

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

Meeting called to Order by Mr. Novellino at 7:32 p.m.

Reading of Adequate Notice by Mr. Barthelmes.

Salute to the Flag.

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

Approval of Minutes: February 28, 2010.

The members having reviewed the minutes, Chairman Novellino clarified one change which the secretary had made. Mr. Barthelmes made a Motion to approve and Mr. Lambros offered a Second. Roll Call Vote: Barthelmes, Lambros, Bailey, Morelli Conoscenti, Frost and Novellino voted yes to approve.

Z07-06 - 353 SWEETMAN'S LANE, LLC – Block 39.01, Lots 2.01 & 7. 1.88 acres located in the NC Zone at 353 Sweetman's 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; 2-28-10. Extension of time granted through 3-31-10.

Z07-07 - 232 MILLSTONE ROAD, LLC – Block 39.01, Lots 2.02 & 7– 4.33 Acres located in the NC Zone located on Sweetman's 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; 2-28-10. Extension of time granted through 3-31-10.

Attorney Kenneth Pape representing the applicant.

Chairman Novellino asked the applicant about the plans for Lot 7 concerning the existing farm house and the two rental properties.

Mr. Pape advised he had been discussing with Board Planner Richard Coppola the potential for affordable housing. On Lot 7, there could be a potential to modify the existing farm house to provide 4 affordable COAH housing units with a deed restriction each would be a two bedroom unit. Mr. Pape wrote to Mr. Coppola in November 2009 detailing the potential proposal, preserving the right for Ms. Tracey to build a single family dwelling for herself.

Mr. Pape referred to the Aerial Photograph Exhibit A-13 which reflected the property contained a farm structure, a farmhouse and two small residential structures. The farm house is oriented toward Sweetman's Lane.

Mr. Coppola advised that during the evolution of this issue what could be an offer to the Township was discussed. Mr. Davison provided him with a copy of the restrictive covenant. Mr. Coppola read from that covenant. Farmland preserved land, generally allowed to create one lot. Mr. Coppola advised the Board needs to consider if it make sense as to what is being proposed. Mr. Pape advised that the applicant is prepared to modify the structure if that is what the Board wants.

Mr. Pape referred to Exhibit A-36, correspondence from Mr. Pape to Township Attorney Davison, dated May 8, 2008 wherein the letter is saying that his clients are prepared to establish four (4) COAH units. Exhibit A-37, Letter from Mr. Pape to Mr. Coppola dated October 14, 2009.

Continuing with the application, Mr. Valesi, applicants' engineer was sworn in previously and his credentials were made part of the record.

Marked into evidence, BOA -12, Shade Tree Commission letter to the BOA

The applicant worked with the fire department to address their needs. Referring to Exhibit A-39 Mounted Fire Plan. The first issue was the fire lane should be a minimum of 20 foot wide. Mr. Valesi referred to the plans reflecting the fire lane. The second issue he stated was to make sure that the dumpsters were properly located and he advised that was addressed. The fire department had issues regarding accessing the area where the 7,000 s.f. building is located. Mr. Valesi advised that they provided a flat concrete area located to the west of the existing building as well as the dumpster lane to the east. The building has a 6 foot deep basement and the fire department requested rear access to the rear of the building and the applicant has provided that. The fire department said that if the basin is there, they will use it. They can use the basin to fight fires in the community. Mr. Pape explained the drafting.

Mr. Vella explained that the consideration of the building is a site plan issue. The issue before the Board is for a use variance.

Mr. Bailey's comment was directed as to how the fire department can fill a tanker truck.

Mr. Pape addressed the stormwater basin. Mr. Valesi referred to a schematic design showing how an underground basin functions. Entered into evidence, Exhibit A-40, mounted design of underground water management system.

Mr. Valesi explains how the pond collects water, filters and manages storm water from the roof tops and the parking lot. He explained how the underground system works by collecting water in underground vaults. He explained the pros and cons of both types of basins. An underground system would allow four times more water to escape into the Rocky Brook. He advised that the same volume is in both systems. Mr. Valesi stated that there is no permanent pool of water in the underground system to provide fire fighting.

Mr. Valesi stated that the above ground system is vastly superior. A wet basin requires minimal maintenance. An underground system increases the need for maintenance and is a greater cost to maintain. Wet basin itself by its standards indicates that the wet basin has a higher TSS removal. He advised the above ground system has the ability to handle storms.

Entered in to evidence, Exhibit A-41, Bioskirt antimicrobial and hydrocarbon absorbent.

Board Planner, Richard Coppola asked about the grading with an underground system. Every building would be two feet higher from the road and the parking lots would have to be raised as well. How does that work for the existing building, you have to meet what your existing conditions are in order to meet the grade for the new buildings.

Mr. Frost asked if any and how much run off goes to the adjacent areas. Runoff flows from north to south. The above ground system manages all water runoff.

The bioskirt is proposed to be added to the open basin. Mr. Valesi advised the device would be placed on the furthest down water inlet. He explained the intent is to address issues such as floatables, hydrocarbons and oils. It is commercially available. He explained the engineering of the skirt.

Mr. Coppola asked about the maintenance and time frame. Mr. Valesi advised they refer to the manufacturer's recommendation and place the basin on the manufacturer's recommended maintenance schedule. Mr. Frost advised that careful maintenance is the key. Mr. Pape would offer this in the Developer's Agreement.

Board Engineer Matt Shafai drew up an alternative wet pond on subject property as a viable alternative. The storage capacity of the basin on Lot 7 was discussed. Mr.

Valesi stated that in laying out the basin, in order to collect the stormwater runoff, certain elevations govern where you collect the water. The basin is 3.15 feet deep and is designed with safety standards set forth in the ordinance such as the provision of escape safety ledges.

Mr. Frost asked if the water leads to Rocky Brook, what measures are in place to protect from erosion, stirring up silt and transferring silt downstream. Mr. Valesi stated that the outfall for the basin terminates at the stream. At the same elevation of the stream a pipe and a flared end section so water is more evenly distributed. Rip Rap (rock) apron.

Mr. Shafai asked the location of the lowest point on the site is located. Mr. Valesi stated it is where the proposed bank is to be located. Mr. Shafai asked why the basin is against the grade and not where the low point of the site is. Mr. Shafai asked if the basin is so deep because they are going against the grade.

The Board took a ten minute recess break at 9:10 p.m. returning at 9:20 p.m.

Resuming his testimony, Mr. Valesi stated the elevation of the pond on Lot 7 is 187 and against the buffer lien it is 181. The Rocky Brook Watershed Commission publishes guidelines for stormwater basin design. Mr. Valesi shared the recent contents of that publication, marked into evidence is Exhibit A-42, Pamphlet from Stoney Brook Water Shed Association.

Marked into evidence:

Exhibit A-43, mounted lights to remain on until one hour after closing.

Exhibit A-44, dusk to dawn lighting plan (low wattage security lights).

Engineer Maurice Rached is one of two authors, the other being Nicholas Schaffe, of the traffic report presented to the Board. Mr. Rached, was sworn in before the Board. His credentials are known to the Board and he is accepted as an expert.

Mr. Rached advised that on-site circulation of emergency vehicles and trash removal vehicles can be accommodated. There are three refuse areas and they are well designed to run safe and efficiently. For pedestrian safety, the parking lot has colored, texturized pavers that also add to the aesthetic factor of the plan. He advised that adequate parking complies with the ordinance. Mr. Rached stated that the parking distribution is appropriate, the site is well designed and provides parking spaces as well as minimizing the amount of walking necessary. The placement of a drafting station

location is in a position where the fire vehicles would have access and be able to move throughout the entire site, including driveways and islands has been provided.

Chairman Novellino asked about the level of service at the intersection northbound on Millstone Road and Sweetman's Lane. Mr. Rached stated that the level of service is "E". This is when you have a delay between 35 to 50 seconds. Both existing and proposed sites fall between 35 and 50 seconds.

Mr. Rached was asked what triggers the need for a traffic signal and when does an intersection go from a "stop" sign to a traffic light. He explained there are nine (9) factors that would have to be met including more than 500 vehicles passing on the major road for 8 hours on a day and over 150 vehicles on a minor road. Mr. Rached advised that this intersection is not even close to meeting the traffic counts at a peak hour.

The Board inquired if such situations as bridge closings and the like impact the counts. Mr. explained the conditions that may impact the counts. Different uses mean different peaks. Retail, restaurants, child care all have different peaks.

Mr. Rached advised that the intersection is safe. The site distance is satisfied for the two driveways. Millstone Road is a Township road and is a major road. Matt asked about the excess parking and if it is necessary. Mr. Pape advised it could be greenbanked. Mr. Shafai advised that if the area was slated for parallel parking, no one would use it.

Mr. Lambros asked if the study included traffic patterns at the commercial establishment off of Millstone Road. His concerns were as to the driveway locations of the proposed site and the site across the street on Millstone Road. Mr. Rached stated that the way it is designed now works.

The application was open to the public.

Sworn in Raymond Giffen, Halka Way. He asked Mr. Rached what criteria he used when preparing his traffic report. This was discussed. Mr. Giffen asked about how grade is measured. It is measured from the approved grade not the pre-existing grade.

Sworn in Laurie Sciscenti, Georgann Lane. She feels a center of town is important and she offered her support for this project.

Sworn in Douglas Clayton, Running Brook Drive. He commented that this project offers a convenience to the Township residents. He feels it is important to generate some tax ratable in the town.

Sworn in Mary Beal, 347 Sweetman's Lane. She asked Mr. Rached about his traffic report. He advised that he had updated the 2006 report in 2009. He explained how he came up with the figures. They did a spot count to make sure that the counts are in alignment with their figures. Ms. Beal explained the mining trucks run both ways at 6:00 in the morning. Mr. Shafai advised that the trucks have been running more.

Sworn in John Hart, 343 Sweetman's Lane. He offered that he moved to Millstone due to the rural aspects of the town. Regarding traffic, he offered his concerns about the traffic generated at that intersection as a result of the new school and school bus system.

Sworn in Robert Laauser, 279 Sweetman's Lane. He has concerns regarding the retention pond and geese. The applicant advised that there are ways to keep the geese out. The Delaware and Raritan Canal has addressed the problem with the Canadian geese. This would be addressed at site plan.

Sworn in Marcia Monroe, 345 Sweetman's Lane. She asked about what time trash pick-up would be and asked if the dumpsters would be screened. She asked about delivery trucks that would come on site to deliver to the stores and where would they deliver since she did not see a loading zone on the plans.

Sworn in Kim Pado, 99 Agress Road. She advised that she spends her money outside of Millstone and would welcome more and new business in the community.

Sworn in George Vrabel, 21 Sweetman's Lane. Chairman Novellino asked him about farming Lot 7 and if he had the need for an irrigation pond. He shares a pond with Halka nurseries. Mr. Vrabel has been farming since 1968.

Sworn in Bruce Wolfe, 21 Backbone Hill Road. Mr. Wolfe feels there is a definite advantage having the stormwater management and asked if the applicant could research more into having an underground system. His own observations regarding the traffic in the area have been that it has increased over the past several years. He would like to see the lighting addressed stating that the foggy nights cause glare. He is concerned about trying to squeezing a lot on to this one area.

Sworn in Dave Adams, 294 Millstone Road. He has lived in Town for 4 years. He feels the project would be good for town, he offered it is a good tax rateable and he would put his own office on this site and sees nothing negative at all about the project.

Sworn in, Leo Keoghan, 10 Pittinger Court. He does not live by the area but travels the roadway to work. He moved from Manalapan to avoid the congestion and the sprawl. He explained his experience with the intersection which he feels is dangerous.

Sworn in already Marcia Monroe, 345 Sweetman's Lane. She asked if the Board had any information or study regarding accidents at the intersection. The Board has none.

Sworn in Joan Laauser, 279 Sweetman's Lane. She is concerned about traffic and the quality of life in town.

Sworn in Mary Vrabel, 231 Sweetman's Lane. She asked if the applicant is proposing to offer to the township COAH units. Mr. Coppola advised that today, it looks as if COAH will be in operation for a while. You could consider the offer by the applicant but subject to confirmation of the Governing Body and a Developer's Agreement. Attorney Vella advised that no proposal is before this Board to build a single family dwelling on the site (Lot [7](#)).

Seeing no further public comment, the application was closed to the public at 10:40 p.m.

Attorney Vella advised that the application is a bifurcated application. Questions about the intersection traffic and the lighting on the site are site plan issues, assuming that the Board grants the use variance. The Board does not have enough information to grant site plan approval. Attorney Vella stated they do not want to get into the minutia of the site plan.

Mr. Pape summarized the project that is before the Board. The project is for the development of the corner properties. Four separate properties purchased now have a comprehensive plan. The intensity of the of the development is measured by building coverage of 6% to 13 % lot coverage where 30% is permitted. The types of buildings are designed with architectural features as lead elements, colors, trims and signage all in response to the Board's requests. Mr. Pape offered that the buildings are unique but compatible with each other and the existing building. The landscape architecture had brought architectural features that have not been seen before. The landscape architect works on high end sites and has worked with the Shade Tree Commission and the Board's landscape architect to make this project a quality community development. Mr. Pape gave a brief overview of the restrictive covenant on Lot 7 which would contain the stormwater management area stating the services it would provide. Mr. Pape advised that he Historic Preservation Commission has taken a look at the existing building and feels preservation of that building is important.

Mr. Pape finished by stating this is a fine project which has been carefully crafted, is high end but a low intensity development.

At 10:50 p.m., Chairman Novellino thanked the public for their participation.

Chairman Novellino said an issue the board should consider when deciding to grant the variance is what would a viable alternative to putting the stormwater basin on Lot 7 look like. Two alternatives were presented – putting the stormwater management underground on the commercial lots or building an above ground basin on one of the lots. It was not clear whether the underground stormwater management was feasible or practical. The applicant's engineer testified that significant amounts of fill dirt would need to be trucked into the site to raise the elevation. The applicant's engineer also stated that the above ground basin on one of the commercial lots would likely eliminate one of the buildings – reducing the scale of the project. Thus, granting the variance may be enabling the project to be scaled up vs. one of the alternatives which did not require a variance.

Mr. Coppola advised that in his opinion the project is compatible with the Master Plan given the uniqueness of Lot 7. The location of the retention pond is not going to cause any adverse effect on the Master Plan. The Governing Body has basically said that they are okay with the stormwater management being located on Lot 7 and will put the trust of it before the zoning board. If the stormwater management goes underground, it may not have that much difference but the elevation of the property concerns him visibly in terms of surface water drainage. If the pond is moved onto the lots in the NC district, that could increase the intensity of the area by moving buildings closer together, resulting in a less green area. It could lead to a cramming of the design. People feel the project as presented is intensive but it actually is below the standards.

Mr. Coppola stated that the NC Zone district is at a cross roads as opposed to the HC Zone which are more linear and roadway oriented as opposed to intersection orientated. The architectural design meets our ordinance that everyone had input into. It is a larger development. That is what is permitted. By not approving the retention pond on lot 7 will not change the fact that you can build it underground.

Mr. Shafai stated that under Stormwater Management Regulations, either management system could be used. Mr. Shafai stated that the above ground system is preferred by the NJDEP and the Rocky Brook Watershed Commission. It is much easier to maintain and is better for the environment.

Mr. Lambros complemented the Chairman on his explanation to the public of how the application process works.

In discussing the Pond on Lot 7, Chairman Novellino asked how much of a benefit would it be for the fire department to have this pond. Mr. Morelli feels there are other viable options other than the use of Lot 7. Mr. Bailey stated that if the applicant moves the basin to the southwest corner of the commercial lot on the site, the fire department

can still use it there. He feels that the fire department would go to the Perrineville Lake to fill their tanks.

Mr. Barthelmes stated that the NJDEP and Rocky Brook Commission consider the above ground system is better for the environment. His concern is that the application is before this Board. If the application goes away from this Board, the stormwater management could potentially go underground and the Town could end up with something not acceptable.

Mr. Frost discussed the importance of putting the water filtration system in place, regardless of what stormwater management system is used. His personal opinion is that he feels the scale of the project is large. Mr. Frost noted that people express they like the rural nature of this town and are willing to travel to get what they need.

The Board must weigh if the benefits outweigh the detriments. Attorney Vella stated that the plan does not propose maximum lot or building coverage. If the applicant installs a basin on the NC site, either above or below ground, the applicant may be able to increase lot and/or building coverage. The use is not an inherently beneficial use and the Board must weigh any benefits of placing the basin on the residential lot with any detriments of placing the basin on the residential lot.

The Board discussed the applications.

The Secretary advised that Mr. Devine was not present at the February meeting but did watch the taped meeting, reviewed the documents and signed the certification allowing him to be eligible to vote this evening.

Mr. Bailey made a Motion to deny the application and Mr. Devine offered a Second. Roll Call Vote: Bailey, Devine, Morelli, Lambros, Conoscenti and Novellino voted yes to deny the applications. Mr. Barthelmes voted no to the Motion to Deny. The vote to deny the applications carried 6 to 1.

The Chairman asked for a motion to adjourn and Mr. Lambros made a Motion, Mr. Conoscenti offered a Second and by unanimous vote, the meeting adjourned at.

Respectfully submitted,

Pamela D'Andrea

