

**MILLSTONE TOWNSHIP  
PLANNING BOARD  
MEETING MINUTES  
MAY 13, 2015**

At 7:32 p.m., Acting Chairman Dave Kurzman, Class IV Member, called the meeting to Order.

The Secretary read the Adequate Notice.

Salute to the Flag.

Roll Call: Present: Kurzman, Kinsey, Grbelja, Bailey, Pinney, Beck, Ziner and Kocur.

Absent: Newman, Pepe and Pado

**APPROVAL OF MINUTES: April 8, 2015**

The Board having reviewed the meeting minutes and recommended changes having been made, Committeewoman Grbelja made a Motion to approve the meeting minutes and Ms. Pinney offered a Second. Roll Call Vote: Grbelja, Pinney, Kinsey, Ziner, Bailey, Beck and Kocur voted yes to approve the Meeting Minutes.

**PUBLIC COMMENT PORTION: 15-Minute Limit**

At 7: 34 p.m., Mr. Kurzman opened the meeting to the public for public comment portion of the meeting. Seeing none. He closed that session at the same time.

**ORDINANCE REVIEW AND RECOMMENDATION:**

**ORDINANCE 15-04**

**AN ORDINANCE AMENDING CHAPTER XXXV (LAND USE AND DEVELOPMENT REGULATIONS), ARTICLE 4 (REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS), SECTION 4-9 (ACCESSORY BUILDINGS AND STRUCTURES) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY.**

The Ordinance amends Section 4-9.11 regarding accessory building size restrictions.

The ordinance places an allowable size restriction on accessory structures. Larger acreage lots could have a larger structure but the ordinance limits the total square footage of lot coverage for such structures.

There was a discussion concerning an additional amendment to this ordinance to include architectural elements should an accessory building be considered for construction adjacent to the home.

Mayor Kinsey provided a brief overview of the motivation behind the ordinance amendment. The architectural standard primarily deals with commercial sites. The Township is not going to place that standard on residential homes but concerning the construction of structures that are adjacent to the street and sizeable, there should be a change in the ordinance to address this. The Planning Board discussed making the recommendation to the Township Committee that the

ordinance should be amended to include architectural standards for accessory buildings in residential neighborhoods. The Board felt that larger steel structures adjacent to the home are unsightly. The Board is making the recommendation to the Township Committee that the present ordinance amendment be moved so that it is not held up and then consider an amendment that addresses the steel buildings adjacent to the home. Committeewoman Grbelja stated that she does not want to see unsightly aluminum buildings visible residential neighborhoods.

Board Planner Fred Heyer stated that our ordinance allows accessory structures in the side yard presently. The aesthetic control is reasonable since the structure could be located next to the home and should be more attractive, matching the architecture of the home. He stated that the ordinance would not pertain to accessory buildings that are located in the backyard and are hidden from the street. He stated that the accessory structure ordinance is the appropriate place to put that. The Board agreed.

Mr. Ziner made the Motion finding the ordinance consistent with the Master Plan and making the recommendation to the Township Committee that they consider adopting architectural standards for accessory buildings in residential neighborhoods that are located adjacent to the home. Mr. Beck offered a Second on that Motion. Roll Call Vote: Ziner, Beck, Bailey, Grbelja, Kinsey, Pinney, Kocur and Kurzman voted yes.

#### **ORDINANCE 15-05**

#### **AN ORDINANCE AMENDING CHAPTER XXXV (LAND USE AND DEVELOPMENT REGULATIONS), ARTICLE 5 (ZONING DISTRICT REGULATIONS) SECTIONS 5-11.1 (PERMITTED PRINCIPAL USES) AND 5-12.1 (PERMITTED PRINCIPAL USES) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY**

This Ordinance amends Sections 5-11.1 and 5-12.1 regarding permitted principal uses in the HC and HC-1 zones.

Board Engineer Matt Shafai stated that the only change that is being implemented is the addition of Section b. of the Highway Commercial (HC) and Highway Commercial 1 (HC-1) portion of the ordinance. He explained the change was to allow the same uses permitted in the Neighborhood Commercial (NC) Zone. He stated that these are uses that do belong to the HC and HC 1 zones. Committeewoman Grbelja agreed with Engineer Shafai.

Ms. Pinney made a Motion finding the ordinance consistent with the Master Plan and Committeewoman Grbelja offered a Second. Roll Call Vote: Pinney, Grbelja, Kinsey, Bailey, Beck, Ziner, Kocur and Kurzman voted yes to consistency.

#### **ORDINANCE 15-06**

#### **AN ORDINANCE AMENDING CHAPTER XXXV (LAND USE AND DEVELOPMENT REGULATIONS), ARTICLE 15 (SIGNS), SECTION 15-1 (DEFINITIONS), SECTION 15-2.1 (PERMITTED SIGNS) AND ADDING NEW SECTION 15-2.6 (SIGNS PERMITTED IN THE PLANNED COMMERCIAL DEVELOPMENT ZONE) AND NEW SECTION 15-2.7 (SIGNS PERMITTED IN THE RECREATION CAMP ZONE) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY.**

This Ordinance Amends Article 15 regarding signs.

The ordinance amends the sign requirements, places restrictions on the size, and dimensions. Board Engineer Matt Shafai stated definitions were added to the ordinance. He explained that there are now window sign limits. Where the Planned Commercial Development (PCD) Zone had no sign ordinance, there is one now. The Business Park (BP) Zone and Recreation Camp (RC) Zone also have a sign ordinance.

Committeewoman Grbelja stated the importance of having control over the signs installed in town helps assure aesthetics and conformity.

Mr. Bailey made a Motion finding the ordinance consistent with the Master Plan and Ms. Pinney offered a Second. Roll Call Vote: Bailey, Pinney, Grbelja, Kinsey, Kurzman, Beck, Ziner and Kocur vote yes to consistency.

**ORDINANCE 15-07**

**AN ORDINANCE AMENDING CHAPTER XXXV (LAND USE AND DEVELOPMENT REGULATIONS), ARTICLE 4 (REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS), SECTION 4-2.1 (NONCONFORMING STRUCTURES) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY.**

This Ordinance amends Section 4-2.1 regarding nonconforming structures and undersized developed lots.

Board Engineer Matt Shafai stated that in 2003 when there was a re-zoning, many lots were soon undersized for their respective zones. He explained that when coming to the zoning office, the lot owners found it difficult to comply with 10-acre zoning when they had 2-acre lots. Engineer Shafai advised that this ordinance provides relief to existing undersized developed lots without the necessity of seeking that relief by appeal to the Zoning Board of Adjustment.

Mr. Beck made a Motion finding the ordinance consistent with the Master Plan and Mayor Kinsey offered a Second. Roll Call Vote: Beck, Kinsey, Pinney, Grbelja, Bailey, Kurzman, Ziner and Kocur vote yes to consistency.

**ORDINANCE 15-08**

**AN ORDINANCE AMENDING CHAPTER XXXV (LAND USE AND DEVELOPMENT REGULATIONS), ARTICLE 5 (ZONING DISTRICT REGULATIONS), SECTION 5-6.2 (PERMITTED ACCESSORY USES), SECTION 5-6A.2 (PERMITTED ACCESSORY USES), SECTION 5-6B.2 (PERMITTED ACCESSORY USES), SECTION 5-7.2 (PERMITTED ACCESSORY USES), SECTION 5-9.2 (PERMITTED ACCESSORY USES) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY.**

This Ordinance amends Sections 5-6.2, 5-6A.2, 5-6B.2, 5-7.2 and 5-9.2 regarding permitted accessory uses.

Engineer Shafai advised that this ordinance addresses accessory uses permitted. Size inconsistencies are cleared up. The ordinance was amended to be consistent with accessory uses in a residential zone such as a tennis court. Mr. Ziner asked about lighting to such a court. Engineer Shafai stated that those inconsistencies were cleaned up and the lighting was taken out of this ordinance.

Mr. Ziner asked about the Little League field and Engineer Shafai stated that this ordinance address residential homes and the field is a public entity.

Ms. Pinney asked about motion lights that are up high. Engineer Shafai stated that is residential lighting and it is allowed. This deals with a basketball court with high lights and is not permitted.

Mr. Bailey made a Motion finding the ordinance consistent with the Master Plan and Ms. Pinney offered a Second. Roll Call Vote: Bailey, Pinney, Grbelja, Kinsey, Kurzman, Beck, Ziner and Kocur vote yes to consistency.

**ORDINANCE 15-09  
AN ORDINANCE AMENDING CHAPTER XXXV (LAND USE AND DEVELOPMENT REGULATIONS), ARTICLE 5 (ZONING DISTRICT REGULATIONS) SECTION 5-5 (SCHEDULE OF AREA, YARD AND BUILDINGS REGULATIONS) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY.**

This Ordinance amend footnotes for Section 5-5 regarding projections from a building into yard areas.

Engineer Shafai stated that every town has this ordinance and Millstone does not. The ordinance allows for ordinary projections from a principal building including cornices, eaves, gutters, sills, chimneys and ornamental architectural features may project no more than two (2) feet into any required yard area. Planner Heyer offered that few feet may be more attractive if the building has eaves that overhang.

Mr. Ziner made a Motion finding the ordinance consistent with the Master Plan and Mayor Kinsey offered a Second. Roll Call Vote: Ziner, Kinsey, Pinney, Grbelja, Bailey, Beck, Kocur and Kurzman voted yes to consistency.

**ORDINANCE 15-10  
AN ORDINANCE AMENDING CHAPTER XXXV (LAND USE AND DEVELOPMENT REGULATIONS), ARTICLE 6 (CONDITIONAL USES), SECTION 6-2.4 (GASOLINE SERVICE STATIONS) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY.**

This Ordinance amends Section 6-2.4 regarding gasoline service station signs.

The ordinance addresses conditional uses such as gasoline services stations and sets signage requirements including height.

Mr. Bailey made a Motion finding the ordinance consistent with the Master Plan and Committeewoman Grbelja offered a Second. Roll Call Vote: Bailey, Grbelja, Kinsey, Pinney, Beck, Ziner, Kocur and Kurzman voted yes to consistency.

**NEW APPLICATION**

**P15-01 NAP CONSTRUCTION, LLC.** Block 58, Lot 4.06. Located on Trenton-Lakewood Road consisting of 9.53 acres in the Neighborhood Commercial (NC) zone. Applicant proposes to subdivide the parcel into three (3) residential lots and one (1) commercial lot. Variance requested for commercial lot to have frontage on a private street and not a public right-of-way. Deemed complete 4-2-15. Date of Action: 7-21-15. Noticing Required.

Attorney Kenneth Pape representing the applicant.

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

Attorney Steib entered the following exhibits into evidence.

- A-1            Jurisdictional packet
- A-2            Application dated 3-15-15
- A-3            Web Notice
- A-4            Statement of Negligible Traffic Impact prepared by Crest Engineering dated 1-15-15
- A-5            Historic Pesticide & Soil Contaminant Report prepared by Crest Engineering dated 6-8-04
- A-6            EIS dated prepared by Crest Engineering dated 1-15-15
- A-7            Stormwater Management Plan prepared by Crest Engineering dated 1-15-15
- A-8            Threatened & Endangered Species Update & Summary prepared by DuBois Environmental Consultants
- A-9            1/2 Mile Radius Map prepared by Crest Engineering dated 1-15-15
- A-10          Preliminary and Final Subdivision Plan prepared by Crest Engineering dated 1-15-15
- PB-1          Engineers' Report dated 4-2-15
- PB-2          Planner's Report dated 3-24-15
- PB-3          Environmental Commission's Report dated 3-27-15
- PB-4          Environmental Commission's Report dated: 4-21-15

PB-5 Shade Tree Commission's Report dated 4-28-15

PB-6 NJDEP LOI re: absence of fresh water wetlands dated 7-25-07

Mr. Pape provided an overview of the project. The subject property is a nine (9) plus acre parcel that has appeared before the Planning Board on a number of occasions. He stated that the most recent application was for was a commercial subdivision which the prior property owner did not develop due to the economic climate.

Mr. Pape stated that the three residential lots proposed are consistent with the R-80 zoning district. The fourth lot is for commercial purposes and is located behind Dairy Queen. There is a variance request for that lot to exist on the private road.

Mr. Pape advised that Amy Jones updated the T&E report yesterday as found in Appendix E of the exhibits presented this evening.

Attorney Steib swore in Engineer Peter Strong of Crest Engineering. Mr. Strong is a professional engineer and planner, has appeared before the Board many times and his credentials are accepted by the Board.

Entered into evidence as A-11, Blow up of 500-foot radius map dated 5-13-15.

Referring to an exhibit blow up of the 500-foot radius of the property, Mr. Strong provided a brief overview of the property. The irregular shaped lot consists of nine (9) plus acres on Trenton Lakewood Road and Route 526. He explained that the property has 625 feet of frontage. The property is surrounded by other residential lots as well as Dairy Queen, Kinder Care and the Veterinary office.

Mr. Strong stated that the subdivided three residential lots are in the R-80 zoning district and the commercial lot is located in the Neighborhood Commercial (NC) zone. There are no current plans for the commercial lot at this time. He testified that the lots are consistent with the zone requirements. A variance is needed for the commercial lot because there is no frontage in the right of way.

The one residential lot contiguous to the Dairy Queen lot requires a 50-foot buffer per ordinance. The applicant will adopt a shade tree plan with an intense buffer.

Entered into Evidence Exhibit A-11 Plan Sheet 4 of 8 Grading Plan.

Mr. Strong advises that the exhibit shows the proposed residential lots with three proposed dwellings and a fourth vacant lot that indicates where the buffered landscape development would be. Mr. Pape reads the recommendations of the Shade Tree Commission (Exhibit PB-5). In reviewing those recommendations, Mr. Strong finds them acceptable. Engineer Shafai' report advises the evergreen trees must be 8 feet in height. Mr. Strong will comply with the Shade Tree Report along with the evergreens 8 foot in height. A double row will create an adequate buffer.

The side yard of residential to commercial was discussed. The applicant advised that they will plant a 50-foot buffer at the time the commercial tenant comes before the Board for site plan approval. The applicant will plant a 20-foot easement on the residential side now and a 30-foot buffer on the commercial side. The plans will reflect this. The applicant is still seeking a waiver from planting a 50-foot buffer side yard contiguous to the Dairy Queen.

Attorney Steib asked who the responsible party would be for the proposed easement area when the commercial development comes forward. Mr. Pape advised that the Township of Millstone would be responsible for enforcement and the maintenance is the responsibility of the commercial property owner.

Attorney Steib advised that the property owner of the residential lot has no real incentive to spend money on the buffer that is in the back of their property. If the property owner is reluctant, that becomes the responsibility of the town to enforce that. The Board discussed this issue.

Mr. Steib feels that the buffer should be 50 feet. Mr. Pape stated that the purpose of the buffer ordinance is to create a physical buffer between the residential and commercial property. He would like to create a landscape plan for what they are blocking. He wants to create a landscape plan that makes sense. There is no developed plan presently.

Board Planner Fred Heyer advised that no matter what happens, there will be site improvements whether it be building or parking that will be coming back at least another 150 feet. He offered that there will be something on that commercial site that you will want to screen from the residential. He feels you may want to extend that buffer back an additional 100 to 150 feet. If the commercial needs supplementation later than you can do that and they will have the added benefit of growth until they build the commercial site.

Mr. Ziner asked about the length of the residential parcel that is next to the commercial. Mr. Strong stated that the property is 665 feet in length and they are planning 240 feet of buffering. Planner Heyer suggests another 100 to 250 foot back. Mr. Ziner agrees with this suggestion from Planner Heyer. Mr. Kocur agrees with that plan.

The only design waiver concerns the buffering request and the applicant seeks one variance.

Mr. Strong has reviewed Engineer Shafai's report and goes over the report on the record. He will comply with the report.

Regarding Planner Heyer's report, Mr. Strong will comply with his report.

Signage was discussed. There is no plan for signage at this time. Mr. Pape advised that the 1996 master deed, covenants, and restrictions required them to maintain the roads and this commercial lot was part of that of the subdivision. Off site signage is located at the entrance driveway, which is a private road.

Mr. Pape offered that when this plan was first developed, they came up with a scheme of easements to protect the surrounding properties. A 50 foot landscape easement and conservation easement across the front of the lots was created. Mr. Pape offered that the Shade Tree

Commission recommends the conservation easement be relinquished. He advised the easement was silent and did not allow for driveways or utilities. The applicant must go before the Township Committee to remove the conservation easement in that area.

Attorney Steib swore in Nicholas Pengue. He resides at 357 Millstone Road. Mr. Pengue provided that he had studied the property prior to the purchase of the property. He explained that he would like to put an office for himself there because his present office is located in Sayreville.

Ms. Pinney is a member of the Environmental Commission. Their concerns are the issue of provision of a soil containment report. She stated that the Threatened and Endangered Species (T&E) report has been updated twice but the soil contaminant testing done was performed in 2004 with no revision date since then. She stated that the Environmental Commission is concerned is about potential contamination on the site.

Mr. Pape advised that they have tested the property quite a number of times and has never had anything show up on the reports. He stated that the property has never been developed. Ms. Pinney's concern is that the property has been vacant and that something potentially could have been dumped on the property and the EC would like an updated soil contamination report and an updated T&E report.

Mayor Kinsey asked about Mr. Pengue's business concerning the potential use of the commercial building. Mr. Pengue is in the real estate business. He would utilize a portion of the building for his office; he has four employees. He would find a tenant for the other portion of the building since he stated that he would not need the entire 16,000 s.f. building.

At 8:40 p.m., the application was open to the public, seeing no public comment on the application, that session closed at 8:40 p.m. and the Board took a five minute break returning at 8:45 p.m.

The applicant had reviewed the recommendation of the Board extending the landscaping and he is in full agreement. The Board is satisfied with that change.

The applicant is requesting Preliminary and Final subdivision approval and has agreed to perform additional soil testing on the property.

Attorney Steib read the conditions of approval should the Board vote favorably on the application, including but not limited to: buffering to be in compliance with the reports of the Shade Tree Commission and Engineer Shafai's reports and Planner Heyer's recommendation of buffering 125 feet back, the applicant shall apply to the Township for change in the easement designation, additional soil sampling shall be performed per the request of the Environmental Commission, etc.

Committeewoman Grbelja made a Motion to approve the preliminary and final subdivision as conditioned and Mayor Kinsey offered a Second. Roll Call Vote: Grbelja, Kinsey, Bailey, Beck, Pinney, Kurzman, Ziner and Kocur voted yes to approve.

**OLD BUSINESS:** COAH Update. Attorney Steib advised the Board that at previous meetings, the Board discussed the Supreme Court Rulings concerning COAH but at this point in time, the session should be in the executive session to discuss legal matters. Committeewoman Grbelja made a Motion to go into Executive Session and Mayor Kinsey offered a Second and by unanimous vote the Board left the regular meeting at 8:46 p.m. and went into Executive Session.

At 9:05 p.m., the Board returned to the regular meeting. Mr. Kurzman asked for a Motion to Adjourn. Mayor Kinsey made the Motion, Mr. Ziner offered a Second, and by unanimous vote, the meeting adjourned at 9:05 p.m.

Respectfully submitted,

Pamela D'Andrea