

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
JANUARY 27, 2010**

Meeting called to Order by Mr. Novellino at 7:35 p.m.

Reading of Adequate Notice by Mr. Barthelmes.

Members sworn in by Attorney Greg Vella: Anthony Conoscenti and Steve Lambros.

Salute to the Flag.

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

Mr. Novellino welcomed all. He announced that both Mr. Bailey and Mr. Frost had perfect attendance in 2009.

Election of Officers began with a nomination for Chairman. Mr. Morelli made a Motion to nominate Michael Novellino to serve as Chairman and Mr. Curcio offered a second. Roll Call Vote: Morelli, Curcio, Barthelmes, Lambros, Bailey, Devine and Conoscenti voted yes to the election of Mr. Novellino to serve as Chairman.

Congratulations to Mr. Novellino.

Chairman Novellino made a Motion to nominate Steve Barthelmes to serve as Vice-Chairman. Mr. Curcio offered a second. Roll Call Vote: Novellino, Curcio Lambros, Morelli, Devine, and Bailey, voted yes to the election of Mr. Barthelmes to serve as Vice-Chairman.

Congratulations to Mr. Barthelmes.

The Motion to appoint Pamela D'Andrea as the Board Secretary was made by Mr. Novellino with a second offered by Mr. Curcio. Roll Call vote was taken: Novellino, Curcio, Barthelmes, Lambros, Curcio, Morelli, Devine and Bailey voted yes to appoint Ms. D'Andrea.

Ms. D'Andrea thanked the Board.

Chairman Novellino explained that the selection of professionals is through the fair and open bidding process. All professionals have applied for positions by replying to a call for bid. The Board is selecting their professionals based upon who they think can best do the job for the Board and balancing the qualifications that the professionals have submitted.

The Motion to appoint Gregory W. Vella, Esq. of the firm of Collins, Vella & Casello, LLC as Board Attorney was made by Mr. Novellino with a second offered by Mr. Curcio. Roll Call Vote: Novellino, Curcio, Barthelmes, Devine, Bailey, Lambros and Morelli voted yes to appoint Gregory W. Vella, Esq.

Attorney Vella thanked the Board.

The Motion to appoint Leon S. Avakian, Inc. as the Board Engineer with Matt Shafai, P.E. as the principal Engineer was made by Mr. Lambros with a second offered by Mr. Morelli. Roll Call Vote: Lambros, Morelli, Curcio, Barthelmes, Bailey, Devine and Novellino voted yes to appoint Mr. Shafai.

The Board explained how they evaluated the engineering proposals. A review team consisting of Mr. Novellino, Mr. Conoscenti, and Mr. Curcio analyzed the proposals and made a recommendation to the board to re-appoint Matt Shafai of Leon S. Avakian Inc. The criteria considered were the quality of the engineering services proposed and the cost. In terms of costs to the applicants, the board found that both proposals were comparable and that the difference in costs to applicants would be negligible regardless of which firm was selected. However, the quality of the engineering services offered to the board by Leon S. Avakian and Matt Shafai in particular were found to be significantly higher due to their focus on municipal work and superior knowledge of Millstone. .

Mr. Shafai thanked the Board.

The Motion to appoint Richard Coppola of Coppola and Coppola as Board Planner was made by Mr. Novellino and a Second offered by Mr. Morelli. Roll Call Vote: Novellino, Morelli, Curcio, Barthelmes, Devine, Bailey and Lambros voted yes to appoint Richard Coppola, P.P. The Board stated that Mr. Coppola has done an outstanding job for the Board in the past and given his qualifications, the Board felt he was an excellent choice.

Mr. Novellino made a Motion to nominate Daniel Dobromilsky & Associates with Daniel Dobromilsky as the primary Landscape Architect to provide Landscape Architectural Services to the Board and Mr. Curcio offered a Second. Roll Call Vote: Novellino, Curcio, Barthelmes, Bailey, Devine, Lambros and Morelli voted yes to the nomination.

The Board explained that the cost of the professionals to review an applicant's application is borne by the applicant and not the Township residents.

The Motion to appoint Angela G. Buonantuono as the Board Court Reporter was made by Mr. Novellino with a second offered by Mr. Curcio. Roll Call Vote: Novellino, Curcio, Barthelmes, Devine, Bailey, Lambros and Morelli voted yes to appoint Ms. Buonantuono.

Ms. Buonantuono thanked the Board.

The Motion to designate The Asbury Park Press and The Messenger Press as the official Board newspapers was made by Mr. Novellino with a second offered by Mr. Curcio. Roll Call Vote: Novellino, Curcio, Barthelmes, Devine, Bailey, Lambros and Morelli voted yes to designate the official newspapers.

The Motion to adopt a regular monthly meeting schedule for 2010 and the first meeting date of 2011 with the meetings to begin at 7:30 p.m. in the Municipal Building located at 215 Millstone Road, Millstone Township, New Jersey, was made by Mr. Novellino with a second offered by Mr. Morelli. Roll Call Vote: Novellino, Morelli, Curcio, Lambros, Bailey and Devine, voted yes as follows:

January 27, 2010	July 28, 2010
February 24, 2010	August 25, 2010
March 24, 2010	September 29, 2010
April 28, 2010	October 27, 2010
May 26, 2010	November 29, 2010 (Monday)
June 23, 2010	December 9, 2010 (Thursday)
	January 26, 2011

Approval of Minutes: November 30, 2009.

The members having reviewed the minutes, Mr. Barthelmes made a Motion to approve and Mr. Bailey offered a Second. Roll Call Vote: Barthelmes, Bailey, Lambros, Devine, Morelli, Lambros and Novellino voted yes to approve.

RESOLUTIONS:

Z08-05 FALK BUILDING, LLC. – Block 60.02, Lot 1. Property located at 15 Carrs Tavern Road consisting of 3.666 acres located in the R-80 rural residential zone. Applicant sought minor subdivision to create two lots; one for existing professional building and one for single family dwelling. Use variance needed for existing non-conforming use for proposed Lot 1.02. Bulk variances required. Approvals granted 11-30-09. Extension of time to Memorialize the Resolution was granted through 1-31-10.

Mr. Novellino, Mr. Frost, and Mr. Devine did not participate in discussions on this resolution due to conflict of interest and Mr. Barthelmes chaired this portion of the meeting.

Attorney Vella had sent out the Resolution for review. Some comments were made and submitted to the Board and a copy was provided to the applicant's attorney. Dr. Falk is here before the Board to discuss two for the conditions. Dr. Falk voiced his concern regarding the requirement that trees plantings along Rt. 571 would block the parking lot making it a potential invisible and unsafe condition.

Condition #11 of the Resolution was requested by Mr. Coppola. Attorney Vella read the condition. Mr. Coppola advised that the intent is not to screen the parking lot but rather to provide buffering. He clarified that no specific amount of trees was dictated by the Board. The Resolution reflects that the applicant could submit his own plan. Mr. Coppola stated that what was envisioned was a buffer; a softening of the view. Mr. Coppola would work with the applicant as to the security issue. Mr. Coppola feels that this adjustment does not change the Resolution. The Shade Tree Commission can review the planting plan and comment. Dr. Falk advised there is a tree screen there presently and the areas is not stark.

Attorney Vella advised that middle ground may be appropriate. Dr. Falk comfortable can change language to additional buffering not evergreen buffering. Dr. Falk was amenable to the change.

The applicant had a second question as to the placement of buffering landscape between the residential lot but and commercial lot. He would like to place that tree buffering on the residential lot due to the lack of room on the commercial piece. This was discussed. Mr. Coppola stated the purpose of the requirement of the board is to protect the resident from the commercial use. It accomplishes the objective. The Board discussed the modification.

Mr. Lambros made a Motion to memorialize the Resolution with the clarifications and Mr. Morelli offered a Second. Roll Call Vote: Lambros, Morelli, Curcio, Bailey, Conoscenti and Barthelmes voted yes to the memorialization.

CARRIED APPLICATIONS:

Z09-01 SHELLY'S SCHOOL FOR DOGS – Block 57, Lot 33 – Located at Burnt Tavern Road consisting of 56.47 Acres in the BP Zone. Applicant received use variance approval to construct a 25,471, one-story building to operate a facility to include boarding for dogs and cats, pet training school, pet grooming school and pet grooming in Resolution Memorialized on 6-24-09. Applicant received Preliminary Site Plan approval that was granted and memorialized in Resolution dated 8-26-09. Applicant returns to the Board for Final Site Plan approval.

Attorney Vella advised that he had reviewed the jurisdictional packet for an additional variance for signage. They carried the final for issue of final for signage. This is an amended preliminary and final site plan. He finds same in order to accept jurisdiction over the application.

Attorney Vella read the following exhibits into evidence:

- A-22 Noticing Packet
- A-23 Final Site Plan prepared by Crest Engineering dated 5/1/08; last revised 12/2/2009
- A-24 Site Entrance Plan prepared by Richard Bacon dated 12/11/09
- A-25 Noise Study prepared by Mr. Goodfriend dated 1/13/10
- A-26 Letter of revisions for final site plan prepared by Crest Engineering dated 12/8/09
- A-27 Mounted Site Enlargements Display
- BOA-5 Ken Gann, OEM – Approval of temporary corral fencing
- BOA-6 Township Engineer’s Report dated 1/4/10
- BOA-7 Freehold Soil Conservation – Initial Application Review dated 1/5/10
- BOA- 8 Township Planners Report dated 1/13/10

Mr. Kenneth Pape representing the applicant. Mr. Pape advised that they were before the board for final site plan the variance relief is for the sign configuration. As a result of the Board’s comments, he advised that the applicant made a modified entryway consisting of a sign on each side of the driveway. One sign is allowed per ordinance and the request for the second sign triggered the need for a variance.

Mr. Pape went over the open items. Mr. Lewis Goodfriend had reviewed the architectural plans with regard to the acoustics and they match the plans that he had. The fence detail location is consistent with the comments made by the OEM. The applicant met with the OEM and worked out this part of final plan. He advised that the bridle path was toured by Mr. Shafai and Mrs. Pat Butch of the Open Space and Farmland Preservation group. The Path has been provided and is now part of the plan.

Mr. Pape discussed the meeting with the county planning board concerning improvements to the County intersection where Burnt Tavern and Rt. 537 meet. He

advised that response from the County took some time. Mr. Shafai testified that on two occasions he had spoken with MCPB engineers and planners. They have placed this intersection on a capital improvement program. Mr. Shafai explained that the county does not wish us to do those improvements. They have asked for a cash contribution toward the large scale improvements that they would be making. In light of this, Mr. Shafai discussed a cash contribution of \$15,000 to \$20,000 toward this . The applicant is comfortable with that and will sit down to work out the details. Mr. Shafai advised that the County has no time frame in mind for the improvements. The County has full jurisdiction over that intersection.

Attorney Vella will work out the details with the Township Attorney. The Board discussed a time frame to keep the money in an account. In fairness to the applicant, the Board discussed using the timeframe as leverage to help push the county to improve the intersection. The Board questioned whether the duration of holding the funds in escrow three years a good number. Monies shall be posted prior to maps being signed. If the County does not start project and request the funds within three years, then the funds shall be returned to applicant. The Board agreed on this condition.

Engineer and Planner Peter Strong is sworn in. His credentials are known to the Board and they accept him as an expert. He advised that he has worked out the lighting plan elements and complied with Mr. Coppola's requested changes.

For the entryway, he had provided a site enlargement display reflecting the building and parking lot and the entranceway off of Burnt Tavern (marked into evidence as Exhibit A-27). The sign has been prepared by Richard Bacon, Architect and the sign details are reflected on the plans. Mr. Strong explained entryway, signage and landscaping. He testified that the designs comply with the ordinance. A variance is needed for the second sign. Applicants will comply with the comments of the professionals.

The building materials and colors were discussed. The building will be of field stone and natural dark browns, blacks and grays, balanced in lighter contrasting color and trim dark color almost black. The applicants will work out the lighting along internal sidewalk details with the Board professionals.

Mr. Shafai advised that the applicant has addressed his comments. Mr. Coppola asked that the same building treatments be on all four sides of the building. The gate at the driveway entrance would have a Knox box for emergency entrance to the facility. The applicant advised the purpose of the gate is for security so that people do not wander onto the property since the facility is manned 24/7, but not open 24/7. There is no caretaker resident. The applicant will work out the key detail with Kenneth Gann of the OEM and the Fire department.

Mr. Shafai is satisfied with the fence detail and the bridle path has been reviewed and found acceptable.

Mr. Coppola had reviewed the preliminary application for conformance and has issued a conformance review report of those outstanding items.

Attorney Vella read the preliminary conditions of approval into the record noting what the status of the preliminary conditions:

The sign locations are fully conforming to Township's ordinance. 21.6 feet to property and 90 feet to the residence of the garage. Height of sign 6 foot. Neighbors house higher. Mr. Coppola suggested channel lighting except on the letter of the sign, which is very soft lighting. The signs are on an angle with landscaping behind them Mr. Coppola feels that this was reactive to the Boards concerns. Landscaping is screening the property line.

The need to keep the two storage sheds was discussed. The emergency animal fencing must be stored somewhere on site and the existing storage shed could provide for that needed storage. This grew out of a discussion with Kenneth Gann of the OEM. Mr. Coppola feels that this seems to be logical.

At 9:10, Chairman Novellino opened the application to the public.

Sworn in Debra Strnad of Clarksburg ,voiced her concerns regarding that the lighting and if they have to have lighting, that it be low. Mr. Coppola explained the name is lit from behind and is a soft, low halo lighting. Discussed that signs would be lit for people to see but not affect the neighbors.

Seeing no further comments from the public, Chairman Novellino closed the public portion at 9:15 p.m.

Mr. Morelli made a Motion to approve the amended Final application to include the conditions as set forth by Mr. Vella. Mr. Barthelmes offered a Second, Roll Call Vote: Morelli, Barthelmes, Curcio, Bailey, Devine, Lambros and Novellino voted yes to approve.

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. Heard in part on 10-28-09. Extension of time granted through 1-31-10. Applicant re-noticed for the meeting.

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. Carried from 10-28-09. Extension granted through 1-31-10. Applicant re-noticed for the meeting.

Chairman Novellino explained to the public that the application was heard in part on October 28, 2009 and carried to December’s meeting without any further notice required to the applicant. However, the applicant was unable to attend the December meeting and since that was the only application on the agenda for December, the Board required the applicant to re-notice for this meeting.

Chairman Novellino explained to the public how the hearing process works. He explained why the applicants are before this Board.

Attorney Vella explained the glitch in the noticing to the residents within 200 feet of the project which was no fault of the applicants. This application will not be concluded this evening and will be heard in part tonight and continued at the February 24, 2010 meeting. He advised that all of those residents within 200 feet of the project that did not receive the notice, to no fault of the applicants, will receive notice. The direction of the Board was that everyone entitled to get a notice that did not receive a notice, shall be sent one. The plans are in the Millstone Township Offices and can be reviewed during normal business hours.

Attorney Vella read into the record the following Exhibits:

Z07-06

- A-26A Noticing Packet
- A-26 Resolution Authorizing Execution of Restrictive Covenant
- A-27 Traffic Impact study prepared by Maser Consulting dated 10/26/09
- A-28 Landscape Plan prepared by Melillo & Bauer Associates dated 8/14/09; last revised 1/14/10
- BOA-8 M.C. Planning Board request for more information letter dated 1/22/07
- BOA-9 Landscape Architectural Report prepared by Dan Dobromilsky & Associates dated 1/26/10

Z07-07

- A-26A Noticing Packet
- A-26 Resolution Authorizing Execution of Restrictive Covenant dated 11/04/09
- A-27 Testimony for DMT Site Plan
- A-28 Traffic Impact Study prepared by Maser Consulting dated 10/26/09
- A-29 Landscape Plan prepared by Melillo & Bauer Associates dated 1/14/10
- A-30 Overlay to A-16 depicting alternate location of basin
- BOA-9 Landscape Architectural Report prepared by Dan Dobromilsky dated 1/26/10

Mr. Kenneth Pape representing the applicant.

Mr. Pape provided a recap of the October 28, 2009 meeting and the presentations.

He advised that the applicants' professionals will testify tonight with responsive to the comments of the Board and its professionals, and the Shade Tree Commission regarding various aspects of the plan.

This project is in the Neighborhood Commercial (NC) Zone and at the intersection of two County roads where the zoning plan and master plan feels the NC should be. Mr. Pape advised that the businesses to occupy the property would be small and the size of the buildings would be strictly filled. He advised that the stormwater management allows the stormwater to be facilitated by underground basins and it is very common throughout the State. The alternative is an open basin, with ease of maintenance and this one will hold a large amount of water that would aid the fire department and can be used for irrigation as well. The applicant is asking the Board for the alternative basin. The basin is located on a property that is in a residential zone. It provides a benefit but it is for this one reason that the applicants are before the board of Adjustment. An identical plan with the stormwater management underneath the parking lot would be their second plan. This is the far superior plan they would like to present to the Board.

Sam Melillo, Landscape Architect, is sworn in and is still under oath to continue. He explained that the site plan was presented to the Board in October.

He advised the Board that after the October meeting, he met with The Shade Tree Commission and with Mr. Dobromilsky. Referring to the Aerial photograph previously

entered into evidence as Exhibit A-13, he explained where the site is located, what exists and where the applicant is proposing to construct new buildings. The site will be curbed, and landscaped. Daniel Dobromilsky, Board Landscape Architect is sworn in. Mr. Dobromilsky, referring to Exhibit A-15, offered that the proposed fencing should be changed with the landscape to the interior of the project and the decorative fence to the outside so that it can be seen from both roadways. He explained the benefit of that change.

Marked into evidence is Exhibit A-29 Landscape Plan prepared by Melillo & Bauer Associates dated 1/14/10. Mr. Dobromilsky stated that either way the fence and landscaping are placed, it meets the requirement of the ordinance as a buffer. The Ordinance requires that when a residential property exists next to a commercial property, screening is required. He explained that a woodland buffer exists, however, from the parking lot, the residence can be seen. The existing house is located on a hill and the proposed building cannot be obscured. The question is does the rear of the building create a nuisance condition. Mr. Dobromilsky is not clear as to how the rear of the building would be used. If materials are to be stored behind the building, it may be prudent to provide screening to the residential neighbor.

Mr. Coppola advised that the ordinance is a performance based ordinance. He stated that you can have restrictions even if there is no storage at all. No trees should be removed.

Mr. Dobromilsky feels that the applicant has addressed all of his issues and have been responsive. While he cannot speak for the Shade Tree Commission, he offered that the applicant did speak to their issues.

Engineer Valesi was previously sworn in and is still under oath. Mr. Pape asked if the basin be moved or modified to the south. Referring to A-16 aerial overlay of basin reflecting how it fits on existing property.

The Exhibit depicts the alternative location of the basin with same volume and hydraulics shifting further to the south and closer to the constraint line (wetlands line to the south and buffer). Mr. Valesi advised that by moving the basin down and elongating it, this would achieve a greater space to the property line. He explained to the Board that this is a fully executed basin. Mr. Melillo can adopt the landscaping to this change. Mr. Valesi described how fire fighting works from this basin. A standpipe provides the avenue to retrieve the water. He met with fire officials and worked with them.

Mr. Barthelmes asked if water from the proposed basin was not in place, where would water come from to fight a fire.

Mr. Valesi addressed potential flooding to surrounding properties and advised that there is no danger to the surrounding properties even in the situation of a 100-year flood event. He stated that all water that flows south and into a stream would collect into this basin. This basin cannot overflow. He explained how this basin works. He explained that an on-site basin would be an inferior form of stormwater management. He explained that the basin would be physically impossible to overflow. The pond is lined and will have an impervious membrane.

Mr. Frost asked about water reduction. The applicant explained and added that a fountain is proposed as well. Mr. Valesi explained that NJDEP standards must be met. Rooftop and parking lot storm drains feed into the pond. Mr. Frost has concerns about the products that would be going into the basin such as antifreeze, gasoline and oils. Mr. Valesi advised that the water quality standards in this plan has a 90%TSS removal standard.

At 10:50 p.m. Chairman Novellino opened the application to the public.

Raymond Giffen of Halka Way was sworn in. He is concerned about the height of the back building. Mr. Clark of Bach and Clark Architects was sworn in and referring to Exhibit A-24, explained the grade and elevations of the building.

Mr. Giffen voiced his concerns about what is going into the stormwater management basin as well as the water flow existing condition.

Sworn in, John Hart, 343 Sweetmans Lane, voiced his concern about the several issues involving the basin such as the potential mosquito habitation, the safety factor to the children, runoff and contaminants.

Sworn in, Robert Lauser, 279 Sweetmans Lane. He advised that in working with JCP&L, he deals with fuel oil. He is familiar with the contaminants and is concerned. He also asked about the location and type of septic field proposed such as raised or mounded.

The applicant advised that they performed four location test pits that were witness by the Monmouth County Board of Health.

The Board asked that the septic type be confirmed and that should be worked into the landscape views.

Sworn in, Joann Kelty of 48 Conover Road. She is the Township Historian and wishes to work with the applicant to assure that the 1920 School building on the premises, which is on the State and National Register, be maintained. She advised that the original tin ceiling panels and woodwork should be preserved. The applicant would work with Mrs. Kelty.

Sworn in, George Vrabel, 321 Sweetman's Lane. He stated that the detention basin area is located in the wetlands. Mr. Valesi stated that soil borings were performed to reflect the depth of the water table. Mr. Vrabel stated that when it rains, water comes out of the ground there and when he dug a fence post there he hit water at 2 feet. Mr. Pape advised that a basin cannot be located in the wetlands. The applicant advised that the NJDEP has delineated the wetlands.

Mr. Vrabel asked about the agricultural restriction placed on the property where the basin is to be located. Attorney Vella stated that Lot 7, where the proposed basin is to be located, still has an agricultural restriction on it. The Township advised that the basin does not violate that restriction. The Township adopted a Resolution which permits the basin to be built on Lot 7 (previously marked into evidence).

Mary Costagliola, 141 Baird Road. She was sworn in and commented that three properties around hers have mounded septic which may be a concern.

The Board will continue the application on Wednesday, February 24, 2010 beginning at 7:30 p.m. at this building. The Secretary asked for applicant to grant an extension of time to hear the applications through February 28, 2010.

NEW BUSINESS:

The Board having reviewed the proposed 2009 Annual Report and no members had any further questions or changes. Mr. Barthelmes made a Motion to adopt the 2009 Annual Report and Mr. Curcio offered a Second. Roll Call Vote: Barthelmes, Curcio, Morelli, Bailey, Lambros, Devine and Novellino.

Mr. Curcio made a Motion to Adjourn, Mr. Bailey offered a Second and by unanimous vote, the meeting adjourned at 11:10 p.m.

Respectfully Submitted,

Pamela D'Andrea

