

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
FEBRUARY 23, 2011**

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

Reading of Adequate Notice by Mr. Frost.

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

Members sworn in by Attorney Greg Vella: Anthony Conoscenti (Regular Member), Barry Frost (Alt 1) and Patrick Mostyn (Alt II).

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

Chairman Novellino advised that Board Member Tom Devine is not returning to the Board this year due to his own scheduling conflicts. Chairman Novellino spoke of Mr. Devine's contribution to the Board during his tenure.

Election of Officers began with a nomination for Chairman. Mr. Frost made a Motion to nominate Michael Novellino to serve as Chairman and Mr. Conoscenti offered a second. Roll Call Vote: Frost, Conoscenti, Lambros, Bailey, Morelli and Mostyn voted yes to the election of Mr. Novellino to serve as Chairman.

Congratulations to Mr. Novellino.

Chairman Novellino made a Motion to nominate Steve Barthelmes to serve as Vice-Chairman. Mr. Mr. Morelli offered a second. Roll Call Vote: Novellino, Morelli, Lambros, Bailey, Conoscenti, Frost and Mostyn voted yes to the election of Mr. Barthelmes to serve as Vice-Chairman.

Congratulations to Mr. Barthelmes.

The Motion to appoint Pamela D'Andrea as the Board Secretary was made by Mr. Novellino with a second offered by Mr. Conoscenti offered a Second. Roll Call vote was taken: Novellino, Conoscenti, Lambros, Morelli, Bailey, Frost and Mostyn voted yes to appoint Ms. D'Andrea.

Ms. D'Andrea thanked the Board.

Chairman Novellino explained the Township's open and fair bidding process for the appointment of Board professionals. He advised that this year there were three bids for the position of Board Engineer and two bids for the position of Board Planner.

Chairman Novellino advised that the Board had formed a subcommittee consisting of members Novellino, Frost and Curcio to review the bids received. The subcommittee looked at the quality of service, fees, and experience of all the candidates then made a recommendation to the board to re-appoint the boards professionals from last year..

The Motion to appoint Gregory W. Vella, Esq. of the firm of Collins, Vella & Casello, L.L.C. as Board Attorney was made by Mr. Novellino with a second offered by Mr. Frost. Roll Call Vote: Novellino, Frost, Bailey, Lambros, Conoscenti, Morelli and Mostyn voted yes to appoint Gregory W. Vella, Esq.

Attorney Vella thanked the Board.

The Motion to appoint Leon S. Avakian, Inc. as the Board Engineer with Matt Shafai, P.E. as the principal Engineer was made by Mr. Novellino with a second offered by Mr. Frost. Roll Call Vote: Novellino, Frost, Morelli, Conoscenti, Lambros, Bailey and Mostyn voted yes to appoint Mr. Shafai.

The Board explained why they chose Leon S. Avakian, Inc. The Avakian proposal stated specifically that Matt Shafai himself would be the person to provide engineering services to the Board. The Board stated that Mr. Shafai has done an outstanding job for the Board in the past and given his qualifications, the Board felt he was an excellent choice.

Mr. Shafai thanked the Board.

The Motion to appoint Richard Coppola of Coppola and Coppola as Board Planner was made by Mr. Novellino and a Second offered by Mr. Morelli. Roll Call Vote: Novellino, Morelli, Bailey, Lambros, Conoscenti, Frost and Mostyn voted yes to appoint Richard Coppola, P.P. The Board stated that Mr. Coppola has done an outstanding job for the Board in the past and given his qualifications, the Board felt he was an excellent choice.

Mr. Novellino made a Motion to nominate Daniel Dobromilsky & Associates with Daniel Dobromilsky as the primary Landscape Architect to provide Landscape Architectural Services to the Board and Mr. Lambros offered a Second. Roll Call Vote: Novellino, Lambros, Bailey, Morelli, Conoscenti, Frost and Mostyn voted yes to the nomination.

The Motion to appoint Angela G. Buonantuono as the Board Court Reporter was made by Mr. Novellino with a second offered by Mr. Bailey. Roll Call Vote: Novellino, Bailey, Lambros, Morelli, Frost, Conoscenti and Mostyn voted yes to appoint Ms. Buonantuono.

The Motion to designate The Asbury Park Press and The Messenger Press as the official Board newspapers was made by Mr. Novellino with a second offered by Mr. Conoscenti. Roll Call Vote: Novellino, Conoscenti, Lambros, Bailey, Morelli, Frost and Mostyn voted yes to designate the official newspapers.

The Motion to adopt a regular monthly meeting schedule for 2011 and the first meeting date of 2012 with the meetings to begin at 7:30 p.m. in the Municipal Building located at 215 Millstone Road, Millstone Township, New Jersey, was made by Mr. Novellino with a second offered by Mr. Lambros. Roll Call Vote: Novellino, Lambros, Morelli, Bailey, Conoscenti, Frost and Mostyn voted yes as follows:

February 23, 2011	August 24, 2011
March 23, 2011	September 28, 2011
April 14, 2011	October 26, 2011
May 25, 2011	November 30, 2011
June 22, 2011	December 15, 2011 (Thursday)
July 27, 2011	January 25, 2012

Approval of Minutes: November 29, 2010.

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

Chairman Novellino announced that members Barry Frost and Bob Bailey are being recognized this evening for their perfect attendance in 2010. Both members had perfect attendance in 2009 as well. In addition, Chairman Novellino recognized all of the members of the board for their sacrifice of personal time to perform volunteer service to the community as board members.

RESOLUTIONS:

EXTENSION OF TIME

Z10-05 CHARLES NOREIKA - Block 50, Lots 1.01, 1.02, 1.03 & 2. Located on Paint Island Spring Road and Millstone Road. 30.1 acres located in the R-80 Zone.

Applicant Received approval for Preliminary Major Subdivision to develop an (11) lot subdivision consisting of (1) existing residential building lot, (8) new single-family

residential lots, (1) lot dedicated for drainage and (1) existing non-conforming commercial lot. Applicant seeks a one-year extension of time. No noticing required. One year Extension granted to July 24, 2011.

Mr. Morelli made a Motion to Memorialize and Mr. Lambros offered a Second. Roll Call Vote: Morelli, Lambros, Conoscenti, Frost and Novellino voted yes to Memorialize.

SITE PLAN WAIVER REQUEST:

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 Final site plan 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. Applicant seeks to downsize the building square footage and seeks a waiver from Site Plan approval. No variances requested. No noticing required. Waiver request considered and granted.

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

NEW APPLICATION:

Z10-06 MUIR/TEREFENKO – Block 48, Lot 11.04 – Located at 97 Brookside Road consisting of 3.44 acres in the R-80 Zone. Applicant seeks to build an addition on to their existing single family dwelling. Variances are needed for yard setbacks where 30 ft. is required and 21.56 ft. and 26.80 ft. can be provided. Deemed Complete 1-7-11. Date of Action: 5-7-11. Noticing is required.

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

Attorney Vella read the following exhibits into the record.

- A-1 Jurisdictional Packet
- A-2 Application dated 11-22-10
- A-3 Web Notice
- A-4 Survey prepared by Concept Engineering dated 12-21-10
- A-5 Variance Sketch prepared by Concept engineering dated 11-22-10

A-6 Series of three (3) pictures of existing construction and aerial of site plan

BOA-1 E-Mail Report of Planner Richard Coppola dated January 18, 2011

Attorney Vela swore in John J. Ploskonka, P.E., P.P. of Concept Engineering. Mr. Ploskonka provided his credentials for the Board for their consideration. He has been an engineer and planner for 40 years testifying before many Boards as both an engineer and planner. He is accepted as an expert.

Mr. Ploskonka offered a brief background of the application that is before the Board. The applicants request two variances for a home located on Brookside Road. In November 2010, it was determined by survey and there was an encroachment into the side yard setback. He explained that during construction, an old portion of the foundation collapsed and the building inspector required them to reconstruct the foundation. Ultimately, an additional encroachment occurred during the framing of the house.

Mr. Ploskonka referred to Exhibit A-5 reflecting the encroachment.

The encroachment on the right side of house was an error by the mason. Mr. Ploskonka explained to the Board that the applicant meets all of the set back requirements of the zone and is fully conforming except for the two encroachments.

Entered into evidence is Exhibit A-6, a series of three pictures exhibiting construction on the property and an aerial of subject property. Mr. Ploskonka advised that there is less than a 100 sq. foot encroachment.

A survey was done after the house was framed to check where they were at. A Stop Work Order was issued by the Construction Department and the applicant was required to appear before the Board of Adjustment. The house had received an outside coating of material to protect it from the elements during this process.

Board Planner Coppola offered that there are two separate errors. The foundation was discovered not to be in good shape so they had to rebuild the foundation. They then made a 0.84 foot error. When they were framing the house, they made an error.

Mr. Coppola had reviewed the application, verified the information with both Mr. Shafai and Mr. Ploskonka and felt it was not necessary to issue a Memorandum but rather addressed his concerns in his e-mailed report (Exhibit BOA-1). Mr. Coppola offered that this is a hardship but a hardship created by error. The front difference is really a minimum of 0.08 feet. While this error does not stand out from the road, 3.2 feet is not a tiny mistake. The alternative to not granting the variance would be a hardship on the

property owners. Human error happened and Mr. Coppola sited that it was a mistake not to survey before putting the frame up. He offered that this does not impact the zone plan negatively.

The Contractor of the project is in the audience. The house location was shifted but the house is not larger in size.

Mr. Shafai asked the applicant where the driveway would be located. He does not want to see the driveway located on the side where the variance is located. The applicant was advised to meet the ordinance and must have a survey before they resume work. Mr. Ploskonka advised that the Township Building Department is in possession of that survey now. A final survey must be provided prior to the issuance of a certificate of occupancy.

The application was open to the public at 8:26 p.m. and seeing no public comment, that portion of the application was closed at 8:26 p.m.

The Board discussed how to prevent this from happening in the future.

The conditions of approval were discussed. Mr. Conoscenti made a Motion to grant the variances requested and Mr. Bailey offered a Second. Roll Call Vote: Conoscenti, Bailey, Morelli, Frost, Mostyn and Novellino voted yes.

Annual Report. Chairman Novellino discussed the 2010 Annual Report that the Board had prepared. The report will be provided to the Township Committee and the Planning Board Chair. The Time of Decision Rule was discussed. The State of New Jersey has recently adopted legislation to eliminate the "Time of Decision Rule" for land use applications. Attorney Vella and Planner Coppola felt strongly that the Township Committee should take a look at the Rule.

The new legislation prevents the Township from changing existing ordinances to prevent a land use that has been inadvertently permitted by the existing ordinances to be non-permitted after an application has been submitted. Towns should take a look at the permitted uses in the zones. If you do not like the use, then now is the time to look at the uses. Let us make it non-permitted now. Attorney Vella's concern would be an applicant comes in with an application requesting no waivers, no variances and it is a permitted use.

Mr. Coppola advised that it would not take long for the Governing Body to review this. All permitted uses should be evaluated. He stated that review the uses presently permitted and those that are ambiguous. It is meaningful to have a record. You can add uses a zone category. We should look at what we are permitting.

For the time of decision rule, the definition of when an application is considered an official filed application was discussed. Planning Board Attorney Michael Steib who had prepared this research, felt it must be a complete application with the accompanying documents.

The Board is not proposing a particular solution, they are making a recommendation to the Township to take a look and be proactive.

Mr. Novellino made a Motion to adopt the 2010 Annual Report and Mr. Lambros offered a second and by unanimous vote the Report was adopted. A copy would also be provided to the Planning Board Chairman, Mitch Newman.

At 9:00 p.m., The Board went into an Executive Session to discuss pending litigation by Motion of Mr. Novellino and a Second offered by Mr. Lambros and by unanimous vote.

At 9:05 p.m. the Board returned back into the regular session.

The Board discussed a potential wind turbine and solar panel ordinance. Mr. Coppola agreed that the board should receive a draft of the proposed ordinance for review and comment.

Seeing no further business. Chairman Novellino made a Motion to adjourn and Mr. Morelli offered a Second and by unanimous vote the Meeting adjourned at 9:10 p.m.

Respectfully Submitted,

Pamela D'Andrea