

**MILLSTONE TOWNSHIP  
PLANNING BOARD  
MEETING MINUTES  
MARCH 11, 2020**

At 7:31p.m., Chairman Newman called the meeting to Order at 7:30 p.m.

The Secretary read the Adequate Notice and the additional Noticing required by the Township.

Salute to the Flag.

**Roll Call:** Present: Beck, Grbelja, Oxley, Ziner, Arpaia, Pinney, Pepe,  
and Newman

Absent: Conoscenti, Curtis and Pado

**APPROVAL OF MEETING MINUTES: February 12, 2020.**

The Meeting Minutes having been distributed for review and comment, the Board Secretary announced that a few grammatical changes were made subsequent to this meeting. These changes were not substantive.

Deputy Major Grbelja made the Motion to approve the Meeting Minutes and Mr. Beck offered a Second: Roll Call Vote: Grbelja, Beck, Ziner, Oxley, and Arpaia voted yes to approve.

**PUBLIC COMMENT PORTION:** At 7:35 p.m., Chairman Newman opened the Meeting to the public for any public comment they may have excluding the applications that are on the Agenda for the Board to consider this evening. Seeing none, he closed that portion of the meeting at the same time.

**RESOLUTIONS:**

**P19-05 PATEL, YOMESH** - Block 24, Lot 6 known as 455 Route 33 consisting of 1.28 acres in the Highway Commercial (HC) Zone. Applicant sought and received approval to construct a 8,820 s.f. retail building. Variances were granted for the undersized lot for lot area, lot width and frontage, depth, front yard setback, setback both sides, 52 stalls required, 44 proposed, 1 loading stall need, 0 proposed. Preliminary and Final Site Plan Approval granted.

The Board has read the Resolution. A Motion to memorialize was made Ms. Oxley and a Second offered by Deputy Mayor Grbelja. Roll Call Vote: Oxley, Grbelja, Beck, Ziner and Arpaia voted yes to memorialize.

**P19-11 GREEN, GEORGE** – Block 62, Lo 16.02 located at 97 Stage Coach Road consisting of 9.83 acres in the R130 Zoning district. Applicant sought and received approval for a Minor Subdivision to create two residential single-family lots. Proposed Lot 16.04 has an existing dwelling which will remain.

The Board has read the Resolution. A Motion to memorialize was made Mr. Beck and a Second offered by Ms. Oxley. Roll Call Vote: Beck, Oxley, Grbelja, Ziner and Arpaia voted yes to memorialize.

**REVIEW AND RECOMMEND:**

**ORDINANCE NO. 20-02**

ORDINANCE AMENDING CHAPTER XXXV (LAND USE)  
ARTICLE 5, (ZONING DISTRICT REGULATIONS) OF THE REVISED GENERAL ORDINANCES OF  
THE TOWNSHIP OF MILLSTONE,  
COUNTY OF MONMOUTH AND STATE OF NEW JERSEY TO ADD  
NEW SECTION 5-17 (ACCESSORY APARTMENTS)

Attorney Steib explains the ordinance and provides a summary. Planner Mertz address the ordinance being consistent with the Master Plan.

Master Plan. Accessory Apartments. Allows up to ten affordable accessory apartments during the balance of round three period.

Planner Mertz provided that the Ordinance 20-02 is a result of the Planning Board adopting the Amended Fair Share Housing Plan Element of the Master Plan and memorializing the Resolution which makes this a part of the Master Plan. There was discussion and clarification that the Ordinance allows is unique is the only time in planning is allowed to do spot zoning.

Vice-Chairman Pepe summarized that this ordinance allows for residents to construct accessory apartments for which the Township will receive 10 credits by putting this into our plan whether people act upon this or not. Planner Mertz confirmed this. By doing this the Township is presenting the opportunity to construct them, they do not have to be constructed yet.

Planner Mertz discussed some concerns they have heard from other towns throughout the State are adding another unit to a property concerns have been raised as to density. She stated that since it is only ten units, she does not see it a negative impact to the zone plan.

Vice-Chairman Pepe stated that if we include this in our Master Plan could this turn into something else such as city sewer and water.

Planner Mertz presented that affordable housing is so unique in that this is the only time that planning allows for spot zoning. She does not foresee any negative impacts here.

Mr. Ziner asked for clarification could a person with ten-acre zoning construct a ten-unit apartment. Planner Mertz advised they are restricted to one unit.

Deputy Major Grbelja stated that if you have a ten acres lot and you wanted to bring in a trailer for a parent you have permission to bring in a trailer if they are 55 or older. If you have labor housing on a farm, this could include labor housing.

Planner Mertz stated that there are conditions that the unit has to be for low income housing and this is deed restricted for 10 years to ensure that that tenant remains in the low to moderate income. If someone continues to have the unit on the sight, they would have to re-up the restriction or remove the unit.

Deputy Mayor Grbelja gave an example of a deed restricted set of units in town that when the restriction was up, they did re-up providing the affordable units and continue to another round. If they became market rate, they would have to pay hat the market rate taxes.

Planner Mertz explained that if someone wants to continue to have an accessory unit on site after the deed restriction has expired, this is not a permitted use and the unit would have to be either removed or the party would have to apply to the Zoning Board for Use Variance.

Mr. Arpaia asked if the units required their only separate septic and well. Engineer Shafai advised that Monmouth County Board of Health has jurisdiction over this.

There was discussion that the accessory units are capped at ten. The Township has the option the of extending the program after the ten accessory apartments are built the Township has the option of extending the program but this cannot happen until all ten are built and deed restricted.

Planner Mertz refers to page 45 of the Housing Element that addresses the accessory apartments stating that the Ordinance is consistent with this and if the Board can offer a recommendation that they would like the counsel to consider limiting it to home additions or extensions to existing structures.

Chairman Newman made the Motion that the proposed Ordinance is deemed to be consistent with the master plan making the recommendation that the units they would like the counsel to consider limiting it to home additions and existing structures. MR. Arpaia offered a Second:

Roll Call Vote: Newman, Arpaia, Pinney, Beck, Oxley, Grbelja, Pepe and Ziner. voted yes.

**ORDINANCE NO. 20-03**

AN ORDINANCE OF THE TOWNSHIP OF MILLSTONE AMENDING THE GENERAL CODE OF THE TOWNSHIP OF MILLSTONE BY REPEALING AND REPLACING ARTICLE 8 “AFFORDABLE HOUSING” TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE TOWNSHIP’S AFFORDABLE HOUSING OBLIGATIONS AND TO ESTABLISH THE DEVELOPMENT FEES PERTAINING TO THE TOWNSHIP’S AFFORDABLE HOUSING TRUST FUND

Attorney Steib reports that this Ordinance replaces current article 8 which is now 15 years old and outdated. Attorney Steib advises that this brings the town into compliance with UHAC and COAH requirements, what we have to do to maintain our housing trust, qualifying the residents as very, very low or low- or moderate-income people.

This is the ordinance implements what the master plan already states and bring it up to speed.

Planner Mertz explained the uniform housing affordable controls make sure that the owners are filling the units with income qualified parties, it lays out all of the regulations for monitoring and marketing requirements. This ordinance updates the development fees ordinances to make them consistent.

Ms. Oxley asked about who performs the monitoring. Planner Mertz advised that the Township has hired the Affordable Housing Alliance as their administrative agent to oversees making sure that everything is running properly. We are required to provide the next update to the courts in July. This consists of gathering all of the information including zoning ordinances that have been passed, any developments have been approved by the Boards and are being constructed and the like. This information is provided to the Fair Share Housing and the Courts.

Attorney Steib explained how they make sure that the units are occupied with qualified parties. Ms. Oxley asked how we monitor if qualified parties are in the units. Attorney Steib advised that there is annual provision of information including a change of occupant.

Attorney Steib advised we must comply with the UHAC standards and we are trying to bring the Ordinance up to the standard.

Ms. Oxley was concerned that units may be divided into smaller cubicles illegally.

Deputy Mayor Grbelja stated that this ordinance is a land use ordinance. The construction department monitors the building and Affordable Housing makes sure that the units are properly occupied and monitored and that there is no abuse.

Planner Mertz advised that this ordinance is word for word from the Statutory requirements.

Chairman Newman recommends that this ordinance is consistency with the master plan and Mr. Arpaia offered a Second. Roll Call Vote: Newman, Arpaia, Beck, Pinney, Pepe, Ziner and Grbelja voted yes.

**ORDINANCE NO. 20-04**

ORDINANCE AMENDING CHAPTER XXXV (LAND USE AND DEVELOPMENT REGULATIONS), ARTICLE 5, SECTIONS 5-2 AND 5-3.1 ADDING THE R-MF MULTI-FAMILY ZONE DISTRICT TO THOSE SECTIONS AND THE SCHEDULE OF AREA, YARD AND BUILDING REQUIREMENTS (SECTION 5-5) AND CREATING NEW SECTION 5-17 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

Attorney Steib advises that this Ordinance is to create a new zone RMF to allow one inclusionary development proposing up to 242 townhomes and multifamily homes and 48 units will be affordable to very low housing.

Planner Mertz advises that this is spot zoning and it is completely legal.

Vice-Chairman Pepe discussed changing our zone to accommodate

concept we should vote that we would be concerned about breaking our zoning laws

he feels we are breaking the law to accommodate something that

Engineer has never seen a project like this.

Mitch offered that the builders remedy does not limit itself to this property if we do not comply with the Court order. The Builders remedy encompasses the entire town.

Vice-Chairman Pepe asked what could be worse than this. Deputy Mayor Grbelja stated that if we did not have a plan that came in and we lost our zoning we would have lost our zoning and that would mean anywhere in the town any builder can build as dense zoning as they wanted to and if it is on the borders along Jackson, Freehold, Manalapan, those sewers and public water pipes could be coming and we lost it. With the Builders' remedy lawsuits at is what has happened to Middletown. There is no zoning. Ten-acre zoning could be three acre lots.

Vice-Chairman Pepe is concerned about environmentally sensitive property and a water treatment package. Deputy Mayor Grbelja stated that if the housing is in an area where the property is close to city water and sewer, the developer could have gone to court and received approval to bring in the sewer and water. She explained that is why this property was chosen, because water and sewer cannot be brought into this location and the topography of the land.

Deputy Mayor Grbelja explained how a franchise works as it relates to city water and sewer, you have the right to go to your neighbor and tap into their water and sewer without permission from the town.

Attorney Steib stated that the point is that once the infrastructure for water and sewer is there that increases your number.

Deputy Mayor Grbelja stated that we have 5 watersheds. this is what the maximum. We have to see what the land can hold. This is determined by NJDEP. We have to look to see what we have. We can make adjustments. We live by our Master Plan. This is the last thing that we wanted on our Agenda. We are already looking to 2025, planning for the future to work with the State to see what the environmental restrictions are for our community. We will advocate for this. We have to deal with what is in front of us and make lemonade out of lemons.

Vice-Chairman Pepe is looking for a way to comply but not have to create a new zone. He is looking for a different scenario.

Chairman Newman advised that every town is in the same situation. He advised that towns that have not complied are finding themselves open to builder's remedy and the builders are coming fast and hard.

The fact that we have a developer who is paying himself to design and pay for a water treatment for his proposed development is unheard of, considering the cost of the sewage treatment plant. Chairman Newman agreed.

Deputy Mayor Grbelja has met with towns who have lost their immunity it has meant that they have had to construct thousands more affordable units. We are not willing to take that chance.

Mr. Ziner asked where Block 9, Lot 7 represents. Planner Mertz stated that the developer is in discussion with the professionals they would like to put a small building on the property that would house the water treatment plant. It is located next to the car repair shop.

Mr. Ziner is concerned that this is a residential zone.

It is not sewer treatment plant it is a water treatment facility. The building would have to be approved by the Board and it would look like a house. It has to meet the set back and heights there are no water towers. Engineer Shafai advised that everything would be housed inside.

Planner Mertz stated that placing the facility across the street gets it out of the wetland area to the rear of the property.

Mr. Ziner asked if it is designated RMF and is concerned that units may be additionally located on the Lot 7.

Attorney Steib stated that a developer's agreement accompanies the project. The agreement will not reflect that any homes are to be constructed across the street.

The Board discussed the contiguous properties.

Chairman Newman asked about the setbacks that are reflected in the Ordinance. Engineer Shafai stated that Lot 20 is close to the property and so the setbacks take that lot into consideration that has the closest residential property.

Planner Mertz stated that the standards are designed to look at the tract as a whole and she feels they do effectuate the proposals in the housing element.

The homes will be pitched roofs for storage/attic space room for HVAC equipment for the residential properties. The affordable units will be permitted one additional story since they are town homes.

Chairman Newman stated that when the developer comes to the Board for site plan approval, the developer has to follow the standards set forth in the ordinance. They will have to comply with the outside approvals as well.

Chairman Newman is seeking the appropriate Motion to contain all of the Board's concerns.

Attorney Steib made a few notes including that the Board is concerned that this is spot zoning. The Board is concerned that the water treatment facility is near the residential uses and are concerned with the appearance of the facility. The Board would like to see enhanced setbacks for non-residential structures.

Ms. Oxley asked if for some reason the developer could not construct all of the units, would we still get credit for the 48 affordable units. Attorney Steib advised we would. The negotiations are that the affordable units would have to be constructed on this site and then his market units could be constructed.

Chairman Newman said it could be wetlands, endangered species and the like.

Mr. Ziner wants to make sure that Block 9, Lot 7 does not have any residential development on it.

Attorney Steib has outlined the Board's recommendations and finding this ordinance consistent with the Master Plan.

Deputy Mayor Grbelja made a Motion finding the Ordinance consistent with the Master Plan and Ms. Oxley offered a Second. Roll Call Vote: Grbelja, Oxley, Beck, Pinney and Newman found the Ordinance Consistent with the Master Plan with the recommendations. Pepe and Ziner voted no. Arpaia abstained.

#### **ORDINANCE NO. 20-05**

ORDINANCE AMENDING CHAPTER XXXV (LAND USE AND DEVELOPMENT REGULATIONS), ARTICLE 5, SECTION 5-13 AND THE SCHEDULE OF AREA, YARD AND BUILDING REQUIREMENTS (SECTION 5-5) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

Attorney Steib advised that ordinance concerns what is known as the CKV tract which is municipally

sponsored parcel and is 100% affordable housing. Attorney Steib advised that this is already a permitted use in the zone. We are adopting specific area and building bulk standards for building the municipal projects in this zone.

Planner Mertz provided that the Fair Share Housing Element provides for this on page 43 and 44. The use is already permitted this ordinance sets forth bulk standards we are adding a level of protection for the Town and giving parameters and help control development. Planner Mertz advised that the existing bulk requirements would not be appropriate for such a development.

Chairman Newman asked if this ordinance limits the density to the affordable community. Planner Mertz stated that this only applied to the affordable housing project in the zone.

She finds this consistent with the Master Plan.

With the understanding this zoning does not create opportunities to market rate homes and limits it to the municipally sponsored projects.

Chairman Newman recommends that this ordinance is consistency with the master plan and Deputy Mayor Grbelja offered a Second. Roll Call Vote: Newman, Grbelja, Arpaia, Beck, Pinney, Pepe and , Ziner voted yes,

#### **ORDINANCE NO. 20-06**

ORDINANCE AMENDING CHAPTER XXXV (LAND USE AND DEVELOPMENT REGULATIONS), ARTICLES 3, 4, 5, 7, 9, 11 AND 17, SECTIONS 3-9.3 (ESCROW FEES), 4-9.12 (FENCES), 4-11.4 (NOISE), 4-14.8.c.1 (SITE DEVELOPMENT STORMWATER PLAN), 4-16 (ARCHITECTURAL GUIDELINES & DESIGN STANDARDS FOR NONRESIDENTIAL BUILDINGS), 5-15 (PCD PLANNED COMMERCIAL DEVELOPMENT) 5-16, 5-16.2, 5-16.4, 5-16.6 (FHSC), 7-3.4 (EMERGENCY SPILLWAYS), 9-5 (ENVIRONMENTAL CONSTRAINTS) 11-5.9, 11-11, 11-14.8.b, 11-24, 11-25.6, 11-30, 11-32.3, 11-33 (DESIGN AND PERFORMANCE STANDARDS) AND 17-1 (RIPARIAN ZONE ORDINANCE) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

Attorney Steib offered that Show Place Farms property already allows the warehouse use and this ordinance amends the escrow fee payment schedule. It also amends to some degree the design standards for the warehouse facility on the site.

Planner Mertz stated that on page 46 of the Fair Share Housing Plan, it is discussed the owners are not providing any affordable uses. They will contribute to the Affordable Housing Trust Fund which will allow the construction of the municipally sponsored sites. We are recommending amending zoning to allow a 1 million s.f. warehouse. The ordinance allows for increasing the maximum building coverage and floor area ration. The design is in the shape of a "T" so that the building cannot go over the square footage permitted.

Mr. Steib advised that the site will have a water treatment facility on site so that no public water and sewer can be brought onto the site. Attorney Steib advised that the affordable housing fee contribution is not done upfront but the applicant will deposit a good amount of their affordable housing fees upfront so that we can build our municipally sponsored projects.

Mr. Arpaia made a Motion finding the Ordinance Consistent with the Master Plan and Chairman Newman offered a Second. Roll Call Vote: Arpaia, Newman, Pepe, Grbelja, Ziner, Pinney, Oxley

and Beck votes yes to the Consistency of the Ordinance.

**ORDINANCE NO. 20-07:**

ORDINANCE AMENDING CHAPTER XXXV (LAND USE AND DEVELOPMENT REGULATIONS), ARTICLE 5, SECTION 5-7 AND THE SCHEDULE OF AREA, YARD AND BUILDING REQUIREMENTS (SECTION 5-5) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH, STATE OF NEW JERSEY  
Attorney Steib stated that this ordinance is similar in concept to the CKV ordinance (20-06) and is known as the Shu-Lee tract. As with the CKV property, it is already zoned for a municipally sponsored affordable housing development. It sets forth parameters for the actual development so the developer is building something appropriate.

Planner Mertz stated that on page 42 and 43 of the Fair Share Housing Plan this is discussed.

The applicant is the Township on municipally sponsored projects.

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

**NEW BUSINESS:**

Patricia Fitzpatrick had a comment. She lives in Manalapan Township on Woodville Road, across the street from the cell tower. She advised the Board that the generator is facing her home and 24/7. Deputy Mayor Grbelja advised that we have an ordinance in place to protect the residents from this. Engineer Shafai advised that they are not permitted to run the generator this way. This was supposed to be a temporary matter. Engineer Shafai will check into it and contact the resident.

Vice-Chairman Pepe made the Motion to adjourn and Ms. Pinney offered a Second and by unanimous vote, the meeting adjourned at 8:45 p.m.

Respectfully submitted

Pamela D'Andrea