

**MILLSTONE TOWNSHIP
PLANNING BOARD
FEBRUARY 12, 2007
MEETING MINUTES**

At 7:30 p.m., Mitchell Newman called the meeting to Order.

Attorney Steib swore in new Board Member David Kurzman.

Salute to the Flag.

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

APPROVAL OF MINUTES: January 10, 2007

Ms. Pinney made the Motion to approve and Ms. Grbelja offered a second. Roll Call Vote: Pinney, Grbelja, Blanco, Kucziniski, Murphy, Pado, Pepe and Newman voted yes to approve.

PUBLIC COMMENT PORTION: Chairman Newman opened the public portion of the meeting. Seeing no public comment, he closed that portion of the meeting.

RIGHT TO FARM PRESENTATION – Pat Butch and Tony Romano of the Millstone Township Agricultural Council appeared before the Planning Board to apprise the Board of the State's Right to Farm so that the Board can be up to speed on Commercial Farm and other farming properties when considering an application as it relates to Right to Farm Act (RTFA). Ms. Butch provided handouts for the members. She discussed that a Farm Management Unit - has the right to put up a facility to sell their farmed item. Retail sales have to be 51% or greater; 49% or less can be brought in from elsewhere, i.e., shovels, rakes, etc. She explained the criteria to be considered a commercial farm and what they can do under the Act. She stated that the Act can be found in full on the Millstone Township Website for the Agricultural Council. Ms. Butch made mention of the Township Ordinance 99-25, which advises that if a subdivision is located next to a farm, what the farmer's rights are.

RESOLUTIONS:

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. Extension granted to 3/30/07. Board approved re-opening the hearing for further proceedings.

Vice-Chairman Pepe made a Motion to memorialize the Resolution and Mr. Kucziniski offered a second. Roll Call vote: Pepe, Kucziniski, Blanco, Grbelja, Murphy, Pinney and Pado voted yes to memorialize.

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. Resolution granting deviation from Major Site Plan approval. The Resolution was tabled to 3/14/07 for all of the Board to receive a copy of the Resolution for their review.

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 and 1/10/07. Resolution dismissing the matter without prejudice.

Ms. Grbelja made a Motion to memorialize and Mr. Pepe offered a second. Roll Call Vote: Grbelja, Pepe, Blanco and Pado voted yes to memorialize.

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 vs. building. Transferring Application to the Zoning Board.

Ms. Grbelja asked if the information regarding the Right to Farm Act would change the Board's decision to send this to this applicant to the Board of Adjustment. Chairman Newman advised that the applicant did not present any information concerning the Right to Farm Act.

Mr. Pado made a Motion to memorialize and Mr. Kucziniski offered a second. Roll Call Vote: Pado, Kucziniski, Blanco. Murphy, Pinney and Newman voted yes to memorialize.

P05-14 J. BRUNER ENTERPRISES – Block 16.01, Lot 4. Located on Rike Drive. 4.11 Acres located in the BP Zone. Received Final Site Plan approval 8/9/06 to construct a one-story building consisting of 18,000 s.f. bldg., 1,822 sq. ft. of office space, 2500 sq. ft of assembly area and 13,678 sq. ft. of warehouse 11,700 s.f. for distriibution of solid and flat-proof tires. Applicant returns to Board for clarification of a Resolution compliance item.

Mr. Pado stepping down due to a conflict.

Representing the applicant is Peter LaFrance who advised the Board that they are requesting a clarification of a compliance item of the Resolution concerning

the NFA. The applicant advised the process to clean up the arsenic takes a period of six months. The NJDEP is so backed up that it may take them 6 months to 8 months for them to get to the site to review the clean up an issue an NFA. Sworn in is Pat LaSera of the Environmental firm hired by the applicant to clean up the site. He advised that they have cleaned up three lots in this park and have been in involved in the remediation of this site. He advised it takes NJDEP three months to get a case manager to look at the project. Mr. LaSera stated that they have prepared the remedial action work plan. He explained what they have accomplished. He explained he has taken care of the hot spots.

The applicant is asking for the Board to modify the Resolution. Board Engineer, Matt Shafai, asked the applicant if the NJDEP actually looks at the site. Mr. LaSera advised they may. Mr. LaSera stated that the NJDEP would look at the data and the validity of the data. Mr. LaFrance explained that the applicant's building where he is presently located has been condemned and he must move his business.

Ms. Grbelja asked if the applicant would have an NFA before building and they advised no. Mr. Blanco asked who would be responsible if the NJDEP came back to advise that there is a problem. The applicant advised they would be held responsible. The Board voiced its concerns regarding who would be held responsible. Board Attorney Michael Steib advised that the Resolution would have to contain such protective language. The Board discussed that no reduction in the bond or release of the bond would take place until the NFA is issued. The applicant agreed to the conditions.

Mr. Kuczinski made a Motion to grant a deviation from a condition of the preliminary and final major site plan approval and Mr. Blanco offered a Second. Roll Call Vote: Kuczinski, Blanco, Grbelja, Pepe, Murphy, Pinney Kurzman and Newman voted yes.

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; 1/10/07. Applicant requested matter be carried to February 12, 2007. Extension granted. The applicant requests that the application for Final be withdrawn.

Chairman Newman stepped down.

Attorney Michael Steib advised that the withdrawal is for Final approval and a Motion was needed. Mr. Pepe made a Motion to dismiss without prejudice and Mr. Kuczinski offered a Second. Roll Call Vote: Pepe, Kuczinski, Blanco, Grbelja, Murphy, Pinney, Kurzman and Pado voted yes to Dismiss without Prejudice.

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. Resolution memorialized 2/12/07 to re-open the proceedings. Extension granted through 3/30/07.

Mitch Newman stepped down.

Attorney Michael Steib advised that this hearing is a continuation of the application. He read two new items into evidence.

All of the Board members are eligible to vote by having certified to reading the transcripts of the meetings that were sent via e-mail as well as receiving hard copies of same.

Kenneth Pape representing the applicant. Mr. Pape explained the application before the Board. Ms. Julia Algeo is sworn in as the applicant's professional engineer. Ms. Algeo's credential's are known to the Board and she is accepted as an expert witness.

Entered into evidence:

Exhibit A-23 Subject property and surrounding property within 1,000 foot radius, present zoning and current lot sizes.

Exhibit A-24 "Six 9.9 acre lots before ROW dedication" which depicts under present lot acreage.

Exhibit A-25 "Six 9.7 acre lots after ROW". The Township and MCPB has required ROW dedications reducing property.

Exhibit A-26 Aerial photo.

Allison Coffin, professional planner, presented her credentials and is sworn in and accepted as an expert witness. Ms. Coffin gave a brief description of the property as a 59.5-acre property proposed to be subdivided into 6 lots with wishbone shaped driveways. She went over the acreage of each proposed lot. She described the location of the site as it pertains to the roadways and surrounding properties. Ms. Coffin explained that large enough area for farmland is being met in accordance with the Master Plan.

Referring to both Exhibits A-24 and A-25, Ms. Coffin went over the lot frontages and widths remarking that these frontages exceed the minimum requirements of this zone. She went over the lot averaging plan and the proposed plan advised that there is not much difference. She explained that if the ROW was an easement, it would have been better for the applicant. Referring to Exhibit A-23, Ms. Coffin explained how the density of the property fits in with the character of the surrounding properties. She went over the positive criteria of the proposed plan. Ms. Coffin stated that the benefit of the lot area variances outweigh any detriment. Mr. Pape restated applicant's commitments concerning this

application. There would be scenic roadway improvements as per the Shade Trees recommendations. The wishbone driveways would be landscaped. The Pond would have access for recreational purposes.

Mr. Pape stated that there is a slight deviation from 10-acre zoning. He reported that the application meets the intent of the Master Plan. Engineer Shafai asked the applicant if lot 1.01 has 5-acres of farmable land. Farmable land was discussed. Julio Algeo would prepare a certification that there is a minimum of 5 farmable acres on Lot 1.01. This would be part of applicant's record.

Attorney Steib offered the difference between an easement and a dedication. The Right Of Way fee title goes to the County and out of your calculation for your lot size. An Easement allows you to retain title to the property and is part of the calculation of lot area.

Board Planner Coppola read Ordinance 4-2.4 to the Board that addresses dedication of land to the township. Mr. Pape advised the MCPB recently expressed that they will take fee simple easements. He explained that this property was not part of that consideration. No money was taken by the landowner for the ROW to the County. Before the ROW dedication, the property consisted of 60.83 acres. He explained that acreage was now reduced to 58.405 after dedications.

Mr. Pepe asked about contiguous property owners' selling the property. Mr. Pape reiterated that the owner would not sell a portion. Mr. Coppola commented on Ms. Coffin's testimony presented to the Board. He commented on the positive agreements the applicant has made such as on lot 1.01 slightly larger the addition of the trees, making the pond part of the recreation area, providing landscaping along the scenic road, the tree density, etc. Mr. Coppola asked that specific grading plans are to be reviewed by the engineer to soften the septic mounds and provide adequate drainage. Mr. Coppola advised that there is influence of undersized lots, which is one of the criteria for a C2 planning variance.

The Vice-Chairman opened the application to the Public. Allen Wence, of Millstone Township is sworn in. He asked if Trenton-Lakewood Road was going to be widened? He stated that the road is a hazardous roadway. He advised that the spoke to someone at MCPB who advised project was disapproved. Mr. Pape advised that this was approved. Mr. Wence asked what kind of pond exists and was advised it is a man-made pond.

Engineer Shafai advised Mr. Wence to write to MCPB about problem.

At 9:08 p.m., the application was closed to the public.

Mr. Pape summarized the application.

Mr. Kuczynski asked if the Board was setting a precedence by approving this application. Attorney Steib responded that every application is looked at on its own merits and the resolution is drawn so that this is a unique circumstance for each application.

Attorney Steib went over conditions of approval including the driveways are shared but function independently, landscaped reworked to include Planner Coppola and The Shade Tree Commission's comments, 20 trees/acres, a Conservation Easement will be over water body with limited recreational access, Lot 1.01 lot- line change, Julio Algeo to certify 5 additional farmable acres, regarding to eliminate steep slopes areas and soften areas, etc. Grading plan prior to issuance of c/o engineer to be involved, restrictive covenant no further subdivision of lands.

P06-06 PERL ACRES NORTH – Block 54, Lot 5.01. Located on Route 526. Zoned R-130 consisting of 44.69 Acres. Applicant received Preliminary Major Subdivision approval to subdivide 11 residential lots received 4/23/03. Final Application Deemed Complete 12/14/06. Applicant seeks final approval. Application presented in part Carried to 3/14/07.

P07-06 PERL ACRES SOUTH – Block 55, Lot 2, - Located on Route 526. Zoned R-130 consisting of 158.2 acres. Applicant received Preliminary Major Subdivision approval for a 43-residential lot subdivision and 2 lots for Township dedication received 6/25/03. Final Application Deemed Complete 12/14/06. Applicant seeks final approval. Application presented in part Carried to 3/14/07.

Mr. Pape representing the applicants. Applicant is before the Board requesting Final approval. Mr. Pape advised that the applicant received preliminary approval when the zoning allowed for 3-acre minimum zoning. The applicant would like to return to the Board at the March meeting to request variance relief for variances created as a result of the bridle trails. Mr. Pape explained that the trails were worked out with his clients, Engineer Matt Shafai and Mrs. Butch. Mr. Pape would like a fee simple sale. He explained where they would be located and why a variance is need on both subdivisions.

Mr. Pape advised that the staff reports revisited the detention basins. Sidewalks were discussed in the preliminary application. The applicant will revisit the sidewalk issue if the Board requests them to either place them in or request that the applicant provide a cash contribution in lieu of installing sidewalks. Mr. Pape stated that along County Rt. 526, MCPB has jurisdiction but the applicant would take any suggestions that the Board has to the MCPB although ultimately, the MCPB has jurisdiction.

Planner Coppola feels the Board might consider that a 14' light be placed for safety in Perl Acres South. Mr. Pape stated that the Board would require a

grading plan later on but not at this stage. Outbuildings are limited and restrictions will be placed on those. Regarding overall landscaping for the entire site, the applicant advised they would plant the 20 trees/acre. Mr. Coppola requested planting be completed before the certificate of occupancy is issued. Mr. Coppola is concerned that potential owners of the property will not comply with conditions agreed to now regarding the landscaping. Mr. Coppola stressed the importance of showing the 20 trees/acre on the plan although they are subject to being moved.

Mr. Steib placed the Exhibits into the record for both Perl Acres North and Perl Acres South as Follows:

PERL ACRES NORTH

- A-1 Application dated 2/16/06
- A-2 Resolution of Memorialization dated May 28, 2003
- A-3 Letter from Maser Consulting dated October 13, 2006
- A-4 Stormwater Drainage Report prepared by Maser Consulting dated February 2003, last Revised October 6, 2006
- A-5 Colored aerial prepared by Maser Consulting undated
- A-6 Final Plat-Major Subdivision Map prepared by Maser Consulting dated March 30, 2005 last Revised September 21, 2006
- A-7 Final Major Subdivision Map prepared by Maser Consulting dated January 20, 2003 last Revised October 6, 2006
- PB-1 Board Engineer Report dated 12/21/06
- PB-2 Report of Board Planner dated 12/26/06
- PB-3 Monmouth County Planning Board Conditional Preliminary Approval dated 12/14/06
- PB-4 Freehold Soil Conservation Certification Letter dated July 1, 2004
- PB-5 No Further Action Letter from the DEP dated September 30, 2005
- PB-6 NJDEP Stream Encroachment letter dated January 7, 2004
- PB-7 Millstone Twp. Shade Tree Commission report undated
- PB-8 Letter from Matt Shafai to Ken Pape. RE: Bridle Path dated 6/26/06
- PB-9 Letter from Historic Commission. RE: Street Names dated 3/02/06

PERL ACRES SOUTH

- A-1 Application dated 2/16/06
- A-2 Resolution of Memorialization dated September 10, 2003
- A-3 Letter from Maser Consulting dated November 1, 2006
- A-4 Delis Corporation Building Inspection Construction Management Report undated.
- A-5 NJDEP Report dated 1/22/04
- A-6 NJDEP NFA Dated 9/30/05
- A-7 Freehold Soil Certification Letter dated 7/02/04
- A-8 Stormwater Drainage Report dated March 21, 2003 Last Revised October 6, 2006
- A-9 Colored aerial prepared by Maser Consulting undated

- A-10 Final Major Subdivision Map prepared by Maser Consulting dated March 21, 2003 last Revised 12/8/06
- A-11 Maser Consulting Response Letter to Millstone Twp. Fire Department dated 11/2/06
- PB-1 Board Engineer Report dated December 26, 2006
- PB-2 Report of Board Planner dated 12/29/06
- PB-3 Millstone Twp. Shade Tree Commission Report undated
- PB-4 Monmouth County Planning Board Conditional Preliminary Approval dated 12/14/06
- PB-5 Freehold Soil Certification Letter dated 7/02/04
- PB-6 NJDEP NFA Dated 9/30/05
- PB-7 NJDEP Stream Encroachment Permit Dated 1/22/04
- PB-8 Township Engineer Matt Shafai Letter to Ken Pape. RE: Bridal Paths dated 6/26/06
- PB-9 Historical Commission letter, Re: Street Names, dated 3/02/06

The application will be continued at the March 14, 2007 meeting. Noticing is required.

NEW BUSINESS:

Ms. Grbelja asked the Board members if they have any issues of having the Planning Board meetings televised on the PEG channel. There was a straw poll taken and the Board members agreed that Mayor Grbelja present this to the Township Committee.

Mr. Kucziniski made a Motion to Adjourn the Meeting and Mr. Blanco offered a Second and upon unanimous vote the meeting adjourned at 9:49 p.m.

Respectfully submitted,

Pamela D'Andrea
Board Secretary

