

**MILLSTONE TOWNSHIP  
BOARD OF ADJUSTMENT  
MEETING MINUTES  
OCTOBER 28, 2009**

Meeting called to Order by Chairman Novellino at 7:30 p.m.

Mr. Barthelmes read the adequate notice.

Salute to the Flag.

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

**MINUTES:** Mr. Barthelmes made a Motion to approve the September 23, 2009 Meeting Minutes and Mr. Frost offered a Second. Roll Call Vote: Barthelmes, Frost, Bailey, Morelli, Devine, Lambros and Novellino voted yes to approve.

**RESOLUTIONS:**

**Z09-04 SEASONAL WORLD** – Block 57.01, Lot 21.01. 2.91 Acres located in the HC-1 Zone know as 532 Monmouth Road. Applicant seeks use variance relief to allow the display of three above-ground pools. Use variance and amended major site plan approval sought. Application deemed complete 8-11-09. Board granted use variance, amended major site plan and relief from zoning board condition. Tabled to the November 30, 2009 Meeting with an Extension of time granted by the applicant to that date.

**NEW APPLICATIONS:**

**Z09-06 SEASONAL WORLD** – Block 57.01, Lot 21.01. 2.91 Acres located in the HC-1 Zone know as 532 Monmouth Road. Applicant seeks approval to allow an outdoor display area for seasonal decorations and merchandise. Applicant seeks approval of a designated area for temporary storage trailers brought to the site to store the above items. Applicant seeks approval to have a temporary sign for seasonal/holiday advertising in addition to the presently approved signage. Use variance and Amended Major Site Plan approval needed.

Attorney Christopher Stevenson representing the applicant. He advised that the applicant is back to the Board to seek approval for three items for a seasonal site plan: temporary seasonal trailers to store holiday items and temporary sign for holiday period in addition to existing signs and the final item requested is for a display area on

premises as shown on the plans to be located on the sidewalk canopy area. This would be used to display Halloween and December holiday items for sale.

Attorney Vella swore in Peter Strong as the applicant's engineer. Mr. Strong has appeared before the Board in the past and his credentials are known to the Board and he is accepted as an expert.

Mr. Strong presented the plans describing the seasonal display to the board. He advised that the building fronts Rt. 537. The seasonal display area is located in front of building. Temporary flip up signs, 25-feet long, would be at the roof level and straddle the main entrance way. Two temporary storage trailers would hold the holiday items for display.

The applicant, Anthony Schiavone, is sworn in. He described the proposed flip-up sign. The proposed wording is "Halloween Costumes" and "Christmas Wonderland". They would only be put up on weekends during the month of October 1-31<sup>st</sup> and for Christmas, December 1-January 1. He has storage in Jackson on a 14-acre parcel off of Rt. 1. The trailers would be on the premises during transmission time. It was discussed how many trailers would be on the premises and for what length of time. Applicant advised that during time period when trailers are there, the customers are generally not because it is in between seasons. The potential schedule for having the schedule on the site was discussed.

Mr. Coppola's concern is that it is difficult to enforce as presented. How many trailers are on the premises, how long would the trailers be at the site, etc. Mr. Coppola advised that this must be in writing if the Board is going to consider it. It will affect the appearance of the property. He offered a solution to eliminating the trailers by bring it in and unloading it the same day. The applicant indicated that moving the trailers in and out daily is impractical for him as he does not own the trucks that tow the trailers.

Board asked for clarification of the request. Mr. Schiavone explained what is involved in the loading and unloading process.

Two trailers in September to go from pool season to Halloween; two trailers to go from Halloween to Christmas and then from Christmas to pool season. The rest of the supplies are brought in by trucks. He would need the trailers on the premises for the first two weeks of those months. The outdoor displays were discussed.

The Board is presently dealing only with outdoor displays of merchandise for sale not holiday decorations. Displays shall be only under the canopy and where the pool is.

The applicant summarized the need for trailers: two temporary storage trailers on premises September and November and January for two weeks in those months to change over the store from one season to the next.

The enclosed canopy shall be in front of store from October to January. Outdoor displays of inflatable items would be located on the side of the property where pool display is located/.

Christmas Wonderland signs shall be in place November 1 to December 31<sup>st</sup>. Mr. Strong estimated the signs to be no more than 18 inches in height.

Attorney Vella discussed that the inflatable displays are permitted within pool area and across the driveway between Seasonal World and Burger King and no further to the front or rear of the building area is limited. No items for sale are to be located in the driveway area.

Chairman Novellino opened the application to the public at 8:15 p.m. and seeing no public comment, he closed the public portion at 8:16 p.m.

Board discussed the applicant's requests.

Mr. Coppola advised that within thirty days of any approval, the revised plans shall be submitted with the approval information showing conditions of approval.

Attorney Vella read the conditions of approval as follows, including but not limited to: Temporary signs above the building are limited to 18 inches in height by 25 feet in length; the temporary signs are only permitted from October 1 through October 31<sup>st</sup> for "Halloween Costumes" and From November 1 through December 31<sup>st</sup> for "Christmas Wonderland"; permitted to have two (2) trailers on the premises for the first two (2) weeks in September and first two (2) weeks November and January; the trailers are to be located as indicated on the approved site plan; within thirty days, revised plans with items required by the board including the location of the inflatable displays must be submitted to the township, etc.

Mr. Bailey made a Motion to approve as conditioned and Mr. Barthelmes offered a second. Roll Call Vote: Bailey, Barthelmes, Devine, Morelli, Frost and Novellino voted yes to approve. Mr. Lambros voted no.

**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 one-story, 4,000 s.f. retail building with an existing 6,750 s.f. multi-use 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 6-16-09. Date of Action: 10-14-09. Extension granted through 10-31-09.

**Z07-07 - 232 MILLSTONE ROAD, LLC** – Block 39.01, Lots 2.02 & 7– 4.33 Acres located in the NC Zone located on Sweetmans Lane. Applicant seeks preliminary site plan approval to construct a 7,700 s.f. retail building, 1,000 s.f. office space on the second-floor with adjoining 4,000 s.f. bank. “D” variance needed for Lot 7 (proposed stormwater management area) which is located in the RU-P Zone. “D” variance needed for Tower peak and cupola peak. Deemed Complete 6-16-09. Date of Action: 10-14-09. Extension granted through 10-31-09.

Attorney Vella explained that there was a glitch in the tax assessor’s record system in preparing the 200 foot certified property owners list. A 2006 list of property owners for was provided for five addresses. The correct list was provided and the mistake was rectified and the applicant re-noticed those five parties.

Mr. Kenneth Pape representing both applications. He advised that they would be presented as a joint application since they are intertwined.

He advised that the use variance is for the stormwater management basin which is common to both properties.

He clarified that there is separate ownership on the two sites.

Attorney Vella asked if the Board approves one but denies the other would that be a denied the project. Mr. Pape advised they are advised to be intertwined via stormwater management. There is a support system that brings them together.

Attorney Vella read the exhibits into evidence as follows:

- A-1            Jurisdictional Packet
- A-2            Web Notice Posted
- A-3            Application dated 1/5/07
- A-4            Survey prepared by ESP Associates dated 4/7/06
- A-5            Preliminary Major Site Plan prepared by ESP Associates dated 11/22/05; last revised 8/14/09
- A-6            Aerial map of the site & 500’ surround
- A-7            Landscape Plan prepared by Melillo & Bauer Associates dated 8/14/09

- A-8 Pad Site Elevations Map prepared by Bach& Clark, LLC  
Architecture dated 7/24/09
- A-9 Soil Sampling & Analysis Report prepared by ESP Associates  
dated May 2006
- A-10 Environmental Impact Statement prepared by ESP Associates  
dated May 2006
- A-12 NJDEP – Rare species information letter dated 6/11/07
- A-13 Aerial photographs (1 inch = 100 feet)
- A-14 Aerial photographs
- A-15 Composite drawing of two site plans together
- A-16 Overlay to A-14 that depicts the basin
- A-17 Mounted colored rendered landscape plan
- A-18 Architectural and landscape rendering of the site from Sweetmans  
Lane
- A-19 Architectural and landscape rendering from Millstone Road
- A-20 Architectural and landscape rendering from Millstone Road
- A-21 Architectural landscape view of plaza with tables, chairs and  
umbrellas
- A-22 Architectural drawing of the basin with landscaping
- A-23 Architectural rendering of elevations on both lots
- A-24 Architectural color rendering of the 7,700 s.f. building
- A-25 Architectural rendering reflecting the copper metal color accents
- BOA-1 Report of Board Engineer dated 9/9/09
- BOA-2 Township Planners Report dated 9/17/09
- BOA-3 Environmental Commission Report dated 9/15/09
- BOA-4 M.C. Board of Health letter dated 6/22/06

- BOA-5 Landscape Plan prepared by Daniel Dobromilsky & Associates prepared by 9/21/09
- BOA-6 Shade Tree Commission Report dated 9/22/09
- BOA-7 Millstone Township Fire Prevention Bureau dated 9/30/09

Mr. Pape explained that Lot 7 has a combination drainage basin, irrigation pond, and fire fighting basin which is partially located in the R-80 zone and partially in the RU-P zone which is not permitted and the applicant will thus need a use variance.

Mr. Pape gave a brief description of the history of Lot 7. He offered that a restrictive covenant existed on Lot 7 and that lot was to remain as an agriculture parcel. The issue of whether the basin conflicted with the restrictive covenant could only be decided by the governing body and a determination was made that a restrictive covenant does not prevent the applicant coming to this Board for consideration of this application.

Attorney Vella clarified when lot 7 was subdivided, part of their condition of approval was that both lots would be restricted to agricultural use only. When the applicant applied to put the stormwater management on the lot, the question became is it a use variance because it is commercial use on residential property. That is why they come in for a use variance. Whether or not we grant a use variance or not, the Township has a deed restriction that predates the Board's approval. That is why the Board asked the applicant to go to the Governing Body who is the enforcing authority of the restrictive covenant. The Governing Body decided that the use is not inconsistent with the deed restriction. Thus if the Board grants a use variance, there is no danger of the Governing Body deciding afterwards that the applicant cannot proceed because of the deed restriction.

Attorney Vella swore in the first Witness, Greg Valesi, of ESP. He has a BS from Rutgers and is a PE and PP and a certified municipal engineering. He has testified before various boards and represents various boards. The Board accepts him as a professional engineer.

Marked into evidence:

Exhibit A-13 aerial photographs (1 inch 100 feet)

Exhibit A-14 aerial photographs

Mr. Valesi explains the location of the property. He explained that both residential and commercial properties surround the project.

Lot 2.01, off of Sweetmans Lane, has an existing 6,750 s.f. building. He explains what facilities occupy that building. There are paved and gravel driveways throughout the site. The property is serviced by a well and septic.

Lot 2.02 is located fifteen feet off right of way line off of Millstone Road. The property has a large amount of wooded area.

Lot 7 is to contain the stormwater management area and is essentially farmland with woods on the southern area and three residential structures on the property.

Marked into Evidence is Exhibit A-15 composite drawing of two site plans together

Mr. Valesi orients all to the site via exhibit A-15. The Sweetmans Lane improvements include: construction of a 4,000 retail building. Proposed driveway in same location but improved. Parking stalls for this site are 62 spaces which conform to the ordinance. On Lot 2.02, there are two buildings proposed; a 4,000 retail building with drive thru to house a bank; and an 8,700 s.f. building with a second story (1,000 office space the rest is 7,700 s.f.). The driveway extends into the site. Mr. Valesi advised that the site is designed to be compatible and function as one uniform site with 85 spaces of parking. There is an enclosed refuse area for the site.

Mr. Valesi reviewed the grading and drainage. He explained how the stormwater management area would serve the entire site. Fire commissioners had concerns with the basin design regarding the access and water draw to fire fight. Mr. Valesi advised his design meets those requirements and he explained. A well within the basin would replenish any water loss in basin. He explained how a dry hydrant functions.

He explained that by moving the trash dumpsters, more mobility and access to the building for the fire fighters in case of an emergency was provided. This allows tankers to enter the site and fill their tankers. There is a public benefit by this design. He explained that the houses are located upstream and the general flow of the land flows into the pond.

Mr. Valesi explains how they assessed the environmental sensitive areas such as the streams, the D&R canal, disturbance corridor, the 100 year flood plain, etc.

There were concerns that by the fire department using the water in the basin there may not be an adequate supply to handle firefighting on the site. Mr. Valesi was requested by the Board to secure a follow-up letter from Matt Wagner of the Fire Department

Circulation of site was discussed to address delivery vehicles, emergency vehicles, general public and trash pickups.

The landscaping elements incorporated comprehensive plan deals with three areas, perimeter landscaping along Sweetmans Lane and Millstone Road, detention basin landscaping and the landscaping around the buildings and sitting areas.

Lighting on the building was discussed. The applicant advised that it conforms to the ordinance with a standard combination of pole mounted decorative fixtures and soffit lighting on the building.

Entered into evidence:

Exhibit A-16 Overlay to Exhibit A-14 depicts the basin. Mr. Valesi explained that the edge of the grading is 15 feet from the residential properties on Sweetmans Lane. It is 130 feet from home on Lot 4 and 50 feet from the accessory structure on that Lot. The basin to be landscaped and buffered.

At 9:35 p.m., the Board took a recess returning at 9:50 p.m.

Attorney Vella swore in Sam Mellilo, the landscape architect. He presented his credentials. He has been a planner and landscape architect for East Windsor. He has a master's degree in landscape architecture.

The following Exhibits are marked into evidence:

A-17 mounted colored rendered landscape plan.

A-18 Architectural rendering of the site from Sweetmans Lane.

A-19 Architectural rendering from Millstone Road

A-20 Architectural rendering

Mr. Mellilo explained how the site functions. The fencing is rail with cross buck with stone at the entrance 4-feet high vinyl with plantings. The site would contain Belgium block curbs and pavers.

Marked into Evidence: Exhibit A-21 architectural view of plaza with tables and chairs and umbrellas located outside where Roy's Deli exists.

Mr. Mellilo met with Landscape Architect, Dan Dobromilsky and the Shade Tree Commission on this project. He stated that the vegetation meets or exceeds the standards of the ordinance and they can meet all of the requests of the Shade Tree Commission.

Board Planner, Richard Coppola advised that Mr. Dobromilsky issued a memo on June 30, 2009. It dealt with plans prepared in September of 2008. Mr. Dobromilsky met with Shade Tree. Mr. Mellilio's plans were a reflective of the Shade Tree and Mr. Dobromilsky's reports. Most issues have been resolved. The applicant's intention is to meet again with Shade Tree and Mr. Dobromilsky to get those differences rectified.

Marked into evidence is Exhibit A-22 large architectural drawing of the basin showing the landscaping. Mr. Mellilio advised that wet tolerant species are used around basin. Fencing will go around the entire basin and is made of black vinyl. Dense vegetation would provide screening to the neighbors.

Mr. Mellilio advised that decorative pavement bands are located at the entrances that further act to slow people down by acting as rumble strips. The landscaping enhances but does not block the buildings. The applicants would save mature trees per the Shade Tree Commission's request.

Mr. Coppola advised if the applicant meets with the landscape architect he must meet with him and the Shade Tree Commission together.

Attorney Vella swore in architect Gregory Clark, of Bach and Clark. He has testified before the Board in the past and his credentials are known to the Board and he is accepted as an expert..

He advised that his responsibilities were to build three buildings on the site. The fourth building was pre existing and they had nothing to do with the design of that building.

Entered into Evidence: Exhibit A-23 all four elevations of both lots.

Mr. Clark went over the exhibits and the footage and the types of buildings. Materials used include cultured stones, clapboard (not vinyl), cedar elements, cooper-type elements..

Entered into Evidence: Exhibit A-24 Architectural Color Rendering of the 7,700 s.f. building.

Mr. Clark reported that the "L" shaped building and an accented tower are for identification purposes to identify the project from both Sweetmans Lane and Millstone Road. There would be 8 tenant rental spaces in the building. The gable roof design aids in the project fitting into a residential area.

Entered into Evidence: Exhibit:A-25 Sweetmans Lane Architectural Rendering reflecting the copper metal color accents. Mr. Clark stated that the roof shall have decorative finials. Each tenant would have their own signage. Colors and textures are similar.

The signage would be backlit channel lettering lit from behind offering a silhouette effect. Variance relief is needed for signage on front of store and rear which faces the road.

Mr. Clark reviewed the proposed lighting. He advised that lights on buildings are for decorative purposes and lighting. Cupolas that are shown exceed the height of the building are only for ornamentation. The ordinance allows such a cupola if it is not to be occupied. Mr. Coppola feels the purpose is ornamentation. Mr. Clark stated that the cupola breaks up roof line and identifies the building. He offered that this is the focal point of the site. The maximum height is 35 feet. Mr. Coppola feels that the cupola does add architectural interest.

Mr. Coppola offered that all of the buildings don't have to be identical but white trim around dormers does bring some symmetry to the site.

The gooseneck lighting would add traditional detail to the building layering and depth.

Mr. Coppola advised for a sign package, the sign standards allow some flexibility without sacrificing integrity.

The matter was carried to Thursday, December 10, 2009, beginning at 7:30 p.m. The applicant granted an extension of time through December 31, 2009 to hear this matter.

Seeing no further business, Mr. Frost made a Motion to adjourn and Mr. Morelli offered a second and by unanimous vote, the matter adjourned at 11:20 p.m.

Respectfully Submitted,

Pamela D'Andrea