

**MILLSTONE TOWNSHIP  
PLANNING BOARD  
MEETING MINUTES  
FEBRUARY 13, 2008**

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

The Secretary read the Adequate Notice.

Attorney Steib swore in Mr. Weintraub.

Salute to the Flag.

Roll Call: Blanco, Grbelja, Kurzman, Sico, Newman, Pepe, Pado, Weintraub and Beck.  
Absent: Pinney and Rundella.

Approval of November 1, 2007 Minutes. Mr. Kurzman made a Motion to approve the Minutes and Mr. Pepe offered a Second. Roll Call Vote:

Approval of January 9, 2008 Minutes. Ms. Grbelja made a Motion to approve the Minutes and Mr. Kurzman offered a Second. Roll Call Vote: Grbelja, Kurzman, Sico, Newman, Pepe, Pado, Weintraub and Beck voted yes to approve.

**Open Public Comment Portion.** Chairman Newman opened the Public comment portion of the meeting to the public at 7:37 p.m. Seeing no public comment, he closed same at 7:37 p.m.

**New Business:**

The Board members having received the 2007 Annual Report of the Board of Adjustment would review the document and discuss the report next month.

Master Plan Re-examination. Volunteers for subcommittee are needed in order to review and discuss the Master Plan re-examination. Mr. Steib reminded the Board that the subcommittee would have to be less than a quorum of members. Messrs. Newman, Pado and Blanco volunteered. They would meet with Planner Coppola and Engineer Shafai on April 9, 2008 at 6:00 p.m. Mr. Coppola to send a confirming e-mail.

**RESOLUTIONS:**

**P04-50 EARL SMITH** – Block 30, Lot 5. Located in the NC Zone. Applicant received Final Major Site Approval in Resolution memorialized December 14, 2005 to construct a 2,700 s.f., one-story commercial building. Applicant came to the Board on 11-1-07 seeking an extension of time. The Board requested that certain information prior to granting the extension and memorializing the Resolution for a one-year extension of time.

Mr. Smith's application for an extension was carried pending certain items that were to be cleaned up to the satisfaction of Code Enforcement Officer Pat Hynes. Engineer

Shafai stated that the lot had been cleaned up to Mr. Hynes' satisfaction. The Applicant is in the audience and advised that he had cleaned up the property.

The Board is voting on extension of the final approval as well as memorializing the Resolution. The extension is to December 14, 2008.

Mr. Blanco made a Motion and Ms. Grbelja offered a Second. Roll Call Vote: Blanco, Grbelja, Pepe, Sico, Kurzman, Weintraub and Newman voted yes to the approval and memorialization of the Resolution.

**P07-14 HOFFMAN, DAVID AND LAURA** – Block 11, Lots 13.01 & 13.02. Located on Disbrow Hill Road in the RU-P zone. Lot 13.01 consisting of 23.64 acres and Lot 13.02 consisting of 15.73 acres. Minor subdivision with no variances requested. Deemed Complete 11-16-07. Date of Action 12-31-07. Extension granted through 1-31-08. Approval granted on 1/9/08.

Mr. Pado made a Motion to Memorialize the Resolution and Mr. Grbelja offered a Second. Roll Call Vote: Pado, Grbelja, Pepe, Blanco, Sico, Kurzman, Beck and Weintraub voted yes to the memorialization .

#### **NEW APPLICATIONS:**

**P07-04 NJY BUILDERS** – Block 60.01, Lot 12, Located on County Route 537. Lot consists of 1.61 acres located in the HC Zone. Applicant received Preliminary and Final Site Plan approval in Resolution memorialized 2/11/04. Applicant returned to the Board an Extension of time on 3-14-07. Extension granted through 2-11-08. Applicant returns for an additional time extension. No Zone Change. No Noticing Required.

Chairman Newman steps down due to a conflict. Vice-Chairman Pepe takes the Chair.

Mr. Kenneth Pape representing the applicant, offered a brief history of the application and the project. This is the second time the applicant has appeared before the Board to request and extension of time. Mr. Pape advised that there are three (3) open items. The Monmouth County Planning Board takes jurisdiction over the road and has asked that the applicant enter into an agreement with the property across the street. They have not received the agreement and the applicant has conditional approval and is only waiting to enter into a developer agreement with the County.

Mr. Pape explained the second open item is Freehold Soil's certification letter. Mr. Peter Strong, the applicant's engineer, has one last submission for them.

The third open item is the posting of the bonds. The Developer Agreement with the Township is recorded. The zone has not changed.

Mr. Steib entered the following exhibits into evidence:

A-1                      Resolution Preliminary & Final Site Plan Approval memorialized  
02/11/04.

- A-2 Resolution Granting Extension of Preliminary & Final Site Plan Approval through 02/11/08 memorialized on 04/11/0.
- A-3 Developer's Agreement recorded in the Monmouth County Clerk's office on 11/19/07.

The Board discussed the application and the request. The Applicant has agreed to construct a fire retention basin. It was discussed that due to change of ownership, there is a good reason to grant the one-year extension.

Mr. Sico commented that he does not like to grant extensions and he understands the reasoning behind the request and does not want to prejudice the applicant.

Mr. Blanco made a Motion to grant the extension and Mr. Weintraub offered a second. Roll Call Vote: Blanco, Weintraub, Pepe, Sico, Kurzman, Pado and Beck voted yes to granting the extension. Ms. Grbelja abstained from the vote.

**P07-17 COUNTRY ROAD ESTATES (DENJ)** – 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 received Preliminary Major Subdivision Approval February 12, 2007. Applicant seeks Final Subdivision approval. No Noticing Required.

Mr. Kenneth Pape representing the applicant. He stated that the request before the Board is for Final Major Subdivision approval. The property is just under 60 acres with 9.9 acres on an average for each lot. He stated that the Applicant made certain revisions to the plan. The applicant extended the landscaping on the plan for the scenic corridor to the County route. The applicant preserved a pond and placed it in a conservation easement to permit recreation to the pond on a limited basis. Conditions of the preliminary approval have been met.

Mr. Steib entered the following exhibits into evidence:

- A-1 Application dated 12-06-07
- A-2 Resolution granting Major Subdivision Approval with Variances dated 03/14/07
- A-3 Final Plat Major Sub dated 10/25/07 last revised 01/09/08
- PB-1 Report of Board Engineer dated 01/10/08
- PB-2 Report from Planner dated 12-17-07
- PB-3 NJDEP L.O.I. dated 12-14-05
- PB-4 Withdrawal of Freshwater Wetlands Transition Area Waiver-NJDEP dated 01/25/08

- PB-5 NJDEP- Stream encroachment Jurisdictional Determination Flood Hazard Area Control Act dated 03/17/06
- PB-6 M.C. Planning Board Report dated 06/05/07
- PB-7 Freehold Conservation District Certification Letter dated 06/30/06

Julio Algeo PE sworn in as the applicant's professional engineer. She had testified before the Board in the past and the Board is aware of her credentials and accepts her as an expert. She discussed the width of double driveway. Each driveway would have a ten (10) foot width with a four (4) foot shared strip.

Vice-Chairman Pepe voiced his concerns about the bowling alley- type lots.

Ms. Grbelja offered some history about the application. She stated that the lots were slightly less than ten acres due to the road dedication that the applicant agreed to.

Ms. Grbelja made a Motion to grant Final and Mr. Weintraub offered a Second. Roll Call Vote: Grbelja, Weintraub, Pepe, Sico, Kurzman, Pado, Weintraub and Beck voted yes to the final approval as conditioned.

**P07-10 MILLSTONE CENTER ASSOCIATES**– Block 58, Lot 4.06. Located on Route 526 in the NC Zone consisting of 9.537 acres. Applicant seeks to amend their Preliminary and Final Subdivision Approval granted in June 2005 to include a private roadway. Variance need for roadway. Deemed Complete 9-25-07. Date of Action: 1-24-08. Application heard in part on 11-1-07; carried to 1-9-08 and heard in part. Applicant requested that the matter be carried to 2-13-08 and granted an extension of time through 2-29-08.

Mr. Kenneth Pape representing the applicant. Mr. Pape explained that he wrote to Monmouth County Board of Health concerning the investigation of the septic system of the property across the street.

He explained that the failure of the veterinary clinic was due to their washing their own laundry. They flooded their own system. Mr. Pape advised that the Vet did repair the system. There is a final report that everything was done properly.

The neighbors claim that their well was contaminated due to the activity across the street in Millstone Center. Mr. Pape advised that considerable testing of soils, etc. was done by outside laboratories. He advised the results are that there was no contamination to the Tracey well. The well was shallow and the new well was constructed. Private testing of the new well and testing of the well by the MCBOH showed that the well was fine. Mr. Pape advised that the bottom line is, the well was not contaminated by the activity across the street.

On January 27, 2008, Mr. Pape held a meeting with the neighbors, Mr. Coppola and Mr. Shafai. A clean up of site was done and will be monitored monthly. Mr. Pape

stated that the applicant is before the Board for approval of an amended subdivision approval. The only variances are those associated with the private road and the issues of concerns were brought to their attention.

Mr. Steib entered the following exhibits into the record:

- A-15 Applicants letter to neighbors to attend a 1/30/08 meeting to discuss concerns.
- A-16 MCBH investigation of Tracey family well dated 02/01/08 (Exhibits A-K).

The Conservation Easement is to be marked. Future noticing will encompass the names of residents that reside within 200' of the entire tract. The garbage should not be picked up until a certain hour of the morning. Existing bushes should be changed to another species of tree.

Vice-Chairman Pepe asked if all issues have been rectified. The Board went over the issues. The charcoal filter and gasket would help eliminate the odor caused by the milk fat in the septic. This has already been ordered by the Dairy Queen owner. The road is designed to be a public road but the applicant would make it a private road to relieve Township of that burden. There is an agreement to put in an interior sidewalk.

Mr. Pepe asked what was the biggest problem that the neighbors had. Mr. Coppola advised the septic failing and the dumpster issue.

The application was opened to the public at 8:20 p.m.

Sworn in Deborah Strnad of 39 Route 526 Millstone. She was at the meeting of the neighbors that took place with Mr. Pape and Planner Coppola and Engineer Shafai. She stated that while she is against the project she would like it done as nicely as possible. The drainage is a concern. Mr. Pape advised that all water collected will be collected and sent to the pond. Mr. Pape stated that the additional drainage relief across the street is required by the County. He explained how this would be done.

Ms. Strnad is still concerned about septic system soils not being removed. Mr. Pape advised that Chris Luberto of the MCBOH advised that you are permitted to spread soils on your own property. Septic sand taken out can be spread out.

Mr. Pape advised that the conservation easement runs around the property. As part of testing the site, samples were taken. These tests were done for the owners' information only.

Mr. Pado asked who maintains the drainage system and Mr. Pape advised it is the homeowners association. The County asked the applicant to do that even though it has nothing to do with them, so they will do it.

Peter Strong of Crest Engineering was sworn in as applicant's professional engineer. He has testified before the Board in the past and they have accepted him as an expert. He explained the mechanics of the bubler system. He testified that the application would have dry wells set below the pavement of the road and water is taken in on their side and recharged back into ground. Each dry well can hold 125 gallons of water.

Sworn in, Peter Johnson of Carrs Tavern Road. He opposed the application.

Sworn in, Amy Johnson of Carrs Tavern Road. She asked what the definition of a private road was. Mr. Pape explained what a private road is and why a variance is needed. She read her prepared statement into the record. She has concerns regarding the traffic on the roads, viewing the back of commercial buildings from their back deck, the quality of their life, etc. She asked for a traffic study to be performed. She is concerned about the intensity of five building lots being developed on the property.

Seeing no further public comment, the public comment portion is closed at 8:45 p.m.

The Board discussed the application. A fifty (50) foot buffer is already established. Added vegetation was discussed. The Board could require added vegetation that at this stage or at the time that each lot comes to the Board for site plan approval. The Board could increase the buffer zone, but that would impact the building envelope.

Mr. Pape advised that the NC zone has been in place for at least the past twenty years. There is nothing about this subdivision that is inconsistent with the Master Plan. There would be no variance needed if the Township does not want the private road.

It was clarified that a traffic study was done at site plan phase of the project.

Ms. Grbelja offered that she has asked the Millstone Township Environmental Commission to do a study on failed septic systems. She explained what they hoped to achieve from this study. The previous agency that approved the septic systems in the Township was replaced by the Monmouth County Board of Health (MCBOH) who has more stringent requirements. The MCBOH is now the approving agency of our septic systems.

The Board discussed if they have we done everything possible to protect quality of life issues for the neighbors. At every individual site plan application in the Millstone Center, they Board will continue to review and monitor the site and review what the impact of each site plan is. Mr. Coppola offered that the Board has done everything that they can at the subdivision level. Installation of lighting and landscape trees were discussed. This could be a condition at the time of reviewing the site plans when the Board would be looking for additional landscaping at each site.

Ms. Grbelja advised that the Board of Adjustment in their 2007 Annual Report suggested that the Township introduce a landscape ordinance. Mr. Coppola offered that his firm is consulting with a landscape architect to help aid in their drafting of the ordinance.

Mr. Steib went over the conditions of approval including but not limited to: a property policing policy, interior sidewalks, reduction of the lighting to three with recessed light fixtures, the lighting is to be shielded, compliance with Mr. Coppola's comments, the driveway shall be orientated so that it does not impact the neighbors, lights are to be extinguished one hour after the close of business, the conservation easement is to be marked, the use of evergreen species, future noticing to be 200 feet from the entire tract, garbage pick-up time frame, in accordance with the County, additional drainage system for water across the street, etc..

Dairy Queen, Kindercare and the Veterinary Hospital are not under the control of the applicant.

Although the application was closed to the public, the Board allowed a question by a resident who arrived late. Shirley Agosta was sworn in. She advised that she was not in favor of the application. She advised she lives within two hundred feet and did not receive notice

Ms. Grbelja explained that other proposed projects of the property did not fit and were denied. This application is for a proposal that fits into our Master Plan. She explained that when individual plans come before the Board for each site, the Board can look at each individual site and protect the neighbors and comply with the Master Plan.

Mr. Steib advised that took a look at the service packet and it was done in accordance with the statue and the applicant did what they were to in accordance with the law.

The Board took a five minute break.

Vice-Chairman Pepe advised that Mr. Pape has done everything properly in accordance with the Master Plan.

Ms. Grbelja made a Motion to approve as conditioned and Mr. Pado offered a Second. Roll Call Vote: Grbelja, Pado, Blanco, Pepe, Sico, Weintraub and Beck voted yes. Mr. Kurzman voted no.

**P05-30 512 ROUTE 33, LLC** – Block 22, Lot 7. Located on Route 33. 9.23 acres in the HC Zone. Applicant received Preliminary and Final Site Plan approval to construct a 15,925 s.f. retail center and 3,200 s.f. bank on October 11, 2006. Applicant returns to the Board for a Minor subdivision with variances. Noticing Required.

Mr. Kenneth Pape representing the applicant. He provided a brief background of the project and the approval. The westbound side of the property received approval for a lot under ten (10) acres in size. One lot has been banked for a building and a retail center. Mr. Pape stated that the retail center is variance free with a strong stormwater management system. The applicant is returning to the Board for a minor subdivision after the site plan had been perfected, to allow the applicant to have separate lots for purposes of financing. Mr. Pape stated that the project is still one site plan. This makes

it possible to obtain independent financing for the project. He offered that other towns have the financial subdivision built into the ordinance.

Attorney Steib had reviewed the jurisdictional packet and finding same in order, the Board accepted jurisdiction over the application.

Mr. Steib read the following exhibits into evidence:

- A-1            Jurisdictional Packet
- A-2            Resolution granting Preliminary & Final major Site Plan dated 10/11/06
- A-3            Minor Subdivision Plan prepared by Maser consulting dated 08/09/06 revised 11/05/07.
- A-4            Building plans prepared by Bach & Clark, LLC dated 11/15/05
- PB-1           Report of Board Engineer dated 12/21/07
- PB-2           Report of Board Planner dated 02/07/08

The Board asked for clarification as to the identity of a Financial subdivision. Planner Coppola read the conditions of his report into the record. All outstanding elements of the site plan would be carried to this subdivision.

Mr. Pape stated that this subdivision does not affect zoning. The Bank will own the property. Mr. Pape advised that the property will remain a bank and that cannot change. If there are any changes, both properties must come to the Board. The legal lot line is going through the parking lot.

The Board discussed the application.

Mr. Blanco made a Motion to approve and Mr. Kurzman offered a Second. Roll Call Vote: Blanco, Kurzman, Pado, Grbelja, Pepe, Sico, Weintraub and Beck voted yes to the approval.

Seeing no further business, by Motion of Mr. Sico and a Second offered by Ms. Grbelja and by unanimous vote, the Board adjourned the meeting at 10:30 p.m.

Respectfully submitted,

Pamela D'Andrea  
Board Secretary