

# **2008 ANNUAL REPORT**

of the

## **MILLSTONE TOWNSHIP ZONING BOARD OF ADJUSTMENT**

This Annual Report covers the Board's actions from January 1, 2008 through December 31, 2008. During this time span, the Millstone Township Zoning Board of Adjustment (Zoning Board) conducted eleven (11) regular meetings.

The Zoning Board rendered decisions on the merits of 8 applications. This is a decrease in 3 applications from 2007. The Zoning Board did dismiss three (3) applications without prejudice for failure to prosecute. Additionally, the board did memorialize a resolution for one (1) application from 2007.

Many applications included more than one variance request as reflected below in Tables 1 and 2. The Zoning Board approved five (5) applications (83%), and denied one (1) application (17%). As previously stated three (3) applications were not decided on the merits and dismissed without prejudice. 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.

**TABLE 1: VARIANCES & APPLICATIONS APPROVED-2008**

<b>TYPE →</b>	<b>Lot area/ shape/depth</b>	<b>Use Variance</b>	<b>Lot Coverage</b>	<b>Building Coverage</b>	<b>Setbacks Principal Structure</b>		<b>Extension of Time</b>	<b>Totals</b>
<b>ZONE ↓</b>								
NC	2	1			4			<b>7</b>
R-80	2				1			<b>3</b>
BP		1					1	<b>2</b>
RU-P	2		1	1	3		1	<b>8</b>
R-130								
<b>Totals</b>	<b>6</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>8</b>		<b>2</b>	<b>20</b>

**TABLE 2: VARIANCES & APPLICATIONS DENIED-2008**

<b>TYPE →</b>	<b>Lot area/ shape/depth</b>	<b>Use Variance</b>	<b>Major Site Plan</b>	<b>Setback Principal Structure</b>	<b>Setback Accessory Structure</b>	<b>Signs</b>	<b>Extension of Time</b>	<b>Totals</b>
<b>ZONE ↓</b>								
R-UP & BP		1						<b>1</b>
<b>Totals</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>

**2008 SUMMARY**

**BULK VARIANCES**

Bulk Variances were the most frequently requested relief from the Zoning Board in 2008. Applicants requested sixteen (16) bulk variances which can be broken down into the following categories:

1. Principal Setback:

- Front: Two (2) Variances Requested; Two (2) Variances Approved; Zero (0) Variances Denied.
- Side : Four (4) Variances Requested; Four (4) Variances Approved; Zero (0) Variances Denied.
- Rear: One (1) Variances Requested; One (1) Variances Approved; Zero (0) Variances Denied.

2. Lot Area:

- Frontage: Three (3) Variances Requested; Three (3) Variances Approved; Zero (0) Variances Denied.
- Width: Two (2) Variances Requested; Two (2) Variances Approved; Zero (0) Variances Denied.
- Area: One (1) Variance Requested; One (1) Variance Approved; Zero (0) Variances Denied.
- Circle: One (1) Variance Requested; One (1) Variance Approved; Zero (0) Variances Denied.

Coverage:

- Building: One (1) Variance Requested; One (1) Variance Approved; Zero (0) Variances Denied.
- Lot: One (1) Variance Requested; One (1) Variance Approved; Zero (0) Variances Denied.

## **“D” VARIANCES**

Applicants requested two D Variances from the Zoning Board in 2008. Of the D Variances requested, ) were use variances (Allen House and Shelly’s School of Dogs). The Zoning Board approved one (1) of the use variances and denied one (1). Two matters have dismissed without prejudice which were requesting use variances (Sweetman’s Lane and D. Morgan Tracy).

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.

### **VARIANCE REQUESTS BY ZONING DISTRICT**

#### **R-80 Zone (Fedderson Application)**

Three (3) bulk variances were approved in the R-80 Zone. Three variances (3) were for minimum lot area; lot frontage and for a side yard setback.

#### **NC Zone (Allen House Application)**

Six (6) Bulk Variance and one (1) Use Variance were approved in the NC- Zone. Six variances (6) were for lot frontage, lot width, front, (2) side, and diameter circle.

#### **BP Zone (Cheer University and Shelly’s School Applications)**

The Zoning Board granted one (1) Use Variance in the BP Zone. (Cheer University using part of existing building).

The Zoning Board granted one (1) Extensions of Time in the BP Zone to extend variance approval beyond the nine (9) month period permitted by Ordinance to CKV Realty.

The Zoning Board denied one (1) Use Variance in the BP Zone. (Shelly’s School)

#### **RU-P Zone (Preston and Ponderosa Crossing LLC Applications)**

The Zoning Board granted one (1) Extensions of Time in the RU-P Zone to extend variance approval beyond the nine (9) month period permitted by Ordinance. to applicant Cardinale (Ponderosa Crossing LLC)

Seven bulk variances (7) were for lot frontage, lot width, lot coverage, building coverage, front, side, and rear yard setback. (Preston Application)

## RECOMMENDATION

On October 6, 2008, the State of New Jersey adopted new regulation N.J.A.C. 7:7A-3.1(b), which permits Municipalities to require as a condition of an application's completeness, the production of a Letter of Interpretation (LOI), which delineates wetlands from uplands, from the Department of Environmental Protection. This changes existing law, which prohibits Boards from requiring the production of a Letter of Interpretations prior to hearing or deciding an application. Boards were previously only permitted to condition approvals with the requirement that the applicant produce a Letter of Interpretation prior to construction starting.

The Township of Millstone now has the right to amend its Land Use checklist requirements to require applicants to obtain a LOI before appearing before the Planning Board or Zoning Board. The Board of Adjustment recommends that the Township Committee consider amending the Township's Land Use checklist requirements to require applicants to produce a Letter of Interpretations as a condition of completeness of applications.

The Board feels that requiring LOIs as a checklist item would be beneficial to both the Board of Adjustment, the Planning Board, and Millstone residents by providing more accurate information at the time a decision is made on an application and reducing the number of times applicants ask for extensions of time.

All checklist items are required to be submitted before the application is deemed complete and scheduled for a hearing. Having the LOI specified on the checklist would enable the boards and professionals to see the DEP approved wetlands delineation on the site plans at the time the application and other checklist items are reviewed. Any recommendations or conditions of approval could then be made with full knowledge of where the wetlands are on the site according to the LOI obtained from the DEP. Having better information at the time the application is reviewed and during the hearing will help the boards make more informed decisions thus benefiting Millstone residents.

The boards often require the wetlands delineation and obtaining an LOI from the DEP as a condition of approval. Requiring the LOI earlier would obviate the need for an applicant to return to the applicable board in the event that the LOI is not obtained from the DEP before the approval or variance expires to request an extension. The Board of Adjustment had several applicants this year including Cardinale (Ponderosa Crossings LLC) and CKV Realty return to the board due to delays in getting approvals from DEP. In the case of CKV Realty, the delay was the result of not obtaining an LOI from the DEP before their variance expired. If the LOI was a checklist item, CKV would have needed to produce it in order for the board to even hear the application. Reducing the need for applicants to return to the boards will help streamline board operations and result in faster hearings for all applicants. Benefits to residents include potential cost savings and faster service for residents who submit applications to the boards.

Thus to ensure that the Township Planning and Zoning Boards have the best information available at the time of the application with regards to wetlands location and to enable the boards to operate more efficiently by reducing the number of extensions of time requested by applicants, the Board of Adjustment unanimously recommends that the Township Committee consider amending the Land Use Development checklists to include an LOI.

**2008 BOARD OF ADJUSTMENT APPLICATIONS**

<b>APP. #</b>	<b>APPLICANT NAME/TYPE:</b>	<b>BLK/LOT</b>	<b>RES.DATE</b>
<b>Reorganization 2008</b>	<b>Secretary Attorney Planner Engineer Court Reporter Calendar Newspapers</b>		<b>1/23/08</b>
	<b>2007 Annual Report</b>		<b>1/23/08</b>
<b>Z07-11</b>	<b>Scott Preston</b> Located at 97 Trenton-Lakewood Road, property consists of 17,353 s.f. in the RU-P Zone Applicant seeks bulk variances to construct an addition of approximately 775 square feet of living area to an existing dwelling , undersized lot consisting of 0.398 acres and located in the RU-P Zoning District 10 acre minimum. Granted	<b>57/3</b>	<b>3/31/08</b>
<b>Z07-12</b>	<b>Allen House</b> Located at 477 Stage Coach Road in the NC Zone. Property consists of 4.34 acres. The Applicant proposes to subdivide the premises into two (2) lots and construct two (2) multi-family COAH dwellings for purposes of providing rental housing for the age-restricted which is not a permitted use in the "NC" Zone. Minor Sub/Use Var. granted.	<b>35/13.03</b>	<b>3/31/08</b>
<b>Z08-02</b>	<b>Cheer University, LLC</b> Located at 400 Rike Drive consisting of 4.34 acres in the BP Zone. The Applicant proposes to use part of the proposed building for a cheerleading school. This Use is not permitted in the BP (Business Park Zone) and the applicant requires a Use Variance. Granted	<b>16.01/1</b>	<b>05/28/08</b>

<b>Z07-06</b>	<p><b>353 Sweetmans Lane</b>  <b>Dismiss w/out Prejudice ---</b>  1.88 acres located in the NC Zone at 353 Sweetmans Lane. Applicant seeks preliminary site plan approval to construct a two-story, 3,818 s.f. retail building with an existing 6,750 s.f. retail building. "D" variance is required for Block 39.01, Lot 7 (for proposed stormwater management) which is located in the RU-P Zone. Bulk variances needed. Applicant to clear up Deed Restriction.</p>	<b>39.01/2.01 &amp; 7</b>	<b>05/28/08</b>
<b>Z07-07</b>	<p><b>D. Morgan Tracy</b>  <b>Dismiss w/out Prejudice—</b>  4.33 Acres located in the NC Zone located on Sweetmans Lane. Applicant seeks preliminary site plan approval to construct a 9,600 s.f. retail building, 1,098 s.f. office space and 2,056 s.f. retail building with adjoining 2,016 s.f. bank. "D" variance needed for Lot 7 (proposed stormwater management area) which is located in the RU-P Zone. Bulk variance needed.  applicant to clear up Deed Restriction</p>	<b>39.01/2.20 &amp; 7</b>	<b>05/28/08</b>
<b>Z07-02</b>	<p><b>Ponderosa Crossings, LLC</b>  <b>Requested Ext of Time</b>  143 acres in the RU-P Zone Located at Disbrow Hill Road.  To construct a single family home located in the by Resolution dated June 27, 2007. The applicant was required as a conditional approval to obtain an Area of Wetlands Disturbance permit and permit to cross the stream from the NJDEP and the applicant is still pursuing all its NJDEP approvals. Ext. Granted.</p>	<b>16/3&amp;4</b>	<b>07/23/08</b>
<b>Z07-04</b>	<p><b>CKV REALTY, LLC</b> –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 56garden center and nursery related facility</p>	<b>57/16</b>	<b>10/22/09</b>

	<p>including construction of a 15,000 s.f. building. Applicant received waivers from checklist items for the use variance portion of the application. Use Variance Approved and Resolution Memorialized 11-28-07. Applicant returned to the Board for a request for an Extension of Time within which to apply for the Site Plan portion of the bifurcated application. Extension granted to 5-28-09.</p>		
<b>Z08-01</b>	<p><b>Shelly Leibowitz (Shelly's School for Dogs)</b>          Located at Burnt Tavern Road consisting of 56.47 Acres in the BP Zone.          The applicant had submitted a Bi-Furcated Use Variance application to permit the use of the property for the boarding of dogs and cats, daycare for dogs, dog sport and aquatic center, dog training school, grooming salon and spa and institute to train professional canine trainers and pet groomers. Located in the Business Park (BP) Zoning District and a small part of the property is in the R-UP Zoning District. These uses are not permitted within the BP Business Park and R-UP Zoning District. Application Denied.</p>	<b>57/33</b>	<b>11/13/08</b>
<b>Z08-04</b>	<p><b>Paramount Marinas</b>          14.4 acres located in the RU-P Zone Located near Yellow Meeting House Road.          The applicant seeks to construct a single-family dwelling house on the premises. Applicant had received his most recent approval in March 2007. Bulk Variance needed. Dismissed without prejudice</p>	<b>54/1</b>	<b>12/11/08</b>



<b>Z08-06</b>	<p><b>Fedderson</b>          Located in the R-80 zone at 378 Stagecoach Road consisting of 38,738 s.f.          Applicant seeks to construct a 2-story attached garage to his existing 2-story single-family dwelling.          Undersized lot. Bulk variances needed. Application granted.</p>	<b>49/11</b>	<b>12/11/08</b>
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