

**MILLSTONE TOWNSHIP  
BOARD OF ADJUSTMENT  
MEETING MINUTES  
JUNE 22, 2011**

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

Reading of Adequate Notice by Mr. Morelli

Salute to the Flag and observance of a moment of silence for the troops.

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

**APPROVAL OF MINUTES:** April 14, 2011

One change was made to the meetings minutes. Mr. Curcio made a Motion to approve the meeting minutes and Mr. Bailey offered a Second. Roll Call Vote: Curcio, Bailey, Conoscenti, Novellino, Lambros, Frost and Morelli voted yes to approve the meeting minutes.

**EXECUTIVE SESSION:** Attorney Vella explained the reason for entering into executive session. Mr. Curcio made a Motion to enter into executive session and Mr. Novellino offered a Second and by unanimous vote the Board entered into executive session at 7:42 p.m.

At 7:55 p.m. the Board returned to the Regular meeting.

**NEW APPLICATION:**

**Z11-01 SAKER, THOMAS AND KRISTEN** – Block 49.01, Lot 5 located at 1 Laurel Court consisting of 4.432 acres in the R-80 Zone. Applicant seeks relief from Land Use and Development Ordinances design standards (Sec. 11-24 3 a and 11-24 4 a) disturbing steep slopes and steep slope buffer areas during the construction of a swimming pool. Deemed Complete: 6-10-11. Date of Action:10-8-11. Variance needed. Noticing is required.

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

Attorney Vella read the following exhibits into evidence:

- A-1            Jurisdictional Packet
- A-2            Web Notice and Key Map

- A-3 Application dated 6-9-11
- A-4 Property Survey prepared by Stires Associates dated 12/10/08
- A-5 Aerial Map prepared by Stires Associates dated 5/19/11
- A-6 Variance Plan prepare by Stires Associates dated 6/01/11
- BOA-1 Engineer's Report dated 6-17-11

Attorney Vella swore in Craig Stires, P.E., applicant's engineer. He had received his BS from Lehigh, and is licensed to practice in New Jersey, Pennsylvania and Massachusetts. Mr. Stires represented that he has been practicing professionally for the past 18 years. He has testified throughout NJ on similar applications. The Board accepts him as an expert.

Mr. Stires explained to the Board the location and topography of the property. Referring to the survey (Exhibit A-4), he clarified that the property was part of a property dispute that had been resolved. Mr. Stires explained that the applicant proposes to construct a new pool and spa.

Marked into Evidence as Exhibit A-7 – Mounted Color Rendering of the proposed developed area. Mr. Stires stated that the reason to relocate the pool is due to the safety of the applicant's young children. The applicant wants to relocate it closer to the house. Presently, the pool is 120 feet away. The existing pool was 20 years old and has been removed. The applicant requires a variance for disturbance of steep slopes.

Mr. Stires went through the Board Engineer. Matt Shafai's report. The applicant calculates 2,600 square feet of disturbance not 5,000. Mr. Stires explained his detailed calculation. The applicant will not violate the wildlife easement. That would be part of the condition of approval.

Board Planner, Richard Coppola, asked if the applicant is disturbing the steep slope grade. They will be adding trees, shrubs and ground cover to better stabilize the slope.

Mr. Stires discussed that the property line dispute with the neighboring property (Block 49.01, Lot 19.01) had been resolved via court action. The wildlife corridor will be 15 feet around property line on applicant's side. Dry well installation at the end of drainage pipe will be installed. Mr. Shafai agrees with this.

Marked into Evidence as Exhibit A-8, Landscaping Plan prepared by Tapestry Landscaping Architecture dated 2-9-10, last revised 3-19-11. The landscape plans were just presented at the meeting this evening and not prior to for the Board Professionals to review and comment ahead of time

Attorney Vella swore in landscape architect, Richard Zimmer. He offered his qualifications including that he has been a licensed landscape architect for 12 years practicing in the State of New Jersey. His practice is high-end residential landscape design. Mr. Zimmer offered that he has testified before numerous Boards in the State of NJ. He is accepted as an expert in this area.

Mr. Zimmer advised that it is not necessary to remove many trees, they can work around the existing landscaping. He stated that predominately oak trees are to be removed that are 6-8 inch and 2- 21 inch caliper trees. He stated that they are bean pole like with just vegetation at the top.

Mr. Coppola asked if Mr. Zimmer would be planting new trees. They will stabilize the ground with more ground covering. Ornamental trees are to be planted to stabilize the slopes and allow light . Mr. Zimmer testified that this will stabilize the slopes. Mr. Shafai stated that there are many trees on the lot. Mr. Coppola advised the Board that the applicant is balancing the landscape by taking some trees down and adding more trees to site.

Mr. Stires went through Mr. Coppola's report. He explained the positive aspects of granting the variance. This would create a safe condition for family by moving the pool closer to the home. They are planting over 1000 plants to stabilize the steep slopes. Trees that are to be removed are not healthy trees and are fighting for light. The ground is bare and plantings will help stabilize that area. Mr. Stires stated that the negative aspect is that they are disturbing the steep slopes and removing some trees but they are taking measures to enhance the slopes on property. The old pool has been removed and that area has been filled. The applicant would like to grow a lawn in that area for usable space. The applicant has improved the retaining wall that was shallow. There is drainage behind the wall.

Engineer Shafai stated that the applicant will not be disturbing the vegetative area behind the pool, putting in a boulder wall implements and adds drainage behind the wall. No grading just mulched areas. No changes will take place to the septic system. They will install a dry well below the pool area to resolve the drainage issue. The proposed fencing will go around the proposed pool. The will improve the easement by removing the existing fence that is presently located in the wildlife easement.

Mr. Curcio asked about the tennis court. The tennis court is existing. Mr. Coppola was initially concerned about the disturbance of the sloop but advised the Board that from his prospective, the applicant has addressed his concerns. Mr. Zimmer stated that he has worked with the Township to stabilize the property.

At 8:31 p.m., Chairman Novellino opened the application to the public.

Attorney Vella swore in Dolores Jenkins, residing at 418 Stage Coach Road. Ms. Jenkins resides in the neighboring home. One of her concerns is the large hole left in the backyard due to the removal of the pool.

Mr. Bailey advised that he had visited the property on Monday. And the hole had been filled.

Ms. Jenkins was concerned about the trees being taken down. Mr. Zimmer advised that he had selected deer resistant plantings for the new landscaping. Ms. Jenkins explained that it is extremely high slope. Chairman Novellino explains the need for the steep slope variance.

She was concerned about where the applicant's pool backwash would go. Mr. Shafai advised that the water runoff would go into a seepage tank but the size of the tank has not been discussed yet.

Seeing no additional public comment, Chairman closed that portion at 8:53 p.m.

The Board discussed the application. Mr. Bailey advised that after seeing the property, he felt the applicant's proposed plan makes sense as long as they comply. Mr. Lambros offered it is meeting a positive criteria to move the pool for safety. Mr. Curcio asked if the Shade Tree Commission could look at the landscape plan. The Shade Tree looks at commercial applications. They do not really look at individual residential property unless it is a subdivision. Mr. Morelli liked the proposal and would like to see that the applicant take down as few trees as possible. Chairman Novellino offered that resolving the protection of the wildlife easement area, addressing the safety concerns regarding the children and improvement of the stormwater management outweighs any detriment of disturbing of the steep slope. Mr. Conoscenti feels the neighbor's erosion concerns have been addressed. Mr. Frost commends the applicant's concern for safety and compliance with any regulations.

Attorney Vella went over the conditions of approval, including but not limited to: no encroachment on the wildlife easement, installation of dry well subject to the approval of the Board Engineer; landscape plan to be revised; no backwash from pool system, fence to be removed from the wildlife corridor. The Board is considering the granting of three variances; disturbance of steep slopes, no conservation easement or buffer on steep slope area.

Mr. Bailey made a Motion to approve and Mr. Frost offered a Second. Roll Call Vote: Bailey, Frost, Curcio, Lambros, Conoscenti, Morelli and Novellino voted yes to approve the application.

**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 variance relief from to add a canopy around the perimeter of the existing

building (increasing the building by 2,644 s.f.) add four additional parking spaces. Date of Action: 6-22-11 per Court Order. Noticing is required.

Chairman Novellino offered a brief update of the application before the Board. The applicant had applied for a use variance that was subsequently denied. The applicant filed suit in Superior Court. The presiding Judge determined that the applicant per the state municipal land use law and some case law is not required to have a use variance for this proposed expansion. The Judge said forget about use variance, proceed with hearing of the application as a "C" variance and a site plan review. Both are before the Board this evening because this applicant had a use variance granted previously to permit his business.

Attorney Vella advised that the applicant is before the Board for a site plan application and for "C" variances associated with the site plan. Since plans have been amended addressing the parking, the applicant is prepare to testify as to those changes.

Attorney Vella finds the noticing packet to be in order. Attorney Vella read into the record the following Evidence:

- A-1            Jurisdictional Packet
- A-2            Web Notice and Key Map
- A-3            Application dated 6-8-11
- A-4            Boundary and topographic Survey prepared by Crest Engineering dated 7/29/99; last revised 4/6/09
- A-5            Amended Site Plan Prepared by Crest Engineering dated 2/1/10; last revised 6/10/11
- A-6            Statement of Negligible Environmental Impact prepared by Crest Engineering dated June 2011
- A-7            Half-Mile Radius Map prepared by Crest engineering dated 4/22/09
- A-8            Proposed Canopy Enclosure Plan prepared by Salvatore W. Santoro dated 1/23/10; last revised 5/11/10
- A-9            Revised architectural rendering of entrance prepared by Salvatore W. Santoro .
- BOA-1        Engineers' Report dated 6-17-11
- BOA-2        Planner's Report Dated 6-20-11

Christopher Stevenson, representing the applicant explained that there is an additional variance required. He explained that the property has two front yards. Route 195 and Monmouth Road are two front yards which triggered the two "C" variances. The applicant has revised his plans to relocate the banked parking.

Attorney Vella swore in Sal Santoro, Architect . Mr. Santoro described the proposed addition as illustrated in previous Exhibit A-15 .

Mr. Santoro explains the project. He enhanced the main elevation of the front of the building. White aluminum surrounds the windows. He explained that all sides of the proposed enclosure are the same or very similar. The lighting inside is fluorescent. He advised that you will not see the light from the outside, you will only see the lighted area. Mr. Santoro explained that the exit lighting at the door is per code and is down-light and the fixture will match the white aluminum. The building department reviews for code.

He explained that the exterior block has a dual purpose: aesthetic and safety so that people do not drive through the building. The applicant will meet LEED Standards by utilizing recycled materials that are sold in the area. The applicant will watch their waste and recycle when possible.

Mr. Coppola stated that the applicant offers an intention to try to follow the LEED standards. This is difficult to track but the applicant is advising it is their intention to follow the standards. The Board agrees that it is difficult to monitor. The applicant is to recycle aggregate block, metal work, glass. Mr. Coppola stated that this condition is to be addressed on the construction drawings. Mr. Coppola reviewed the color elevation drawings regarding the border around the bottom of the proposed enclosure. The architectural drawing is to be revised to reflect the block around the bottom. The Board will review the non-color plans to match the rendering. The applicant chose earth tones for the block.

The Board discussed that all entrances are to be consistent.

Marked into evidence is Exhibit A-10, Architectural Design of the Entrance.

Attorney Vella swore in Applicant, Anthony Schiavone. Mr. Schiavone stated that the HVAC equipment is located on the building roof. There will not be any new equipment installed. The architect designed a ventilation system to prevent condensation and bring some air changes into the enclosure. Mr. Coppola suggested that applicant provide a roof plan concerning the HVAC system. This is for purposes of assuring that the system is not seen. Mr. Coppola stated that the existing sign does not comply with the architectural provisions and it should be removed. The temporary signs should be integrated with the permanent sign. Chairman Novellino advised that while the

temporary sign is not a problem this is an opportunity for improvement now that we are changing the architecture. Mr. Coppola will work with Mr. Santoro

Mr. Shafai asked how many windows are proposed, percentage-wise, for this project. The ordinance does have a maximum. Mr. Coppola is fine with the windows.

Mr. Shafai addressed the exterior lighting and advised that a revised plan must match the entrance as set forth in Exhibit A-10. There should be a note on construction drawings that recycled material should be used as much as possible. A roof plan should reflect that the HVAC is in conformity.

At 9:56 p.m., Chairman Novellino opened the testimony of Mr. Santoro to the public. Seeing no public comment. He closed that portion and Mr. Santoro left the meeting.

Attorney Vella swore in Peter Strong of Crest Engineering who is testifying as both a professional planner and engineer this evening. The Board is aware of Mr. Strong's credentials and he is accepted as both a professional planner and engineer this evening.

Mr. Strong discussed the modifications to the parking plan.

Marked into evidence as Exhibit A-11, Mounted Color Rendering of the revised Site Plan. Mr. Strong explained the location of the property. The property has two front yards, one on Monmouth Road and one on Route 195. By restriping the parking lot, they were able to achieve more parking spaces. Ultimately, the applicant proposes to have 75 parking spaces as required for this site.

The applicant revisited the site plan did not want to tear up landscaping to put in parking spaces. They have 18 banked, spaces and 57 spaces via restriping, providing a total of 75 spaces. The trees are located where the additional parking would have to be located. Mr. Coppola asked about the trees. There are six big oaks (2 presently dead). The plans will be reviewed by the Shade Tree Commission. Mr. Strong will provide a landscaping plan for the spaces as well as the one parking area light.. The light is recessed shoe box lighting, 16 feet high. The 18 spaces are deferred. The applicant could engineer those banked spaced presently (grading, lighting and landscaping) or build when needed. The applicant would then to provide the plans within 60 days. Mr. Stevenson thought that would be done at a later time (as per the original meeting last year).

Attorney Vella went over the different scenarios. Three choices; bank the parking; or bank it and design it; or design it and build it. Attorney Vella advised that it is up to Board what area to bank or build with a walkway to the building. Mr. Coppola asked if

we want or landscape to take a look at this. We can come up with a design to save the trees. A way to save the trees should be explored with the Shade Tree Commission who should review the landscape plans as well.

Chairman Novellino indicated the board needs data in order to decide the parking need. The Board had determined that this facility is retail space. Mr. Rae, the applicant's traffic expert who testified at that last application hearing, gave his opinion that 57 parking spaces would be required. Mr. Coppola suggested banking the spaces and building when needed. Why pave if not needed. He feels that is a better plan. Attorney Vella advised the Board that the Zoning Officer determines if banked parking is needed and the applicant has 60 days to provide plans to Township and then construct the spaces. The board wants to see a plan for building the parking lot which can minimize the tree loss and is reviewed by the Shade Tree commission.

Attorney Vella wants to make sure that Mr. Strong addresses whether the stormwater Management area would be sufficient if all the parking spaces were built. He had prepared calculations for additional runoff at the first hearing.

The matter has been carried to the July 27, 2011 meeting without any further noticing required.

At 10:45 p.m., having no new business or old business items on the Agenda, Chairman Novellino asked for a Motion to Adjourn the meeting. Mr. Curcio made a Motion to Adjourn and Mr. Frost offered a Second and by unanimous vote the meeting adjourned.

Respectfully submitted,

Pamela D'Andrea