but not unique development. Ms. Coffin went over the expansion of the non-conforming use of Lot 7.

There is one sign for each tenant permitted. The applicants are proposing two signs for the tenants that have two entrances to their place of business. The signs are to be located over the doors.

Ms. Coffin went over the special reasons as to why the variances can be granted and how the project advances the general welfare of the public, improve the site without impairing the zoning ordinance, promotes historic sites in the district, promotes open space and energy resources. She offered that the site is uniquely situated and provides sufficient space, etc.

Ms. Coffin stated that this project does not encourage the overutilization of the site. The farm can benefit from the stormwater collected for its irrigation and the fire department can utilize it as well.

She discussed the request for a “D” variance for the expansion of the existing non-conformity. She feels there is no detriment by approving this variance. She stated that the buffer of the stormwater management basin is less than 50ft. but by the use of intense landscaping aids in the granting of this variance.

Ms. Coffin stated that the sign variances requested aid in identifying the businesses. She stated that the uses are fully consistent with master plan, business in NC zone, and the stormwater management basin on an agricultural property. Ms. Coffin offered that the variances can be granted and would result in the improvement of the site without detriment to the master plan. Ms. Coffin offered that Lot 2.01 has ample frontage to allow and accommodate 2 freestanding signs.

Mr. Pape advised the Board that the applicants had written to the Ms. Guttridge, the owner of Lot 1, to discuss the exchange of cross-access agreements and they are working on that with the neighbor. Attorney Vella explained why the cross agreements are needed.

The applicant advised that the project as worked out meets the lot coverage requirement. Lot 2.01 has 54% and Lot 2.02 is 35% where is 70% is permitted.

Mr. Pape explained how the agricultural deed restriction on Lot 7 came about. He explained that in the 1980's, there was an application before the planning board for a family subdivision. At that time, an agricultural restriction was placed on the property. The restriction was inadvertently filed on only one lot. This did not come to fruition until after Ms. Tracey had purchased the property. The Resolution memorialized it but the deed restriction was not filed.

The Governing Body was asked if a stormwater management basin that provides firefighting and irrigation for the agricultural use was an affirmative. Irrigation for farming activities in the area with a firefighting potential and drafting features built into the basin for the entire community within the area. Attorney Vella advised he was present at a Township Committee meeting and that the Township Committee was fully aware of the plan that is before the Board.

The applicant went over the variances requested. The maximum building coverage for Lot 2.01 is 13% and for Lot 2.02 it is 7% where the ordinance allows 30%.

Reduction or elimination of variances was discussed.

Ms. Coffin advised in order to eliminate the bulk variances on Lot 2.01, the existing historic building would have to be removed.

The signage variance would require the removal of one sign on the frontage.

For the attached signs, entrances for those uses are identified over the door on one side only. The buildings are designed for public access on both sides that is why the entrance sign over the door is requested on both sides of the building.

Regarding the buffer where the driveway is located, it was discussed that it may cost a parking space or two to cut back ten feet or so for a small buffer but Engineer Shafia advised that the applicant has 7 or 8 spaces than they need.

The buffer variance on Lot 2.02, next to the stormwater basin might have a little more green area.

The removal of the "D" variance would be the removal of the stormwater management basin on Lot 7 and placing the basin underground or on the existing commercial site was discussed. You would lose the value to the fire department and the irrigation of the farm property by removing the basin from this lot..

Board Planner Richard Coppola advised that if the stormwater management area were to move over, it does not make a difference from a planning viewpoint. He feels the firefighting and irrigation components are good. He cannot speak to the engineering aspect of it.

Mr. Coppola discussed the variances. He advised that the setbacks for the building are fixed and they are not making the situation any worse and are enhancing the appearance of the building which is a benefit. Mr. Shafai's suggestion to eliminate the extra parking space is a good one. Regarding the buffer, the landscape architect may want to add some more plantings to compensate for the lack of width.

Mr. Coppola stated that in the current plan, there is a vast amount of vegetation around the basin. Even if the stormwater management basin were to disappear, it is an agriculture use so what are you buffering.

As to signage, Mr. Coppola offered the advantage to having the dual entrances is that the applicant is treating both sides of the building as true fronts and signs enhance this. While it is a little out of the box, he stated that the architectural design treats both sides as fronts.

Regarding the freestanding signs, the Millstone Road signs are 15 foot signs. Mr. Coppola stated that the Board should ask why the need for two signs if they contain the same information.

Mr. Pape addressed the stormwater management basins stating that it would provide irrigation that is not available to the farm now. He stated that underground stormwater management is very common. Underground management is cost prohibited. He

explained that Six Flags and The Freehold Raceway Mall are serviced by underground stormwater management. He stated that it is expensive.

Mr. Coppola advised that this project builds out the remaining NC zoned property that remains in that area. He looked at the zoning map and stated that there are four quadrants around the intersection that are NC zoned. This project is located in the south easterly quadrant. This proposal will saturate out the area. He explained the quadrants. Mr. Coppola stated that he would like to check one lot and will report back to the Board. This project is on the largest vacant land that is remaining in this NC district.

Mr. Clark explained the need for the three signs (Exhibit A-17 and A-3 sign details). The signs specifically address all of the tenants of the existing building on 1 smaller sign and the proposed building tenants on 2 larger signs.

The Board took a 10-minute break at 9:20 p.m.

Mr. Dobromilsky discussed the 7,000 s.f. building. He offered that the updated design is equivalent to a fence and feels that given the circumstances, darkening out the trim is a good idea in helping the building to blend in with the trees. His opinion is that the applicant has addressed this concern.

The existing gasline makes it impossible to plant in that area.

The application is open to the public at this point.

Attorney Vella swore in Raymond Giffen, 12 Halkaway. He voiced his concern about the potential pollutants in the pond. He is concerned about height of the 7,000 s.f. building as it relates to the actual grade of the building. He feels the firefighting capability of the pond is not tremendous. He stated that after the detention basin is built, only 3 acres of farm area remain. He was concerned about size of the project and felt it was too large to support business this area. He stated that it does not fit in this area. He asked if the applicant would make the project smaller. Mr. Giffen asked where the loading zones would be located. He was concerned about the amount of traffic this project would attract.

Attorney Vella swore in Marcia Monroe, 345 Sweetmans Lane. She is concerned because there are vacant buildings on Route 537. She voiced her concerns about the increase of traffic on the road. She feels an above ground detention basin unsafe and an underground system could be better. Ms. Monroe is concerned about a potential impact on existing wells on the residential properties. She voiced her concern about the height of the cupola and the lighting as it impacts the surrounding residents.

Attorney Vella swore in John Hart, 343 Sweetmans Lane. He has lived here for 30 years. Mr. Hart feels the large scale of this plan is worrisome. He feels the property is too small to sustain the size of this project. He is concerned about the existing vacant stores on Routes 537 and 33. He is concerned about potential for too much traffic. He asked if perhaps something smaller would be more appropriate for the town. He had concerns about the safety of the pond as well.

Attorney Vella swore in Pat Butch, 40 Prodelin Way. She is testifying as Chairperson of the Open Space and Farmland Preservation Council (OSFP). Mrs. Butch read a statement from the OSFP concerning the importance of keeping farmland deed restrictions in place. She explained the importance of keeping deed restrictions upheld in the strictest way possible.

Mrs. Butch is now testifying as a resident. Her concern is that this application will weaken the restriction on Lot 7, the agricultural piece. She offered that the creation of this pond diverts land that would be used for agricultural. This land was used for growing hay in the past and hay would not need irrigation. If there is a pond, animals could not be farmed because of the manure factor. Mrs. Butch feels it is a negative. The best use of this land for the community is farmland as it was intended. She would not have a problem if the stormwater management were on the commercial property or located underground. She does not want to weaken farmland components.

Attorney Vella swore in Robert Laauser of Sweetmans Lane. Mr. Laauser asked the applicant who the tenants would be. Mr. Pape stated that tenants would be uses specifically identified in the NC zone. The maximum size of any single use is 4,000 s.f. Restaurants are a permitted use. They place a strong demand on the septic system. The parking for a restaurant is 7 or 8 stalls which is more than the ordinance requires for the NC zone.

Attorney Vella advised that whatever use is permitted in the zone can go in there. He clarified that any use outside of what the ordinance permits would require that a tenant come to the Board of Adjustment. Mr. Coppola went over the parking spaces allowed per ordinance.

Chairman Novellino read into the record, the permitted NC Zone uses.

Attorney Vella swore in Mary Beal. Ms. Beal is concerned about the lighting especially regarding a bank. Mr. Coppola advised that the lighting on banks is a unique issue. That type of lighting is not uniformly required. ATM's by State Standards have to have a minimal amount of illumination and may be relatively high and may often times conflict with the remaining lighting on the site. If a bank has a 24-hour ATM area, the lights would have to remain on. Mr. Coppola advised that the Town has a right to regulate the type of building lighting.

Ms. Beal is also concerned about the traffic. She stated that presently truck traffic is bad and she anticipates it would substantially increase with this project.

Attorney Vella swore in Mary Vrable. Ms. Vrable asked what the anticipated agricultural use on Lot 7 would be. The applicant does not know that at this time. Ms. Vrable stated that the buildings on the property are in disrepair and asked what, if any, plans are in place for those buildings.

Attorney Vella swore in Bruce Wolf, 125 Backbone Hill Road. He offered that the applicant has the right to build. He is concerned about size of basin and potential for spillage. He has a concern about the lighting and feels it would have a major impact to the residents especially when conditions are foggy at night. He asked the Board to address the size of this project.

Attorney Vella swore in Mary Costagliola, 141 Baird Road. She owns the shopping center across the street on Millstone Road. She stated that lights must be on for safety as there is a concern about break ins, etc. She voiced her concern about future road expansion and how that would impact the surrounding septic.

Engineer Matt Shafai advised that there are no plans for any traffic light at that intersection. Monmouth County would have jurisdiction over that intersection. Mr. Pape advised the Board that this is a designated scenic roadway and will not be widened as per the County's Master Plan. They have no plans at this time to widen the road.

Attorney Vella asked if they have complied with the 40 foot potential road widening (20 foot half width). Mr. Pape advised this will be done. Engineer Shafai advised it is a 20 foot Right of Way with an 8 foot shoulder.

Mr. Laauser already under oath asked about the kind of septic system the applicant anticipates installing. Mr. Valesi stated that it would be a standard septic system. He explained the plans would be compliant with all local board of health regulations. It will be a conventional system. The plans are available at the Millstone Township Planning offices for the public to view.

Mr Giffen still under oath, asked for details about the retaining wall located behind the building 7,000 s.f. building.

Mr. Wolf, still under oath, asked about buffering to the back of 7,000 s.f. and what plant material could be used.

Mr. Dobromilsky advised the applicant is proposing dense planting around the pond. Out in front of the project, there would be deciduous trees and evergreens. He advised that you want to soften that view in front and screen the pond.

Attorney Vella addressed questions concerning planting maintenance. He explained that after the property is built out, the applicant is placed on a two year maintenance bond and he explained how that works.

On private property, the Board can impose in the Resolution and in the Developer's Agreement that the landscape has to be maintained.

Attorney Vella swore in Evan Hart, 343 Sweetmans Lane. Referring to Exhibit A-33, he discussed that the photos were not taken in order and clarified that exhibit. He went over his concerns about the proposed stormwater management basin.

Seeing no further public comment, at 10:35 p.m., Chairman Novellino closed the public portion of the meeting.

Chairman Novellino announced that the Board needed a clear letter from the fire department as to their requirements.

The Chairman announced that the meeting is carried, without any further noticing required, to Wednesday, March 24, 2010 beginning at 7:30 p.m. The applicant granted on the record an extension of time through March 31<sup>st</sup> to carry the matter.

Seeing no old business nor new business, Mr. Conoscenti made a Motion to Adjourn, Mr. Frost offered a Second and by unanimous vote, the meeting adjourned at 10:45 p.m.

Respectfully Submitted,

Pamela D'Andrea