

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
JUNE 24, 2020**

Meeting called to Order by Chairman Novellino at 7:40 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 – Ferrara, Frost, Mangano, Morelli, Mostyn and Novellino
Absent – Barthelmes, Conoscenti and Lambros

The Board Planner this evening will be Leigh Fleming, P.P.

APPROVAL OF MINUTES: APRIL 22, 2020

The Board having reviewed the Meeting Minutes and suggested changes having been made, Mr. Ferrara made a Motion to adopt and Mr. Morelli offered a Second: Roll Call Vote: Ferrara, Morelli, Frost and Morelli.

EXTENSION OF TIME:

Z18-09 MAZZITELLI - Block 36.01, Lot 3 located at 6 Quail Hill Road consisting of 2.66 acres in the R-80 Zoning District. Applicant sought and received approval in Resolution Memorialized in 3-27-19 to construct single family home on the existing vacant lot. Variances were required for: Sec. 4-4.7 (Lot Area requirements) because a 200' diameter circle cannot be inscribed within the usable building area; Sec. 11-24.3 because existing steep slopes (15%+) are proposed to be disturbed and a conservation easement is not proposed around the remaining steep slopes. Also requested and granted was a waiver from checklist submission of Environmental Impact and Assessment. (Sec. 9-3). Resolution memorialized 3-27-19. Applicant returns to the Board seeking an additional 6-month extension of time to 9-24-20. (Time ran 3-26-20). Attorney Vella swore in Michael Mazzitelli. Attorney Vella stated that no noticing is required on an extension of time.

Mr. Mazzitelli explained that the delay was due to his architect taking longer than anticipated in getting the plans to them. They have received all outside approvals and are getting ready to submit their application to the Construction Department.

Chairman Novellino asked Engineer Shafai if any Ordinances that might apply to this application have changed since the Board approved the application. Board Engineer Shafai advised that no changes impact the application.

Seeing no questions from the audience or the Board, Chairman Novellino asked for a Motion and a Second to either approve or deny this extension. Attorney Vella advised that the Ordinance requires that an applicant apply for their building permits within one

year from the approval of the application but also allows for the applicant to seek an additional 6-month extension of time, showing good cause to the Board why the extension is requested. He advised that this extension request does not have to be open to the public for comment. The extension would run to September 24, 2020 and all prior conditions are applicable.

Mr. Ferrara made the Motion to Approve the extension and Mr. Morelli offered a Second. Roll Call Vote: Ferrara, Morelli, Mangano, Mostyn, Frost and Novellino voted yes to the extension.

NEW APPLICATION:

Z20-03 MUMAU, BRIAN AND ELAINE – Block 6.02, Lot 5 located at 15 Saddlebrook Road consisting of 1.84 acres in the R-130 Zoning District. Applicant’s property is located on a thru street. Applicant seeks to remove a 500 s.f. horse barn and construct a new 1,080 s.f. horse barn where 900 s.f. is permitted. Applicant seeks a variance for the height of the structure where 16 feet is permitted and 19.83 feet is proposed. Deemed Complete 3-18-20. Date of Action 7-16-20. Noticing required.

Attorney Vella advised that he has reviewed the jurisdictional packet and the meeting is being held via Zoom under the guidance provided by the DCA. The Board accepts jurisdiction over the application.

Attorney Vella read the Exhibits into Evidence as follows:

- A-1 Jurisdictional Packet
- A-2 Application dated 2-27-20
- A-3 Architecturals of new barn prepared by David King dated 2-14-20 consisting of 3 pages
- A-4 Portion of Pool Grading Plan prepared by Midstate Engineering dated 2-16-18 reflecting area of new barn location and old barn removal
- A-5 Applicants’ photos and drawings consisting of 5 pages of present and proposed horse shelter
- BOA-1 Engineer’s Report dated 3-18-20
- BOA-2 Planner’s Report dated 4-30-20

Attorney Vella explained to the public how the procedures for participating in the Zoom meeting and asking questions/making comments, would work.

Attorney Vella swore in Brian and Elaine Mumau.

Mr. Mumau advised that have lived in this development for 17 years. Referring to Exhibit A-5, he refers to the existing barn. He explained that it is a 30-year old barn needing extensive repairs which is more costly than replacing the barn. He explained that the existing building is not properly set up for the horses, the stalls are too small and they are unable to move around and is unsafe as well. He is looking for a safer space for the horses.

The building will be 30 x 30, 900 s.f. which is the permitted size for an accessory structure in his zone. The overhang is 6 x 30, 180 s.f. This is needed for proper footing for the horses. Mr. Mumau refers to the existing barn in the exhibit to show that there is mud and water in the area that will benefit by the overhang addition. Mr. Mumau stated that the barn height will be 19'2". He described the new barn referring to Exhibit A-5 reflecting that the new barn will match the house as proposed.

The Exhibit reflected the floor plan that shows that there is turn around room for the horse and the second floor unfinished for storage of the hay bales. The barn will need water and electricity as with the existing barn to feed and water the horses.

Chairman Novellino asked for clarification of the doors where the overhang is located. Mr. Mumau explained that those are the doors that the horses will be entering and exiting.

Mr. Mumau explained the view from the barn. Referring Exhibit BOA-2 to the Board Planning report, the Aerial, Mr. Mumau explains the site. He explained the location of the shed to be removed and where the fence will be located.

Chairman Novellino asked if the building could be reduced. Mr. Mumau explained they are at the minimum already with this proposed structure. Referring to Exhibit A-3, Mr. Mumau explained that the isle is 10 feet and the stalls are 10 feet. Normally stalls are 12 x 12. This is the absolute minimum for the stalls for horses and people to move around.

Board Engineer clarified that the ordinance is not clear on overhangs. Mr. Mumau stated that it will be gravel or natural stone dust under the overhang.

Regarding the height, 16 feet is permitted and you can go to 20 feet if it matches the house architecturally. The Engineer finds it compatible. Attorney Vella advises that if the Board finds it architecturally compatible, then there is no height variance.

The Board Planner Fleming feels that the color of the siding, seeming of the doors, the location of the dormers, lend to the compatibility factor. The applicant confirms that the height of the home is less than that of the barn. Chairman Novellino drove by the property today and advised it is a two-story home.

Mr. Morelli stated he is a horse owner, and the overhang is of critical importance. He explained that on rainy days his horses hang out under the overhang. He has 12ft. x 12ft. stalls and his horses are able to sleep in those stalls. The upstairs is for the hay and it is safer and neater than locating it near the horses. He agrees that it matches the applicants' house.

Mr. Frost asked if the horses were his or will he be boarding horses. Mr. Mumau stated they are his horses.

Board discussed that there is no ordinance limiting the number of horses a party can have.

The Mumau's have two horses currently but they have had three. Neighbors do have horses in his development.

The Board Planner Fleming asked what is the existing size of the current barn. Mr. Mumau advised the height is 16 feet in height and the size is 20 ft. x 24 ft., 480 s.f. There is no landscaping there presently and not proposed. He confirms that the fence is the same fence there presently.

Board Engineer asked about the utilities. Mr. Mumau advised electric and water. Board Engineer advised that he would need a current survey of the property but it was discussed that an as-built survey would be required when the barn is built.

Mr. Mangano asked about the number of horses and Mr. Mumau confirmed that they have two horses and maybe three.

Mr. Frost asked about outdoor lighting. The lighting on the current barn will be the same on the new structure and it is just safety lighting

Chairman Novellino opened the application to the public. Seeing no one respond, he closed that portion of the meeting.

Mr. Morris the Zoom Monitor, confirmed that no one was in the waiting room to come in.

Chairman Novellino finds the barn building to be architecturally compatible with the house. As a result, he does not believe that we need a height variance. He felt that the neighbors may see the structure but he stated that it looks no different than a 900 s.f. building. The structure that exists in the same location as the proposed barn is difficult to see from the street as it is behind the house so he does not see any issue with the Board approving this application.

There was discussion on limiting the number of horses. Mr. Morelli agrees with the compatibility. He explained how he does not feel the limiting of the horses is prudent and he explained why. Mr. Ferrara agreed with Mr. Morelli on both counts.

Attorney Vella provided conditions of approval should the Board approve the application, including but not limited to, applicant will submit an as-built after construction, Monmouth County Board of Health to approve the location of the building, etc.

Mr. Morelli made a Motion to approve subject to the conditions, no height variance is needed because the building is compatible with the architecture of the house and Mr. Ferrara provided a Second. Roll Call Vote: Morelli, Ferrara, Frost, Mostyn, Mangano and Novellino voted yes to approve.

Z19-07 STEWART, DANIEL AND DOMENICA – Block 31.01, Lot 33 located at 2 Evergreen Court consisting of 2.62 acres in the R-130 Zoning District. Applicant proposes to construct a 2-car garage seeking variances relief from building size of 1,782.5 s.f. where 900 s.f. is permitted; height of 28.82 where 16' is permitted. Deemed

Complete 1-31-20. Date of Action 5-30-20, extension granted to June 30, 2020.
Noticing required.

Attorney Vella advised that he has read the jurisdictional packet and finds same in order to accept jurisdiction over the application.

That notice did include the appropriate language for the zoom meeting in compliance with the DCA. Attorney Vella explained the process for participants to present a question or testify.

Attorney Vella entered the following exhibits into evidence:

- A-1 Jurisdictional Packet
- A-2 Application dated 12-3-19
- A-3 VOID
- A-4 Property Survey prepared by Crest Engineering dated 10/8/19
- A-5 Color Aerial prepared by Crest Engineering dated 11-15-19
- A-6 Variance Sketch prepared by Crest Engineering dated 11/15/19;
last revised 3-4-20
- A-7 Architecturals prepared by Timberline Construction dated 12-30-
19 consisting of 5 pages
- A-8 Color Rendering of Variance Sketch Prepared by Crest
Engineering dated 6-19-20
- BOA-1 Engineer's Report dated 2-3-20
- BOA-2 Planner's Report dated 3-18-20

Jared Pape, Esq. representing the applicant. Mr. Pape provided that the applicant is seeking bulk variance relief to construct a free-standing garage next to the applicants' home to accommodate the applicants' travel trailer and motor home. There are variances that relate to the height and size of the structure and a requirement for the structure to be architecturally compatible with the home.

Attorney Vella swore in Applicant Daniel Stewart.

Mr. Stewart has been a resident at this address for 29 years. He has raised his family here. His oldest son lives adjacent to his. He explained the purpose of the proposed structure. He has the motor home stored outside and his son's travel trailer is stored there as well. He explained due to the slope of his son's property, he cannot store that on his own property. He would like to bring these items out of the elements and store them in the proposed structure.

Mr. Stewart explained the colors of this home and has had the proposed structure designed to match the roof color, the windows and garage door and the green shutters.

Mr. Stewart testified that the motor home is 13-feet tall requiring a 16-foot building height. The pitch is what adds the height trying to make it match the house. The attic space is for storage and not living space. Only electric will be in the building.

Attorney Vella referring to architectural page A3 and A-4. The applicant clarified that this is a covering over the entry door. Attorney Vella asked about stairs to the second floor. Mr. Stewart advised that would be to the back of the building.

Attorney Vella swore in Donna Bullock, P.E. of Crest Engineering. Ms. Bullock presented her credentials. She has been a licensed professional engineer for 25 years. She has appeared before Boards presenting site plans and other applications in Ocean, Monmouth and Middlesex Counties.

Chairman Novellino accepts her as an expert witness.

Ms. Bullock provided an overview of the site. Located at 2 Evergreen Court of Millstone Township. The property has an existing two-story single-family home fronting on Evergreen Court. 2.6 acres in ground pool and an asphalt driveway goes to the existing garage and the existing dead-end part goes to a clear area where the proposed garage will be constructed. The rest of the property is wooded. The property is located in the R-130 zone. A detached garage is a permitted use in the zone.

Referring to Exhibit A-8 color rendering, Ms. Bullock explained that the proposed structure is a 1,782.5 s.f. detached garage. The garage will be placed in the open area to avoid removal of trees as much as possible. The garage will be buffered from Evergreen Court. There is 180 s.f. of wooded area that will remain. The side yard setbacks for the zone are 20 for the side and 25 from the rear for an accessory structure. The proposed set backs are 79.9 and 63 which are greater than the minimum. This allows for tree buffering.

Ms. Bullock advised there will be a large buffer due to the tree line and she explained.

The orientation of the garage is meant to be somewhat parallel to Evergreen Court. Ms. Bullock stated that the applicant will construct the structure to the closest possible to-grade in order to minimize the height requirement. Construction of the garage will not alter any current stormwater paths that presently exist.

Ms. Bullock advised that there are four (4) variances they are seeking relief from including lot area which is pre-existing non-conforming, accessory structure size, where 900 sf. is permitted for a single accessory structure in the zone, they are seeking a variance to construct a 1,782.5 structure. The allowable building height is between 16 to 20 feet, they are asking for 28.82 ft. The architectural consistencies relative to the primary look of the existing residence address compatibility. Mr. Bullock stated that where the existing driveway ends, they will add to the driveway to increase the width so that it aligns with the two overhead doors.

Ms. Bullock advised that they have already complied with the comments on Board Engineer Shafai's 1-31-20, Item 4 general review comments A-G. Except for Item B, the underground infiltration system.

Board Engineer agrees with Ms. Bullock's comment that they have complied with those sections of his report.

Attorney Vella swore in Lorali Totten, P.E., P.P. Ms. Totten has testified many times before the Board and is accepted as a professional planner this evening.

Ms. Totten has reviewed the Master Plan and Zone Plan and has visited the site in the past to prepare her testimony. Referring to Exhibit A-5, Aerial, she addressed the variances requested. She stated that there are three variances, minimum lot area, building size and building height. Ms. Totten advised that the matching of the architecture of the residence will be addressed.

The zone lot minimum is 130,000 s.f. The surrounding lots are undersized as well so they are unable to add to this property to make the lot size conforming to the zone. Ms. Totten grouped the building size and height as C-2 variances. She offered the positive criteria went over those proofs, including open space and light and air.

Ms. Totten stated that the recreational vehicle is to be housed along with the contents of the shed which will be removed. A travel trailer and a motorcycle will be housed there as well. She stated that by housing these items indoors, and removing them off the property is a positive.

The proposed garage will be the same gray as the existing home and the natural color will blend in with the tree trunks. The structure will not be located near the road or home. The garage as noted is about the same height as the attached three-car garage with the same type of pitch on that roof. The trees are fairly dense and in the summer the trees will buffer the structure. They will be separated from view on Foxhill Road, the garage is directly behind the pool so it will be buffered there. Ms. Totten advised that there is no substantial detriment to the intents of the zone plan and ordinance in looking at the aerial. The aerial reflects that detached garages are not uncommon in this area.

The height of the door drives the height needed for the building. The architectural appearance of the garage compliments the house.

Board Planner Fleming stated that based on the testimony the materials and colors are consistent. She understands the 8 on 12 pitch makes the roof more compatible with the existing residence. She offered that a 6 on 6 may be a better choice. Ms. Totten advised that the building height would be 2 to 3 feet lower than the attached garage. They do not have a problem reducing that if that is what the Board would like. She feels having the same pitch is more architecturally consistent. Having a detached garage lower than the attached garage may look different but the buildings are not so close together that it will be that noticeable.

Mr. Ferrara stated that the materials are not compatible.

The materials were discussed. Ms. Totten advised the garage doors are overhead and designed to look similar to the single-family home. The window is similar to those on the single-family home the trim would be white along the roof line of the home. The shutters are green, which is the same color of the house shutters.

Mr. Stewart advised the building would be metal siding and the house is cedar siding. The building panels are vertical and the house siding is horizontal.

Board Engineer Shafai stated that the variance is for the material. You may have the same color they may look the same but they are not the same. If the building is steel and the house is not, that does not match. The ordinance requires the exact color and material. 4-9.11d, not just architecturally compatible but the materials must match.

Chairman Novellino feels it will be visible from the street. Board Engineer Shafai said if it is visible then it must match. The Board Planner Fleming agrees.

Ms. Totten testified that the building is buffered from the street due to the trees. We are putting an RV inside of a building and the building will be attractive. The barn-like appearance is common in Millstone and although a bit different, it is complimentary and able to store the RV inside which is beneficial. She provides that it is a desirable visual environment.

Attorney Vella stated that the building should not be this large to store the RV. Ms. Totten stated the items the applicant wants to store include a 39 ft RV, 38 ft. travel trailer, motorcycle and items that were in stored in the shed, since that is being removed.

Attorney Vella is trying to see why this structure has to be so large. Mr. Stewart explained why the size is needed.

Chairman Novellino stated the building is steel, the house is cedar and the materials do not match. This is triggering this variance.

Ms. Totten described the buffering that will mitigate that the materials are not the same and support this variance.

There are no photos of the house in evidence. The Board finds it difficult to visualize the house, colors and details of the siding.

Mr. Pape does have photographs of the site but we are unable to show them at this time.

Board Engineer Shafai advised that this building is 10-15 feet higher than the road level and 150 feet away from the road. He feels it may be hard to tell what the material of the building is. The intent of the ordinance is for the visual.

Ms. Bullock mentioned that the distance between the dwelling and the garage is 125 feet.

The Board Planner Fleming asked what the elevation distance from the house to the road. Ms. Bullock stated that approximately 7-foot differential. Board Engineer Shafai agrees the house is 8 to 14 feet higher.

Chairman Novellino went down the street and provided that unless you are looking, you may not notice a huge difference between the house color and the garage color.

Chairman opened the application to the Board for questions for the applicant or the professionals. Chairman Novellino opened up the application to the public.

Attorney Vella for members of the public attending via video or audio. He explained the procedure to participate in the meeting.

Attorney swore in Jim McAfee, 1 Evergreen Court who resides directly across the street from the applicant. He has lived here for 24 years. The trees are only visible 7 months of the year. It is an open visible area the rest of the year. You would see this large metal, community structure to be shared with his son. Mr. McAfee stated that this is a residential neighborhood and the applicant is seeking to install a metal garage double in size of what is permitted and in height with a pitch roof. He stated that this is what he will see every day. There is visual impact to the neighbors and he will see this every day. He offered this is too large for a residential neighborhood. He feels there are variances here above and beyond what is allowed. This will not be compatible. He has concerns about the two giant doors. He stated that the RV is not there all of the time so it must be parked somewhere else.

Attorney Swore in Sean Bruggemeier 4 Evergreen Court. He is the neighbor on the same side of the street. He agrees with the tree discussion. The homes are visible through the trees. During the summer the trees may obstruct the building. The shape of the building would look odd if it was long and narrow. A wider building with two doors may look more normal. He does see the motor home parked there. He would rather see a building than a motor home. He does agree that it is a big building.

Attorney Vella advised that seeing no other public comment, Chairman Novellino closed the public portion at 10:00 p.m.

Mr. Pape advised that they have listened to the comments made and have requested that they be carried to address some of the comments that they have received and return to the Board at another meeting.

The application is carried to the August 26, 2020 meeting. The applicant will have to renounce and an extension to the end of August is required. It is not known at this time if the meeting in public or via zoom or both. We need to understand what our legal options are.

Attorney Vella carried to the August 26, 2020 meeting beginning at 7:30 p.m. Applicant to renote the adjoining property owners and we will advise in the coming weeks of how the meeting will be held.

Z19-06 SILVI GROUP COMPANIES – Block 22, Lot 13 located at 470 Route 33 in the HC Zone consisting of 13.405 acres. Applicant seeks Preliminary and Final Site Plan Approval, Use Variance Approval to add a 9,600 s.f. new building to the site. Removal of existing maintenance building. Addition of employee parking and installation of natural gas fueling. Deemed complete 12-12-20, DOA 4-10-20. Various extensions of time through the end of June 2020. Noticing required.

Attorney Vella advised that he has reviewed the noticing packet and finds same in order to accept jurisdiction over the application.

Attorney Vella will enter the evidence at the next meeting.

Mr. Pape advised this is an application brought by Silvi, who has been on the property for more than 50 years. They have consistently made reinvestments into the site to make it cleaner and safer. They will eliminate a red and yellow building, construct one to the rear that is of earth tones, landscaping is proposed on the highway frontage, the septic system will be redone, provision of more parking for the employees and conversion of the diesel fuel to natural gas. Mr. Pape advised that there was a grant program available to them that makes the conversion from diesel fuel to natural gas.

Attorney Vella swore in Peter Strong, P.E., P.P. of Crest Engineering. Mr. Strong is known to the Board and is accepted as a professional engineer.

Mr. Strong, referring to the Site Plan known as Exhibit A-5, sheet 2 of 6. Mr. Strong went through the plan and described what is on the site that they are proposing to change. The site contains 13.4 acres. There is an existing maintenance building that will be removed and that area will be landscaped with storage bins behind it. The proposed car parking area for the employees. Towards the rear there is the concrete plant itself. In the rear area they are proposing the new maintenance building slightly larger and more attractive. Towards the west where the current diesel fueling is where the gas fueling will be located.

Mr. Pape summarized the changes to include removal of the existing building in the front, landscape that area along the frontage, replace the diesel fuel facility with a natural gas facility. They will have a new septic system to facilitate the new building located in the rear.

Referring to Exhibit A-19, Mr. Strong explained as you come into the entrance to the site off of Route 33, you will see the landscaping. He explained where the new parking area will be, the new building, the septic area, additional landscaping, concrete truck natural gas fueling area and the gas storage area itself. The fueling area has been previously approved but was not built.

Mr. Strong confirmed that the color rendering presents only the site areas that are proposed to be changed.

The application is being carried to the July 22, 2020 beginning at 7:30 p.m. The meeting will be via zoom and the notice information will be sent to Mr. Pape's office.

Attorney Vella advised that if there is any public in attendance, he makes himself available to reach out to him at his office and the number was provided. The public is not obligated to do so.

NEW BUSINESS: Attorney Vella Advised the Board that the Appellate Division has affirmed the decision and the lawsuit has ended.

Mr. Ferrara made the Motion to Adjourn and Mr. Morelli offered a Second and by unanimous vote the meeting adjourned at 10:30 p.m.

Respectfully submitted,