

**MILLSTONE TOWNSHIP
PLANNING BOARD
MEETING MNUTES
JULY 10, 2013**

At 7:35 p.m., Chairman Newman meeting to Order.

The Secretary read the Adequate Notice.

Salute to the Flag.

Roll Call: Present: Blanco, Grbelja, Pepe, Pado, Pinney, Ziner and Newman.
Absent: Kurzman, Masci, Kocur, Kurzman and Beck.

APPROVAL OF MINUTES: June 12, 2013

Ms. Pinney made a Motion to approve the June Meeting Minutes and Mr. Ziner offered a Second. Roll call Vote: Pinney, Ziner, Blanco, Grbelja, Pado and Newman voted yes to approve the Meeting Minutes.

PUBLIC COMMENT PORTION: At 7:35 p.m., Chairman Newman opened the Meeting to entertain any public comment. Mr. Matt Zabrosky stepped forward to address the Ordinances that are before the Board for their review and recommendation to the Township Committee. Chairman Newman reported that the Board would be discussing those ordinances after the Board hears the application on the Agenda.

Seeing no other public comments, Chairman Newman closed that portion of the meeting at 7:39 p.m.

RESOLUTION:

P12-02 33 ASSOCIATES (RIVERSIDE CENTER) – Block 18, Lot 2.02. Located on Route 33. 57.7 acres located in the PCD Zone. Applicant received Preliminary Major Subdivision approval in Resolution Memorialized 1-10-07 and Final Major Subdivision Approval in Resolution Memorialized 7-11-07. Applicant returns to the Board and was granted a fifth one-year extension of time pursuant to N.J.S.A. 40:55D-52b. No Zone change.

Mr. Blanco made a Motion to memorialize that Resolution and Ms. Pinney offered a Second. Roll Call Vote: Blanco, Pinney, Grbelja, Pado, Ziner and Newman voted yes to memorialize.

P12-03 33 ASSOCIATES (RIVERSIDE CENTER)- Block 18, Lot 2.03 Located on Old Route 33 and Farrington Blvd. 14.93 Acres located in the PCD Zone. Applicant received Preliminary and Final Site Plan approval to construct a 94,500 s.f. warehouse/storage area, a 4,000 s.f. showroom and 4,000 s.f. administrative offices in Resolution memorialized 7-11-07. Pursuant to N.J.S.A. 40:55D-52b applicant sought and received fifth extension of time through 7-11-14. No Zone change.

Mr. Ziner made a Motion to memorialize that Resolution and Ms. Grbelja offered a Second. Roll Call Vote: Ziner, Grbelja, Blanco, Pinney, Pado and Newman voted yes to memorialize.

P12-08 PERL ACRES SOUTH – Block 55, Lot 2, - Located on Route 526. Previously Zoned R-130 consisting of 158.2 acres. Applicant received Preliminary Major Subdivision approval for a 43-residential

lot subdivision and 2 lots for Township dedication received 6-25-03. Final Approval granted and Resolution Memorialized 4-11-07. Applicant returned for sixth extension of time request. Extension Granted through 11-13-2013. Zone is presently RU-P.

Ms. Grbelja made a Motion to memorialize the Resolution and Ms. Pinney offered a Second. Roll Call Vote: Grbelja, Pinney, Ziner , Blanco, Pado and Newman votes yes to memorialize.

NEW APPLICATION:

P13-07 – BARRETT OUTDOORS – Block 24, Lot 1. Located at Route 33 and Conover Road. Property consists of 6.185 acres in the HC (highway Commercial) Zone. Applicant seeks Minor Site Plan Approval for his business including an interior showroom. No variances requested. Noticing Required. Deemed Complete 6-19-2013. Date of Action 8-12-2013.

Board Attorney Michael Steib advised that he had reviewed the noticing packet and found same to be in order in order to accept jurisdiction over the application.

Attorney Steib read the following Exhibits into Evidence:

- A-1 Jurisdictional Packet
- A-2 Application dated 4-26-13
- A-3 Minor Site Plan, Aerial and Survey prepared by Crest Engineering dated 4-12-13
- A-4 Statement of Negligible Environmental Impact prepared by Crest Engineering dated 4-19-13
- A-5 Project Architecturals prepared by Jeffrey A. Fleisher, AIA dated 6-4-13
- PB-1 Report of Board Engineer dated 6-27-13
- PB-2 Report of Board Planner dated 6-26-13
- PB-3 NJDEP letter dated 5-24-13 granting original LOI Extension to 4-6-18.
- PB-5 Letter from Monmouth County Planning Board dated 7-8-13 advising application not fronting on County road – approval not required
- PB-6 a-e Six Photographs of property taken by Board Planner Richard Coppola

Mr. William Mehr representing the applicant.

Mr. Mehr provided a brief overview of the project. The property is located at the intersection of State Highway 33 and Conover Road. Mr. Mehr reported that the Zoning Officer advised the property had never been before the Board. Mr. Waters owned the property and had a farm stand there. The oversized shed building is there presently. Mr. Mehr advised that his client purchased the property one year ago and found a client who wants to use the property. This property had been used for agricultural purposes.

Board Attorney Michael Steib swore in Peter W. Strong, P.E., P.P. of Crest Engineering and Mr. Gustavo Dela Cruz, the applicant.

Marked into evidence is Exhibit A-6 Aerial map of the Project site and the vicinity.

Marked into Evidence is Exhibit A-5 Floor Plan

Mr. Dela Cruz explained the floor plan. He stated that his company designs and builds custom outdoor structures. He advised that his company intends to use the present structure as his design center and office. It would be a place where clients can come to look at the different materials available for the custom structures. No materials will be stored or sold on the site, just small samples available for viewing. An office manager will be on site. No warehousing of materials will be at the property. No materials are delivered to the site.

There is a parking lot and metal building on site. The applicant wishes to create a walk with pavers. No outdoor storage or displays on site. They have a sign proposed but no signage on the building is proposed.

Utilizing Exhibit A-5, Mr. Dela Cruz explained the site. A large garage is located on the on the west side of the property. They propose to create a more inviting entrance area by the addition of an attractive door. It would be a commercial grade door with a nice residential feel. He went through the floor plan and explained to the Board the proposed changes he wishes to make. The design center will be approximately 1200 square feet.

Mr. Dela Cruz advised that on site, there would be one office manager. The layout for the design center consists of one conference room, small office area, a restroom and one room for the design center. Signage proposed is one double sided sign. There will be no signs on the building itself. No employees other than the office manager, Mr. Dela Cruz or another salesperson.

The applicant does not anticipate a large crowd. Customers are more appointment based than walk-ins but there may be some walk-ins. The office hours for the manager are 9 a.m. to 5 p.m., Monday thru Friday. If a homeowner requests an evening meeting, then that would take place.

There are nine parking spaces. The design center is open Monday thru Friday, 9 to 5. On Saturdays and Sundays, Mr. Dela Cruz would be on site but there would be no office manager.

The Board is concerned with outdoor displays such as gazebos. Mr. Dela Cruz advised nothing is proposed at this time. The Board advised he would have to come back to the Board if he wishes to have such activity onsite.

Peter Strong presented his credentials. Mr. Strong has appeared before both the Planning Board and the Board of Adjustment on numerous occasions. The Board has accepted him as a professional engineer.

Mr. Strong provided a brief overview. The property is located on the southeast corner of Conover Road and Route 33 and is located in the HC Zone. The property is an odd- shaped backward "C". An existing cemetery is its neighbor. The property is currently improved with a single story, 1,300

s.f. building, a gravel parking area in front of building and an asphalt parking area. Mr. Strong advised that the site is serviced by septic and well.

Referring to Exhibit A-3, Mr. Strong explained the existing site. The applicant is proposing to remove a portion of the chain link fence that is surrounding the building. The chain link to remain on certain portion of the property and would be supplemented with board on board fencing. The Township Ordinance requires 7 spaces and the applicant has 9 spaces. The trash and recycling enclosure that is proposed is board on board fence which will screen that area. Shoebox, down facing lights will illuminate the area. The applicant proposes to remove some of the asphalt because there is more on site than is needed. They shall plant shade trees and evergreen trees.

Mr. Strong explained that the proposed sign would be a 4 ft. by 8 ft. wooden sign, 6 ft. in height with LED, low intensity lights that focus on the sign itself. They plan to plant perennials around base of the sign.

Mr. Strong advised that there are wetlands located on property with a 50 foot buffer that is not to be traversed. There are no activities proposed in the stone area that is to be cleaned and maintained as a gravel area.

Board Planner Coppola advised that if there were to be any outside display or storage, the applicant would not be before this Board. The Planning Board could only approve this application. The Board of Adjustment would consider applications for outdoor displays and storage. The applicants advised that at this point in time there is no proposal for that.

The applicant stated that there would be no vehicle access on or off of Route 33. The access is off of Conover Road.

The only delivery vehicles that would come to the site would be UPS or FED Ex. Mr. Mehr advised that there is no need for anything larger.

Chairman Newman asked the applicant to go over the Memorandums of the Board Planner and Board Engineer.

Regarding the June 27, 2013 Report of the Board Engineer, Matt Shafai, the applicant would place the wetland area and buffer transition area in a conservation easement. The applicant would install conservation easement markers delineating the area. They explained that if the NJDEP allows them to buffer average. Mr. Mehr advised that they propose to put a conservation easement in place for the wetlands, put markers in place for the buffer areas and if they get buffering averaging approvals from the NJDEP they will modify.

Engineer Shafai advised that he is fine with putting in the markers at the buffer line.

Mr. Strong advised that the stone area is 6 inches thick and is compacted. Mr. Mehr advised the Board that the applicant will try to maintain and clean up the area. This area is not intended to be used.

The applicant advised that Freehold Soil Conservation approval is exempt since they are not disturbing 5,000 s.f. of area.

The preparation of a Developers Agreement was discussed and Engineer Shafai recommended this requirement can be waived. The applicants will post a bond.

The building color will be painted red which is the existing color. Board Planner Coppola will review the color with the applicant.

The applicants reviewed Board Planner Coppola's Memorandum date June 26, 2013.

They will remove the soil piles on the property. They may add some new gravel and will remove weeds and maintain the property. The chain link fence will protect the wetland area. There will be no outdoor storage. Now that Mr. Coppola has had clarification from the applicant as to the use of the property, the ordinance requirement of a loading space area that is 45 feet in length is not needed for this project. This use is more of an office Mr. Coppola advised.

Mr. Mehr stated that the applicants do not want to hide the building and the installation of street trees would do just that. Engineer Peter Strong advised that the property was clean up and mowed today. Board Planner Coppola would like to see a few planted trees. They will increase shrubbery along Conover Road. The applicant will add more vegetation in the designated area. The applicant should create a focal point and not block the building.

Mr. Coppola advised that he took some photographs of the property. Marked into Evidence, Exhibit PB5a-e, Six Photographs of the site.

Mr. Strong advised that there is enough room at the site for a truck to make a K-turn. He offered that there would be pathway lighting for the sidewalk from the parking lot to the building. The right of way along Conover Road was discussed and perhaps the need for additional space. Mr. Strong advised that the applicant's right of way (ROW) lines up with right of way (ROW) of homes on the east side. A right of way granted on west side of road 25 feet.

Engineer Shafai voiced his concern where the driveway is presently located. The driveway is actually in the ROW. Mr. Shafai stated that it is 16.5 feet and they want to make it 25 ft. The applicant advised that if additional ROW is required, they will provide it. The Engineers will discuss this.

Chairman Newman asked if the beautification of the sign area could be expanded.

Vice-Chairman Pepe voiced his concern about the site triangle and the safety of drivers being able to have a clear line of vision.

Chairman opened the application to the public at 8:35 p.m. Seeing no public comment, he closed the session at the same time.

The Board addressed their concerns and offered their comments.

Mr. Pado wanted to secure that the fire department had or would visit the site and offer their comments as to ability to service the property in case of a fire. Fire engine access was discussed.

Board Attorney Steib read some conditions of approval should the Board vote to approve the application, including but not limited to:

Fire department to review the application, applicants to repaint the building in a red color which is subject to the review of the Board Planner, landscaping around the signage and in front of the property coupled that no interference with site triangle looking to the east, the memorandums of the Board Planner and Engineer as discussed, etc..

Mr. Pado Made a Motion to approve the application as conditioned and Mr. Blanco offered a Second: Roll Call Vote: Pado, Blanco, Grbelja, Pepe, Pinney, Ziner and Newman votes yes to the application as conditioned.

REVIEW AND RECOMMEND ORDINANCES:

Matt Zabrosky, 99 Baird Road Millstone, New Jersey had questions concerning the ordinances. Chairman Newman asked if the professionals could provide a summarization and then Mr. Zabrosky and the Board could ask their questions.

Board Planner Richard Coppola explained that they are in front of the Board to amend the land use ordinances that have been introduced by the Governing Body and sent to the Planning Board for their input as to their compatibility with the Master Plan and the Zone Plan.

Board Planner Coppola and Board Engineer Shafai began to briefly summarize the ordinances.

Ordinance 13-12. Fence Ordinance. Mr. Coppola explained that currently, Millstone Township does not have a fence ordinance except for fencing surrounding swimming pools. They are simply referred to in the body of ordinances.

Fencing on residential properties was explained. Fencing for farms was discussed and determined easy to understand and enforce. Lots over 10 acres could have fences for agricultural uses only without having to go for a permit. If, however, that farmer wished to install a swimming pool or a tennis court or the like, they would have to get a permit. Mr. Coppola advised that a lot of farms may not be Certified Organic farms, but they are farms nonetheless.

Both Messrs. Coppola and Shafai find the Ordinance to be consistent with both the Township's Master Plan and Zone Plan.

These ordinances came about due to something lacking in the current ordinances. Mr. Shafai is the acting zoning officer and is now dealing with situations that have arisen as the residential population is growing.

Mayor Grbelja reported that she is receiving phone calls as residents are putting up brick fencing 8 feet in height, in essence a wall. She stated that this is so out of character and offensive visually. This is one of the reasons for the fencing ordinance.

Ordinance No. 13-13. Mr. Coppola advised that the Township has a definition for a corner lot, a lot which has two front yards and two side yards. Many accessory structures are only allowed in the rear yard. Through lots are lots that have two frontages but one is the front of the principle building and one in the back. In these instances, no provisions are in place at all. This ordinance allows the yard to the rear of the building to be considered as a rear yard to allow accessory structures but they must be set back the distance required for the rear yard setback of a principal building in the zoning district within which the lot is located.

In this ordinance is not inconsistent with the zone plan and an improvement to the existing ordinance.

Ordinance No. 13-14. Site Plan Review. Mr. Coppola explained that anything that anyone wants to do in town has to come to the Board for site plan review. He explained that this ordinance allows some administrative review and approval. Mr. Coppola explained that he writes this ordinance into Land Development Ordinances for other Towns. The purpose is to try not to be overly burdensome to people who are making minor revisions to their site. For administrative review, no variances or waivers can be involved. The application has to meet the Ordinance. The application is not to exceed a certain square footage which is minor.

Mr. Coppola explained that this ordinance is friendly to the businesses in town to allow a little area for administrative review instead of a full blown site plan which is presently required even if it is small request.

Ordinance No. 13-15. Kennel definition. This ordinance has a definition of a kennel. Presently, if someone had five animals you are considered to be a kennel. Mr. Coppola explained is that all they have done is changed the definition to add it must be commercial and for income purposes.

This has been a potential problem. We are not talking about a full blown kennel. He stated that there is no need at this point for a major change but by changing by definition, we protect the residents. Mayor Grbelja stated that the definition is specific for those who are boarding dogs. We are not reinventing the wheel, just adjusting the definition to clarify it so there is nothing inconsistent with the zoning plan.

Engineer Shafai advised that Land Use Development Ordinance 13-09 and General Ordinances 13-10 and 13-11 go together.

The Township has everything in the General Ordinances, Chapter 23, even though it is soil removal, it is also import and export of soil. He advised that this has been clarified in the Ordinances. Chapter 23 requires that a party appear before the Planning Board and provide notification to the neighbors. Mr. Shafai explained that they have created three different tiers.

Mayor Grbelja stated that when soil is to be replenished from Storm Sandy, technically, if one truckload of soil was imported, a person would have complied with the existing ordinance.

Engineer Shafai explained that anyone importing or exporting up to 40 cubic yards of soil, would be exempted from filing a permit, just let the Township Engineer know what you are doing. If you are importing or exporting 40 to 400 yards that would be a minor soil removal and import permit. That permit comes to the Engineers desk. The main reason is to allow the town the right to test soil to make sure it is not contaminated. Monies are placed in escrow for this purpose. We may not use it. If the soil is clean, we may not test it. Mr. Shafai advised that exempted activities would be swimming pools, house foundations and septic fields. Exemptions are added to allow you to bring in or take out 40 yards.

Importing or exporting over 400 cubic yards (20 truckloads) of soil would require an application to appear before the Planning Board and notification to the neighbors.

The ordinances now make life easier for the residents.

Mr. Coppola and Mr. Shafai advised the Board that these ordinances have benefited from the review and suggested revisions by Board Attorney Steib whose comments have been incorporated into the ordinances.

Mr. Zabrosky went through his questions and concerns as a homeowner. He asked for clarification on the removing and importing of 6 inches of top soil. Engineer Matt Shafai explained that was left in ordinance. Under Chapter 23 of the General Ordinances. Ordinances 13-10 and 13-11 are general ordinances..

Planner Rich Coppola stated that the Engineer Shafai worked with the provisions of the ordinance to both strengthen and soften it so that it is not a mining ordinance and now there is an exemption element and a minor element of importing and exporting soil. Planner Coppola felt that in his reading of the ordinances, there is a very good solution to balance the other ordinance that deals with extremes.

Mayor Grbelja reported that some issues the Township has had regard cases where soil was imported that was tainted and the Township was not aware of this. The Court ruled that our ordinance's intent applies to import of soil. Mayor Grbelja advised that the Township is trying to make it easier for homeowners bringing soil onto their property. She pose the question what if the soil is tainted? This ordinance gives the Township a little more protection since the ordinance allows us the right to check the soil before a property owner has to come to the Planning Board. Mayor Grbelja stated that the Township wants to make sure that it has in the ordinance that there is 6 inches of top soil. The escrow account is established for us to test the soil.

Mayor Grbelja explained that truck load after truck load of soil has been brought into town to fill in wetlands on properties. She stated that we have to protect our wetlands and recharge areas. Mayor Grbelja explained some of the problems that the Township has had in this area. She advised that we do not want this to happen. We cannot enforce state laws so we have to as a Township make sure that this does not happen. We have to be able to monitor and be the first line of defense.

The Board commented that we are trying to find a balance and thanked Mr. Zabrosky for his comments.

Mr. Zabrosky thanked the professionals and Board for the clarification of the ordinances.

REVIEW AND RECOMMEND:

ORDINANCE NO. 13-09

AN ORDINANCE AMENDING CHAPTER XXXV "LAND USE AND DEVELOPMENT REGULATIONS" SECTIONS 11-15 "EXCAVATIONS AND FILLS (GRADING PLAN)" & 11-18 "TOPSOIL PROTECTION" IN ARTICLE 11, "DESIGN AND PERFORMANCE STANDARDS AND CONSTRUCTION SPECIFICATIONS" OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE COUNTY OF MONMOUTH, STATE OF NEW JERSEY

Chairman Newman asked Messrs. Coppola and Shafai if the Ordinance is consistent with the Master Plan and the Zoning Plan. They advised it was.

Mr. Pado made the Motion finding the Ordinance to be consistent with the Master Plan and Ms. Pinney offered a Second. Roll Call Vote: Pado, Pinney, Pepe, Blanco, Grbelja, Ziner and Newman voted yes to the consistency.

ORDINANCE NO. 13-12

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXXV "LAND USE AND DEVELOPMENT REGULATIONS" OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE COUNTY OF MONMOUTH, STATE OF NEW JERSEY, BY ADDING A NEW SUBSECTION 4-9.12 TO SECTION 4-9, "ACCESSORY BUILDINGS AND STRUCTURES", WITHIN ARTICLE 4, "REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS", IN ORDER TO PROVIDE ZONING REQUIREMENTS FOR FENCES WITHIN MILLSTONE TOWNSHIP

Chairman Newman asked Messrs. Coppola and Shafai if the Ordinance is consistent with the Master Plan and the Zoning Plan. They advised it was.

Mr. Pado made the Motion finding the Ordinance to be consistent with the Master Plan and Mr. Pepe offered a Second. Roll Call Vote: Pado, Pepe, Pinney, Blanco, Grbelja, Ziner and Newman voted yes to the consistency.

ORDINANCE NO. 13-13

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXXV "LAND USE AND DEVELOPMENT REGULATIONS" OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, REGARDING A REWRITING OF THE DEFINITION OF "LOT, CORNER" AND A NEW DEFINITION OF "LOT, THROUGH" IN SECTION 2-2, "SPECIFIC DEFINITIONS", WITHIN ARTICLE 2, "DEFINITIONS", AND A REWRITING OF SUBSECTION 4-4.5, "CORNER LOTS", TO BE RENAMED "CORNER & THROUGH LOTS" AND A REWRITING OF SUBSECTION 4-9.4, "LOCATION OF ACCESSORY BUILDINGS", BOTH WITHIN ARTICLE 4, "REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS"

Chairman Newman asked Messrs. Coppola and Shafai if the Ordinance is consistent with the Master Plan and the Zoning Plan. They advised it was.

Mr. Blanco made the Motion finding the Ordinance to be consistent with the Master Plan and Mr. Ziner offered a Second. Roll Call Vote: Blanco, Ziner, Pinney, Grbelja, Pado, Pepe and Newman voted yes to the consistency.

ORDINANCE NO. 13-14

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXXV "LAND USE AND DEVELOPMENT REGULATIONS" OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, REGARDING SECTION 9-1A, "SITE PLAN REQUIRED", WITHIN ARTICLE 9, DEVELOPMENT APPLICATION REQUIREMENTS"

Chairman Newman asked Messrs. Coppola and Shafai if the Ordinance is consistent with the Master Plan and the Zoning Plan. They advised it was.

Mr. Pepe made the Motion finding the Ordinance to be consistent with the Master Plan and Mr. Pado offered a Second. Roll Call Vote: Pepe, Pado, Blanco, Ziner, Pinney, Grbelja and Newman voted yes to the consistency.

ORDINANCE NO. 13-15

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXXV "LAND USE AND DEVELOPMENT REGULATIONS" OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE COUNTY OF MONMOUTH, STATE OF NEW JERSEY, REGARDING THE DEFINITION OF "KENNEL" IN SECTION 2-2, "SPECIFIC DEFINITIONS", WITHIN ARTICLE 2, "DEFINITIONS"

Chairman Newman asked Messrs. Coppola and Shafai if the Ordinance is consistent with the Master Plan and the Zoning Plan. They advised it was.

Mr. Blanco made the Motion finding the Ordinance to be consistent with the Master Plan and Ms. Pinney offered a Second. Roll Call Vote: Blanco, Pinney, Pepe, Ziner, Pinney, Grbelja and Newman voted yes to the consistency.

Seeing no further business, Chairman Newman asked for a Motion to Adjourn and Vice-Chairman Pepe made the Motion to adjourn, Ms. Pinney offered a second and by unanimous vote the meeting adjourned at 9:35 p.m.

Respectfully Submitted,

Pamela D'Andrea