



MILLSTONE TOWNSHIP ZONING BOARD OF ADJUSTMENT MINUTES February 26, 2025

The Millstone Township Zoning Board of Adjustment regular meeting was called to order by Chairman Mostyn on Wednesday, February 26, at 7:30 p.m. in the Municipal Meeting Room, 215 Millstone Rd., Millstone Township, NJ 08535. Notice of this meeting was provided in accordance with the Open Public Meetings Law.

Secretary Sims read the Open Public Meetings Act Statement.

There was a salute to the Flag and an observance of a moment of silence offered for those serving and those who have served our country in the past.

Roll call for the below members was called:

Present: Chairman Mostyn, Ms. Arpaia, Mr. Lambros, Mr. Sinha (late) and Mr. Cadigan.

Absent: Mr. Barthelmes and Mr. Cadigan; two vacant seats (Alt. 1 & Alt. 2).

Attending: Greg Vella, Esq.; Matt Shafai, PE, PP, Board Engineer; McKinley Mertz, PP, AICP, Board Planner; and Danielle Sims, Board Secretary.

PUBLIC COMMENTS:

Chairman Mostyn opened the meeting up to members the public for comments on matters not before the Board. With no members of the public coming forward, Chairman Mostyn closed the public comments session.

MINUTES:

Minutes from December 12, 2024

The Board received the minutes in advance of the meeting for their review. With no comments from the Board, Ms. Arpaia made a motion to adopt the Minutes from December 12, 2024, which was seconded by Chairman Mostyn. The Minutes were adopted on a roll call vote: Chairman Mostyn, Ms. Arpaia, Mr. Cadigan and Mr. Lambros: Approved, 4-0.

Minutes from January 22, 2025 – Reorganization and Regular Meeting

These minutes were carried to the next meeting.

RESOLUTION(S):

None.

APPLICATION(S) – not heard in order of agenda:

Robert Hyer

Block 52, Lot 3.02 – 76 Red Valley Rd.

Variance Application # Z24-10

Proposal to construct a 600 s.f. addition with full basement (living room/home office and full bathroom) off the back of the existing home in the R-80 zoning district. The existing home is within the required front and side yard setbacks. The proposed addition will require variance relief for the side yard setback.



Attorney Vella, Esq. reviewed the notice package in advance of the meeting and confirmed that it was in proper form, so the Board can take jurisdiction to hear the application.

Mr. Robert Hyer appeared as the applicant.

The following witnesses were sworn in and are under oath:

Matt Shafai, PE, PP – Board Engineer
M. McKinley Mertz, PP, AICP – Board Planner
Robert Hyer – Applicant

The following exhibits were marked in evidence:

APPLICANT'S EXHIBITS

- A-1 Jurisdictional Notice (Proof of Service)
- A-2 Application, Checklist(s) and Administrative Forms
- A-3 Monmouth County Board of Health Certificate of Compliance, dated 1/26/23
- A-4 ARC GIS Web Map (contour), dated 4/29/24
- A-5 Aerial Image, source/date unknown
- A-6 Survey of Property, one (1) sheet, dated 4/18/18, prepared by Dominick J. Venditto, III, PLS
- A-7 Architectural Plan Set, prepared by Salvatore LaFerlita, RA, five (5) sheets, dated 5/8/24

BOARD'S EXHIBITS

- ZB-1 Completeness & Engineer's Review dated 1/20/25
- ZB-2 Planner's Review dated 2/12/25

Mr. Hyer was sworn in and provided a brief description of the application. Mr. Hyer described the existing site and the proposed 600 s.f. single-story addition with a full basement on the east side of the house. The house and the proposed single-story addition are within the required side yard setback. The addition would contain a new office, great room and a bathroom. The proposed addition will match the color and materials with the rest of the house.

The existing house is 23' from property line. The proposed addition would taper to setback approximately 22' since it is not square to the property line. The applicant would be required to obtain Monmouth County Health approvals for the septic. Mr. Hyer confirmed the project would not require any tree clearing.

Mr. Hyer had no other testimony. The Board had no further comments.

Chairman Mostyn opened the matter to the public.

With no members of the public coming forward, Chairman Mostyn closed this to the public.

Attorney Vella reviewed the conditions discussed. Mr. Cadigan made a motion to approve the application for variance relief with the conditions put on record and addressing any comments in the Board's professionals' review memos; which was seconded by Ms. Arpaia. The Board approved application ZB24-10 on a roll call vote in favor: Chairman Mostyn, Ms. Arpaia, Mr. Cadigan and Mr. Lambros; Approved 4-0.

Mr. Sinha arrived.

Michael Brescia
Block 42, Lot 5.09 – 6 Pittenger Ct.
Bulk Variance Application # Z24-16



Proposal to construct a 32' x 30' (960 sf), 17' in height, accessory building. The applicant is seeking variance relief to allow a building that is not architecturally consistent to the principal residence, including siding and roofing, materials and color. The proposed garage structure is painted metal pole barn, with a steel roof, windows, garage door and man door. The applicant is proposing wainscoting on the lower 30" of the structure. The property is in the RU-P zoning district.

Attorney Vella, Esq. reviewed the notice package in advance of the meeting and confirmed that it was in proper form, so the Board can take jurisdiction to hear the application.

Mr. Michael Brescia and Ms. Mary Clare Brescia appeared as the applicant.

The following witnesses were sworn in and are under oath:

Matt Shafai, PE, PP – Board Engineer
M. McKinley Mertz, PP, AICP – Board Planner
Michael Brescia – Applicant
Mary Clare Brescia – Applicant

The following exhibits were marked in evidence:

APPLICANT'S EXHIBITS

- A-1 Jurisdictional Notice (Proof of Service)
- A-2 Application, Checklist(s) and Administrative Forms
- A-3 Google Aerial Image, date unknown
- A-4 Impervious Coverage Calculations, calculated by Michael Brescia, dated 10/28/24
- A-5 Series of four (4) photos of the area of proposed structure
- A-6 Proposed building spec sheet, Morton Buildings 3D Studio, dated 12/19/22
- A-7 Plan of Survey, one (1) sheet, prepared by Michael Baker, Jr. Inc. Consulting Engineers, dated 11/22/05, with proposed structure drawn 10/29/24
- A-8 Architectural Plan set, three (3) sheets), prepared by Gary W. Nelson, PE, dated 9/28/24
- A-9 Project Narrative, one (1) page, prepared by Michael Brescia, homeowner, dated 12/11/24
- A-10 Plan of Survey, one (1) sheet, prepared by Michael Baker, Jr. Inc. Consulting Engineers, dated 11/22/05, with proposed structure drawn, Revised 1/24/25
- A-11 Height Diagram

BOARD'S EXHIBITS

- ZB-1 Engineer's Review & Completeness Determination dated 1/20/2025
- ZB-2 Planner's Review dated 2/12/25

Mr. and Mrs. Brescia were sworn in. Mr. Brescia provided a brief description of the site. The proposed detached garage is set back 190' from the property line.

The proposed garage is 17' in height, ground to peak. It is proposed to have a garage door to match the existing attached garage doors on the front view of the building. The building will have vertical siding and have wainscoting on the lower portion of the building. The roof will match the color of the wainscoting. Mature planting on the property would block the view of the area of the proposed garage. Mr. Brescia offered to install an additional blue spruce.

The applicant recently relocated a shed that was located in the area of the proposed garage. The applicant will need to file a permit for the relocated shed.



The Board asked why they could not clad, at least, the front of the building with materials and colors that match the existing home. He stated the proposed garage is a metal pole barn that has a 30-year coating powder coating and is low maintenance. There are only about 5 color options for this building and the closest one does not match the existing home. He stated the red barn look is something he feels fits the character of the Township.

Ms. Mertz affirmed that there is sufficient mature landscaping on the property that would screen the proposed building. It is far enough from the roadway and setback a bit behind the house that it would barely be seen. She stated the proposed structure appears to meet the rural character of the area.

The applicant agreed to install additional landscaping to provide more screening of the building, including a blue spruce near the front of the building.

Mrs. Brescia was sworn in. She stated that there is an existing row of evergreens along the closest property line that will remain.

Mr. Lambros suggested that the applicant look into the actual costs of cladding the building with matching materials.

Mr. Brescia confirmed that the garage would not be used for commercial use, rented out to any third parties or for any residential living space. Mr. Brescia confirmed that there would be no bathroom or plumbing in the proposed garage structure, only electric and possibly gas for heating purposes only. Secretary Sims noted that the Zoning Officer has a standing request to have applicants file a deed restriction regarding the use of the structure. Engineer Shafai asked that the applicant provide an as-built survey prior to a C/O should the Board approve the application.

The Board had no further comments. Chairman Mostyn opened the matter to the public.

With no members of the public coming forward, Chairman Mostyn closed this to the public.

Attorney Vella reviewed the conditions discussed. Mr. Cadigan made a motion to approve the application for variance relief with the conditions put on record; which was seconded by Ms. Arpaia. The Board approved application ZB24-16 on a roll call vote in favor: Chairman Mostyn, Ms. Arpaia, Mr. Cadigan and Mr. Sinha; those against: Mr. Lambros; Approved 4-1.

Earth Anchoring Suppliers, LLC
Block 57, Lot 13.02 – 19 Trenton-Lakewood Rd.
Bulk Variance Application # Z23-07

Proposal to permit an 8' high wood solid stockade fence in the front yard to create an outdoor storage enclosure for materials at an existing light industrial building in the BP zoning district. This application was filed in response to a notice of violation for constructing said fence and enclosure area without prior approvals. Applicant is seeking bulk variance approval for outdoor storage in the front yard and for the fence in excess of 4' in height and less than 50% open.

Mr. Vella, Esq. reviewed the notice package in advance of the meeting and confirmed that it was in proper form, so the Board can take jurisdiction to hear the application.

Mr. Joseph Compitello, Esq. appeared on behalf of the applicant.

The following witnesses were sworn in or previously sworn in and remain under oath:

Matt Shafai, PE, PP – Board Engineer
M. McKinley Mertz, PP, AICP – Board Planner
Kevin Knecht – Applicant's representative



Adam Musgrave – Property Owner, Landlord
Mark Reme, PE – Applicant's Engineer

The following exhibits were marked in evidence, including new exhibits:

APPLICANT'S EXHIBITS

- A-1 Jurisdictional Notice (Proof of Service)
- A-2 Application, Checklist(s) and Administrative Forms
- A-3 Notices of Violation dated 4/21/23 and 9/5/23
- A-4 Location Survey with Enlarged View of Work Area (fence), prepared by WSB Engineering Group, PA, dated 11/28/11 (no rvsn. date noted) and fence dimension detail, two (2) sheets,
- A-5 Aerial Image of site, date and source unknown
- A-6 Series of three photos of the site, date and source unknown
- A-7 Location Survey, prepared by WSB Engineering Group PA, one (1) sheet, dated 11/28/11
- A-8 NJDEP Regulatory Investigation, prepared by Environtactics, dated 2/6/24
- A-9 Plot Plan, prepared by Reme & Associates, one (1) sheet, dated 5/2/24
- A-10 Boundary & Topographic Survey, K III Surveying & Construction Services, LLC, one (1) sheet, dated 12/20/23
- A-11 Request for adjournment and Extension of Time to Act, dated 8/22/24
- A-12 Request for adjournment and Extension of Time to Act, dated 10/25/24
- A-13 Copy of Filed Deed, Block 57 Lot 13.02, dated 8/2/01
- A-14 Copy of Filed Deed, Block 48.01 Lot 4.01, dated 8/2/01

BOARD'S EXHIBITS

- ZB-1 Engineer's Review dated 7/22/24
- ZB-2 Planner's Review dated 8/8/24

Joseph Compitello, Esq. stated that he believes the roadway has been vacated as there is a resolution attached to the deed, abandoning the roadway. He stated the bulk variance for the storage in the front yard is no longer needed since it is no longer considered a front yard.

Attorney Vella questioned the new submission of the deeds (A-13 and A-14). They say to be vacated to the Township of Millstone; however, the attached plan shows to be conveyed to the adjoining lots. Attorney Vella does not have any evidence that the Township subsequently conveyed this property to the property owners. The plan was prepared based on a survey and the surveyor is not present. He suggested that the Board move onto the other open items and we may need to come back to address these items.

Mr. Compitello stated that the other variance the Board was looking into was the height of the fence. He stated that the applicant would be able to make the fence enclosure area smaller and would be able to reduce the height of the fence. Attorney Vella brought up that the applicant also does not meet other requirements for outdoor storage. Planner Mertz noted that the violation was issued in 2023, the current outdoor storage ordinance was adopted in 2024. Attorney Vella questioned what type of protections they may have if they were in violation of the ordinance. He noted the violations were to be abated by June 2023, and now it is 2025, the violations still seem to exist. He noted that since they were in violation of the ordinance in 2023, they were never compliant at the time of the ordinance amendment and he does not believe they would have protections under the prior ordinance, they were never compliant.



Attorney Vella noted he was able to locate a copy of what appears to be a deed dedicating the half width to the subject property on the County's website. Planner Mertz stated that the violation notice stated that the site requires site plan and variance approval.

Attorney Vella stated this is a commercial property and it appears it falls to be under the jurisdiction of the Planning Board. If this application is required to have site plan approval, it belongs to the jurisdiction of the Planning Board. Mr. Compitello agrees.

Mr. Vella made the recommendation that the application be dismissed without prejudice due to lack of jurisdiction. The applicant is still in violation and is required to make a site plan application to the Planning Board.

Daniel Lichtman

Block 39.01, Lot 9 – 319 Sweetman's Lane

Bifurcated Use Variance Application # Z24-07

Proposal to operate a commercial electrical contracting company, using an existing 8,000 s.f. frame building, along with onsite storage of vehicles and equipment. The property is "split zoned" in the R-80 and RU-P zoning district. The existing 1 1/2-story frame dwelling is proposed to remain. This application is a result of a Notice of Violation for operating a commercial business in the residential zone. Submission Waivers granted 11/14/25.

Attorney Vella explained that the Board previously granted submission waivers in order to deem the application complete and hold a hearing. Mr. Vella, Esq. reviewed the notice package in advance of the meeting and confirmed that it was in proper form, so the Board can take jurisdiction to hear the application. The application is for bifurcated use variance approval.

Mr. Daniel Lichtman appeared as the applicant.

The following witnesses were sworn in and are under oath:

Matt Shafai, PE, PP – Board Engineer
M. McKinley Mertz, PP, AICP – Board Planner
Daniel Lichtman – Applicant

The following exhibits were marked in evidence:

APPLICANT'S EXHIBITS

- A-1 Jurisdictional Notice (Proof of Service)
- A-2 Application, Checklist(s) and Administrative Forms
- A-3 Project Narrative, two (2) pages, prepared by Dan Lichtman, dated 6/18/24
- A-4 Zoning Denial of Business License, dated 1/8/20
- A-5 Notice of Violation, dated 11/8/23
- A-6 Notice of Violation, dated 9/5/24
- A-7 Plan of Survey, one (1) sheet, prepared by Harris Surveying, dated 7/1/19
- A-8 Township Zoning Map, Key Map and Tax Map, indicating site location, three (3) sheets, unknown source
- A-9 Plan with aerial overlay and Zoning Schedule, two (2) sheets, unknown date/source
- A-10 Series of three (3) photos of site, dated 7/21/24

BOARD'S EXHIBITS

- ZB-1 Incomplete determination & Engineer's Review dated 8/20/24
- ZB-2 Planner's Review dated 10/9/24



Daniel Lichtman was sworn in. He described the site as 9.5-acres and has been running his electrical business on the site for about five (5) years. His business has three (3) office employees and nine (9) field technicians and the office hours are 8:30 am – 4:30 pm. Field crews typically work from sun-up through about 4:00 pm and perform work off site at customers' locations. Mr. Lichtman stated there is an existing single-story house, and the second building is an 8,000 sf chicken coop with a grain shoot in the middle of the building. No structural changes have been made to either building. The property is R-80 zone in the front of the lot and RU-P zone to the rear.

The accessory building was originally a chicken coop and was most recently used by the previous owner for welding and making "pre-fab" concrete pieces. He currently uses approximately 6,000 s.f. of the chicken coop for the electrical company storage and equipment. There is a water spicket in the storage building, but no heat. The existing home is currently being used as an office for the commercial electrical building and no longer being used as a home. There are three employees that work in the office.

Mr. Lichtman stated they purchased the property five (5) years ago. Mr. Lichtman stated the property is not currently farmland assessed. They attempted to grow blueberries, but were unsuccessful.

The site was improved with a gravel driveway when they moved onto the property in 2019. There are three commercial vans and one pickup truck being stored on the site and the employees' cars are parked on the site during work hours. Engineer Shafai noted that the gravel driveway and parking area added over a half an acre of impervious coverage. Engineer Shafai stated there is a lot of outdoor storage at the back of the building. Mr. Lichtman stated it is mostly pallets and scrap metal.

Mr. Lichtman noted that he was aware that the property is in a residential zone. He stated he still decided to operate his business from the site, saying that he was told should just "lie low" and no one will bother him. He acknowledged in 2019 he was denied a business license from the Township for the business because the use was not permitted.

Attorney Vella confirmed that the violations for the commercial use in the residential zone with outdoor storage as a bifurcated use variance. The applicant is not seeking site plan approval at this time.

Mr. Lichtman stated the violation was issued due to a neighbor complaint. Mr. Lichtman stated it does not appear that the property is operating as a business to the surrounding area. He said the building still looks like chicken coop. He stated that the building is not tall enough to be used for something like a horse barn. It lends itself to be ideal for storage. He stated that the house itself being used as an office doesn't not affect the surrounding area, noting most neighbors did not even know that he was using the house as a business.

The Board noted that the business use at least affected one neighbor and the complaint included that there is activity beginning at 6:00 am. He said yes, but they do not perform work on the site. They typically receive materials from Amazon or occasionally a small box truck and on rare occasion a tractor-trailer delivery. The site is currently being used 100% commercial.

Attorney Vella stated that the certificate of occupancy for a single-family residential use. He noted that the applicant has to show an enhanced burden of proof, since this is a bifurcated use variance.

Mr. Lichtman described the surrounding properties as farm properties and residential use.



Ms. Mertz noted there was an inclusion in her review memo regarding one of the 'c' variance proofs and advised of the necessary proofs for granting a 'd' variance. Mr. Lichtman stated he may want to seek additional advice from a planner as he based his testimony on the review memo comments. Mr. Lambros stated that this appears to impair the intent of the zone plan. The Board confirmed that the applicant was advised that he should seek the advice of a NJ licensed Attorney and/or a NJ licensed Planner in advance of the hearing if he would need assistance with his application.

Mr. Lichtman pointed out there are several other electrical contractors and other contractors in the area and they are allowed to operate. Engineer Shafai stated he can file a complaint on the other properties and he can pass it along to the Code Enforcement Officer.

Engineer Shafai referenced the applicant's 2019 survey and it does not reflect the driveway and parking area. The current survey shows the added driveway area.

Attorney Vella stated the applicant has a higher standard of proof for a use variance. The applicant is using the entire property as a commercial use. He stated that it would be up to the Board to allow the applicant to consult or bring a planner.

Chairman Mostyn opened the matter to the public for comments and questions.

Jacqueline Huntertpfund of 323 Sweetman's Lane appeared and was sworn in. She explained that she was the complainant. Ms. Huntertpfund stated that the previous owner was a union worker and he casted concrete and did some welding in the building. She never knew there was anyone doing anything on the site. She stated the employees are outside smoking, there is outdoor storage over the height of the fence, there is a porta potty in the driveway, etc. The applicant installed lighting on the building that are glaring into her living room. The storage building is 33' from her property line. She is greatly affected by the commercial use. There have been tractor trailers, dump trucks, flatbeds, etc. that have blocked the road and they have had to stop trucks from going down Lost Road because they know they would get stuck. Ms. Huntertpfund stated there is a 30-yard dumpster for the commercial business. Lawn mowing on New Year's Day after no mowing the lawn for over two years.

Mr. Lichtman stated they use the main driveway to empty the 30-yard dumpster. He noted it is adjacent to the storage building. He noted he does not have a permit for the dumpster, which is not required.

J.R. Bryant of 320 Sweetman's Lane appeared and was sworn in. He is an electrical contractor, but he operates out of town. He stated he has not really noticed much of a commercial use form the site, but is very concerned about any potential commercial use.

Sara Leineek of 321 Sweetman's Lane stated that a little more research as she was able to find the town's laws very easily. She is originally from New York and came to Millstone for the clean air.

With no other members of the public coming forward, Chairman Mostyn closed the matter to the public.

Attorney Vella surmised that the applicant has applied to use the entire site as a commercial business. The Board should not hold any weight that the applicant stated someone told him he could just fly under the radar, that is "not factual."

The Board felt confident enough that they could vote on the application and that bringing the public back, yet again, would be a detriment. The neighbors have come out multiple times to hear and testify on this application, but the applicant failed to provide proper notice each time. It is the burden of the applicant to prove what was put into the record. The Board stated the



application does not advance the zone plan. It doesn't serve the public good. The business is thriving and should be able to relocate to a commercial zone and survive. The use has had a negative effect of the neighbors. There is a significant impact to the zone plan.

Mr. Lambros made a motion to DENY the application for bifurcated use variance relief; which was seconded by Mr. Cadigan. The Board denied application ZB24-07 on a roll call vote in favor of denial: Chairman Mostyn, Ms. Arpaia, Mr. Cadigan, Mr. Lambros and Mr. Sinha; Denied, 5-0.

BOARD DISCUSSION:

There were no other business matters up for discussion.

ADJOURNMENT:

With no further business, Chairman Mostyn adjourned the meeting.

Respectfully submitted,


Danielle B. Sims, Board Secretary