

**MILLSTONE TOWNSHIP
PLANNING BOARD
MEETING MINUTES
MAY 14, 2008**

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

The Secretary read the Adequate Notice.

Salute to the Flag.

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

Approval of April 9, 2008 Minutes. Mr. Blanco made a Motion to approve and Ms. Pinney offered a Second. Roll Call Vote: Blanco, Pinney, Grbelja, Kurzman, Newman, Pado and Beck voted yes to approve.

Open Public Comment Portion. Chairman Newman opened the Public comment portion of the meeting to the public at 7:35 p.m. Mr. Wagner who owns property across the street from the proposed Key Investment application is here. Chairman Newman would consider his comments next since they concern the application pending. Seeing no other public comment, he closed same at 7:35 p.m.

P07-16 KEY INVESTMENTS (BURNT TAVERN) – Block 57, Lot 14. Located on Burnt Tavern Road consisting of 7.0 acres in the BP-Zone. Applicant seeks preliminary and final major subdivision approval to create 3 lots, one to be dedicated to the Township.

Mr. Wagner is here this evening as a neighboring property located within 200 feet of the proposed subdivision.

Mr. Wagner was advised by the Board that Attorney Kenneth Pape who represents the applicant, had sent via facsimile transmission a letter to the Planning Board office this date, requesting that the matter be carried to June 11, 2008 meeting. Attorney Steib advised that he had reviewed the noticing packet, and that the Board has jurisdiction over the application. He read the letter aloud.

The Board unanimously agreed to carry the application to June 11, 2008 without further necessity of noticing.

REVIEW AND RECOMMEND:

ORDINANCE NO.: 08-10

AMENDING AND SUPPLEMENTING CHAPTER XXXV, LAND USE AND DEVELOPMENT REGULATIONS, ARTICLE 4, SECTION 4 (STORMWATER MANAGEMENT).

Engineer Shafai explained to the Board the history behind the Stormwater Management Ordinance. He advised that the Ordinance addresses the NJDEP's concerns. Mr. Shafai stated that it had been conditionally approved and now the Township has satisfied all conditions.

Mr. Pepe made a Motion that the Ordinance was consistent with the Master Plan and Ms. Pinney offered a second. Roll Call Vote: Pepe, Pinney, Blanco, Grbelja, Sico, Kurzman, Pado, Beck and Newman votes yes to the consistency of the Ordinance.

ORDINANCE NO.: 08-11

AMENDING AND SUPPLEMENTING CHAPTER XXXV , LAND USE AND DEVELOPMENT REGULATIONS, AMENDING SUBSECTIONS 6-3.7, 6.11g AND ADDENDUM I WITHIN SECTION 6-3 CONTAINING THE SPECIFIC STANDARDS, CONDITIONS AND LOCATIONAL LIMITATIONS FOR "WIRELESS COMMUNICATION FACILITIES"

Mr. Coppola reported that there is concern that neighboring property owners should be notified when an antenna is added to an existing tower. Additional details in design requirements in terms of notice and visual buffering and location of the shelter at the foot of the existing structure are addressed. Mr. Pepe feels the present Ordinance falls short of what this Board has been placed here to do. He is concerned where the towers are being placed. He feels the community should be rural.

Mr. Coppola explained that the Federal Government has set criteria for the carriers and they have to achieve seamless coverage throughout the U.S. He offered that this ordinance is double edged because it looks at existing structures that would not need new monopoles. The Ordinance says to a wireless carrier, if you can place an antenna on the structure under these conditions, we will invite you to do that. Mr. Coppola explained that Millstone has high tension power lines. If you come in to build a new tower the conditions are stringent. He advised that the ordinance is drafted in such a way that even if they go to Board of Adjustment, the carrier still has the same criteria. He explained that the ordinance encourages antennas be attached to existing poles and discourages new poles.

The Board voiced concerns that the poles are in residential areas. They are concerned about safety issues. Ms. Grbelja discussed the three areas in the residential neighborhoods with the Township Attorney. Mr. Coppola suggested that if the Board considers endorsing the Ordinance with the added comment that the three locations they discussed should be reviewed by the Township Committee and removed. Mr. Coppola can prepare an amendment with a new map and a new list.

Mr. Coppola offered that the ordinance promotes co-location. He explained the goal of the ordinance. New towers are allowed in limited areas. The Ordinance tries to protect residents and discourage the placement of towers in residential areas.

Mr. Coppola stated that most recently, wireless carriers are working together to have co-location.

Chairman Newman asked for procedural clarification if the Board wants to say it is consistent with the master plan except for the three objectionable sites. Ms. Grbelja advises the issues with those sites. Mr. Coppola could prepare a memorandum eliminating those three sites, pending advice from the Township Attorney.

Ms. Grbelja voiced her concerns regarding any service that impacts the Agress Road residents. Ms. Grbelja asked if the Township can control what happens on County owned property. It was discussed that the problem is the equipment not the tower.

There was discussion regarding a carrier violating a prior approval and the conditions of the Resolution.

Tower locations considered to be located too close to residential areas and should be considered for removal from Addendum of the Ordinance are Sites D and J.

Matt Shafai reported that the Tower located on Sommers Court is in the middle of a mine and is on its way down.

Mr. Coppola advised that the Ordinance is consistent with the Master Plan and the Board can make a recommendation to the Township Committee that sites D and J be removed from Addendum I. Mr. Coppola would communicate with the Township Attorney and the Mayor on the procedure to remove those locations from the list.

Attorney Michael Steib advised that he understands the Boards concerns. He advised the Board that the Supreme Court said if these facilities meet NJDEP and FCC requirements and they do, then they are able to be constructed. He advised the Board that if the Board does not want to put poles on these sites, a carrier can go to the neighbor next door and go to Zoning Board for a use variance. Attorney Steib stated that the Courts have come close to saying that the towers are very close to being an inherently beneficial use and the applicant could get the pole that way. This could leave the Board open to attack.

The sites that are on this list are simply here to say if you choose these sites the town encourages the location on these sites.

The Board discussed criteria of the areas where the towers should be placed. The Board discussed removal of Sites J and D.

Mr. Blanco made a Motion to find consistent with the Master Plan with the recommendations as stated and Mr. Pepe offered a second. Roll Call Vote: Blanco, Pepe, Grbelja, Sico, Kurzman, Pinney, Pado, Beck and Newman voted yes

P08-04 BOYKEN, DIANNE LEE – Block 46, Lot 4.01. Located at 320 Stagecoach Road in the RU-P Zone. Property consists of 37.353 acres. Applicant seeks Minor Subdivision approval to subdivide the existing lot into two lots; Lot 4.01 containing 35.326 acres and Lot 4.10 consisting of 2.027 acres. Lot 4.01 is to be preserved as farmland and Lot 4.10 shall be the applicant's homestead piece in accordance with Ord.06-29. No new bulk variances are being created.

Mr. Sico steps down from the application since he resides within 200 ft. of the property.

Attorney Michael Steib has reviewed the jurisdictional packet and finds same to be in order.

Mr. Steib reads the following exhibits into evidence:

- A-1 Jurisdictional Packet
- A-2 Application dated 03/10/08
- A-3 Minor Subdivision Plan prepared by Harris Surveying dated 2/24/08 last revised On 3/17/08
- A-4 Millstone Township Ordinance 08-08 authorizing the exchange of property interests and resolution of Areas of Confusion on Block 46, lot 4.01 dated 02-20-08
- A-5 Warranty deed between Vanderveers and Millstone Township dated 4-24-67 recorded 05-12-67
- A-6 ROW agreement between JCP&L and Boykens dated 9-22-78 recorded on 10-06-78
- A-7 ROW agreement between JCP&L and Boykens dated 7-11-61 recorded 07-21-61
- A-8 Contract for Sale of a Development Easement between Dianne Boyken and the Monmouth County Agriculture Development Board dated 04/17/07
- A-9 MCPB letter of Conditional Final Approval dated 04-28-08
- A-10 Quit Claim Deed from Boyken to Millstone Township Re: Areas of Confusion dated 04/28/08 recorded 05/06/08

A-11 Aerial photograph of subject property and environment.

PB-1 Report of Board Engineer dated 03/28/08

PB-2 Report from Planner dated 04/11/08

Attorney Brian Harvey representing the applicant.

Attorney Harvey explained that the subdivision that is proposed is to create two lots located in the RU-P Zone. The subdivision is being sought under 5-5.2 allowing property to be subdivided.

Currently, the property is under contract with Monmouth County Agricultural Advisory Board as farmland easement for the 35 acres. The two acre lot contains the existing single family residence. The larger part would contain the existing horse farm and related structures. No new variances are being created. Mr. Harvey explained the existing variances.

Sworn in Tom Harris of Robbinsville as applicant's land surveyor. Mr. Harris has testified before the Board in the past.

Marked into evidence Exhibit A-11 Aerial exhibit. Tom Harris explains Exhibit A-11 where they are subdividing.

The severable exception lot is to be subdivided. The lot is not subject to the farmland preservation. The lot is being created pursuant to the Township Ordinance that allows the lot to be subdivided under the R-80 requirements. The Non-servable exception will be in the area subject to the farmland easement and there is an exception to allow for the building of a home. The 35 acres is deed restricted and will remain a farm. If owner decides to sell off the other 35 acres, he has the right to build a house on the 35 acres (deed restricted with a potential home that will stay in farming forever)

Attorney Steib explained that presently there is one lot. From that lot, a 2-acre lot, not subject to any restriction to farmland preservation, is being created. The lot left over, the larger lot, is subject to farmland preservation. On that lot, a house can be built which is not subject to farmland preservation.

Sworn in Pat Butch, Chairperson of the Open Space and Farmland Preservation council. She explained that in order to not declare where you want the future home located on the property, you must have a 100-acre lot. This is not the case, so the applicant must declare ahead of time, the location of the future home. Ms. Butch stated that the applicant has had the property perked. The applicant is not paid for the 2-acre piece.

Green Acres participates in the preservation of the trail easement and the SADC participates in preservation of the farmland. Two easements are funded by two different entities. The trail

easement is to be funded by Green Acres and the trail is to be marked. The Trail Blazers will mark trails on preservation pieces.

Planner Rich Coppola stated that on the lot to be created, a variance for masonry barn is an existing condition. There is an agreement with the County and a copy of that should be in our file.

There is a variance for lot frontage. The lot has frontage on two streets and Mr. Coppola feels it does not need frontage on Schoolhouse. The metal-framed shed is an existing condition.

Pat Butch asked that a condition of approval is that this subdivision take place conditioned upon the technical comments of Engineer Shafai's report items 3.6 and 3.7 and also compliance with the agreement with the County that the fencing issues be resolved at completion of that agreement preserving the piece.

Ms. Grbelja made a Motion to approve and Mr. Blanco offered a second. Roll Call Vote: Grbelja, Blanco, Pepe, Kurzman, Pado, Pinney, Beck and Newman voted yes to approve the subdivision as conditioned.

NEW BUSINESS:

The Board discussed the problems that still exist for the residents who live near the Dairy Queen.

At 8:35 p.m. the meeting adjourned by Motion of Mr. Blanco and second offered by Mr. Pepe and by unanimous vote.

Respectfully submitted,

Pamela D'Andrea