

**MILLSTONE TOWNSHIP  
BOARD OF ADJUSTMENT  
MEETING MINUTES  
MARCH 28, 2012**

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

Reading of Adequate Notice by Vice Chairman Barthelmes.

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

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

**Approval of Minutes:** February 22, 2012

The members having received and reviewed the draft minutes and recommend changes having been made, Mr. Barthelmes made a Motion to approve and Mr. Conoscenti offered a Second. Roll Call Vote: Curcio, Barthelmes, Lambros, Morelli, Bailey, Conoscenti and Novellino voted yes to approve the Minutes.

**RESOLUTIONS:**

**Z12-01 HAWK, DANIELLE** – Block 31, Lot 28. Located at 106 Agress Road and 108 Agress Road consisting of 2.3509 acres in the R-80 (Rural Residential) Zone. Two residences exist on the property. Applicant received approval to renovate one of the pre-existing, non-conforming homes on the property.

Mr. Lambros Made a Motion to Memorialize the Resolution and Mr. Barthelmes offered a Second. Roll Call Vote: Lambros, Barthelmes, Bailey, Conoscenti and Novellino voted yes to Memorialize the Resolution.

**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. On March 31, 2008, the applicant received Preliminary and Final Site Plan approval, Minor subdivision approval and use and bulk variance approval 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. A combined total of 12 residential units were approved but the applicant has downsized that to 10 residential units and, therefore, a Minor subdivision of the property was not needed. The applicant sought an extension of time in order to perfect the Plan. An extension of time was granted in June 2009. Applicant sought to downsize the project and sought administrative guidance. No noticing required.

Mr. Barthelmes Made a Motion to Memorialize the Resolution and Mr. Bailey offered a Second. Roll Call Vote: Barthelmes, Bailey, Lambros, Conoscenti and Novellino voted yes Memorialize the Resolution.

**NEW APPLICATION:**

**Z12-02 GESUALDO, RONALD** – Block 37.03, Lot 29.05 located at 119 Agress Road consisting of .99 acres in the R-80 (Rural Residential) zone. Applicant seeks variance relief from Section 11-24.3 of the Township Zoning Ordinance, disturbance of steep slopes. The applicant seeks to stabilize the area by installing a retaining wall, apply top soil, seed and plant trees. Deemed Complete: 3-8-12. Date of Action 6-30-12. Noticing required.

- A-1            Jurisdictional Packet
- A-2            Web Notice
- A-3            Application dated
- A-4            Final Plat of Lot Line Adjustment between Lot 29.05 and Lot 26.08, Block 37 dated 4/96 prepared by Timothy D. Hydrusko, PLS
- A-5            Sketch of proposed grading, planting, seeding and construction of retaining wall (3 pages)
- A-6            12 Photos of property
- BOA-1        Tree Clearing Application denial

Attorney Vella announced that he has reviewed the noticing packet and finds same in order to accept jurisdiction over the application.

Attorney Vella swore in the applicant, Ronald Gesualdo. Mr. Gesualdo stated that he grew up in the Town and works here as a Fire Fighter. He and his fiancé had purchased their home in 2010. He advised that he has renovated the interior. Last year, the various storms caused erosion and drainage issues to the property. Mr. Gesualdo explained that trees fell on the property and in particular, on his deck and a portion of his deck was destroyed. Mr. Gesualdo explained to the Board that he was seeking to build a retaining wall, plant trees, seed, etc. He advised that there is a very small area that has a steep slope. He estimates that they area is occupies a space of approximately 20 ft. by 10 ft. Engineer Shafai reported to the Board that it is a very small area located behind the deck. The slope area is approximately 16 % where the ordinance allows disturbance up to 15% .

Mr. Lambros asked about the Exhibit reflecting a tree removal schedule. He asked if this is an accurate count. The applicant advised that that is an accurate count. On

page two of the exhibit, it reflects where approximately trees are to be planted. Chairman Novellino asked about the plan that reflects a “proposed new property line”. The applicant stated that the lot line adjustment had been made.

Mr. Gesualdo’s brother is a landscaper and he would be constructing the block retaining wall but the applicant does not have the technical details as to the height of the wall.

Board Planner, Richard Coppola, asked the Board to allow the applicant some leeway and make the wall less than 4 feet. This will be in the conditions of approval.

Drainage will be behind the retaining wall and will be constructed property. This was a major concern to the applicant because his basement had flooded during the storms.

Applicant discussed the tree type and sizes that will be coming down. Board Engineer Matt Shafai advised the trees are on the steep slope and a danger to the home and should be taken down.

Chairman Novellino opened the application to the public at 7:52 p.m. Seeing no public comment concerning the application, he closed the public portion at 7:52 p.m.

Chairman Novellino stated that he felt the applicant’s request seemed reasonable with minimal impact on zoning and for safety reasons would be a benefit to the community. He offered that the plan would enhance the property and felt positive about approving the application. Mr. Conoscenti agreed with the Chairman’s comments and his concern for safety as well.

Mr. Coppola offered that the deviation from the Ordinance requirement of 15% is minimal.

Attorney Vella read the conditions of approval to include that the application is subject to the approval of the building department; applicant will supplement the property with tree plantings to the rear of the property, etc.

Mr. Conoscenti made the Motion to approve and Mr. Barthelmes offered a Second: Roll Call Vote: Conoscenti, Barthelmes, [Lambros](#), Bailey, Frost, Mostyn and Novellino voted yes to the approval.

**Z11-03 CKV Realty, LLC** – Block 57, Lot 16. Located at 33 Burnt Tavern Road consisting of 53.38973 acres in the BP (Business Park) Zone. Applicant seeks approval to operate a nursery and retail garden center including the construction of nine (9) structures. Applicant seeks Use Variance, Preliminary and Final Site Plan Approval, along with variance relief concerning side yard setbacks, buffering to adjacent residence, off-street parking, parking lot spacing and signage. Deemed Complete 1-19-12. Date of Action 5-18-12. Noticing Required.

Attorney Vella advised that he had reviewed the noticing packet and found same to be in order to accept jurisdiction of the application and then he read the following evidence into the record:

- A-1 Jurisdictional Packet
- A-2 Web Notice
- A-3 Application dated 7/6/2011
- A-4 Preliminary and Final Major Site Plan and Use Variance Plan prepared by JKR Engineering and Planning Services, LLC dated 2/1/10; last rev. 3/15/12
- A-5 Stormwater Management Report and Drainage Calculations prepared by Richard DiFolco, P.E. of JKR Engineering dated 2/12/10
- A-6 Statement of Environmental Impact & Assessment prepared by Donald DiMarzio, M.S, P.P. dated 6/2007; last Rev 12/09
- A-7 Barred Owl Survey Final Report prepared by Amy Jones of Water's Edge Environmental, LLC dated 3/2012
- A-8 Traffic Impact Analysis prepared by JohnRea, P.E. of McDonough & Rea Associates, Inc. dated 3/7/12
- A-9 Letter from DiMarzio dated 3/27/12
- A-10 Mounted color rendering of site plan
- A-11 Mounted colored site plan
- BOA-1 Report of Board Engineer dated 1/12/12
- BOA-2 Report of Township Planner dated 3/8/12
- BOA-3 Shade Tree Commission Report dated 2/27/12
- BOA-4 EC report Dated 3/7/12
- BOA-5 EC Report Dated 3/22/12
- BOA-6 Board of Fire Commissioners Report dated 1/30/12

Applicant's attorney, Edward Rosen, advised that Mr. DiMarzio has written a letter in response to the report received by the Environmental Commission marked as Exhibit A-9 dated 3-27-12.

Mr. Rosen explained to the Board that the applicant appeared before the Board a few years back and the application was approved. He explained why they did not proceed

with the project and why they are back to the Board. Mr. Rosen advised that a wetland delineation was not done in the prior application. It took some time to complete the delineation and prepare the present plan before the Board this evening.

Attorney Vella swore in Richard DiFolco, P.E. who presented his credentials advising that graduated from Rutgers in 1973 and was licensed that same year. He works for JKR Engineering and has appeared in front of this Board and has testified before many other Boards. He is testifying as an engineer this evening.

Referring to Exhibit A-10, Mr. DiFolco describes the location of the property. The site consists of 53 acres and only the front 14 acres are proposed to be developed. He stated that the  $\frac{3}{4}$  of the property is to remain in its nature state.

Mr. Di Folco explained that the lot surrounds a site that the Township owns for affordable housing. The lot fronts on Burnt Tavern Road. The applicant proposes to construct seven buildings. He explained that the main building located in the front of the property is to be used for retail sales with a parking area for customers. The storage and maintenance buildings, lawn mower and contractor sales are located to the rear of the main building.

Mr. DiFolco went over the site plan, the proposed building locations and the size of the buildings.

The outdoor area contains hardscape material. Sixteen (16) storage bins are located along the easterly property line containing gravel, stone and sand. There is a contractor entrance where hardscape and plant material can be purchased. There is a scale for truck weighting.

Mr. DiFolco explained how the contractors traverse the site. One way in and a two way traffic driveway located at the west side. The lawnmower service area is for sale and service of mowers for contractors. The equipment is not really geared toward sales to homeowners.

Mr. DiFolco explained that stormwater management of the area and he explained that the site drains to the southwest. They have proposed a berm that surrounds the entire developed area. He explains how the water funnels through site and discharges into a wetland area.

Landscape buffer plans are proposed and revised most recently. A solid evergreen buffer area surrounds the Township's affordable housing area.

Mr. DiFolco explained the septic areas. Only buildings 1a, b and the lawnmower facility will have septic and water service.

The Bridle Path is to be a 15 foot wide bridle path easement and is anticipated to hug the rear portion of the property.

Engineer DiFolco addressed both Board Planner Rich Coppola's and Board Engineer Matt Shafai's reports concerning signage. Mr. DiFolco stated that the main sign is the sign to the business "Millstone Farm and Garden Center". The sign size was discussed as 12 ft. by 4 ft. and 10 ft. in height, made of masonry and stone with a flower planting area as the base. The contractor entrance sign would be located 400 feet away from the main building entrance and would have signage to allow contractors to locate that entrance.

The parking lot would have 20 ft. high light poles. Security lighting would be on buildings 1a, 2-7 with a limited range of light. The applicant proposed three (3) 40 foot tall security lights. The applicant advised that the light impact on the residential Township affordable housing facility would be minimal.. The Board expressed concerns with the height of the lights and potential glow at night being visible.

The applicants have addressed Mr. Shafai's concerns as set forth in his 1/18/12 letter including but not limited to:

- Diesel fuel tanks and safety precautions concerning leakage
- Handicapped parking penalty signage was revised to reflect fine is \$250.00
- Details of proposed storage bins have been prepared.
- The berm width has been increased.

Mr. Shafai and the applicant's engineer would take a look at the dam safety permit from the State of New Jersey.

Mr. Shafai advised that he has been through the revised plans and they have addressed his January 18, 2012 letter.

The Board of Fire Commissioners' specifications (Exhibit BOA-6): they had required a dry hydrant at the pond and connection and the applicant advises that they can meet the requirements. The applicant will stripe the fire lanes per Mr. Shafai's report.

Landscaping was discussed. The applicant hired a landscape architect who reviewed all of the comments from Mr. Shafai and The Shade Tree Commission. The applicant will add a buffer between the site and pond.

The applicant's architect will discuss the fire alarm system.

Mr. DiFolco discussed that the lights will be on dusk to dawn. The lights are 170 feet apart. The applicant will use two lights, not three. The parking lot lights will be turned off one hour after closing to allow for enough time for clean-up and employees departure.

In Mr. Shafai's report concerning signage, he advised that two variances are required due to the request for two signs; the main business sign and the contractor entrance sign. The applicant explained that the contractors' entrance sign height must accommodate the height of the trucks entering so that the sign can be seen.

Mr. Di Folco explained the location, intensity and coverage of the lights. The light would be aiming downward. You may see the fixtures at the end of the property, but not the light. Mr. Coppola's concern is that there will be intense lighting below the poles. He stated that if the poles were lowered as he recommended, by lessening the height, you can lessen the wattage. Lower the poles and add some more lighting in suggested area. He stated that you do not need 40 foot poles anywhere. Accomplish the sky glow, lessen the hot spots for the lights and lessen the lights that need to be on all night.

The Board asked if the applicant considered incorporating motion detectors. The best scenario for reducing light emissions from the site was discussed.

The Board took a recess at 9:00 p.m. returning at 9:13 p.m.

Mr. Coppola had noted in his memorandum, the variances that must be addressed.

The applicant continued addressing Mr. Shafai's engineering report.

The area of land containing the proposed contractors' driveway is only 50 feet wide. There is a buffering of evergreens to the Township property.

Applicant advised that they will work with the Board and its professionals concerning the lighting.

Chairman Novellino had a concern regarding the buffer to the township's affordable housing residences.

There was discussion regarding moving the main building back from the road to eliminate the need for a variance.

Mr. Coppola discussed the size of the second sign. He suggested lowering the sign from nine (9) feet to six (6) feet and suggested that it will be seen by contractors. It was discussed that under the large sign, a changeable sign for the seasons. Both Messrs. Coppola and Shafai find the main sign acceptable. Mr. Coppola stated that the applicant's plans do not reflect the request for any signage on the building. He advised that them that if it is not proposed presently for the Board to consider, and the applicant seeks to do it after the fact, they must come back to the Board.

The applicant advised that the sign material is to be three dimensional composite material as set forth on the plans.

Mr. Shafai reported that if the applicant is anticipating importing soil to the site, they would require and soil removal permit. He explained the process. Mr. Coppola went over the variances requested. No products or good to be stored in the front yard area of the lot. The setback is 75 feet for the Business Park zone. One-half of the outdoor display area is within the 75 feet and at times, only 10 feet.

The 16 bulk storage bins are located opposite the mulch piles and are located 10 feet or so within the front yard setback. If the bins are accessory uses, they can only be located in the rear yard. Variances can be granted but he stated that those are the variances. The lawnmower building is an accessory building and the ordinance states that it should be located in the rear yard. Mr. Coppola recited from the Ordinance.

Attorney Vella discussed the best location for the accessory use as it relates to the residence that exists. It is still a use variance. There was discussion regarding relocation of the storage bins to alleviate the concern so that they are not 75 feet from property line and not near the residence. There were suggestions made to move the lawnmower shop to keep the noise away from the residence. The Board felt that ample space is available to move the business back.

Mr. Rosen stated that one that of the principals had passed away. They originally thought that 5 acres of usable property existed. It is realized that now there is 15 acres of usable property available and that is why this present plan was developed. Mr. Rosen gave a brief overview of the gravel area.

Engineer DiFolco advised that the residential neighbor is in a BP zone and that this property and one of the permitted potential uses would be a fabrication use. He touched on the impact to the residential neighbor that a permitted fabrication business might have.

Attorney Vella swore in John Rea, traffic engineering expert. Mr. Rea has testified before the Board in the past and is accepted as an expert.

Mr. Rea spoke about the external traffic. He felt that one intersection was problematic. That is at the end of Burnt Tavern Road. Anderson Road located in Jackson Township is located across the way. It is an unsignaled intersection of Monmouth Road. Mr. Rea advised that the road has a level of service consisting of long delays. He advised that the County is aware of the problems and it is well documented in a corridor study. He stated that the County is struggling with what to do to fix the intersection.

Mr. Rea refers to aerial photograph A-10 that reflects the 59-acres of property and only 15 acres to Burnt Tavern Road are developable. He explained his process of research

for analyzing the traffic for the site including counting traffic. Mr. Rea explained that the during the average weekday there are 2500 cars per day and the count is lower on the weekend with 1960 cars on Saturday and 1100 cars on Sunday. He felt this was good news because the business would be busiest on the weekend.

Mr. Rea stated that Burnt Tavern Road and Route 537 is a problematic intersection. There are problems with making lefts. During critical peak hours, left turns and crossing movements are avoided by local people who use Trenton Lakewood Road at the signal to make the left turn. Mr. Rea suggested that the applicant could install signage on the property to let people know the suggested route. Mr. Rea stated that truck deliveries would bring products to the site. Mr. Rea stated that retail sales are a major traffic generator. PM peak commuter generated traffic: 25 in 24 out with a total of 49 movements. Saturday: peak hours 86 in and 87 out with a total of 173 driveway movements. Mr. Rea advised that the driveway operates at a level B. He offered that the project has efficient access entering and exiting the facility.

Mr. Rea compared the proposed use to permitted uses in the BP Zone using total acreage. He stated that at the peak hour traffic, 15 acres at 300 trips in the a.m. and 265 trips during the afternoon peak hour. If developed for what is permitted, traffic would be higher than what is being proposed.

Mr. Frost discussed his concerns about large tractor trailers turning onto the site.

Mr. Shafai asked about the parking lot with 59 parking spaces. Mr. Rea stated that the average customer is in and out in 20-30 minutes.

Attorney Vella asked if Mr. Rea if his calculations included any portion of the large gray gravel area in the wholesale area. The gravel area is a storage area only customers are not allowed in that area.

Chairman Novellino opened the application to the public at 10:32 p.m.

Pat Butch 40 Prodelin Way. Ms. Butch asked what portion of the property is going to be planted for crops. The applicant will use 5 acres of farm field outside the limit of disturbance. Ms. Butch asked how much of the area is wetlands. That area would be 38 acres in wetlands including the buffer. No other use but farming is allowed there. This use falls under commercial farming. The Right to Farm Act advises that the applicant could be eligible for protection. This potential protection was discussed.

Applicant reiterated that the Bridle Path would be placed in an easement. The need to separate the restricted area of the property from the Public in the form of a split rail fence or simple fencing was discussed.

Lynn Booth, 30 Burnt Tavern Road. She thanked the Board. She offered that it would be a wonderful use of the property if done properly. She feels that Mr. Rea's traffic report does not take into account the traffic generated when Great Adventure opens up. She is concerned as to the location of the contractors' entrance. Ms. Booth has a further concern about flooding on the road and she explained.

Seeing no other comment from the public, Chairman Novellino closed the public portion at 10:45 p.m.

Attorney Vella announced that this application would be carried to the April 25, 2012 meeting beginning at 7:30 p.m. and no further noticing of this application would be required.

Seeing no old or new business, Chairman Novellino asked for a Motion to adjourn. Mr. Bailey made the Motion to adjourn, and Mr. Conoscenti offered a Second and by unanimous vote the meeting adjourned at 10:50 p.m.

Respectfully Submitted,

Pamela D'Andrea