

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
APRIL 26, 2017**

Meeting called to Order by Chairman Novellino at 7:31 p.m.

Reading of Adequate Notice by Mr. Morelli.

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

Roll Call: Present - Barthelmes, Conoscenti, Mostyn, Morelli, Lambros, Frost,
Ferro (arrived at 7:49) and Novellino
Absent - Ferrara

APPROVAL OF MEETING MINUTES: March 22, 2017

The Board having reviewed the Meeting Minutes, Chairman Novellino asked for a Motion and a Second. Mr. Mostyn made a Motion to approve the Minutes and Mr. Frost offered a Second. Roll Call Vote: Mostyn, Frost, Lambros, Morelli, Conoscenti, Ferro, and Novellino voted yes to approve.

APPROVAL OF EXECUTIVE SESSION MEETING MINUTES: February 22, 2017

The Board having reviewed the Meeting Minutes, Chairman Novellino asked for a Motion and a Second. Mr. Morelli made a Motion to approve the Executive Minutes and Mr. Barthelmes offered a Second. Roll Call Vote: Morelli, Barthelmes, Mostyn, Frost, Lambros and Novellino voted yes to approve.

WAIVER HEARING:

Z17-05 MERKEL, DANIEL - Block 59, Lots 1 & 2. Located at 4 and 8 Burnt Tavern Road consisting of 131,700 s.f. in the BP Zoning District. Applicant Seeks a Checklist Completeness Submission Waiver for the Delineation of the Wetlands on the property. Ultimately, applicant will seek Use Variance Approval to merge lots 1 and 2 to construct an attached 2-story addition consisting of a garage with game room on the second floor. No Noticing Required for the Waiver Hearing. Not Deemed Complete.

Attorney Jeffrey Chang of Heilbrunn Pape representing the applicant.

Mr. Peter Strong of Crest Engineering provided his Professional Engineering credentials and is accepted as an expert witness.

Mr. Strong advised that he has provided an EIS that satisfies paragraph one of Board Engineer Shafai's report. He stated that there are three (3) checklist submission items that they were seeking waivers from providing. The applicant has submitted those items

to the Board Engineer. The Board Engineer Shafai advised the Board that those submissions are satisfactory. The applicant was seeking a waiver hearing but ultimately provided the checklist information.

Board Attorney Collins explained that the applicant is preparing the plan with something that they feel is correct. The NJDEP will provide a Letter of Interpretation but the applicant's Engineer feels the confident that his calculations are correct. Board Attorney Collins explains that whatever the Board approves is subject to the LOI. A declaration of completeness is with the understanding that this does not mean that the application is approved, it sets the time period on which we have to begin the application.

Commented [M1]: Pam, should we add the voting information on the waiver request ?

NEW APPLICATION:

Z17-02 DENGLER, MARK - Block 48, Lot 5 Located at 6 Clayton Drive consisting of 1.87 acres in the R-80 Zoning District. Applicant's property is a corner lot with a thru street to the rear of the property. Applicant seeks variance relief to install a six (6) foot fence along the Reynolds Drive portion of the property. Deemed Complete 3-6-17. Date of Action 7-10-17. Noticing is required.

Board Attorney Collins advised that he has reviewed the noticing packet and finds same to be in order to accept jurisdiction over this application.

Board Attorney Collins read the following Exhibits into Evidence:

- A-1 Jurisdictional packet
- A-2 Application dated 3-7-17
- A-3 Web Notice
- A-4 Aerial
- A-5 Survey/Fence Installation Area Plan
- A-6 Fence Material
- A-7 Six (6) Photos taken by applicant of property tree line buffer
- BOA-1 Engineer's Report

Attorney Collins swore in Mark Dengler, 6 Clayton Drive.

Mr. Dengler lives on a corner lot and thru lot and advised that he is applying for two (2) variances for installing a 6-foot fence in his side yard due to deter the deer that traverse through his property. Mr. Dengler explained the topography of the property and his deer

issue. He presently has an established tree line outside where the fence would be installed. He will also install more plantings inside the fence to add extra buffering and hide the fence from their view as well.

Mr. Dengler stated that he wishes to install the fence 35 feet from the road and have full size trees. He explained that the black fence is less visible. He advised the Board that he has tried the green color and stated that the black hides better.

Board Planner Heyer stated that the chain link is not allowed in a front yard. The height cannot be 6 feet in a front yard. The fence must be 50% open as well. Mr. Dengler stated that in the future, they want to install an in-ground pool and the chain link is pool code compliant as long as it is at least four feet in height.

Board Planner Heyer stated that this applicant has a technical hardship in that he has three front yards. It is very difficult to have a private backyard in this situation. Planner Heyer feels that the existing vegetation outside and inside the fenced area, the fence would be minimally visible. He stated that the fence is set back far enough to not obstruct the intersection site lines inside property. They are not pushing the fence to the outside. Planner Heyer offered that the applicant's request is a reasonable one.

There are three variances needed, one for the 6-foot fence in the front yard, one for the chain link material and one for the distance for the installation of the fence from the lot line which Engineer Shafai stated would be 20 feet when measured correctly.

The applicant plans of planting Giant Thuja to cover the 6-foot fence.

Chairman Novellino asked that the applicant replace any fallen trees. Engineer Shafai advised that he should maintain the evergreens and replace dead ones. Chairman Novellino will make this a condition of approval.

Vice-Chairman Barthelmes stated that a horse fence might be more attractive. Mr. Dengler explained that the property is a deer trail. They want to begin to landscape their backyard but cannot do that without a fence. Planner Heyer advised that they the applicant may need to install a second fence for the pool – unless the fence meets the pool code.

Chairman Novellino opened the meeting to the public at 8:06 p.m. Seeing no public comment, he closed that portion at the same time.

The Board discussed the application. Chairman Novellino advised that he drove by the property. He agreed with everything that the applicant stated about the trees and agreed that they provide screening and with additional plantings in the front, he felt that no one would see the fence. He stated that the applicant is agreeable to maintaining the trees and sees no downside to granting this application.

Attorney Collins read conditions of approval should the Board vote in favor of this application, including but not limited to: trees planted outside of the fence should be maintained, the fence will be located 20 feet off the property line, applicant would maintain the trees and plant new ones should any die.

Chairman Novellino asked for a Motion. Mr. Frost made a Motion to approve as conditioned and Mr. Barthelmes offered a Second. Roll Call Vote: Frost, Barthelmes, Lambros, Morelli, Mostyn, Conoscenti and Chairman Novellino voted yes to approve the application.

NEW APPLICATION:

Z17-04 MASHKEVICH, JESSICA - Block 48, Lot 14.17. Located at 3 Steward Court consisting of 2.01 Acres in the R-80 Zoning District. Applicant seeks variance relief to construct a 1,500 s.f. accessory building where 900 s.f. is permitted in the zone. Deemed Complete 3-15-17. Date of Action: 7-13-17. Noticing Required.

Board Attorney Collins advised that he has reviewed the noticing packet and finds same to be in order to accept jurisdiction over this application.

Board Attorney Collins read the following Exhibits into Evidence:

- A-1 Jurisdictional packet
- A-2 Application dated 3-8-17
- A-3 Web Notice
- A-4 Survey of Property prepared by AEBT Surveying dated 3-23-04
- A-5 Google Aerial (2 pages)
- A-6 Sketch of proposed accessory building by Pioneer Poe Building, Inc. (1 page)
- A-7 Color Photo taken by applicant of the proposed structure, existing home and proposed material colors
- BOA-1 Engineer's Report dated 3-15-17

Attorney Collins swore in Vlad and Jessica Mashkevich, who reside at 3 Steward Court.

The applicant advised that they have lived in Millstone for 13 years. The property consists of 2 acres of land and they would like to construct a building for extra

space. They explained that they will have a child who will soon be driving and the space is needed.

The applicant reported that 900 s.f. is permitted for storage but they are seeking variances to construct a 30' x 50', 1500 s.f. building that will also store their yard equipment, sports gear, generator and the like. They will have peace of mind storing the cars in a garage situation. Mr. Mashkevich also does woodworking and his shop would be located in this building.

Mr. Lambros asked if they are proposing one garage door. He advised the applicant that if the building is visible from the street, it must architecturally match the house. Planner Heyer advised that the proposed board and baton building does not comply with the ordinance.

Ms. Mashkevich advised that she wanted to make the building grey with a charcoal roof. She advised that the house is due for a new roof and that way the roof on the house and building will match.

Chairman Novellino advised that the color of the house and proposed building have to match as well. Planner Heyer stated that the intent of the ordinance is that the window design, roof pitch and roof material make it look integrated into the house. He stated that if the building is placed behind the house, this does not matter. It is an attractive building but does not comply with the intent of the ordinance. Variances needed would be one variance for size of the structure and one variance for not meeting with the architectural ordinance.

The applicants advised that they do not want to build a blue structure. Mr. Mashkevich feels that they will match the color as close as possible to the existing faded blue home.

Planner Heyer read the architectural ordinance. He advised that technically the applicant should try to match roof pitch and style of the home.

Attorney Collins advised that the applicant must show why their property is unique and the why it is appropriate for the Board to deviate from the required law to grant the variance. Attorney Collins advised that the applicants should articulate their circumstances to justify the granting of the variance.

Ms. Mashkevich stated that their house on Steward Court is visible from three homes. She stated that presently, the house is an off-color and they intend to make the proposed structure match as close as possible to the home.

The Board asked how they calculated their need for the proposed size of the structure. Their goal was to fit two cars inside the structure and have a woodworking shop. They would have an open floor plan.

The applicants both work out of home but advised that the building would not be used for their home businesses.

The Board asked about the businesses that they have.

Ms. Mashkevich sells a wearable blanket called a Throwbee. She advised she sells them on QVC and they are shipped directly from China to QVC. Chairman Novellino went by the site and noticed pallets in the driveway. Ms. Mashkevich explained that those materials are associated with her husband's business, industrial tool sales. The applicants advised that some of the materials are stored in the garage.

Board Engineer Shafai advised that the ordinance for home occupation allows for up to 500 s.f. of the home to be used and no more than 500 s.f.

The applicants advised that they do not have any employees. Board Engineer Shafai reported that the ordinance prohibits using the proposed accessory structure for business related storage. The applicants advised that the proposed accessory structure would have electricity but no water or gas service to the building. The electrical wires would be underground service.

The Board asked about the siding on the proposed building, Planner Heyer advised that it would be clapboard siding, the same as the principal building.

The Board discussed the variances. The architectural treatment such as the roof color should match, the trim and doors should match. Board Planner Heyer advised that one garage would not look unusual since the garage doors on the principal building are facing away from the street.

Chairman Novellino discussed the two options, either 900 s.f. is not enough space for the applicants and 1,500 s.f. is too much. He offered that less is better in that it minimizes the variance. He felt it would be more visually appealing to have a slightly larger building of the 900 s.f. that you are allowed by Ordinance if that building is screened from view with trees..

Screening using substantial evergreens on the one side of the would help shield the building from view.

Mr. Mashkevich asked the location of the planting. Chairman Novellino discussed evergreens, filling the gap.

Mr. Mostyn asked if the applicant had any plans from the manufacturer of the building.

Mr. Frost had no objection to the size with a condition that it must architecturally match the house.

The Board verified that the applicant could go up to 20 feet in height if the building architecturally matches the house.

The Board discussed a condition of approval would be both parties applying for Mercantile licenses.

Regarding the pallet deliveries, Mr. Mashkevich advised that they were received once or twice per month.

Chairman Novellino advised that a variance follows the property.

Chairman Novellino opened the application to the public at 8:55 p.m. Seeing no public comment, he closed the public portion of the application at 8:55 p.m.

The Board discussed the application. Chairman Novellino offered that the resident is trying to improve the property and ran into some size issue where they do not have enough storage for what they need. He offered that this is not a hardship case and the Board must look at what will provide significant benefits to the aesthetics. The building should look like the primary home color, material and the like. Chairman Novellino discussed landscaping or screening the building or make the building appear smaller. Chairman Novellino does not see strong positive to grant the variance.

Chairman Novellino drove down the street and viewed homes. He advised the applicant is set back in the woods. He noted at the end of Steward Court homes that had three car garages, but were set back into woods and the depth was not viewable from the street.

The Board did not want the applicant to do something to make the proposed building look out of place. Landscaping on one side was discussed to make it less visible.

Chairman Novellino advised the applicants that the Board is unable to consider a financial hardship as a reason to grant a variance.

The Board did not support the applicant's deviating from the architectural standard. That variance request was removed from the table.

Attorney Collins advised that the architectural would be reviewed by the professionals. Planner Heyer advised that the applicant cannot deviate from the roof color and advised that this condition should be placed on the record.

Mr. Lambros supported the idea of perfecting the application to the best that the Board can. He stated that testimony from applicant regarding their home businesses raised concerns. To grant the variance of this size would be giving opportunity for the applicant to intensify that activity.

The Board discussed the application. Chairman Novellino discussed reducing the building size to 1200 s.f. and provide landscaping on the side of the structure to screen the structure from view. Planner Heyer provided that deer do not like Leland Cypress offering that they should be planted 5 or 7 foot on-center, planting 6 to 8 trees. The landscaping would block the right facade of the garage from the street view. The placement of the trees would be located parallel to the side of the building, 10-foot out from the building.

The Board discussed granting one variance for accessory structure size. Conditions of approval were discussed, including but not limited to: the only utility to service the structure would be electric. The security lighting on the building would match what is on the house. No business activity will take place in the accessory building. Screening of the building with Leland Cypress to be reviewed by the Board Engineer or Planner, etc.

Mr. Conoscenti made a Motion to approve as conditioned and Mr. Frost offered a Second. Roll Call Vote: Conoscenti, Frost, Lambros, Morelli, Mostyn, Barthelmes, and chairman Novellino voted yes to approve as conditioned.

Seeing no New or Old Business, Chairman Novellino asked for a Motion and Second to Adjourn. Mr. Morelli made the Motion to Adjourn and Mr. Ferro provided a Second and by unanimous vote, the meeting adjourned at 9:30 p.m.

Respectfully submitted,

Pamela D'Andrea