

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
JANUARY 25, 2012**

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

Reading of Adequate Notice by Mr. Morelli.

Salute to the Flag and observance of a moment of silence for the troops.

Members sworn in by Attorney Greg Vella: Michael Novellino (Regular Member)

Roll Call: Present: Curcio, Lambros, Morelli, Novellino, Bailey, Conoscenti and Mostyn.
Late: Lambros (7:35 p.m.) Barthelmes (7:45 p.m.) Absent: Frost

Mr. Novellino announced that Mr. Bailey had perfect attendance for 2011 and he provided him with a certificate of appreciation. Mr. Novellino thanked all board members for their attendance and dedication.

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, Conoscenti, Lambros, Bailey and Mostyn voted yes to the election of Mr. Novellino to serve as Chairman.

Congratulations to Mr. Novellino. Mr. Novellino thanked the Board.

Chairman Novellino made a Motion to nominate Steve Barthelmes to serve as Vice-Chairman. Mr. Curcio offered a second. Roll Call Vote: Novellino, Curcio, Morelli, Lambros, Bailey, Conoscenti and Mostyn 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 Chairman Novellino with a second offered by Mr. Curcio offered a Second. Roll Call vote was taken: Novellino, Curcio, Conoscenti, Lambros, Morelli, Bailey, and Mostyn voted yes to appoint Ms. D'Andrea.

Ms. D'Andrea thanked the Board.

Mr. Barthelmes arrived at 7:45 p.m. He was sworn in by Attorney Vella. He thanked the Board for his nomination to serve as Vice-Chairman.

Chairman Novellino explained the Township's open and fair bidding process for the appointment of Board professionals. He explained the process whereby the Board appoints a subcommittee of three members who review all of the bids received and reports back to the Board. The subcommittee looked at the quality of service, fees, and experience of all the candidates. Chairman Novellino advised that this year there were no additional bids received for the positions of Board Attorney or Board Engineer outside of the submissions from Mr. Vella and Mr. Shafai's firms. There was one additional bid received for the position of Board Planner.

The Motion to appoint Gregory W. Vella, Esq. of the firm of Collins, Vella & Casello, L.L.C. as Board Attorney was made by Chairman Novellino with a second offered by Mr. Curcio. Roll Call Vote: Novellino, Curcio, Bailey, Barthelmes, Lambros, Conoscenti, 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 Engineering firm with Matt Shafai, P.E. as the principal Engineer was made by Chairman Novellino with a Second offered by Vice-Chairman Barthelmes. Roll Call Vote: Novellino, Barthelmes, Curcio, Conoscenti, Lambros, Bailey and Morelli voted yes to appoint Mr. Shafai.

Mr. Shafai thanked the Board.

Chairman Novellino explained that the one additional bidder for the position of board planner did not have significant experience in planning applicable to the board's needs as compared to Mr. Coppola. He 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.

The Motion to appoint the firm of Coppola and Coppola with Richard Coppola as principal Board Planner was made by Chairman Novellino and a Second offered by Mr. Curcio. Roll Call Vote: Novellino, Curcio, Barthelmes, Morelli, Bailey Lambros and Conoscenti voted yes to appoint Richard Coppola, P.P.

Mr. Coppola thanked the Board.

Chairman 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. Bailey offered a Second. Roll Call Vote: Novellino, Bailey, Lambros, Morelli, Conoscenti and Curcio voted yes to the nomination.

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

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

The Motion to adopt a regular monthly meeting schedule for 2012 and the first meeting date of 2013 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 Chairman Novellino with a Second offered by Mr. Curcio. Roll Call Vote: Novellino, Curcio, Lambros, Morelli, Bailey, Conoscenti and Barthelmes voted yes as follows:

To be held on the following dates in 2012 and the first meeting date in 2013 at 7:30 p.m. in the Municipal Building located at 215 Millstone Road, Millstone Township, New Jersey.

January 25, 2012	July 25, 2012
February 22, 2012	August 22, 2012
March 28, 2012	September 20, 2012 (Thursday)
April 25, 2012	October 24, 2012
May 23, 2012	November 28, 2012
June 27, 2012	December 20, 2012 (Thursday)
	January 23, 2013

Chairman Novellino read the dates into the record

Approval of Minutes: November 29, 2010.

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

CARRIED APPLICATION:

Z11-04 ROUTE 537 HOLDING COMPANY, LLC. – Block 56, Lots 13.01 and a portion of Lot 14. Located on Route 537 in the HC-1 Zoning district; Lot 13.01 consisting of 4.163 acres and the application concerns a 2-acre portion of Lot 14. Applicant seeks minor subdivision approval to convey 2 acres from Lot 14 to Lot 13.01 increasing the Lot 13.01 lot size to 6.163 acres. Applicant seeks use variance, bulk variance, preliminary and final site plan approval to develop a miniature golf facility. Deemed

Complete 8-18-11. Date of Action: 12-16-11; extension of time granted by applicant through 1/31/12. Heard in part on 9-28-11; carried to 10-26-11; carried to 12-15-11; carried to 1/25/12, noticing required.

Attorney Vella explained why the application had been carried to this date. He explained that the applicant had received Monmouth County Planning Board approval which just prior to the September 28, 2011 Board meeting was rescinded. He explained the process whereby this was finally resolved and Final MCPB approval was given.

Kenneth Pape, Esq. representing the applicant. Mr. Pape provided a brief update of the issue with the MCPB which began last summer. Several conferences with the County took place to try and resolve this issue. The road in question is neither in the County's Master Plan nor in the Township's Master Plan. The MCPB by unanimous vote on January 20, 2012 made the decision not to request the loop road. Mr. Pape advised that he was present for the voice vote and the hard copy of that decision would be forthcoming.

Mr. Coppola concurs with Mr. Pape's representation of those facts.

Attorney Richard O'Connor, the Rosanky's counsel concurs with what has been stated with regard to the MCPB.

Attorney Vella advised that the applicant has properly re-noticed for the meeting and the Board has jurisdiction over the application.

Peter Strong, P.E. was previously sworn in and still under oath. Mr. Strong refers to Exhibit A-16 and provides a refresher as to the location of the property. The applicant seeks to subdivide two acres from the Rosansky Property (Lot 14) to increase the site to 6.6 acres. The remaining undeveloped portion of lot 13.01 will be used to construct a 36 hole mini golf course. There will be 44 parking spaces on the premises. He explained the location of the septic system.

Mr. Pape advised that the Environmental Commission had requested that they perform one additional soil testing which they performed. They performed a Threatened and Endangered Species study, per Ordinance. They also met with the Fire Department who was satisfied. Shade Tree found the plan to be acceptable.

Mr. Strong explained the proposed lighting on the premises. He advised that two sets would be located on one parking lot and one set for the access drive. The standard shoe box lighting would be installed. The bulbs would not extend below the housing fixtures. The applicant would do whatever was necessary to avoid light spillage to the other parking lots.

Mr. Strong offered that the mini golf area would have reduced lighting to allow patrons to play golf at night.

The distance to the closest neighbor on Pine Drive is approximately 1,000 feet away minus the Rosansky property. There is 550 feet of Highway Commercial behind the proposed project.

Mr. Strong had reviewed the technical comments of Engineer Shafai and would comply with them.

Mr. Lambros asked if any area is elevated above street level that would raise the lighting more than 15 feet. Mr. Strong stated that the entire site is higher than street level. The center has a cave and waterfall area that is four feet above the existing ground and therefore that lighting would be 19 feet above grade. He added that it faces Route 537.

Allison Coffin, P.P. is sworn in as the professional planner. She has testified before the Board in the past and they accept her as a professional Planner. Ms. Coffin explained her investigation of the application. She had reviewed the professional review letters, visited the site and watched the recording of the previous hearing. She provided her analysis of the site. The project area consists of 4.16 acres, increased to 6.16 acres. The Dunkin Donuts property is located in the area of other Highway Commercial facilities. Ms. Coffin stated that the purpose of this zone. Other allowable uses would be amusement trade uses such as ice-skating rinks and roller skating rinks, both indoor and outdoor. Conditional Uses are golf courses, swim clubs and indoor recreational facilities. She stated that miniature golf courses are not a permitted use. She explained that this application does not meet the lot coverage

Ms. Coffin stated that special reasons exist to approve this project and she explained why this project would not impair the Master Plan or the zoning ordinance or be a detriment to the public. Ms. Coffin explained the suitability of the site and the location to Six Flags Great Adventure which is a regional attraction. She offered that this project is a smaller recreation use. Outdoor recreation appeals to families and thrives best in areas where tourist traffic exists. Ms. Coffin stated that this site has adequate open space for the course and is within walking distance of KFC and down the street from Great Adventure. She further stated that outdoor recreation uses advance the purpose of public health and general welfare. Ms. Coffin stated that there are benefits of outdoor recreation.

Ms. Coffin stated that the HC1 Zone permits indoor and outdoor recreation uses. She feels there would be a concern if neighbors were within earshot distance but the nearest neighbor is 1,000 feet away. Ms. Coffin stated that this project does not create a

negative impact. She advised that a Go-Cart track can create odors and noise. This is not a concern with the mini golf course. This golf course is aesthetically pleasing and is in line with a Millstone Township botanical garden with paths and water features. It is a high quality course design. To create the course indoors would be permitted but not appealing in appearance.

She stated that approval of this project would not impair the zoning or Master Plan and the proposed use is completely consistent with the HC1 Zone.

Board Planner Coppola stated that it would be helpful for Planner Coffin to address one issue on the lot sizes. He stated that there is 6 acres required for a for the restaurant and 3 acres for other uses. Presently we have 6.16. Mr. Coppola asked her to reinforce or expand as to uniqueness of this use that is a D1 variance and asked her to justify the other uses in the zone.

Ms. Coffin stated that other permitted uses would not coexist as a compatibly as the proposed mini-golf course with Dunkin Donuts and share this site. A theater or bowling alley, an ice or roller skating rink would require a large structure and would need more parking.

The mini golf course is small seasonal use and the need for building and parking demands are smaller and can coexist on the site with what is there already. It is not only a unique use but unique because of it can coexist with what is already in place is symbiotic. She stated that the Board would not be setting a precedent if they were to grant this D1 variance because of the uniqueness presented.

Mr. Lambros asked about the prior approval of the Dunkin Donuts facility and stated that his impression during the previous hearing for that application was that they had no intent of developing the lot further. Planner Coppola stated that the Board granted a conditional use variance to allow the facility to be built on a smaller lot. The zone has dual requirements.

Planner Coppola stated that he feels there is merit because of the uniqueness of the use and does have a symbiotic relationship with what exists and this would not be the case if other permitted uses were put on the site and he explained. The Board will have to balance it out.

The question arose as to why the applicant had not purchased more property from the Rosansky family. The applicant advised at the last meeting that it was too expensive.

Attorney Pape refers to exhibit A-16. The golf course is 70% green. The 2 acres that were purchased from the Rosansky family were for the golf course parking. The golf

course itself comprises 18% of 6.16 acres. The entire Dunkin Donuts site is 10% and the entire miniature golf is 1.1 acres of impervious surface.

It was discussed that the miniature golf course encompasses approximately 1.8 acres. Mr. Pape clarified that the applicant did have approvals to construct a 6600 s.f. retail building and when he came in to build the Dunkin Donuts, he abandoned the prior approval to allow the Board to grant that project. It was discussed and Mr. Pape clarified that by the abandoning the prior approval to allow the Board to grant the conditional approval of the Dunkin Donuts, the owner did not abandon his right to come back to the Board with another project for the vacant area. Attorney Vella explained that by abandoning the project, an applicant would have to come back to the Board for an approval for on a new project.

Engineer Shafai asked that the traffic stats be addressed. There was a miscalculation that was brought to light at the last meeting. The calculations were to be corrected.

Attorney Vella swore in Justin Taylor, traffic engineer. He shared his credentials with the Board. He has been with Maser Engineering the past 8 years. He has testified on both sides of the Board. The board accepted Mr. Taylor as a traffic engineer.

Mr. Taylor explains Exhibit A-8 dated November 1, 2010. The Traffic report contained typographical error on pages 5 and 6 of the report. He explained the error was due to Excel spread sheet was inadvertently doubled the figures and they should read 28 entering during evening peak hours and on Saturday peak hours 36 entering and 36 existing during peak hours. He clarified the correction for the Board. No hard copy of the correction was sent to the Board office or the Engineer and none was available at this time. Mr. Taylor would have that sent to the Board.

Discussing the lighting in the golf play area, Planner Coppola does not feel that 3.4 foot candles are too much light. He advised that the prior application had the lighting at 9.86 foot candles so they have reduced that number.

Mr. Lambros asked about the time that the lights would be on. After discussing the matter, the lights would be on from 9:00 p.m. until 12:00 midnight. The play area lights are off at 12:00 midnight and the parking lot lights off at 12:30 a.m. to allow the employees to arrive at their cars safely.

Chairman Novellino opened the application to the public at 9:00 p.m.

Ryan Ramsey of Millstone Township was sworn in. He asked how many jobs this golf course would create. Jaydeen Drew, the owner is still under oath. Ms. Drew advised that they would probably have 2-3 fulltime employees and probably 6-8 part time

personnel. They would need staff to perform the duties of cleaning, landscaping and water maintenance too.

At 9:05 p.m., Chairman Novellino closed the public portion.

Mr. Coppola discussed the lighting. He requested that the Board might consider adding a condition that if the lighting is to be more than 3.4 foot candles, the revised site plan can be reviewed by either going back to the Board or having the staff professionals can review. Mr. Pape advised that the maximum in the play area would be 3.4 foot candles.

The professionals addressed suggested conditions of approval. The applicant agreed that the sidewalk would be extended although it is not on the plan. There would be no parking on KFC Drive and directional parking would be needed. This would be made a condition of approval. The sign face must conform to the Ordinance requirements. Applicant must indicate what is to be on the signs and advise if the signs are to be lit.

Mr. Pape agreed. He did not have sign detail with him and would submit that to the Board.

Planner Coppola offered that if the Board approves the application, the same night that the Resolution is to be memorialized, the applicant could present the details of the sign. The sign should only advertise the business or the use.

Mr. Pape provided a summation of the proposed project to the Board.

Chairman Novellino compared the project to the last one that was before the Board. He feels the traffic issues and safety have been addressed in this new proposal. The lighting has been turned down and moved away from the road and the buffering has addressed some of his concerns from the last application. He stated that the main issue of planning was key because the use variance and Ms. Coffin did a good job explaining why this is beneficial and uniquely suits the site in proximity to Great Adventure. Chairman Novellino feels they met his concern regarding any impact to the Master Plan and feels that the good discussion convinced him that in this particular scenario these particular uses can co exist without significant impact.

Mr. Lambros had concerns that the project is closer to residential areas. He voiced his concern about the late night use and lighting impact on the neighbors.

There was discussion concerning the buffering around the property. Mr. Pape advised the property is buffered by a minimum of 550 foot of forested land between the project and the closed resident. Planner Coppola advised that the land behind the property is HC-1. The mini golf course is seasonal and open from March until Halloween.

Mr. Bailey offered that there may be too much on this property. He feels the property is very built out already.

Mr. Pape offered that the project is 70% open space.

Mr. Barthelmes has been in the area a night and feels that it is dark there even with the lights on. He stated that where he resides, homes that are located 300 feet away are buffered by trees and he cannot see the light from those homes. He does not feel that the light affecting the residential neighbors is an issue in this application.

Should the Board vote in favor of granting the D-1 variance, Attorney Vella read the conditions of approval to include but not limited to: Removal of all raised mounting of lights, fencing installed around the golf course, lighting is to be turned off 12:00 midnight in the play area and 12:30 a.m. in the parking lot area, no service of food other than vending machines, a walkway be constructed through Dunkin Donuts and KFC, no parking signs installed on KFC Drive and add directional signs all subject to compliance with the technical comments of the Board Engineer (9/1/11 report), revise the traffic report, maximum lighting in the play area 3.4 foot candles, subject to the approval of the Board Attorney and Engineer, proposed sign applicant will provide a schematic to the zoning board for administrative approval prior to obtaining approval for the sign, etc.

Attorney Vella advised that the applicant is asking for use variance for a miniature golf course and subdivision approval and site plan approval. The Board would vote on the use variance first.

Mr. Barthelmes made a Motion to Approve the Use variance, Mr. Morelli offered a Second. Roll Call Vote: Barthelmes, Morelli and Novellino voted yes to approve. Lambros, Curcio, Bailey and Conoscenti vote no to the approval.

The Motion does not carry since five (5) positive votes would be required.

The next Motion made was to deny the use variance application. Mr. Curcio made a motion to deny the use variance application and Mr. Lambros offered a Second. Roll Call Vote: Curcio, Lambros, Curcio, Bailey and Conoscenti vote yes to deny the application. Barthelmes, Morelli and Novellino voted no to the denial.

The Use variance was denied by majority vote.

Next, the applicant asked the Board to vote on minor subdivision approval. Attorney Vella advised no improvements are involved. The subdivision would add two acres to the existing lot. It was discussed that the Board has jurisdiction since they granted the conditional use variance on the property previously.

Chairman Novellino asked if from a planning prospective is there any negative impact if the subdivision is granted. Board Planner Coppola advised there was not.

Mr. Curcio made the Motion to approve the subdivision and Mr. Barthelmes offered a Second. Roll Call Vote: Curcio, Barthelmes, Bailey, Lambros, Morelli, Conoscenti and Novellino voted yes to approve the minor subdivision.

NEW BUSINESS:

Annual Report: Everyone has had the opportunity to review the Annual Report prepared by Attorney Vella. Mr. Curcio made the Motion to Approve and Mr. Conoscenti offered a Second. Roll Call Vote: Curcio, Conoscenti, Lambros, Morelli, Barthelmes, Bailey and Novellino voted yes to the approval.

New Ordinance 12-02: A new ordinance has been introduced by the Governing Body. Attorney Vella explained the Ordinance. The Ordinance requires that any applicant that files an application certifies that what they are proposing does not violate State or Federal Law. Attorney Vella offered that it is a good idea and prudent to adopt. If a farmer does not have the right presently to grow marijuana under the Right to Farm Act and is licensed by State to grow marijuana and needs permit from the Town, Attorney Vella feels it is illegal for the Zoning Officer to grant any permit that violates Federal Law.

Seeing no further business, Chairman Novellino asked for a Motion to Adjourn. Mr. Curcio made the Motion and Mr. Conoscenti offered a Second and by unanimous vote, the meeting adjourned at 10:30 p.m.

Respectfully submitted,

Pamela D'Andrea