

2007 ANNUAL REPORT

of the

MILLSTONE TOWNSHIP ZONING BOARD OF ADJUSTMENT

This Annual Report covers the Board’s actions from January 1, 2007 through December 31, 2007. During this time span, the Millstone Township Zoning Board of Adjustment (Zoning Board) conducted nine (9) regular meetings.

The Zoning Board rendered decisions on a total of ten (10) applications, one (1) Settlement hearing and one (1) Waiver request. This represents a decrease of 2 applications from 2006. Many applications included more than one variance request as reflected below in Tables 1 and 2. The Zoning Board approved nine (9) applications (90%), and denied one (1) applications (10%). There are two (2) cases that began in 2007, that carried over to 2008 (Sweetman’s Lane and D. Morgan Tracy). The hearings on these two matters have not started and are not considered for the purposes of this report. Tables 1 and 2 illustrate variance and application request information by respective zoning districts and type of variance requested. A summary of each application is also attached.

The Zoning Board reviews applications with an eye toward reducing the intensity and quantity of variances by working with applicants to develop improved designs. Through this process, the number of variances that are initially requested is often reduced. Additionally, the board often places conditions upon the approval to help prevent any negative impacts of the variances to the zone plan and/or surrounding properties.

TABLE 1: VARIANCES & APPLICATIONS APPROVED-2006

TYPE →	Lot area/ shape/depth	Use Variance	Major Site Plan	Setback Principal Structure	Setback Accessory Structure	Signs	Extension of Time	Totals
ZONE ↓								0
HC-1								0
R-80		1						1
BP	3	4		3	1			11
RU-P	6							6
R-130	7			3				10
Totals	16	5	0	6	1	0	0	28

TABLE 2: VARIANCES & APPLICATIONS DENIED-2006

TYPE →	Lot area/ shape/depth	Use Variance	Major Site Plan	Setback Principal Structure	Setback Accessory Structure	Signs	Extension of Time	Totals
ZONE ↓								
HC		1						1
Totals	0	1	0	0	0	0	0	1

2007 SUMMARY

BULK VARIANCES

Most of the Bulk Variances requested in 2007 were for pre-existing conditions requiring variances in the Millstone Township and Albivi Applications. In the Millstone Township application the Zoning Board approved seven (7) bulk variances and in Albivi the Zoning Board approved eight (8) bulk variances for pre-existing conditions. These 15 Variances were 65% of the bulk variances granted in 2007.

The majority of other Bulk Variances were for Lot Area, Lot Frontage and Lot Shape Variances (Paramount Marina, Cardinale and Sacco). The most notable recurring bulk variance was Variance from Section 4-2.2, which requires the lot area to be shaped to permit inscription of a 200 diameter circle or 150' x 218' rectangle. This requirement has been useful to permit the Board to review the size of proposed homes, as compared to the homes that surround the subject property, on properties that are undersized.

“D” VARIANCES

Use Variances were the most frequently requested relief from the Zoning Board in 2007. Applicants requested six (6) D Variances from the Zoning Board in 2007. Of the D Variances requested, four (4) were use variances (Kapouler, CKV Realty, Millstone Township and 537 ABR) and (2) sought the expansion of a pre-existing non-conforming use (Norieka and Albivi). The Zoning Board approved five (5) of the use variances (83%) denied one (1) (17%) (537 ABR).

A majority of the Use Variances were from the BP Zone (3 out of 6). These applications were a mixture of using existing buildings for a non permitted use (Kapouler), new use on undeveloped property (CKV Realty) and to comply with Millstone’s COAH requirement (Millstone Township).

The Zoning Board considers each variance request carefully by meticulously analyzing the context-sensitive fashion of each request while

remaining cognizant of the overall neighborhood impact. The Zoning Board also weighs the impact any variance may have on the Master Plan when reviewing the merits of any variance request to ensure the development will not have a substantial negative impact on its purpose or intent and adds conditions on approvals as appropriate.

DENIALS

The Zoning Board denied one (1) application for a Bi-furcated Use Variance in 2007 (537 ABR). This applicant proposed a Car Wash and Oil Lube Facility on Rt. 537 in the Highway Commercial Zone. The Car Wash Use and Oil Lube Facility are non permitted uses within the HC Zone. The Zoning Board found that the subject property was not particularly suited for the Car Wash or Oil Lube use.

LITIGATION

In 2007, no suits were filed against the Zoning Board of Adjustment. In 2007, the Zoning Board did settle the one pending suit against the Zoning Board (Norieka). The Zoning Board denied the Norieka application (Preliminary Subdivision R-80 Zone and Use Variance) because the applicant did not provide sufficient buffering between the pre-existing commercial use and the proposed new residential lots. During litigation, the applicant offered to settle the matter by deed restricting proposed Lot 1.06, whereby proposed Lot 1.06 would be created as part of the subdivision, however, that lot will be used as a buffer between the pre-existing non-conforming commercial uses on proposed Lot 1.05 and the new residential lots on Paint Island Spring Road. Proposed Lot 1.06 would have a Deed Restriction prohibiting development of Lot 1.06 until all the pre-existing non-conforming uses (all commercial uses) are abandoned and removed from proposed Lot 1.05 and proposed Lot 1.05 is development as only a singlefamily residence. The Zoning Board accepted this proposal and settled the litigation.

Recommendations

In the Zoning Board's 2006 annual report, the board made recommendations to the Township committee which resulted in changes to the Township ordinances. The board's first recommendation was to extend the amount of time an applicant had before a variance expired. An ordinance was subsequently enacted by the township committee which extended the time period appropriately and in 2007 there were no applications for an extension of time on a variance made to the Board. Additionally, the Township Committee acted on a board recommendation to enact an ordinance to specify architectural standards for commercial buildings in the township. Applicants that have come before the board in 2007 have met the architectural standards in the ordinance and there were no requests for waivers on the architectural requirements received by the board in 2007. Thus, based on the 2007 applications to the Board, it appears that ordinances enacted by the township committee as a result of the Board's recommendations have been successful in meeting their objectives.

Given the success of the Architectural Standards ordinance enacted by the Township Committee in 2007 at meeting its objectives which were:

- Preserving the rural look currently inherent in Millstone's existing buildings
- Providing consistency between multiple projects developed within the same area of the Township.
- Promoting consistency between architectural plans approved by the Planning Board and Zoning Board
- Providing a common reference for both the Zoning Board and Planning Board which can provide guidance to applicants prior to them submitting architectural plans to the Boards.

The Board of Adjustment recommends that similar Standards be developed for Landscape Architecture and enacted in an ordinance. The objectives for a Landscape Architecture ordinance are similar to those of the Architectural Standards ordinance referenced above, but applicable to Landscape Architecture instead of Building Architecture.

If the Township Committee decides to accept the Board of Adjustment's recommendation and move forward in enacting Landscape Architecture standards and/or ordinances, the Board offers the following additional recommendations:

- The Board recommends that the Township Planner Richard Coppola, who is most qualified as he developed the Architectural Standards and ordinance, draft any Landscape Architecture standards and/or ordinances.
- Since the primary review of the Landscape Plans for applications submitted to both the Board of Adjustment and Planning Board is performed by the Shade Tree Commission, the Board further recommends that Mr. Coppola consult directly with the Shade Tree Commission to receive their recommendations for the scope and content of the proposed standards and/or ordinances.
- The Board recommends that the Township Planning Board also be asked to participate in developing the standards and/or ordinances.

The Board of Adjustment is also willing to participate in reviewing any proposed standards and/or ordinances.

APPLICATION INFORMATION FOR ANNUAL REPORT 2007

P06-12 DITCH WITCH – Block 16, 10.06. 200 Meco Drive. 3.01 Acres located in the BP zone. Vacant lot in industrial park. Office/Warehouse. 7,125 s.f.; two-story office 4,500 s.f. Manufacture and distribute specialty excavation equipment. 7,125 s.f.; two-story office 4,500 s.f. Use Variance. Approval granted.

Z07-01 PARAMOUNT MARINA - Block 54, Lot 1. Applicant seeks to construct a single family residence. Variance needed no frontage on a public street. Applicant received variance approval to construct a single family dwelling in Resolution memorialized on October 28, 2005. Applicant granted relief from complying with two conditions of the prior Resolution. Applicant received extension of time on the approval, which expired 1/27/07.

Z07-02 CARDINALE – Block 16, Lots 3 & 4. 143 acres in the RU-P Zone Located at Disbrow Hill Road. Applicant seeks to construct a single-family dwelling on the premises. Two variances needed: no frontage on a public street and steep slopes. Application Approved.

Z05-03 CHARLES NOREIKA - Block 50, Lots 1.01, 1.02, 1.03 & 2. Located on Paint Island Spring Road and Millstone Road. 30.1 acres located in the R-80 Zone. Preliminary Major Subdivision to develop an (11) lot subdivision consisting of (1) existing residential building lot, (8) new single-family residential lots, (1) lot dedicated for drainage and (1) existing non-conforming commercial lot. Use variance and (6) bulk variances requested. Applicant returns to the Board for Use Variance, Bulk Variance and Preliminary Major Subdivision approval under Whispering Woods Settlement. Application granted.

Z07-03 KAPOULER – Block 16.01, Lot 2. 3.26 acres the BP Zone located off of Rike Drive in the Moto Industrial Park. Applicant seeks use variance approval to utilize 14,000 s.f. of a partially occupied building to use as a gymnastics academy. Deemed Complete: 6/1/07. Date of Action: 9-29-07. Application approved.

Z07-04 CKV REALTY, LLC – Block 57, Lot 16. 53.39 acres located in the BP Zone Located at 33 Burnt Tavern Road. Transferred from the Planning Board. Application is for a construction of a garden center and nursery related facility including construction of a 15,000 s.f. building. Application is not deemed complete and applicant is seeking waivers from providing checklist items. No noticing required for waiver hearing. Application deemed complete 7/25/07. Date of Action 11/22/07. Applicant to return to the Board for a Bifurcated Use Variance hearing on 8/22/07.

Z07-08 MILLSTONE TOWNSHIP – Block 57 Lot 16.01. Located on Burnt Tavern Road. Property consists of 1.980 acres located in the BP Zone. Presently the property is occupied by a two-story, ten-bedroom home and a one-story property manager's residence utilized as part of the Township's Plan for Affordable Housing. The Township proposes to subdivide the property, share the

existing driveway and construct a two-story, 4,000 s.f., 5-bedroom dwelling on new Lot 16.02 consisting of 43,406 s.f. (0.996 +/- acres) in compliance with the Township's Plan for Affordable Housing. Deemed Complete 8-1-07. Date of Action 11-28-07. Approval granted.

Z07-05 SACCO, MICHAEL – Block 12, Lot 1.12. Located at 208 Disbrow Hill Road. 5.8 acres located in the RU-P Zone. Applicant seeks to construct a single-family, 2-story, 3900 s.f. dwelling. Variance needed for lot size. Deemed Complete: 7-12-07 Date of Action: 11-9-07. Not heard at the 7-25-07 Meeting due to improper noticing. Approval granted.

Z06-05 537 ABR, LLC - Block 60.01, Lot 15.01. 4.02 Acres located in the HC Zone at 490 Monmouth Road. Applicant seeks use variance to construct a two-story 9,820 s.f. building for car wash and service area and a 10,000 s.f. storage warehouse. A design waiver requested. Deemed Complete 6/1/07. Date of Action 9-28-07. Carried from 6-7-07; 7-25-07. No further noticing required for this meeting. Application Denied.

Z07-04 CKV REALTY, LLC – Block 57, Lot 16. 53.39 acres located in the BP Zone Located at 33 Burnt Tavern Road. Transferred from the Planning Board. Application is for a construction of a garden center and nursery related facility including construction of a 15,000 s.f. building. Applicant received waivers from checklist items for the use variance portion of the application. Deemed Complete 7-25-07. Date of Action: 11-22-07. Carried from 9-26-07. Re-noticing and re-posting of web notice required. Use Variance Approved. Applicant to return for Site Plan Approval.

Z07-09 SCHIBELL, Andrew and Dena Rose – Block 36.01, Lot 3. Located at 6 Quail Hill, consisting of 115, 769 s.f. in the R-130 Zone. Applicant proposes to construct a single-family dwelling on the vacant lot. Applicant seeking variance relief for undersized lot and steep slopes. Deemed Complete 8-16-07. Date of Action 12-13-07. Variance approved.

Z07-10 ALBIVI – Block 30, Lot 2. Located in the R-130 Zone consisting of approximately 35,567 s.f. Applicant seeks a use variance to permit a boutique within the existing restaurant. Bulk variances (7) needed. Deemed Complete: 9-20-07. Date of Action 1-18-08. Approval granted.

BE IT FURTHER RESOLVED, that the Board Secretary is hereby authorized and directed to send a certified copy of the Board of Adjustment 2007 Annual Report to the Township Clerk and the Township Committee and the Planning Board. The Secretary shall further post a copy of the 2007 Annual Report on the Township Web Site.

DATED

MICHAEL NOVELLINO, CHAIRMAN
Millstone Township Board of Adjustment

CERTIFICATION

I hereby certify that the foregoing is a true copy of the Board of Adjustment Annual Report adopted by the Zoning Board of the Township of Millstone at a meeting held on January 23, 2008.

Pamela D'Andrea, Secretary
Millstone Township Board of Adjustment

The vote on the Motion to approve the Annual Report:

Motion: S. Iradi
Second: F. Curcio
Roll Call: Iradi, Curcio, Barthelmes, Devine, Morelli, Lambros and Novellino
Abstain: None
Absent: None