

**MILLSTONE TOWNSHIP
PLANNING BOARD
JANUARY 10, 2007
MEETING MINUTES**

At 7:32 p.m., Mitchell Newman called the meeting to Order.

Attorney Steib swore in the following members: Mary Pinney, Marc Weintraub, and Michael Kuczinski.

Salute to the Flag.

Roll Call: Blanco, Grbelja, Kuczinski, Sico, Pinney, Newman, Pado, Weintraub.
Late: Pepe (7:36 p.m.) Murphy (7:55 p.m.) Absent: Kurzman.

Election of Officers: Chairman. Ms. Grbelja made a Motion to nominate Mitchell Newman and Mr. Pado offered a Second. Roll Call Vote: Grbelja, Pado, Blanco, Kuczinski, Sico, Pinney and Weintraub voted yes.

The Board congratulated Mr. Newman.

Vice Chairman: Ms. Grbelja made a Motion to nominate Mr. Pepe, Mr. Kuczinski offered a Second. Roll Call Vote: Grbelja, Kuczinski, Blanco, Sico, Pinney, Pado, Weintraub and Newman voted yes.

The Board congratulated Mr. Pepe.

Ms. Grbelja made a Motion to nominate Pam D'Andrea as the Board Secretary and Mr. Pepe offered a Second. Roll Call Vote: Grbelja, Pepe, Blanco, Kuczinski, Sico, Pinney, Pado, Weintraub and Newman voted yes.

Mrs. D'Andrea thanked the Board.

The Board next considered nominations for its professionals.

Board Attorney: Mr. Kuczinski made a Motion to nominate Michael B. Steib, Esq. and Mr. Pado offered a Second. Roll Call Vote: Kuczinski, Pado, Blanco, Grbelja, Pepe, Sico, Pinney, Weintraub and Newman.

Board Engineer: Ms. Grbelja with a Second offered by Mr. Sico made the nomination for Matt Shafai and the firm of Leon S. Avakian, Inc. as the Board Engineers. Roll Call Vote: Grbelja, Sico, Blanco, Kuczinski, Pepe, Pinney, Pado, Weintraub and Newman voted yes.

Board Planner: The nomination of Richard Coppola and the firm of Coppola and Coppola to perform the duties of the Board Planner was made by Mr. Pepe and Mr. Sico offered a Second. Roll Call Vote: Pepe, Sico, Pinney, Pado, Weintraub and Newman voted yes.

Court Reporter: Ms. Grbelja with a Second offered by Mr. Sico made the nomination of Angela G. Buonantuono. Roll Call Vote: Grbelja, Sico, Blanco, Kucziniski, Pepe, Pinney, Pado, Weintraub and Newman voted yes.

Ms. Grbelja made the Designation of the Official Newspapers as The Asbury Park Press and The Messenger Press and Mr. Kucziniski offered a Second. Roll Call Vote: Grbelja, Kucziniski, Blanco, Pepe, Sico, Pinney, Pado, Weintraub and Newman voted yes.

Mr. Kucziniski made a Motion to adopt a regular monthly meeting schedule as follows and Ms. Pinney offered a Second. Roll Call Vote Kucziniski, Pinney, Blanco, Grbelja, Pepe, Sico, Pado, Weintraub and Newman voted yes to adopt that Regular Monthly Meeting Schedule to be held on the following dates in 2007 and the first meeting date in 2008 at 7:30 p.m. in the Municipal Building located at 215 Millstone Road, Perrineville, New Jersey as follows:

January 10, 2007	July 11, 2007
February 12, 2007 (Mon)	August 8, 2007
March 14, 2007	September 6, 2007 (Thurs)
April 11, 2007	October 10, 2007
May 9, 2007	November 14, 2007
June 13, 2007	December 12, 2007
	January 9, 2008

The approval of the December 12, 2006 minutes are tabled until the February 12, 2007 meeting.

At 7:49 p.m. Chairman Newman opened the Public Comment Portion. Seeing no public comment, the public comment portion was closed at 7:49 p.m.

At 7:51 p.m. Ms. Grbelja made a Motion that the Board go into Executive Session and Mr. Sico offered a Second and by unanimous roll call vote the Board went out of regular session and the audience was vacated and the Board went into Executive Session for the purposes of discussing litigation or personnel matters.

At 7:57 p.m. the Board came out of Executive and returned into the Regular Session with the public returning.

RESOLUTIONS:

P06-02 33 ASSOCIATES (RIVERSIDE CENTER) – Block 18, Lot 2.02. Located on Route 33. 57.7 acres located in the PCD Zone. Applicant seeks Preliminary

Major Subdivision Approval to subdivide property into 9 individual sites. Deemed Complete 7-12-06. Carried from 9/13/06; 11/8/06; 12/13/06.

Attorney Steib advised that minor clarifications as requested by Attorney Mehr were made as follows: paragraph 10 of the Resolution clarifies that the proposed street system is going to be dedicated to the Township and there will be a property owners association that will take care of the maintenance of said property. A second clarification is that the property in question that is located in both Monroe and Millstone will be placed in a ROW. A third item is that there is a signage located on each side of Road "B". Under Special Conditions, the linear parks portion will be part of final approval. Special Condition paragraph 3, the remnant is part of a Right of Way not a lot in either Millstone or Monroe. Special Condition paragraph 5, Monument markers shall be placed in both towns for emergency services. Septic to be approved as each lot comes to the Board individually. These conditions have all been placed in the Resolution.

Mr. Murphy arrived at 8:00 p.m. and is officially sworn in by Mr. Steib.

Chairman Newman makes a change to the Resolution concerning the meeting dates. He suggested changes as to what stage in the project to consider revisiting the traffic issue. Regarding page 16, paragraph 27, Attorney Mehr advised that there is one section of contamination. Engineer Shafai advised that we would target that lot at the site plan stage. Regarding page 14, paragraph 24 at end of second sentence the same language would be added to revisit the need for a traffic light and at the end of page 23, paragraph 13 requires the same language.

Mr. Blanco offered a Motion to approve with the changes and Mr. Kuczynski offered a Second. Roll Call Vote: Blanco, Kuczynski, Grbelja, Murphy, Pado and Newman voted yes to Memorialize.

P05-02 HWANG – Block 9, Lot 1. 97 Fieldsher Road. 17.763 Acres. Minor Subdivision variances required. Deemed Complete: 7/13/06. Per applicant's request, application was dismissed without prejudice.

Ms. Grbelja made a Motion to Memorialize the Resolution and Mr. Kuczynski a Second. Roll Call Vote: Grbelja, Kuczynski, Blanco, Murphy, Newman and Pado voted yes to Memorialize.

P06-14 ALLIANCE HOMES – Block 61, Lot 6. Property located at Route 537 and Brookside Road. Located in the R-130 Zone consisting of approximately 7.19 acres. Applicant received Minor Subdivision approval on 4/6/06. Approval expired. Applicant returned for an Extension of time to perfect the subdivision. Extension granted.

Ms. Grbelja made a Motion to Memorialize the Resolution and Mr. Blanco offered a Second. Roll Call Vote: Grbelja, Blanco, Kuczinski, Murphy, Newman and Pado voted yes to Memorialize.

P06-09 J. W. POOLE, L.L.C. – Block 16, Lot 9.08. Located on Rike Drive. 3.06 acres located in the BP Zone. Preliminary Major Site Plan granted 6/14/06. Applicant seeks Final approval to construct a one-story, 9,984 s.f. bldg. Approval granted.

Chairman Newman had a suggested change to page 8 of the Resolution concerning the NFA from the NJDEP. He asked if it is discussed at Preliminary, should it be mentioned again at Final. Attorney Steib would amend the Resolution to place this in Final.

Ms. Grbelja made a Motion to Memorialize the Resolution as amended and Mr. Kuczinski offered a Second. Roll Call Vote: Grbelja, Kuczinski, Blanco, Murphy and Newman voted yes to Memorialize.

P06-05 COUNTRY ROAD ESTATES – Block 57.01, Lot 1. Located at Old Noah Hunt Road and Trenton Lakewood Road (County Road 526). Zoned RU-P consisting of 58.405 acres. Applicant seeks Preliminary Major Subdivision approval to construct 6 residential lots. Variance needed. Carried from 8/9/06; 9/13/06;10/11/06;11/8/06; 12/13/06. Application Denied.

Attorney Steib announced Attorney Kenneth Pape is present on behalf of the applicant to address the Board's reconsideration of the application. Chairman Newman announced that he had a conflict and steps down with Vice-Chairman Chris Pepe acting as the Chair. Mr. Pape advised the Board that he had prepared and provided a letter memorandum of law to Mr. Steib. He respectfully requested that Board reconsider the application and stated there is law to back up this request. Mr. Pape offered that the presentation of the application began at approximately 10:30 p.m. He anticipated that they would have made a different presentation. He asked the board to consider rehearing the application and he would rely upon the transcripts for the Board members to review in order to qualify. He advised that the case law suggests that the Board rehear the application prior to memorializing the Resolution. He will offer an extension if needed and re-notice and republish.

Attorney Steib advised the Board that this is a normal standard operating procedure. The case law that has been presented by Mr. Pape (Mr. Steib cited the case law). Attorney Steib advised that the Board that they can rescind or reconsider their vote if they feel an injustice to the applicant. He explains the application was heard late, the variance was diminimus in nature, there was not a full board and under these circumstances, it is the type of relief that should be used sparingly. Attorney Steib stated that the Board could very easily conclude that the better cause of action would or could be to reopen the matter. He

advised that the matter is not to be heard this evening because the applicant would have to re-notice. Mr. Pape will make his presentation at that time. Vice-Chairman Pepe asked if any significant information would be provided. Mr. Pape advised yes, 7 Board Renderings were to be presented.

A Motion was made by Mr. Kucziniski to reconsider the application at the 2/12/07 Meeting and Ms. Pinney offered a second. Roll Call Vote: Kucziniski, Pinney, Grbelja, Sico, Pepe, Murphy, Pado and Weintraub voted yes to reconsider the application. Mr. Blanco Abstained.

P05-19 HUNEKE, ROBERT – Block 16, Lots 6 and 6.02. Located at 21 Huneke Way. Consists of 35.82 acres in the RU-P Zone. Applicant seeks Final Major Subdivision Approval to modify two lots into 3 lots. Preliminary granted 2/06. Carried from 10/11/06; 11/08/06. Extension granted. Applicant requests matter be carried to February 12, 2007.

The matter is carried to February 12, 2007 with extensions granted. Mr. Kucziniski made a Motion to carry and Mr. Sico offered a Second. Roll Call Vote: Kucziniski, Grbelja, Sico, Blanco, Pepe, and Pado voted yes to carry.

P05-29 PAUL, EUGENE – Block 36, Lots 28, 30 and 32. Located along Millstone Road in the R-130 Zone consisting of 8.87 acres. Minor Subdivision w/ variance. Applicant proposes to consolidate 3 existing vacant contiguous lots into two new building lots. Application Deemed Complete 5/23/06. Carried from 6/14/06.; 8/9/06; 10/11/06; 11/08/06; 12/13/06.

Mr. Steib reads into the record, a copy of correspondence dated 12/15/06 that the Planning Board Secretary, pursuant to the Board's instruction, sent to the applicant advising him that he should be prepared to proceed with this application on January 10, 2007 at 7:30 p.m. or the matter will be considered for dismissal. The applicant has not appeared and has given the Board until 1/25/07 to extend the hearing of this application. Attorney Steib advised that in this case, the Board must dismiss without prejudice.

Mr. Blanco made a Motion to Dismiss the matter without prejudice and Mr. Sico offered a Second. Roll Call Vote: Blanco, Sico, Grbelja, Pepe and Pado voted yes to dismiss without prejudice.

P05-20 CENTURIAN SYSTEMS, INC. (BUDELMAN) - Block 21, Lots 7.01 and 7.02. Located on Indian Path, 6.36 acres in the R-80 zone. Applicant sought a lot line readjustment of 2 existing lots to create 2 new lots. Minor Subdivision with no variances approved 4/6/06. Time to perfect ran through 11/16/06. Applicant seeking an extension of time to perfect the subdivision.

Abe Budelman represented himself, along with his engineer John Ploskonka. He received an approval for a minor subdivision without any variances. He explained to the Board that he had problems selling the property. He has cleared up his issues and is now back before the Board requesting an extension. Attorney Steib swears in Mr. Ploskonka. Mr. Ploskonka met with Shade Tree Commission in order to resolve an open issue. Mr. Coppola refers to his 1/8/07 report regarding conformance issues and asked if those issues would be met. Mr. Ploskonka went over the conformance review. Mr. Ploskonka referred to item no. 3 of the conformance review and advised he would defer to Mr. Shafai. Engineer Shafai advised that item was not needed. The applicant requested five months total extension beginning from 11/16/06.

Mr. Kuczynski made a Motion to grant the extension and Mr. Pepe offered a Second. Roll Call Vote: Kuczynski, Pepe, Blanco, Grbelja, Sico, Murphy, Pinney, Newman and Pado voted yes.

INFORMAL APPLICATION:

P06-13 CKV REALTY, L.L.C. – Block 57, Lot 16, located at 33 Burnt Tavern Road. Property consists of 53.3897 acres located in the BP zone. Present use is farming. Applicant proposes Garden Center and construction of 15,000 s.f. building.

Attorney Steib advised the Board that this is a request for an informal review by the applicant. Mr. Coppola provided some information to the Board in his 1/6/07 report. On page 2, paragraph 3, of his report, he indicated that in the BP zone retail and wholesale are not permitted uses. Mr. Coppola questioned if this application is before the correct board. Attorney Steib performed research and generated his memorandum to the Board indicating the distinctions of classification of uses. The SIC does distinguish agricultural business to sell items produced by the farmer or nursery classifies them as agricultural industries. The SIC code creates a trade establishment section does identify garden centers and uses that have a principal portion of their trade that are not produced on their site such as shovels, rakes, hoes, etc. and classifies this kind of operation as a retail operation. Attorney Steib advised that the Board must decide if they have jurisdiction over this application. This is a threshold issue.

Attorney Edward Rosen representing the applicant offered more information to help the Board decide if this concept plan is before the correct Board. Mr. Rosen asked if a Use Variance is required? He feels you must look to our own land use ordinances rather than the SIC. The Applicant prepared to proceed and present testimony so that the Board can decide if the applicant should proceed before this Board.

Chairman Newman offered that he would like the applicant to provide some information as to what the plan is for. Mr. Coppola asked the applicant what products would be sold out of the building. Sworn in Vincent Tasuro, Ely

Harmony Road. He is one of the principals of the CKV Realty. Mr. Rosen asked him about the nature of the business. He advised they would grow, shrubs, flowers, pumpkins, corn, etc. The front part of the building is for selling the products. A large part of property is for growing the products. Shovels, rakes, wheelbarrows, topsoil and bagged rocks go hand in hand with the selling of the products. Ms. Grbelja feels that the growing of the vegetables, shrubs, etc. would be before this Board but the retail of products not produced on this property would go before the Zoning Board. Mr. Coppola feels it is safer if the applicant goes to the Board of Adjustment because there may be interpretation issues.

Chairman Newman asked Mr. Coppola if a minor component of the retail is the accompanying products. Mr. Coppola feels that the interpretation issue, the use groups, etc. it is a Board of Adjustment application. Mr. Pado agrees with Mr. Coppola and stated that retail and outdoor storage are not permitted in the BP Zone. Ms. Pinney advised if we don't pass it to the Board of Adjustment, we would have problems down the line. Chairman Newman concurred. The Consensus of the Board was to send it to the Board of Adjustment.

P04-46 KENSINGTON ORGANIZATION Block 60.01, Lot 17 and 18.01. Mount Holly-Freehold Road. NC Zone. 1.43 ac. Preliminary and Final Major Subdivision (construction of 6,363 sq. ft. retail bldg.) granted 8/10/05. Applicant requesting deviation from original Resolution.

Chairman Newman reiterated the original Board discussion and decision. After the rendering of the decision, the Shade Tree Commission had concerns about the Board's decision. Attorney Bill Mehr representing the applicant. Shade Tree Commission representative, Debbie Novellino was sworn in. Attorney Steib advised that the new members could vote on the matter. Attorney Steib feels that the Board did not accurately realize the size of the tree. Vice-Chairman Pepe feels the revisiting of this issue is due to the misinformation about the tree. Ms. Novellino has information about the history of the property to date.

Attorney Steib wishes to zone in on what would be the proper way to address the condition that the tree was removed. The Commission had a few suggestions such as contribute to a reforestation fund for the community in light of this tree being taken down. Chairman Newman advised that the Board suggested replacing the tree with the largest possible tree but the Shade Tree has an issue of guarantee in the tree's survival. Shade Tree suggested that the applicant make a monetary contribution into a fund for future reforesting the community, instead of replacement of the tree.

Ms. Novellino voiced her concerns about continued devastation of the trees on the property. Chairman Newman asked the applicant if he would be amenable to the Shade Tree's suggestion. Vice-Chairman Pepe advised it is possible to replace the tree with a 16" caliper and he did the research with a local nursery (Halka) regarding, providing this information to the Board Secretary. Lisa

Spaziano is sworn in as a certified arborist. She advised the Board that a value could be placed on a tree. She advised that she met with the Shade Tree and the applicant and his attorney to discuss this. Vice-Chairman Pepe clarified that even though it could be replaced, the Shade Tree would find it more prudent to taken the replacement monies and put it in a fund for future reforestation in the town.

Attorney Mehr stated that this tree is not a perfect specimen and was seriously decayed. He advised his expert is here to testify. He offered that the applicant had intended to preserve the tree but after it was knocked down and the condition was discovered. They would like to come to some reasonable replacement of the tree.

Mr. Coppola offered what conditions are to remain in the Resolution. He offered that the applicant might want to consider doing what the Shade Tree requested for reforestation. Mr. Kuczinski offered that the value should be considered as if the tree were still standing. Mr. Blanco has his concerns as to what the Shade Tree did to make sure the tree did not come down. He feels that the applicant did not perform due diligence in protecting the tree. He looks at it is a good solid tree that was knocked down.

Ms. Novellino advised that she went to the site numerous times and the tree fencing was not properly installed. She explained initially there was no fencing to protect the tree. She testified that she was there least one dozen times prior to the tree being knocked down. She advised that she discovered the tree taken down.

Sworn in Michael La Mana, consulting forester and certified arborist. His credentials presented and were accepted. Regarding the initial tree taken down, Mr. La Mana reviewed the pictures provided. Visited the site today. There is no stump left for him to review. Vice-Chairman Pepe asked what his opinion as to the tree's worth. Lisa Spaziano could not put a value on the tree and she never did a hazard value. She did see the tree (44-in diameter) decay was about 12' in the center. The health of the tree was discussed. Vice-Chairman Pepe advised proposing some restitution and suggested a solution be found. Mr. La Mana explained how the tree was a hazard. Mr. Sico feels the importance is the value of the tree. Mr. Kuczinski asked what would he value a healthy tree this size? Mr. La Mana gave some background on his experience in this area. Mr. Mehr advised he would replace the tree with a 4" tree and two other trees and place \$5,000 into a fund for Shade Tree. Ms. Grbelja offered that the \$5,000 is a start. Chairman Newman would rather not have this board make that monetary decision. He is not comfortable with that decision. He asked Ms. Novellino if she and Mr. Mehr would come to a resolution on this. Ms. Novellino expressed she has additional concerns. Chairman Newman would like to resolve this issue first. Matt Shafai advised they are working with the applicant and his contractor and attorney to discuss their continued violation. Mr. Shafai feels it is out of control.

Mr. Shafai will discuss this with the Township Attorney in order to put a stop order on the project. Chairman Newman suggested that the Board not place a number on this tree. Shade Tree has no problem discussing this with the applicant.

During a break, the Applicant and Shade Tree met and came to an agreement. The applicant agreed to a \$15,000 monetary contribution, 4" black oak in to be planted in the same area as the former tree, along with under plantings as in Resolution and plant 2 other trees on the site. Shade Tree would like the other trees on the site monitored. A meeting will be set up on Friday to look at the other trees and establish if they have been damaged and to protect the other trees. Conditions of approval were discussed.

Mr. Blanco made a Motion to approved as conditioned and Mr. Pepe offered a second. Roll Call Vote: Blanco, Pepe, Grbelja, Kucziniski, Sico, Murphy, Pinney, Pado and Newman voted yes to approve.

Respectfully submitted,

Pamela D'Andrea