

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
APRIL 28, 2010**

Meeting called to Order by Mr. Novellino at 7:30 p.m.

Reading of Adequate Notice by Mr. Barthelmes.

Salute to the Flag.

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

Approval of Minutes: March 24, 2010. The members have reviewed the March meeting minutes. Mr. Bailey made a Motion to approve and Mr. Conoscenti offered a Second. Roll Call Vote: Bailey, Conoscenti, Barthelmes, Devine, Frost and Novellino voted yes to approve.

RESOLUTION:

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. Approval denied.

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. Approval denied.

The Memorialization of the Resolution was tabled to the May 26, 2010 Meeting.

NEW APPLICATION:

Z09-05 – MASSENZIO, Gary and Jodi – Block 46, Lot 15.01 – 35 Back Bone Hill Road consisting of 3.63 acres located in the R-130 Rural Residential Zone. Applicant seeks approval to construct a 865 s.f. addition to the first floor and porch of the existing home. Bulk variance relief for front yard setback is sought where 75 ft. is required and 52.34 ft. is provided and side yard setback where 40 feet is required and 28.60 is provided. Deemed Complete 4-13-10. Date of Action 8-11-10. Noticing Required.

Attorney Vella advised that he has reviewed the jurisdictional packet finds same to be in order to accept jurisdiction.

Attorney Vella read the following exhibits into evidence:

- A-1 Jurisdictional Packet
- A-2 Application dated 9/30/2009
- A-3 Land Survey prepared by Robert T. Kee, Jr., P.E., L.S. dated 3/12/09; last revised 1/20/10
- A-4 Variance drawing prepared by Joseph Primiano, Architect, dated 9/29/09
- BOA-1 Township Engineer’s Report dated 4/13/10
- BOA-2 Township Planner’s Report dated 4/19/10

Attorney Vella swore in Joseph Primiano, licensed architect who presented his credentials and was accepted by the Board as an expert. Attorney Vella also swore in applicant, Gary Massenzio.

Mr. Massenzio explained that they had purchased the house three years ago. The house has no covered entryway and is very plain and does not seem to fit the surrounding area. The applicant wants to put a wraparound porch onto the house. Presently, they have no porch, just a concrete pad at the front door. The applicant feels that the porch will enhance the home. He explained that he had contacted an architect who advised they needed variances in order to construct the wraparound porch.

Mr. Primiano went over the variances needed. For the front yard, 75 feet is needed and 66 feet exist. He explained the proposal. This property is old and still has some of the roadway as its property. Mr. Primiano explained that the Ordinance requires that the property owner ease 25 feet of the property for right of way to the Township which

triggers the need for a variance. They are required to dedicate 25 feet to the township right of way.

Engineer Shafai explained the deeding of the right of way. The applicant is dedicating 25 feet to the Township. Presently, zero feet are dedicated.

The other setback is the side yard setback where 40 feet are required, 30.2 feet exists and the applicant is asking for a 28.6 feet. There are two pre-existing non conforming variances with lot frontage and lot width where 250 feet is required, 248.07 can be provided.

Mr. Primiano goes over Engineer Shafai's report advising they will comply with same. They do have MCBOH approval for the septic location. The applicant explained how they would deal with stormwater runoff. They are going to landscape across the front side of the porch. The applicant will place a note on the plans confirming this. No tree removal will take place and that would be noted on the plans as well, the ROW dedication would be provided to the Township. The applicant would need a waiver from providing the topography and the Board is okay with that request.

Regarding Board Planner Coppola's report, the applicant would provide a new location for the air conditioner toward the back corner of the dwelling. The project materials would match the existing home which is white vinyl. A trek product would be used for the porch. The shingle color on the roof would match.

The applicant explained why they could not build the porch anywhere else. Even if they wanted to do a small covered Atrium, they would need a variance. The home as it exists is non-conforming.

The applicant explained the home was constructed in its present location due to the constraints of the JCP&L easement that runs through their property.

It was discussed that the benefits outweigh the detriments.

Planner Coppola discussed that the hardship is that the C-2 variance is a good planning design since the present home has no visual interest and is very flat. The addition of the porch adds that element that helps to provide for protection, health, safety and welfare. She advised the Board that a C-2 variance could be considered for the front and side and a C-1 variance for the front.

The porch is open, not enclosed in relationship to the other homes. The applicant's neighbor on the one side is a bit away two house across the street are over 100 feet away she feels the proposed porch is of no detriment to the neighborhood. Mrs.

Coppola stated that the variances requested; the side yard is de minimis and the front yard is predicated on the need to provide an ROW to the Township. She explained what is causing that variance.

At 7:59 p.m., Chairman Novellino opened the application to the public

Sworn in David Egli, 1 Backbone Hill Road. Mr. Egli disagrees with the side yard variance. He provides the aerial that an engineer prepared for him 18 months to two years ago.

Mr. Vella entered into Evidence the following:

O-1 Aerial of property

O-2 picture of side property line.

O-3 picture of subject property from adjoining property line.

Mr. Elgi explained that the applicant had cut back and removed trees on his property not knowing where his property line was. Mr. Elgi had the property surveyed and then planted trees there. He felt that the original setback of that property was 30 feet. He would like to see the porch built within that thirty foot back.

The Board advised that they could make a specific condition that other than the porch, no other structures be built in that setback.

Mr. Primiano explained the difficulties in changing the size of the proposed porch. He feels it is essential to have area there for the porch entrance on that side.

Mr. Barthelmes asked about the damage done by clearing the trees. Mr. Elgi advised that Mr. Massenzio cleared the property without knowing where the property line was. Large trees were cleared. Mr. Elgi had the property surveyed and the property lines are clear now.

The Board advised they would take his concerns under consideration.

Chairman Novellino seeing no further public comment, closed to the public at 8:10 p.m.

Mrs. Coppola asked about decreasing the side porch from 8 feet to 6 ½ feet. Mr. Primiano explained that architecturally, this would severely compromise the roof pitch where the 8 foot porch would be on one end and 6/12 on the other would lead to an awkward roof pitch.

Mrs. Coppola asked the applicant to plant evergreens for screening purposes in the area where the intrusion of the 30 foot setback. Mr. Massenzio is in agreement with the plantings. Mr. Egli advised that he had planted trees already.

Chairman Novellino stated that the addition of the porch would enhance the appearance of the house. The neighbor is one hundred feet away and the project encroaches minimally. He offered that the visual benefits outweigh the issuance of the variance. The Board agreed. Board feels the porch would not be imposing on the neighbor.

Attorney Vella reads conditions of approval to include but are not limited to; The porch would be open and not enclosed, written approval provided from the MCBOH, addition of landscaping on the front and side of the porch, no further construction is to take place on the side yard, the proposed porch materials are to match the house, revised plans should reflect the air conditioning unit has been moved to the where the unit is not visible from the road; revised plans to reflect roof leader runoff subject to engineers approval, note on plans no removal of trees, there shall be no sidewalk in the front of the porch, ROW to the Township, etc,

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

NEW APPLICATON:

Z10-01 SEASONAL WORLD – Block 57.01, Lot 21.01. 2.91 Acres located in the HC-1 Zone know as 532 Monmouth Road. Applicant seeks amended major site plan approval and use variance to add a canopy around the perimeter of the existing building (increasing the building by 2,280 s.f.) add three additional parking spaces; modify prior approval conditions to allow the approved two (2) storage trailers to stay on site for a longer period of time. Deemed Complete 3-4-10. Date of Action: 7-1-10. Noticing Required.

Attorney Vella advised that he has read the jurisdictional packet and finding same to be in order, he accepted jurisdiction over the application.

Attorney Vella entered the following exhibits into evidence.

- A-1 Jurisdictional Packet
- A-2 Application dated 02/2/10
- A-3 Web Notice 04/13/10

- A-4 Use Variance and Site Plan prepared by Crest engineering Dated 2/1/10
- A-5 Architectural prepared by Salvatore W. Santoro AIA, dated 1-21-10; last revised 4-8-10
- A-6 Traffic Report dated 4-27-10 prepared by McDonough and Rae Associates
- A-7 Half-Mile Radius Map Prepared by Crest dated 4/22/09
- A-8 Boundary and topographic Survey Prepared by Crest engineering dated 7/29/09
- A-9 See A-5
- A-10 Mounted four picture of existing Site (Large)
- A-11 Architectural rendering of enclosed canopy (large)
- A-12 Consent from Georgetown to park; dated 4/28/10
- BOA-1 Township Engineer's Report dated 3/4/10
- BOA-2 Township Planner's Report dated 2/26/210

Mr. Stevenson explained the application that is before the Board. The application is for a D-2 variance and amended site plan and C-2 setback variance that are triggered by the 195 ramp. The application would increase the non-conformity by 6 feet. The applicant wishes to re-stripe the site to provide three additional spaces. The applicant is proposing that the trailers stay on site for 8 weeks.

Attorney Vella swore in Peter Strong, who is testifying as both an engineer and planner this evening. Mr. Strong's credentials are known to the Board and he is accepted as an expert.

Entered into Evidence is Exhibit A-9 (mounted rendered of Exhibit A-5)

Mr. Strong explains the logistics of the site. The applicant proposes to construct a canopy consisting of 2,820 s.f. to be added to the building to be used for display areas for merchandise. The parking lot consists of 40 parking spaces and by re-stripping; the applicant could pick up three more spaces. Mr. Strong explained that by banking spaces, they could potentially provide 16 more spaces on the site.

Attorney Stevenson explained that the Licensed Architect had an emergency and is not available this evening. Ray Wirt is sworn in he is not a licensed architect but is familiar with the project. Mr. Wirt explained A-10 Mounted pictures of the existing site as it is presently. There is a canopy there already but acts like an awning. Mr. Wirt explained what is there and what is proposed utilizing the exhibit.

Attorney Vella swore in Anthony Schiavone, applicant. Referring to Exhibit A-5 he explained where the awning would be the length of building. The canopy is enclosed. The sidewalk would be enclosed. What is displayed in the parking lot would not be inside the enclosed area. The canopy roof is metal with windows in the front added to the building.

Planner, Cindy Coppola, needed to review the revised plans to see what the materials would be regarding complying with the Township's architectural ordinance.

Mr. Vella is concerned that the parking is right to the building on the south side. The architectural issues may be best addressed by the architect. It is an addition around the existing building. Mr. Frost raised safety issues.

Mrs. Coppola's major issue was pedestrian safety. There are no sidewalks on the south side of the building.

The applicant advised that there are eight (8) entrances around the building so that any parking space is no more than crossing the driveway isle. The applicant was questioned why he is not proposing sidewalks.

Mrs. Coppola asked how someone would access the building in a wheelchair?

The Board took a ten minute break returning at 9:30 p.m.

Mrs. Coppola asked for clarification on the revised plans entitled "tilt up signs". Peter Strong stated that the signs were previously approved. Mr. Schiavone explained that those were temporary signs previously approved and only up during Halloween and Christmas seasons.

Matt asked about the panels. Mr. Schiavone stated that they would core drill through the concrete for the footings.

Planner Coppola advised that the architectural ordinance allows for latitude. She read from the ordinance to explain building facade. The Board is dealing with an existing building and adding onto it, not a building that is being fully constructed.

Mrs. Coppola's concern is this is an addition that encompasses 80% of the building. Mrs. Coppola has a concern regarding the proximity of the proposed addition to not only pedestrian safety in the parking lot but in the building as well. She feels this issue is of a valid concern that is why construction of facade is important not only in appearance.

Attorney Vella swore in traffic engineer John Rae. Mr. Rae is a partner in the firm of McDonough and Rae. He presented his credentials and was accepted as an expert.

He had performed a parking analysis, looked at national standards and seasonal standards. He advised that 57 parking spaces are required to meet our ordinance. With the changes, 43 are being proposed. They are deficient 14 spaces. During seasonal sales he feels you will need additional parking spaces. The plans show 16 banked spaces. His recommendation is not to construct the parking spaces. He suggested that they share the parking services with Burger King which they do presently, employees park at Burger King. Burger King requires 44 spaces but has a surplus of 20 plus parking spaces. It would require a shared parking agreement with Burger King. They have an agreement in place presently. The applicant monitors and the zoning officer would as well.

Seasonal world had banked spaces that were never constructed. Where 54 spaced are required, 40 are provided and restriping will provide and additional three more.

Mrs. Coppola stated that the numbers the architect provided are not in sync with what the engineer provided. She feels the interior walls could come down and the building would be one space.

Mr. Stevenson stated that they have functioned adequately with the 40 spaces for the past nine years. Chairman Novellino has a concern that during peak season, Seasonal World would do not have enough spaces to accommodate its customers and feels that what the applicant must plan for. Mrs. Coppola would like an easement or some type of agreement guaranteeing that this would be in perpetuity. Her concern is that the Board has been presented with a banked parking plan without any lighting, etc. plan for them to take a look at.

Currently the applicant has 37 % of lot coverage and could add the needed parking without going over the 50%.

The outstanding issues of the application are parking and sidewalk. Chairman Novellino said the applicant and board professionals should calculate what the ordinance requires and plan to accommodate those spaces on the site. He indicated that he does not like the shared parking and the safety issues associated with customer's traversing the Burger King parking lot near the drive thru lane.

The applicant advised that sidewalks are already in place that traverses from Burger King to Seasonal World. The applicant would have to remove six (6) twenty year-old trees.

Mrs. Coppola advised that banked parking does work so that you don't overbuild on site but insures if there is a need it can be provided on that site. This is triggered by either the zoning officer or the owner making that determination. The applicant would be required to meet the dimensional requirements. This would trigger a site plan before this Board.

The applicant stated that this is a unique use. He only has seasonal period parking issues. No one wants to remove trees.

The applicant advised that any items as large as a pool or hot tub are not usually in stock. They are stored at the Jackson facility and delivered to the customer's home.

Chairman Novellino opened Mr. Rae's testimony to the public at 10:45 p.m., seeing no public comment, he closed same.

The applicant will return to the Board at its May 26, 2010 meeting and granted an extension of time to the Board in order to complete the hearing of this matter.

Seeing no old business or new business, Mr. Curcio made a Motion to Adjourn, Mr. Conoscenti offered a Second and by unanimous vote, the matter adjourned at 10:45 p.m.

Respectfully submitted,

Pamela D'Andrea