



## MILLSTONE TOWNSHIP PLANNING BOARD MINUTES January 10, 2024

The Millstone Township Planning Board Reorganization and Regular Meeting was called to order by Mr. Newman on Wednesday, January 10, 2024 at 7:30 p.m. at the Municipal Meeting Room, 215 Millstone Road, Millstone Township, NJ 08535. Notice of this meeting was provided in accordance with the Open Public Meetings Law.

Ms. Sims read the Open Public Meetings Act Statement.

There was a salute to the Flag.

### OATHS OF OFFICE:

The following Board members appointed by the Mayor were sworn in for their term:

- Al Ferro (Class I), Mayor (or Designee, Jeff Ziner) Ending December 31, 2024 (1-year)
- C/W Tara Zabrosky (Class III), Committeewoman Ending December 31, 2024 (1-year)
- Mitch Newman (Class IV) Ending December 31, 2027 (4-years)
- Robert Beck (Class IV) Ending December 31, 2027 (4-years)
- Stephen Lambros (Class IV)\* \*Unexpired Term Ending December 31, 2026 (4-years)
- Steve Parrino (Alternate I) Ending December 31, 2025 (2-years)

Roll call for the below members was called:

Present: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Kotby, Mr. Lambros, Mr. Pepe and Ms. Sinha.

Absent: Mr. Beck, Mr. Parrino and 1 vacant seat (Alt. II).

Attending: Michael Steib, Esq.; Matt Shafai, PE, PP, Board Engineer; M. McKinley Mertz, AICP, PP, Board Planner; Angela Buonantuono, Board Court Reporter; Danielle B. Sims, Board Secretary.

### ELECTION OF OFFICERS:

**Chairperson:** Nominations for Chairperson were open. There was a motion made by Mr. Pepe to nominate Mitch Newman as Chairperson, which was seconded by Mr. Pado. With no alternative nominations made, Mr. Newman was named Chairman of the Board on a roll call vote in favor: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Kotby, Mr. Lambros, Mr. Pepe and Ms. Sinha.

Chairman Newman was congratulated on his 20 years on the Board. He then acknowledged and thanked Mr. Pepe for his 20 years of service and also acknowledged Attorney Steib and Engineer Shafai for their 20 years working for the Board. Board Secretary Sims noted that the Township Committee will also be recognizing the Board members for their 20 years of service at an upcoming Township Committee meeting.

**Vice- Chairperson:** Nominations for Vice-Chairperson were open. There was a motion made by Chairman Newman to nominate Tom Pado as Vice-Chairperson, which was seconded by C/W Zabrosky. With no alternative nominations made, Mr. Pado was named Vice-Chairman of the Board on a roll call vote in favor: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Kotby, Mr. Lambros, Mr. Pepe and Ms. Sinha.



## **APPOINTMENTS AND RESOLUTIONS OF REORGANIZATION:**

The Board reviewed the proposals received in advance of the reorganization meeting. It was noted that there were no competing bids received for the professional services of Board Attorney, Board Engineer, Board Planner and Board Court Reporter.

The Board made the following appointments and adopted the corresponding resolutions:

### **PB2024-01 Board Attorney, Professional Legal Services**

Chairman Newman made a motion to appoint Michael B. Steib, Attorney-at-Law of the Law Offices of Michael B. Steib, PA and adopt the corresponding resolution. The motion was seconded by Vice-Chairman Pado, with all in favor on a roll call vote: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Kotby, Mr. Lambros, Mr. Pepe and Ms. Sinha.

### **PB2024-02 Board Engineer, Professional Engineering Services**

Chairman Newman made a motion to appoint Matt Shafai, PE of Leon S. Avakian, Inc. and adopt the corresponding resolution. The motion was seconded by Mr. Kotby, with all in favor on a roll call vote: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Kotby, Mr. Lambros, Mr. Pepe and Ms. Sinha.

### **PB2024-03 Board Planner, Professional Planning Services**

Chairman Newman made a motion to appoint McKinley Mertz, PP, AICP, LEED Green Associate of Heyer, Gruel & Associates and adopt the corresponding resolution. The motion was seconded by Mr. Pepe, with all in favor on a roll call vote: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Kotby, Mr. Lambros, Mr. Pepe and Ms. Sinha.

### **PB2024-04 Professional Court Reporting Services, Court Stenographer to the Board**

Chairman Newman made a motion to appoint Angela C. Buonantuono, CCR, RPR, CLR of AB Court Reporting, LLC and adopt the corresponding resolution. The motion was seconded by C/M Ziner, with all in favor on a roll call vote: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Kotby, Mr. Lambros, Mr. Pepe and Ms. Sinha.

### **PB2024-05 Board Secretary**

Chairman Newman made a motion to appoint Danielle B. Sims as Board Secretary and adopt the corresponding resolution. The motion was seconded by Vice-Chairman Pado, with all in favor on a roll call vote: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Kotby, Mr. Lambros, Mr. Pepe and Ms. Sinha.

### **PB2024-06 Designation of Official Newspapers**

Chairman Newman made a motion to designate the Asbury Park Press and The Times of Trenton as the official newspapers of the Board and adopt the corresponding resolution. The motion was seconded by Vice-Chairman Pado, with all in favor on a roll call vote: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Kotby, Mr. Lambros, Mr. Pepe and Ms. Sinha.

### **PB2023-07 Adopting 2024 Meeting Schedule & Setting 2025 Reorganization/First Meeting**

Chairman Newman made a motion to adopt the 2024 meeting schedule provided and setting the Reorganization and first meeting for 2025 and adopt the corresponding resolution. The motion was seconded by Vice-Chairman Pado, with all in favor on a roll call vote: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Kotby, Mr. Lambros, Mr. Pepe and Ms. Sinha.

Those appointed and present thanked the Board members.



## **PUBLIC COMMENTS:**

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

## **MINUTES:**

### **Minutes from October 11, 2023**

Chairman Newman asked the Board if they had any comments on the minutes that were prepared. With no comments from the Board, C/M Ziner made a motion to adopt the Minutes from the October 11, 2023 Planning Board Meeting, which was seconded by Chairman Newman. The Minutes were adopted on a roll call vote: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Lambros, Mr. Pepe and Ms. Sinha.

### **Minutes from November 8, 2023**

Chairman Newman asked the Board if they had any comments on the minutes that were prepared. With no comments from the Board, Chairman Newman made a motion to adopt the Minutes from the November 8, 2023 Planning Board Meeting, which was seconded by Mr. Pado. The Minutes were adopted on a roll call vote: Chairman Newman, Vice-Chairman Pado, Mr. Kotby and Mr. Lambros.

## **RESOLUTION(S):**

There were no further resolutions for the Board's consideration.

## **APPLICATION(S) BEFORE THE BOARD:**

### **REQUEST FOR A SECOND EXTENSION OF MINOR SUBDIVISION APPROVAL**

#### **AACDML Property, LLC**

#### **Block 53, Lots 2.03 & 3 (proposed Lots 3.01 & 3.02) – State Highway 33**

#### **Preliminary and Final Major Site Plan and Minor Subdivision Application # P21-10(Ext.)**

This matter was not on the agenda, but the applicant's Attorney spoke to Board Attorney Steib leading up to the meeting and requested that the Board consider a short-term extension. Request for a Second Extension of previous Minor Subdivision approval to subdivide two lots into two new (reconfigured) lots. Proposed Lot 3.01 would be used to construct a 130,242 s.f. warehouse building with office space. Proposed Lot 3.02 would remain vacant and would be deed restricted for future land development and put into conservation easement. Minor subdivision approval expired on December 22, 2023.

Mr. Pape appeared on behalf of the applicant. Mr. Pape stated that they are requesting a second extension of approvals, concluding on January 20, 2024, in order to file the minor subdivision. He indicated that they have completed resolution compliance and the deeds were signed; however, there was an error in filing the deeds and the County Clerk's office rejected the deeds, sending them back as they only contained the signatures of the required Board's representatives and do not have their names also printed on the minor subdivision deeds. Mr. Pape stated he was never aware of this requirement. He asked the Board for an extension through January 20, 2024 to re-file the subdivision deeds and for the permission of Board Chairman Newman and Board Secretary Sims to type their names under their signature and re-date the documents. Chairman Newman and Board Secretary Sims did not take exception to the request to edit the documents they signed. Board Secretary Sims noted that the applicant will need to pay the required fees for the request for



extension. The Board determined the request was appropriate due to the deeds being returned by the County Clerk for missing printed names of the Board’s representatives.

Chairman Newman made a motion finding that the request for an extension of minor subdivision approvals through January 20, 2024 is appropriate, as requested. This motion was seconded by Ms. Sinha. This motion passed with the following roll call vote: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Kotby, Mr. Lambros, Mr. Pepe and Ms. Sinha.

**Bucca, Michael and Rosetti, Darlene  
Block 57.01, Lot 27.02 – 15 Pine Drive**

This matter was not on the agenda, but the applicant’s Attorney submitted a written request to the Board on January 9, 2024. The request asks that that the Board consider the applicant’s request to waive the required fees for the applicant to file an application to remove a condition of a prior minor subdivision with variance relief approval, granted under Application #PMN 99-07 on a resolution memorialized on May 26, 1998.

Mr. Pape, Esq. appeared on behalf of the applicant. Mr. Pape provided a brief history of the 1988 minor subdivision with variance relief approval. He explained that the current owner filed an application for a pool permit and was denied by the Zoning Officer due to a 60’ tree preservation area not being placed in conservation, noting the area contains utility easements and the driveway encroaches into the 60’ preservation area. The applicant is looking to file an application to amend the condition of the 1988 approval, as they were not aware of this requirement and the encroachment occurred prior to the applicants owning the property. Mr. Pape asked that the Board place this matter on the next available meeting agenda.

Attorney Steib indicated that the Board does not currently have jurisdiction. The Board takes no exception to having the matter placed on an agenda, once the application has been filed, but indicated that they do not have the authority to waive fees.

**Hexa Builders, LLC  
Block 9, Lot 7 – 711 Perrineville Road  
Final Major Site Plan Application # P21-05**

Proposal to develop a 36.5-acre property in the R-MF (Multi-Family) Zoning District with 122 market-rate townhouses across 16 buildings and 48 affordable units within two three-story apartment buildings with associated site improvements. Preliminary Site Plan Approval was granted on 1/11/23.

Attorney Steib indicated that since there is no substantial change in application and no new variances, notice for final site plan request is not required and the Board has jurisdiction to hear the application for Final Major Site Plan Approval.

Mr. Guinco, Esq. appeared on behalf of the applicant

Attorney Steib reviewed the additional exhibits that were since the preliminary approvals and read them into the record:

**APPLICANT’S EXHIBITS**

A-50	Application & Checklist for Final Approval rcvd. 10/31/23
A-51	Memo to Board, dated 10/18/21 (?), rcvd. 10/31/23, by Midstate Engineering
A-52	Basin Model (Hydrology Studio), 1 sheet, dated 10/4/22
A-53	Threatened and Endangered Species Survey Data Sheets (x5)
A-54	Stormwater Management Maintenance Manual, dated 6/6/22, prepared by Midstate Engineering

\*Certified reviewed the recording/transcript and reviewed the Exhibits and is eligible to vote



A-55	Environmental Impact Statement, rvsd. 2/27/23, prepared by Trident Environmental
A-56	Stormwater Management Report, rvsd. 6/6/22, prepared by Midstate Eng.
A-57	Soil Log & Soil Sample Location Map, rvsd. 9/22/22, prepared by Midstate Engineering
A-58	Drainage Area Maps, rvsd. 9/26/22, prepared by Midstate Engineering
A-59	Trees within LOD 10 in dbh Location Plan, dated 3/15/23, prepared by Midstate Engineering
A-60	Revised Site Plan, rvsd. 10/27/23, prepared by Midstate Engineering
A-61	Wastewater Recharge System Plan, dated 8/17/23, prepared by G.Barkley Engineering, LLC
A-62	NJDEP permitting Transmittal to the Clerk, dated 8/22/23, prepared by G.Barkley Engineering, LLC
A-63	Hydrogeologic Evaluation for Wastewater Discharge, dated January 2022, prepared by Dwyer Geosciences, Inc.
A-64	Stormwater Management Report, rvsd. 10/27/23, prepared by Midstate Eng.
A-65	Apartment Floor Plans, prepared by Tekton Architecture Studio, LLC, 2 sheets, revised 1/10/23
A-66	Townhouse Floor Plans, prepared by Tekton Architecture Studio, LLC, 2 sheets, revised 1/12/23
A-67	Monmouth County PB Res.#R2023-15 Amend WQMP and Service Area Map
A-68	Updated Rendered Site Plan display, rvsd. 1-10-24

**BOARD'S EXHIBITS**

PB-7	Completeness Determination – Final Approval 12/11/23
PB-8	Engineer's Review dated 12/27/23
PB-9	Planner's Review dated 1/2/24
PB-10	Environmental Commission review dated 1/2/24
PB-11	Shade Tree review dated 12/22/23

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

- Matt Shafai, PE, PP – Board Engineer
- M. McKinley Mertz, AICP, PP – Board Planner
- Chester DiLorenzo – Applicant's Engineer
- Kyle Weise – Applicant's Environmental Consultant

John Guinco, Esq. appeared on behalf of the applicant. He reviewed the previous preliminary approvals granted and the history of the site and the affordable housing obligations.

Mr. Chester DiLorenzo was sworn in. He has previously appeared and qualified by the Board and was accepted as a professional licensed engineer. He reviewed the changes made after the preliminary site plan approvals. The NJDEP review caused some of the changes.

Mr. Guinco stated that the County and the NJDEP have generally approved the updated layout, but approvals are still pending. Mr. Shafai inquired about the DRCC approvals. Mr. DiLorenzo stated they are still pending.

Chairman Newman noted that the preliminary approval required that the applicant obtain the outside agency approvals before they came back for final approval. By doing this, the design and layout and such would be something that would be in its final form. He noted the specific conditions of the resolution required this. Mr. Ziner does not believe they have submitted what was required in

\*Certified reviewed the recording/transcript and reviewed the Exhibits and is eligible to vote



the conditions of the preliminary approval. Mr. Guinco stated that they have filed and believe that they are in compliance.

Chairman Newman stated that the Board Attorney has advised that the Board continue to hear the application and the Board continued with the hearing.

Mr. Kyle Weise was sworn in. He has previously appeared and qualified by the Board and was accepted as a professional licensed engineer. He has previously appeared and qualified by the Board and was accepted as a professional in environmental consulting.

Mr. Weise stated that the bald eagle that was observed during the site visit was seen flying over the site, but not physically on the site.

The LOI was dated May 24, 2023. The eagle was sighted on December 20, 2022, approximately six (6) months prior to the LOI. Subsequently, a site visit was done and there was no evidence of a habited within 500 meters of the site. Mr. Weise has a report; however, it was not provided to the Board, but indicated that it will be provided. Chairman Newman noted there was some action required of the applicant since the preliminary approval. Mr. Guinco clarified that the required "Appendix E" survey was submitted. Mr. Lambros inquired if the applicant notified the NJDEP of the sighting. The applicant has done the additional investigation as requested by the Environmental Commission, but has not submitted the supporting report. Mr. Weise stated this additional investigation was completed this Monday (1/8/24) and the supplemental report was submitted.

Chairman Newman opened it up to the public for questions of the witness. With no members of the public coming forward, Chairman Newman closed this witness to the public.

Mr. DiLorenzo reappeared. The Board inquired about the location of the 9-acres of clear cut. He responded that they will not be clear cutting the 9-acres since they were already clear for the current farming activity.

C/M Ziner inquired about the species of the trees that were over 10" within the limit of disturbance. Mr. DiLorenzo stated that they only received the species information this past Friday and the information will be provided. Mr. DiLorenzo stated there is some landscaping around the basin. Engineer Shafai stated that there is an ordinance requiring certain landscaping. The applicant agreed to work with the Shade Tree Commission to adequately landscape the basins to the satisfaction of the Board's professionals.

Mr. DiLorenzo stated that the site is designed that a full-sized school bus can fully circulate the site and the newly shown cul-de-sac. He stated that there would be no parking allowed on the roadway or in the cul-de-sac. The Board reminded the applicant that a school bus is not permitted to "back up" as a matter of policy that is on the books. The affordable housing apartments appear to not be fully "accessible" and may require an amendment. C/M Ziner suggested that the application be reviewed by the school superintendent for this compliance.

Chairman Newman asked Engineer Shafai

Engineer Shafai noted that the revised drainage report was submitted about a week ago and he has not had an opportunity to review it. He will require DRCC and NJDEP approval before he finalizes his approval of the Drainage Report.

Engineer Shafai noted the height of the proposed berm is equal to the first-floor elevation of the proposed buildings. Mr. DiLorenzo stated he will raise the berm height to about 3' above finished floor (to about 7' total height) and the added vegetation on top. Engineer Shafai would find that acceptable. Planner Mertz noted the landscaping charts have not been changed to reflect the additional planting on the plan. The charts will need to be updated.



Engineer Shafai stated that he does not have the NJDEP approved wetlands plan. The letter of approval from the NJDEP was received, but the plan has not been reviewed against the plan approved by the NJDEP and the approval will need to be added to the site plan. The Board has not received the NJDEP general permits, or other outside agency permitting and only has received conditional approval from the County. Mr. Guinco noted the WQMP has been reviewed by the County and a resolution of support has been issued.

Engineer Shafai noted that the wetlands and the buffer areas will need to be placed in conservation easement and markers installed as required by ordinance. He reminded the applicant that the conservation easement must be reviewed and approved by the Township Attorney's office and will be filed. The LOI may be recorded with the County.

Street names will be need to be reviewed and approved by the Historic Preservation Commission.

Chairman Newman reiterated that the request of the Board was to have all of the approvals be in place before they appear before the Board so that they would have confidence in the application.

Planner Mertz reviewed the outstanding comments in her review memo.

Mr. Pado inquired about the dumpster enclosure location, noting there may be a conflict.

Chairman Newman opened it up to the public for questions of the witness. With no members of the public coming forward, Chairman Newman closed this witness to the public.

Chairman Newman offered a five-minute break.

Upon returning onto record, Mr. Guinco stated he believes they have addressed the conditions of the preliminary approval. He stated that it is common for a Board to condition an approval on the outside agency approvals. He said they are confident in their pending approvals. He asked that they would like the Board to act, as it is considered substantially complete and in compliance. He noted that none of the outside agency approvals have been rejected. Mr. Guinco stated that the approvals are consistent with the approved preliminary plan. The project has an affordable component which is the benefit of the town. The applicant has requested that the Board consider this reasonably. He believes they meet the Municipal Land Use Law in order to consider a Final Approval. He believes that this is a standard and reasonable condition of any approval. Mr. Guinco asked the Board to find in favor of the approval and concluded his case.

Chairman Newman started the Board discussion. Chairman Newman noted that the Board set forth a process at the time of the preliminary approval. The Board had a concern, which is why they chose to only grant preliminary approval and the applicant would return for final approvals with outside agency approvals in hand. These approvals have not been secured. The LOI has caused a change in the plans and the Board would like to see the approved plan. He does not see it as a hardship. The Board was ready to act with the satisfaction of the conditions of preliminary approval. As such, he would be comfortable with making a motion of denial for failure to meet the conditions of the preliminary approval.

Mr. Pepe inquired if a "bulb" would help with the bus circulation. Mr. DiLorenzo believes it would and Mr. Guinco noted the applicant would be willing to do this. Chairman Newman stated that if the other items were no longer outstanding, he would be comfortable with leaving this as a condition to be satisfied, but that is not the case.

Chairman Newman made a motion for the Board to deny the Final Site Plan application based on the reasons put on record and failing to meet the conditions of the Preliminary Site Plan approval, which was seconded by C/M Ziner, with all in favor of denying the application on a roll call vote: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Kotby, Mr. Lambros, Mr. Pepe and Ms. Sinha. (8-0 vote to deny)



**CORRESPONDENCE/BOARD DISCUSSION:**

**Off-Site Improvements – Monmouth County Planning Board Update  
37 Burnt Tavern, LLC**

**Block 57, Lot 17.04 (consolidated Lots 17.02 & 17.03) – 37 & 41 Burnt Tavern Road  
Preliminary Major Site Plan Application # P21-16**

Attorney Steib reminded the Board of the Preliminary Site Plan and variance approval that was granted. He explained that the applicant proposed the improvements as required as conditions of the approval to the County Planning Board. The County responded that they do not want trucks to make a left onto Burnt Tavern Road. Until the County constructs the proposed round-a-bout at the outlets on CR 537/Monmouth Road, the County is requiring the applicant to turn at the signaled intersection at Trenton Lakewood Rd. The County presented the changes to the applicant. The applicant would be required to obtain approval from the County. The County will not permit a left turn at Burnt Tavern. Mr. Pepe agrees that it would be dangerous.

Chairman Newman would recommend that the applicant appear before the Board to explain the changes and to request the amendment to the conditions of approval. The Board is concerned with directing traffic to the southern end of the town. The Board is not comfortable with administratively approving the change. Engineer Shafai will relay this to the applicant. He noted the approval stated that no trucks are allowed to use this route and the County is saying they will only approve using the route the Board did not want to be used.

Attorney Steib indicated the report rendered by the County states that this is the 6<sup>th</sup> most dangerous intersection in the County.

The Applicant will need to file the application and will be placed on the earliest available agenda.

**EXECUTIVE SESSION:**

C/M Ziner called for the Board to go into Executive Session in order to discuss potential litigation, making a motion to adopt a resolution under the Open Public Meetings Act to go into executive session; which was seconded by Chairman Newman. On a roll call vote in favor: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Kotby, Mr. Lambros, Mr. Pepe and Ms. Sinha; none opposed. With all Board members in favor, members of the public were excused from the meeting room for the executive session (there were no members of the public present at this time). The Board went into executive session.

The Board returned to the public session on a motion from Chairman Newman, and seconded by C/M Ziner, to end the Executive Session and continue with the meeting, with all in favor.

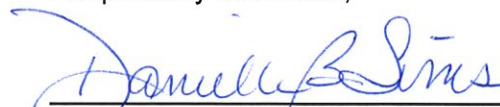
**NEW/OLD BUSINESS:**

None.

**ADJOURNMENT:**

With no further business and with all in favor, Chairman Newman closed the meeting.

Respectfully submitted,

  
Danielle B. Sims, Board Secretary