

**MILLSTONE TOWNSHIP  
BOARD OF ADJUSTMENT  
MEETING MINUTES  
MARCH 31, 2008**

Meeting called to Order by Chairman Novellino at 7:32 p.m.

Reading of the Adequate Notice by Mr. Barthelmes.

Salute to the Flag.

Roll Call: Present: Novellino, Bailey, Conoscenti, Curcio, Lambros, Barthelmes, Morelli and Devine. Absent: Iradi.

**APPROVAL OF MINUTES:** February 27, 2008. Mr. Lambros made a Motion to approve and Mr. Curcio offered a Second. Roll Call Vote: Lambros, Curcio, Morelli, Barthelmes, Bailey, Conoscenti and Novellino voted yes to approve.

**RESOLUTIONS:**

**Z07-12 ALLEN HOUSE** – Block 35, Lot 13.03. Located at 477 Stage Coach Road in the NC Zone. Property consists of 4.34 acres. Applicant proposes to remove the existing residential building, out buildings and barns and construct two (2) multi-family COAH dwellings for purposes of providing rental housing for the age-restricted. The two buildings consist of a combined total of 12 residential units. Proposed Lot 13.15 consists of a 2-story, four residential apartment units and the residents' Community Center noted as Building No. 1. Proposed Lot 13.16 consists of eight (8) residential apartments noted as Building No. 2. Building No. 2 has elevator access to the second floor. The applicant seeks Minor Subdivision approval to create two lots for the above purpose. Applicant seeks Preliminary and Final Site Plan approval. Variances needed. Approval granted 2-27-08.

Mr. Curcio made a Motion to memorialize the Resolution and Mr. Morelli offered a second. Roll Call Vote: Curcio, Morelli, Lambros, Bailey, Barthelmes and Novellino voted yes to Memorialize.

**Z07-11 PRESTON, SCOTT** – Block 57, Lot 3. Located at 97 Trenton-Lakewood Road, property consists of 17, 353 s.f. in the RU-P Zone. Applicant seeks to modify the existing dwelling to include additional living area. Undersized lot. Variances needed. Deemed Complete 1-21-08. Date of Action: 5-20-08. Approval granted 3-27-08.

Mr. Conoscenti made a Motion to memorialize and Mr. Barthelmes offered a Second. Roll Call Vote: Conoscenti, Barthelmes, Curcio, Lambros, Morelli, Novellino and Bailey voted yes to Memorialize.

## **NEW APPLICATION:**

**Z07-06 353 SWEETMANS LANE, LLC** – Block 39.01, Lots 2.01 & 7. 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. Deemed Complete 6-29-07. Date of Action: 10-26-07. Carried from 9/26/07. Prior extension granted through 3/31/08. Applicant requests an extension through April 23, 2008 for the Board to hear the matter. **No public hearing at this time.**

**Z07-07 D. MORGAN TRACEY** – Block 39.01, Lots 2.20 & 7– 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. Deemed Complete 6-26-09. Date of Action: 10-23-07. Carried from 9/26/07. Prior extension granted through 3/31/08. Applicant requests an extension of time through April 26, 2008 for the Board to hear the matter. **No public hearing at this time.**

The Board explained that there is no public hearing on the applications and the purpose of the applications on the Agenda this evening is to consider the applicants’ request for an extension of time within which to hear the application. The applicants have asked for an extension through April 30, 2008. The Board discussed that the Township Committee has a proposal before them concerning the applicants.

Attorney Vella discussed the situation. If the Township lifts the deed restriction, the applicants would be before this Board. If the deed restriction is not lifted, the applicants would redesign the drainage system and go underneath the project with their stormwater management and the Planning Board would hear the application.

Attorney Vella explained to the Board how a dismissal without prejudice of the application would work. Attorney Vella advised the Board that they should give the Township an opportunity to handle this matter and advised it is prudent to grant the extension. Attorney Vella is to contact Mr. Pape to advise him of the Board’s intention to dismiss the application without prejudice if there is no indication from the Township that the deed restriction will be lifted.

The extension to April 30, 2008 was granted by Motion of Mr. Novellino and a Second offered by Mr. Conoscenti and by unanimous vote.

**Z08-02 CHEER UNIVERSITY** – Block 16.01, Lot 1. Located at 400 Rike Drive consisting of 4.34 acres in the BP Zone. Applicant seeks a use variance for a

cheerleading academy. Applicant proposes to utilize 9,000 s.f. of a fully constructed 11,900 s.f. building. Deemed Complete 3/4/08. Date of Action 7/2/08.

Mr. Vella has reviewed the jurisdictional packet and finds same to be in order and accepts jurisdiction over the application.

Mr. Vella reads the following exhibits into evidence:

- A-1 Jurisdictional Packet
- A-2 Web Notice posted on 3/10/08
- A-3 Application dated 02/15/08
- A-4 Engineering Report prepared by Geller Sive & Company dated 02/11/08
- A-5 Conceptual Plan prepared by Geller Sive & Company dated 02/11/08
- A-6 Architecturals prepared by Lawrence F. Slawson, AIA dated 01/12/08 last revised 02/12/08
- A-7 Mounted colored site plan
- A-8 Mounted previously approved floor plan
- A-9 Mounted previously approved elevation plan
- A-10 Picture of existing building
- A-11 Picture of existing building
- A-12 Student number handout
- BOA-1 Township Engineer's Report dated 03/04/08
- BOA-2 Township Planner's Report dated 03/24/08

Attorney William Mehr representing the applicant. This application is for purposes of utilizing a building that is being constructed as approved by the Planning Board. The proposal is to use  $\frac{3}{4}$  of the building for a cheerleading academy and the rest to be used by TLP Climate Control for warehouse use.

Attorney Vella swore in Michael Geller of Geller Sive and Company. Mr. Geller has been before the Board and testified in the past. Referring to Exhibit A-7 Colored Site

Plan of the application, Mr. Geller offered a brief description of the site. The existing site is known as Block 16.01, Lot 1, located at 400 Rike Drive in the Moto Business Park in the BP Zone. The lot is located on the northwest corner of Rike Drive. The site contains 3 ½ acres developed with the first of 2 buildings. Mr. Geller explained the history of the site.

The operation of the site is presently a daytime site. Approved as an office/warehouse use and perfected in 2005. There are two entrances to the site. Mr. Geller stated that there is excellent traffic circulation on the site. The stormwater management has been constructed. He explained the site's discharge system. The Monmouth County Board of Health (MCBOH) has approved the northwest corner of the property as the location for the septic system for both the existing building and the second building. Two wells are located on the property. All landscaping and lighting has been installed as approved by the Planning Board. The first building will be 11,900 s.f. The easterly quarter portion of the property will be a storage facility for use by only Mr. Pado personally. No septic flows are generated by that use. Mr. Geller testified that the remainder of the building is to be occupied by Cheer University.

The ages of the students would be ages 2-18. The hours of operation are 9:00 a.m. to 9:00 p.m. Lights would be off by 10:00 p.m. The maximum number of employees at any one time is 6 (owners, staff and instructors). Class times are staggered. Parents do not typically stay for afternoon classes. Parents stay in morning classes for the younger students. Teams workout from 5:00 p.m. to 9:00 p.m. This is not a permitted use in BP Zone.

Mr. Geller discusses the access and circulation. The truck loading area is located in the back. Drop off of students would occur from the parking spaces that face the academy. There is a sidewalk in front of the building. No trucks can come around to the front due to no turn around space, etc.

Mr. Geller advised that the parking has been evaluated pursuant to the existing uses via ordinance requirements. Mr. Geller explained the parking calculations. The applicant needs 23 parking spaces. Nineteen spaces are located in front of the existing building and 4 spaces face the proposed building. Currently, 47 spaces are provided in the entire parking area. After 5:00 p.m., the entire parking area is open for the cheerleading facility. The maximum spaces available before 5:00 p.m. support the daytime parking need. The number of spaces after 5:00 p.m. supports the needs after 5:00 p.m.

Mr. Geller explained that the stormwater management would not change in impervious surface as to what was approved in the site plan. The septic use has changed and 103 students in one day at 15/gal day per employee. On March 12<sup>th</sup> this was submitted to

MCBOH. Not a large amount of garbage refuse is associated with this use. The refuse area that exists on the site is more than adequate. The lighting meets the lighting levels and intensity and are to be turned off at 10:00 p.m.

Mr. Geller advised that if additional parking is needed, two loading spaces are 12 ft. wide and can each support 3 spaces on each side. He explained this could be provided in the form of grass pavers.

No shower facilities are allowed. There is no food preparation on site.

Mr. Geller went over Engineer Shafai's report and advised he could comply with his report.

Mr. Coppola advised that the portion of his report that was of an engineering nature was the parking and that was addressed by Mr. Geller.

Safety concerning truck traffic was discussed. No intermingling is allowed for safe ingress and egress for students and parents.

The Board is looking at whether this use meets the requirements for this site. What has been approved by the Planning Board won't change. The Board of Adjustment could modify anything in the site plan. The Board discussed the use and how the site accommodates the use. The Plan before the Board is the same one that was approved by the Planning Board.

Thomas Pado sworn in of Haviland Drive. Mr. Pado is the owner of the property. His business, TLP Climate Control System, has 16 GMC Service vehicles. The vehicles are dispatched from the employees' homes. They come in once a week every Monday morning at 6:00 a.m. Mr. Pado testified that the only truck traffic during course of day would be deliveries made by FEDEX, DHL and UPS. Light deliveries are brought through the rear of the building. Mr. Pado described the tenants who occupy the buildings. He advised that the use is a combination of flex, offices and warehouses. He has a small component of space used for offices and the rest used for warehousing.

Attorney Vella suggested that if existing parking is acceptable, the Board would, as a condition of approval, limit the applicant as to the amount of office space they could have on site due to the parking space available. Engineer Shafai stated that the Board would consider the septic system in that case. Mr. Shafai reported that the Monmouth County Board of Health (MCBOH) would be looking at the number of people using the septic. Mr. Geller testified that on weekends they could have a party consisting of 15-20 students and parents for a single team.

Lawrence Slawson, Architect is sworn in. He presented his credentials and the Board found them to be acceptable. Referring to Exhibit A-8, mounted old previously approved floor plan, Mr. Slawson explained the plan.

Referring to Exhibit A-6 illustration of the new floor plan, Mr. Slawson explained that  $\frac{3}{4}$  of the building is for Cheer University to use and  $\frac{1}{4}$  is for the warehouse. The height of the building and roof line are unchanged. The changes are to the interior to accommodate the cheerleading use.

He explained the architectural aspects of the outer buildings. Façade parallels the existing building to match the building. The warehouse would not contain any windows, for security purposes.

Planner Richard Coppola voiced his concern that this is a change from the originally approved site plan. It affects the building and now you have 65 feet of blank wall facing Rike Drive. There is no entrance from the front and the space is now a warehouse space. If you are going to get into new architecture, it should be compatible with the existing building. Mr. Coppola explained there is an architectural standard in place that would impact this application. The applicant could put a door and windows in place on the warehouse but they would not be used.

Mr. Coppola is advising not to throw away the prior approval but now the applicant's architect must work with the new Ordinance. Mr. Mehr stated that the applicant would put doors and windows in the warehouse portion as necessary. The applicant will work with the Board. The Board had questions about the warehouse space having only one door for safety purposes. The applicant has no objection to putting in windows and doors as needed.

The applicant agrees that the facade of the new building will emulate the existing building.

The Board asked about the sprinkler system in the Cheerleading facility. They will build in accordance with the Code which does not require a sprinkler system. The Board expressed concern that a facility for children should have a sprinkler system. The applicant stated they will comply with what is required by the building code. Mr. Slawson advised that the building is block and there is not a lot of flammables in this structure.

Mr. Shafai asked about signage. Mr. Pado advised that on the prior Resolution he was not permitted to have signage.

Sworn in is Barbara Monticello, the owner of Cheer University. She has trained many national gymnasts. She and her partner have pulled their respective resources and background to put this academy together. She opened her own gym 16 years ago. She explained her mission.

The hours of operation of the academy are 9:00 a.m. to 9:00 p.m. Monday through Friday. Saturdays and Sundays, the facility would operate from 9:00 a.m. until 6:00 p.m. Ms. Monticello advised that summer classes are limited since kids are on vacation so fewer students are there during summer. Tuesday and Thursday mornings are the busiest time and on staff are two (2) teachers and one (1) receptionist. Monday, Wednesday and Friday there are no students in the mornings. Pre-schoolers attend morning classes. Ms. Monticello explained how the schedule has been put together. The 9-13 year olds are there after 5:30 p.m. Competitive cheerleaders are dropped off because most parents do not want to stay for two hours.

Ms. Monticello explained that the facility is one large spring floor. There is carpet covering a 6-inch spring. There is a tumble track for tumbling.

This new facility is larger than her present facility of 6,000 s.f. Her present school is a gymnastic facility. She said having both gymnastics and cheering in the same facility does not work. Cheerleaders need music and floor space and gymnasts need quite. This new facility would be for cheer teams.

Ms. Monticello explained that there are 1 to 5 morning classes. Early afternoon classes are for special needs students. Evening classes are for ages 6-18. Ms. Monticello went over the curriculum. They teach individuals, teams and groups. They would work with community teams such as Pop Warner cheerleading. Her present facility is on Rt. 9 in Freehold. She has cheerleading and gymnastics there. The groups are put together by age. She stated that there are no walk-ins. The client must sign up with Ms. Monticello and pay monthly. They measure the students and order the uniforms at one time. Students sign up in September and start to compete in December. Cheerleading season is from September to April. There are no retail sales at Cheer University.

Birthday parties are held at a prescheduled time on Saturday and Sunday. They are limited to 1 ½ hours with a limit of no more than 20 children at one time. All food and drink is brought in by the families. Only plastic and paper is to be used. She went over what parties consist of.

Special needs children are trained and brought to the Special Olympics every year. Ms. Monticello stressed the importance of the program stating that it builds self-esteem and confidence. She went over what they teach the children.

All staff is safety certified in the sport of gymnastics. She explained how the staff is trained. Parents receive monthly newsletters. Parents must bring the children into the facility. She expressed how the sport benefits children. She will stipulate that she will not have gymnastics on the premises. No competitions would be held at this facility. They are held at larger facilities. The students come ready to practice. They leave the same way they came. Shorts and T-Shirts. Uniforms are for competitions.

Mr. Pado explained the types of uses are in the park presently. He is president of the Moto Business Park. He is a member of the Township EDC Council. He stated that 90% of lot owners have been soliciting realtors for tenants to try to rent out the spaces for permitted uses. Currently there are 18 lots. Seven lots are being developed or have been developed. Mr. Pado wants to attract clean tenants and desires to stay away from tenants that have dirty trucks, etc.

Mr. Coppola explained that this is a limited zone and it was intended to be. It is the intent of the Master Plan to have a BP zone. We are trying to maintain the rural atmosphere without sewer and water so there are limits of the land. You don't want outside storage and you want clean facilities. He offered that the park is geared to the small business user. The park is off of the beaten path. There are some environmental limitations such as septic and well.

A five minute break was taken.

Planner Alison Coffin, was sworn in. She has testified before this board in the past and her credentials are accepted. She explains the location of the property and the size of the property. Some offices and warehouse uses are on the site. The permitted uses would be storage warehouse, limited manufacturing, uses limited assembling uses, lodges, vet organizations, social clubs, farms and agricultural uses, etc. She advised that the cheerleading academy is not permitted in this zone or in any other zone in the town and therefore a use variance is required. She explained the use benefits physical health. The facility caters to special classes and a safe environment for special needs children. She feels this is inherently beneficial in nature. Ms. Coffin explained the special reasons for granting the use. She stated that it is a suitable site for the use, due to the nature of the flex space that provides for high ceilings and the large amount of floor space which is needed. Should the cheerleading academy use be eliminated from this site, the building can be returned to the original use with little effort.

Mr. Coffin expressed that the use would not generate any detrimental impact on the environment and in the park. No detrimental parking use is needed. There is no zone were this is a permitted use. The past location is in the industrial zone. She explained the outward appearance will be the same as it is now.

Mr. Coppola responded to Ms. Coffin's testimony. This is a unique use and requires an abundance of interior space with relatively high ceilings. The buildings typically built within the industrial parks can accommodate that need. The site is isolated from residential areas. Mr. Coppola agreed with Ms. Coffin in that the building could be converted back to a flex building with little effort.

This truck traffic is to the rear of the building which is separate from the residential traffic in the front for the students. Ms. Monticello testified that the sidewalk is right there and the parking is in the front of the building. This layout works well. The Montessori School and gymnastic operation is in the BP now. This use is unique and is a third type of use. It is more of a recreational use. The facility is not open to the general public and no retail sales shall be taking place at the facility. They would have pre-school aged children during the day.

Mr. Coppola stated that the property can be sold and the uses can change and we must look at the property as a property that may change. There is a reasonable comfort level in his mind. There must be monitoring of the schedule by the operators of the cheerleading school. He advised that absolute restriction for any person parking on the street. This is enforceable because it is a private road.

Chairman Novellino asked if Mr. Coppola would consider this a recreational use. Mr. Coppola advised that it is a mix of recreational/commercial use with instructional components to it. It is organized and there is instruction. Mental and physical therapy is involved with it, including but not limited to the special needs children.

Mr. Coppola understands the rationale for the need to use these kinds of buildings in these parks. For this use, 9,000 s.f. of area with high ceilings is needed. This use is not allowed anywhere in town. He stated that it is a unique use and states there are some special reasons for this use. He advised the Board to consider if this particular use and site fit each other like a glove. This site in the park is unique and the use must be particularly well suited for the site and visa versa.

Mr. Coppola advised that the BP zone does have uses allowed that are not warehouse offices or light industrial uses and are more people-oriented and more social-type uses. An Elks Club could go into the park and fit in with the zone. He stated that it is not unusual for those types of uses to be allowed.

The application was open to public at 10:53 p.m.

Sworn in is Hope Gray, 15 Haviland Drive. She stated that her children have been with Ms. Monticello for seven years and she runs a top notch program. Ms. Gray stated that she has to commute 40 minutes both ways to get to Freehold to the School. She

offered that it is important to the community and for the children to have this facility in Town. She stated that it is fun, team work, and provides physical activity.

Seeing no further public comment, Chairman Novellino closed the application to the public at 10:55 p.m.

Mr. Mehr summarized the application.

The Board discussed the application.

Mr. Morelli was concerned about just anyone from the public being able to come into the facility but he understands that there are rules in place to eliminate that.

Mr. Curcio feels this is not an appropriate place to have the use.

Mr. Barthelmes offered that the Township does not seem to have the business we ideally want in the Park. A Millstone resident has found a clean ratable and it is not an undesirable use. It is not as structured as the gymnastics academy and it won't be overflowing. He discussed that walk-ins are not taken and enrollment of students is required.

Mr. Devine agreed with Mr. Barthelmes.

The Board must decide if what is being proposed won't impact the business park.

Attorney Vella read over the conditions of approval, including but not limited to : the applicant agreed to all engineering modifications and to Engineer Shafai's report of March 4, 2008, installation of truck traffic signs subject to the Board's approval, subject to new approval from MCBOH, conditioned upon the report of the Board Planner Coppola, the facility is not open to the public, prohibit walk up students who are not enrolled ahead of time, parties on the weekend with a maximum of 20 students, no food or beverages on site, no gymnastics instruction, cheerleading school only, no competitions on site, no retail sales on site, no street parking on Rike Drive, no more than 20 students during the daytime and 40 at night, 8,925 s.f. to be used for cheer university and the remaining square footage shall have no more than 4,000 of office space if Cheer University is not there then see previous Planning Board Approval, no kitchen, no showers, except for no truck traffic, no signs unless approved by the Board.

Mr. Curcio made a Motion to deny. The Motion did not receive a second and therefore the Motion was not carried. Mr. Barthelmes made a Motion to approve and Mr. Morelli offered a Second: Roll Call Vote: Barthelmes, Morelli, Devine, Lambros, Bailey and Novellino voted yes to approve. Mr. Curcio voted no. The Resolution will be memorialized next month.

New Business: The Board requested that the Code Enforcement Officer look into the activity taking place at the gymnastics academy and report if it is what was approved by the Board. Mr. Vella explains the process.

By Motion of Mr. Morelli and a second offered by Mr. Devine and by unanimous vote, the meeting adjourned at 12:00 a.m.

Respectfully submitted,

Pamela D'Andrea