

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

Meeting called to Order by Chairman Novellino at 7:35 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, Curcio, Morelli, Novellino, Bailey, Conoscenti, Frost, Barthelmes and Mostyn. Absent: Conoscenti.

Approval of Minutes: March 28, 2012

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

RESOLUTION:

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 received variance relief from Section 11-24.3 of the Township Zoning Ordinance, disturbance of steep slopes. Applicant to stabilize the area by installing a retaining wall, apply top soil, seed and plant trees.

Board members have read the Resolution. Mr. Lambros made a Motion to memorialize the Resolution and Mr. Barthelmes offered a Second. Roll Call Vote: Lambros, Barthelmes, Novellino, Bailey, Frost and Mostyn voted yes to memorialize the Resolution.

NEW APPLICATION:

Z-12-02 –RUSH, GARY – Block 27, Lot 9.01. Property located at 19 Pinehill Road consisting of 5.17 acres in the R-80 (Rural Residential) Zone. Applicant seeks relief from Section 4.9-3 of the Land Use and Development Ordinance where 900 sq. ft. if the maximum size of an accessory structure, applicant seeks to construct a 1,268 foot (approximate) to the existing 1,512 foot (approximately) pole barn. Deemed Complete 3-14-12. Date of Action: 7/12/12. Noticing required.

Attorney Vella read the Following Exhibits into Evidence:

- A-1 Jurisdictional Packet
- A-2 Web Notice
- A-3 Application dated 2/27/12
- A-4 Aerial photo of property
- A-5 Survey of Property dated 12/17/96 prepared by Seneca Survey Co., Inc
- A-6 Addition to Storage Bldg Architectural prepared by Kevin C. Roy dated
12/12/12

Mr. Rush provided background information He purchased the home in March 2011 and began interior renovations. The applicant explained that he uses the horse barn for storage. Mr. Rush explained that he built a lean to on the side of the barn but the tractor would not fit so he tore the back section down and made it taller to accommodate the tractor. One thing lead to another and the project became what it is presently. He did not apply for any zoning or construction permits.

The Township Zoning officer became involved because someone called him. The applicant had an architect draw up plans after the fact. He is before the Board for bulk variance relief for the structure. Mr. Rush advised that the pre-existing barn was 1,512 s.f. He could not find any evidence that the pre-existing barn applied or received permits or variance relief. Applicant received a certificate of occupancy prior to building onto the barn.

Board members had visited the property.

The applicant advised that he is repairing the pool and had just completed the renovation of the fish pond. He has dump trucks on the property. He has a plow on one truck. They are not business trucks. He advised that the property was in disrepair and he is using the trucks to clean up the property.

The applicant uses the barn for storage of his quads and lawnmowers. His horses are housed in the original portion of the barn.

The Applicant provided photographs of the property that were marked into evidence including three dump trucks, one is registered; jet skies are located under the tarp. The Board asked what the timeline was on the cleanup. Applicant advised that he just began cleaning brush a few weeks ago. Two paddocks were taken down and grass is growing where they were previously located.

Marked into evidence: Exhibit A-7 inside of the prior barn used to house the horses.

Exhibit A-8 Blue old existing barn now painted tan

Exhibit A-9 Photo of the inside of the structure through construction

Exhibit A-10 Photo of trees located on the side of the property

The Board asked what the purpose of the tall addition was for. The applicant advised the tractor would not fit underneath the lean to and he had added the taller portion. He has his 27 foot boat stored inside of the facility.

The entire building is to be painted tan and the house is a darker shade of tan.

Applicant stopped all work.

Board Planner Richard Coppola asked if everything that is outside of the barn will ultimately be located inside the barn. He applicant advised that he will put his quads and jet skis inside the building.

A condition of approval would be that he applies for all of the appropriate permits.

Mr. Coppola stated the importance of how the structure is going to appear. He stated that it was important that the equipment would be housed and stored in the building. This should be placed in the Resolution.

No commercial activity to take place on the property. No running water in the building. There is Cable for the TV located in the in game room portion of the building. The Board asked about buffering to his neighbors. The applicant stated that he is working with the neighbor on west side of the property.

At 8:15 p.m., Chairman Novellino opened the application to the public. Seeing no public portion closed the at 8:15 p.m.

Mr. Lambros felt it important that the applicant be proactive and plant buffering as a condition of approval and apply for the appropriate permits. Too much outside would detract from the building. The applicant should continue to clean up the property.

Attorney Vella read the conditions of approval including but not limited to: paint the blue building the same color of the new addition in, applicant must apply for all permits needed, applicant shall provide additional landscaping to the property to the west, the landscape buffer shall be for the purpose of buffering from the neighbor, no running water to the interior of the building, etc.

The applicant needs a plan to show where plants should be planted. Fast growing trees such as evergreen trees should be considered.

Mr. Curcio made the Motion to approve as conditioned and Mr. Bailey offered a Second: Roll Call Vote: Curcio, Bailey, Lambros, Morelli, Barthelmes, Novellino and Frost voted yes to approve the application as conditioned.

CARRIED APPLICATION:

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 7 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. Heard in part on 3025-12; Carried to 4-28-12 without further noticing required.

Attorney Vella read the following new evidence into the record:

A-12 Site Plan prepared by JKR Engineering dated 2/1/10; Last Rev. 4/10/12

A-13 Architectural Plans prepared by M.B. Hearn Architecture, LLC dated 1/22/10; Last Revised 4/14/12

BOA-7 Report of Board Engineer dated 4/19/12

Entered into Evidence Exhibit A-14 Color Rendering of revisited Site Plan.

Engineer Richard DiFoloco was previously sworn in and is still under oath. He has reviewed his revised plan for the Board. He explained that the truck access has been now buffered and the need for the second sign has been eliminated as a result. The parking lot has been pushed back and away from the road. Now everything is parallel to the road. He stated that in the prior plan everything was askew. He added a fence along the bridle path and there are now 70 additional parking spaces.

The relocation of buildings 3 and 4 cut down in size to 5,000 s.f. from 7,000 s.f. The Main building was reduced to 12,000 from 15,000 s.f. He explained that the hardscape bin storage area was moved and made into a u-shape. The lawnmower building has been moved and he explained why. Mr. DiFoloco advised that the project was planned as far away from the neighbor resident as possible. The pavement is black top and stops at the scale area where there is gray gravel. They rotated the dumpster and placed masonry around it (3 sides buffered). A solid fence for the neighbor is to be installed. Plantings of evergreen trees, 10-12 feet tall and some 14 feet, will be planted in double rows to buffer the neighbor.

The applicant addressed the lighting aspect of the project. Three lights that meet the code at 20 feet tall will be installed. Security lights consist of one motion detector located on the west side of the contractor's office facing away and a motion detector will be installed on the side of the building.

The applicant asked for relief from additional buffering on the stormwater pond explaining that it is not where the public can see it and it is located on their farm that abuts the back. Mr. DiFoloco explained the area. The back portion of the property shall be deed restricted so that the property is to be for agricultural use only.

The applicant is to testify as to the use of the vehicle maintenance area and why it has to be so large. Mr. DiFoloco discussed briefly that the repairing of tractor trailer vehicles.

Board Engineer Matt Shafai advised that he spoke to Engineer DiFoloco and he will take care of all of the issues in Mr. Shafai's report. The Board does not require a fence around the pond but Engineer Shafai was concerned about safety.

Mr. DiFoloco stated that he can comply with Mr. Shafai's report except for items 4D and 5A and he explained why. There is no public availability to the pond. The Board discussed the stormwater management area. The Board agreed with that issue and it is now closed.

Item 3C Mr. DiFoloco lowered the grades on the new plan so no soil removal permits are not needed for the construction of the project. Chairman Novellino opened the testimony of the engineer to the public for comment at 8:50 p.m. Seeing none, he closed that portion at the same time.

Traffic Engineer, John Rae, was previously sworn in and is still under oath. He stated that the size of some of the buildings was reduced so there will be a little less traffic generated. The impact on Burnt Tavern Road and on the adjacent roads remain valid. The new plan has 70 parking spaces for more parking and less retail sales area.

Mr. Frost asked for installation of signage for internal traffic traversing the parking lot. Mr. Rae advised that they would work with our professionals on that.

Mr. Coppola asked Mr. Rae to explain how large trucks would maneuver. Mr. Rae explained using Exhibit A-14.

The contribution to the County for Road improvement on Burnt Tavern Road intersection was discussed and the applicant agreed to make the requested contribution.

Chairman Novellino opened the testimony of the traffic engineer to the Public at 9:03 p.m. Seeing none, he closed that portion to the public at 9:04 p.m.

Mary Hern, architect, has not previously testified before the Board and she presented her credentials. She had received her BA from Virginia Tech in 1986. She has been a practicing Architect since 1992 and is licensed to practice in New Jersey, Pennsylvania and Florida. She is accepted as an expert witness.

Ms. Hern advised that there are 7 buildings. She explained the location and purpose of each building. All buildings are one-story metal building except for Building A. Beige metal wall with barn red metal roofs. The buildings do not meet the Township architectural standards but they fit in with the proposed use of the property.

Mr. Coppola's report addresses in his report what they have done. He explained the ordinance that he wrote for the township does not address this kind of structure and this kind of use. There is not architectural gear for this since this is not a permitted use in the township. Mr. Rosen asked the Board to take a look at the buildings fit the proposed use. This is a quasi-farm atmosphere. He feels this is an appropriate look for the intended use.

The roof is low pitch 4 on 12 where the Ordinance requires 5 on 12. The applicant wants the buildings to look farm-like not like standard commercial buildings. Stone on the base of the front of 1A. to the sills of the windows on the main building. The outside of this building would have seasonal displays.

Entered into evidence is Exhibit A-15 Mounted Colored rendering of architectural elevations.

The fire sprinklers were discussed. Ms. Hern advised that a code search was done and it was one of the driving factors of the size of the buildings they are under the threshold were the fire sprinklers have to be installed and the applicant would meet the code in their layout.

Signage was discussed. Each building will just have numbers on them. Two buildings may be phased. The Board professionals had no problem with that.

Mr. Coppola feels that the idea of adding more windows is not necessary or advisable. He explained that he feels it may be a cleaner look to do what has been proposed by Ms. Hern. Mr. Coppola feels what is being proposed is appropriate for the proposed use. He stated that this is a unique situation. The ordinance was for the buildings in the HC and BP zone. Mr. Coppola feels the ordinance is for the higher end buildings in the HC areas. This is not going to be that kind of building. He stated that the applicants

have tried to make the buildings neat and attractive and appropriate for a farm and garden center.

The Board professionals will work with the applicant regarding protection from vehicles travelling toward the building.

Chairman Novellino opened Ms. Hern's testimony to the public at 9:35 p.m. Seeing no public comment same was closed at 9:35 p.m.

Attorney Vella swore in Applicant Timothy McKay was sworn in. Mr. McKay testified as to the operations concerning wholesale and retail sales. The facility represents produce, meats, cheeses, upscale produce and deli items. There is no baking on premises. They import in baked goods, nuts, etc. The outdoor display area is an outdoor showroom. All of the materials from the hardscape area are displayed to that the public can see how it is intended to be used on their homes. Mr. McKay would be in charge of the operations of the green houses for plants, flowers, trees and large outdoor plant area. Hours of operation discussed.

There is no eating area in the building. No cooking or baking will take place on the premises.

Attorney Vella swore in Joseph Ciambone. He is to be involved with the hardscape sales. He explained that in the vehicle maintenance on the property will be done indoors and to store the equipment such various forklifts, bucket loaders and the like. They are housed in the vehicle maintenance building. Building concrete, portland mortar, sand for pavers must be kept indoors and away from the elements. Mr. Ciambone explained how everything is stored to allow the forklifts to traverse the buildings for easy access.

Building 5 contains the supplies such as wheel barrows, tools spreaders, etc. Hardscape is stored in the large gravel area and stored in bins outdoors.

He explained how the trucks traverse the site. Trucks are weighed.

There is a gate that opens and closes and blocks off the back portion of the property.

No fulltime mechanic is on the premises. The mechanics bring the oil in and out (Mobile Mechanic). The applicant provides the facility for the mechanic to work. Diesel fuel storage is located behind the locked gate. This cannot be stored inside due to fire hazard.

Attorney Vella swore in Vincent Tesauo. Mr. Tesauo is a principal in the business. Mr. Tesauo was available to answer any questions that the Board or public may have.

Attorney Vella swore in James Higgins professional planner. He has testified before the Board in the past and is accepted as an expert witness.

Mr. Higgins offered his opinion as to the positive criteria of this application. He briefly went over some of the types of uses in the BP Zone. He explained that a special reason for the Board to consider in granting this variance is that the use is unique and supplies landscaping materials and produce and hardscape to homeowner or contractors. Items could be smaller scale or larger scale. They combine both retail and light industrial on the same site. This use is not permitted in any place in the Township. He feels this is the only zone that could permit this use. He stated that the applicant has a substantial amount of farmed wetlands which will remain so. He addressed the interrelationship of the farming and the retail sale. Mr. Higgins feel that this use is particularly suited for the site and best zone for this type of use. The bridle path promotes recreation on the site as well.

The use itself is less intensive then many of the permitted uses that are allowed in the zone and on this site and he explained some of the permitted uses. No bulk variances are needed for this application.

Mr. Coppola explained that this is a very unique part of town, Peter Built is to the south, The Elks is across the street, Shelly's School for Dogs is to the north and residents all intermixed in between them. He feels that that what the applicant's proposal has done is tried to blend the use in.

The Board discussed the opening time for 7:00 a.m. for contractors and 8:00 a.m. for public.

The concern of the road was discussed. This use less intense on the road then the permitted uses. Mr. Caimbrone said hardscape is brought in a load perhaps two per day.

Permitted uses include manufacturing plants which would have far more impact on traffic.

Chairman Novellino opened the application to the public at 10:30 p.m.

Attorney Vella swore in Ms. Lynne Booth of 30 Burnt Tavern Road. She felt the removal of the contractors' entrance was beneficial. She is concerned about the trucks turning in her driveway. She discussed signage on the property to direct truck traffic to Route 537 so that lefts are not made on Burnt Tavern Road helpful. Overall she was supportive of the application.

Seeing no other comments from public, the public portion was closed at 10:30 p.m.

Board discussed the application.

Mr. Novellino offered that the applicant worked with the Board on their suggestions concerning this project. He feels that they have come up with a revised plan that he feels comfortable approving. He agrees with the planner that there are special reasons to permit this unique use.

Mr. Lambros agreed and appreciates everything the applicant did with the lighting and the relief to the neighbors and the continuing of the farming and the granting of the bridle trail. He feels if they could work with the local farmers that would help them sell their products. He feels it is a good commercial, retail and farming plan and would allow Millstone residents the opportunity to spend their money in Millstone Township.

Should the Board approve the application, Attorney Vella read the Conditions of approval including but not limited to: comply with fire department's comments, except auto sprinkler systems issues decided by the building department, materials on the building not to be made of metal or plastic, alternate signs for traffic to be worked out with the Board Engineer, note on plan for lights go out one hour after shut down except for a motion detector, deed restrict the property for agricultural use which would be the same language in No. 7 of the Resolution for the previously approved project, detail to be provided of the trash enclosure to the Board professionals, additional signage for truck or oncoming traffic for the Board engineer to review, The same condition for the contribution to the Monmouth County Planning Board that the Board required for Shelly's School for Dog's Resolution, work with the Board Engineer for protection of the applicant from parked cars; all conditions of the Board Engineer's last revised report shall be complied with except for 4D, and waive requirement 5A for additional landscape around buffer, sign detail and trash enclosure detail to be submitted, note to be placed on the plan as to the hours of operations for hardscape 7a.m.-6 p.m. Monday-Saturday, retail hours of operation 8:00 a.m.-6:00 p.m., Monday-Friday, 8:00 a.m. to 5:00 p.m. Saturday and Sunday.

Mr. Curcio made a Motion to approve as conditioned and Mr. Barthelmes offered a Second. Roll Call Vote: Curcio, Barthelmes, Lambros, Bailey, Morelli, Frost and Novellino votes yes to the application.

The applicant thanked the Board.

OLD BUSINESS: Allen House

Engineer Shafai provided an update and advised the Board that the barn will now stay where it is presently. The Building is minimally closer to the road but no other changes.

At 10:40 p.m. Attorney Vella advised the public that the Board would enter into executive session to discuss pending litigation matters and by Motion of Chairman Novellino and a Second offered by Mr. Curcio and by unanimous vote, the Board left the regular meeting and entered into an executive session.

At 10:50 p.m., the Board entered into the regular meeting and seeing no further business, Chairman Novellino made a Motion to Adjourn, Mr. Curcio offered a Second and by unanimous vote, the meeting adjourned at 10:50 p.m.

Respectfully submitted,

Pamela D'Andrea