

**BOARD OF ADJUSTMENT
MEETING MINUTES
MARCH 28, 2007**

Meeting called to Order by Chairman Novellino at 7:30 p.m.

Reading of Adequate Notice by Vice-Chairman Barthelmes.

Salute to the Flag.

Roll Call: Present: Barthelmes, Curcio, Devine, Iradi, Lambros, Morelli, Novellino, and Bailey. Absent: Conoscenti.

APPROVAL OF MINUTES: January 24, 2007

Mr. Lambros made a Motion and Mr. Curcio offered a Second. Roll Call Vote: Lambros, Curcio, Morelli, Devine, Iradi, Barthelmes and Novellino.

PRESENTATION ON THE RIGHT TO FARM ACT

Ms. Butch advised the Board that one of the jobs of the Ag Board is to promote farming issues. The Right to Farm Act (RTFA) and Right to Farm Ordinance is in the Township Ordinances. She explained that there is pertinent information that any resident located next to a farm needs to know about the farmer's rights. The packet provided to the Board contains information concerning green houses, etc.

Ms. Butch stated that the RTFA kicks in under certain circumstances and she explained what those were. The acreage must be five (without a house) 6 acres (with a house) needed to be farmed assessed. She explained the special provisions. The acres do not have to be contiguous to be farm assessed. She explained the definition of a farm market and the percentages needed in order for a property to be considered a farm market.

Ms. Butch wished to inform the Board of this information as it may relate to applications. The County AG Board mitigates any concern dealing with the farm issues. She gave an overview of the permissible activities set forth in the Act. Our Right To Farm Act was written in 1980 and is presently being re-visited. It will be updated as to items coming down from a State level such as equine, which will be incorporated into the Ordinance. She advised the deadline is December 2007.

RESOLUTIONS:

Z06-08 DITCH WITCH – Block 16, 10.06. 200 Mecco Drive. 3.01 Acres located in the BP zone. Vacant lot in industrial park. Office/Warehouse. 7,125 s.f.; two-story office 4,500 s.f. Manufacture and distribute specialty excavation equipment. Use Variance and Preliminary and Final Site Plan Approval granted 1/24/07.

Mr. Morelli made a Motion to Memorialize and Mr. Iradi offered a Second. Morelli, Iradi, Lambros, Curcio, Barthelmes, Novellino and Devine voted yes to memorialize.

Z06-02 MILLSTONE ACQUISITION – Block 20, Lot 3.14. Located at Route 33 and Dugan's Grove Road. 6.41 acres located in the HC Zone. Applicant seeks a minor subdivision to keep the existing uses with new lot for a proposed day care center. Proposed new building consisting of 7,500 s.f. with one-story. Deemed Complete: 5/24/06. Applicant by letter requests that the application be Dismissed without Prejudice.

Mr. Iradi stepped down for the matter.

Mr. Curcio Made a Motion to Memorialize the Resolution and Mr. Barthelmes offered a Second: Roll Call Vote: Curcio, Barthelmes, Morelli, Iradi, Lambros, Novellino, Devine and Bailey voted yes to memorialize.

NEW APPLICATION:

Z07-01 PARAMOUNT MARINA - Block 54, Lot 1. Applicant seeks to construct a single-family residence. Variance needed no frontage on a public street. Applicant received variance approval to construct a single family dwelling in Resolution memorialized on October 28, 2005. Applicant granted relief from complying with two conditions of the prior Resolution. Applicant received extension of time on the approval, which expired 1/27/07.

Attorney Vella advised the Board that he has reviewed the jurisdictional packet prepared by the applicant and found same to be in order to accept jurisdiction over the application.

Attorney Vella enters the following exhibits into evidence:

Michael Vitally representing the applicant. Mr. Vitally offered a brief history of the application. The applicant has applied for a bulk variance due to the property has for no frontage. The applicant is able to construct a house but must construct a public street. He explained that the applicant wished to construct a driveway instead of creating a public street. The Board of Adjustment had granted a variance, along with an extension of time

Mr. Vitiello advised that the applicant came back to the Board a third time to seek relief from conditions that could not be meet. A further extension cannot be granted so that is why they are before the Board to present the application again.

Mr. Vella advised the Board that the applicant is requesting one variance for frontage to build this single-family dwelling.

Attorney Vella swore in the applicant's engineer, William Stevens who presented his credentials as a PP and PE and was accepted as applicant's expert. Mr. Stevens referred to Exhibit A-8 Aerial of subject property, A-9 Mounted copy of BOA-5 and described the property. It sits to the east of Upper Freehold Township boundry line. The property consists of 14 acres, a landlocked parcel between Upper Freehold and Millstone Township. The property cannot be accessed through Millstone Township due to a prior subdivision on Fern Drive and wetlands that encumber the property. The Property can only be accessed from Upper Freehold.

Referring to Exhibit A-9, reflecting the roadway in Rolling Meadows Subdivision (Upper Freehold), the applicant will construct a single-family dwelling. The driveway would be private and owned by the homeowner. Lot 1.22 is a separate lot for the driveway. (14.40 acres) in the RU-P zone in Millstone Township. The frontage requirement for the zone is 250 feet but zero (0) can be provided as reflected on the exhibit.

Mr. Novellino opened the application to the Board. Mr. Curcio asked about the responsibility of education and school transportation. Mr. Vitiello explained that the adjacent town is not willing to accept any responsibility. Attorney Vella advised the Board that the resident in the home will be entitled to education in Millstone Township school system. Attorney Vella told that Board that he spoke to Upper Freehold during the prior application and Upper Freehold said that they were not interested in providing services.

Mr. Stevens advised they have the necessary area to construct a road if the Board desires. Fire and emergency services are provided by Millstone Township. The public road would be 600 ft. x 30 ft.. The property was landlocked as a result of the prior subdivision granted off Fern Drive.

The Board discussed the road alternative. Attorney Vella explained res judicata regarding the prior approval of this application. Nothing has changed regarding this application since it was approved.

- A-1 Jurisdictional Packet
- A-2 Application dated 2/8/07
- A-3 Resolution Granting Variance Approval Memorialized 10/26/05
- A-4 Resolution Granting Extension of Variance dated 10/25/06
- A-5 Resolution Granting Relief from Conditions 9 and 11 of Resolution Approval dated 1/24/07
- A-6 Deed of Conservation Easement for Block 54, Lot 1, Recorded on October 30, 2006.
- A-7 Declaration of Restrictive Covenant Recorded on December 26, 2006.
- A-8 Mounted Aerial view of subject property.
- A-9 Mounted copy of BOA-5
- BOA-1 Board Engineer Report dated March 28, 2007

- BOA-2 Board Planner Report dated June 28, 2005
- BOA-3 Report from Shade Tree Commission dated July 20, 2005
- BOA-4 Freehold Soil Certification Letter dated December 12, 2006
- BOA-5 Plot Plan for Block 54, Lot 1. Last Revised 8/23/06, executed by Chairman of the Zoning Board on 12/15/06.

At 8:21 p.m., the Chairman opened the application to the public. Gary Mangino of Perrineville section of Millstone advised that he has watched this application throughout the history of the various stages. He asked for clarification that the property is deed restricted from any further subdivision. Mr. Mangino asked is this a road or no road issue. Attorney Vella said the issue is the Township's cost to service the road from this moment on. If it is a private driveway, Millstone Township does not service if it is a Township Road, Millstone Township does service it. Mr. Mangino voiced his concerns as to the feasibility of stormwater management, of the road, etc.

Mr. Lambros asked Engineer as to the estimated cost of a public, 600 ft road. Mr. Shafai advised an approximation would be \$40,000 to 45,000. He advised that it would be a very narrow road. Stormwater Management of the road would cost extra. Mr. Stevens stated the cost to build the road or the driveway are basically the same. Mr. Barthelmes asked for clarification of "maintain" costs. Attorney Vella stated that snow plowing and repairs.

Attorney Vella stated this the question is from a land use perspective, is the plan shown a good plan. He asked is this land use reason to grant the variance. Attorney Vella advised the Board that the previous approval, which is no longer valid, had as a condition of approval, a deed restriction. The applicant has already complied with that and that condition and it is carried through this application. If the application is denied, there is no longer a deed restriction. He explained what the applicant would have to then do.

Chairman Novellino believes the applicant would build a road if the application was denied and he feels it would not be beneficial to do so. Attorney Vella stated that all prior conditions could be part of this approval. He read all prior terms and conditions of the October 26, 2005 Resolution. New conditions would be deed restriction for the subdivision is carried forward and revised plans provided should be consistent with the previously signed plans.

Mr. Devine made a Motion to approve as conditioned and Mr. Barthelmes offered a Second. Roll Call Vote: Devine, Barthelmes, Lambros, Curcio, Morelli and Novellino voted yes to approve. Mr. Iradi voted no.

OLD BUSINESS:

Mr. Novellino directed a letter to the Township Committee regarding the Board of Adjustment's interest in having the meetings televised and provided a status of that to the Board. Mr. Morelli reported that the Township Committee is in the

process of trouble shooting some technical difficulties. Equipment must be updated and it should be several months down the road before this comes to fruition. Mr. Morelli explained to the Board how title screening could be accomplished.

EXECUTIVE SESSION:

At 8:52 p.m., Mr. Curcio made a Motion and Mr. Morelli offered a Second for the Board to go out of regular session and into executive session and by unanimous roll call vote, Attorney Vella made the announcement to the public and for the record that the Board would be going out of the regular session and into executive session.

ADJOURNMENT:

At 9:08 p.m., the Board went back into regular session and by Motion of Mr. Curcio and Second offered by Mr. Iradi and Unanimous vote, the Board adjourned the meeting.

Respectfully Submitted,

Pamela D'Andrea