

**MILLSTONE TOWNSHIP
PLANNING BOARD
MEETING MINUTES
MAY 12, 2010**

At 7:35 p.m., Mitchell Newman called the meeting to Order.

The Secretary read the Adequate Notice.

Roll Call: Present: Grbelja, Masci, Kurzman, Weintraub, Beck, Pado, Pinney and Newman. Absent: Pepe, Blanco and Rundella.

APPROVAL OF MINUTES: The Board having reviewed the March 10, 2010 minutes, Ms. Pinney made a Motion to approve and Mr. Kurzman offered a Second. Roll Call Vote: Pinney, Kurzman, Weintraub, Beck, Pado and Newman voted yes to approve the minutes.

PUBLIC COMMENT PORTION: Chairman Newman opened the public comment portion to the public. Seeing no public comment, he closed that portion of the meeting.

RESOLUTION:

P09-01 EARL SMITH – Block 30, Lot 5. Located in the NC Zone. Applicant received Final Major Site Plan in Resolution memorialized 12-14-05 to construct a 2,700 s.f., one-story commercial building. Time ran on the Final Approval on 12-14-07. Applicant applied for and received his first one-year extension of time memorialized on 2-13-08 which time ran on 12-14-08; second one-year extension of time granted and memorialized in Resolution dated 3-11-09 and ran on 12-14-09. Applicant seeks his third and final one-year extension of time. The zone has not changed.

Mr. Kurzman made a Motion to memorialize and Mr. Pado offered a second: Roll Call Vote: Kurzman, Pado, Pinney, Weintraub, Beck and Newman voted yes.

EXTENSIONS OF TIME:

P10-05 FIRST CHOICE – Block 16, Lot 9.10. Located on Rike Drive. 3.26 acres in the BP Zone. Applicant Received Preliminary and Final Major Site plan approval to construct a 20,843 s.f. building consisting of 8,000 s.f. office space and 12,483 s.f. warehouse. Resolution Memorialized 4-6-06. First Extension of Time granted to 4-6-09. Second Extension granted through 4-6-10. Applicant seeking third and final one-year Extension of Time. No zone change. No noticing required.

Attorney Peter Klauser representing the applicant. He advised that the project was approved for office warehouse use. He reported that economic conditions have

prevented the applicant from proceeding. This is the third and final one year extension, retro to 4-6-10. The Board professionals advised that they have no issues with this request.

Mr. Masci made the Motion to approve the request and Mr. Pado offered a Second: Roll Call Vote: Masci, Pado Grbelja, Pinney, Weintraub, Beck and Newman voted yes to the approval. Kurzman voted no.

P10-07 MILLSTONE CENTER ASSOCIATES– Block 58, Lot 4.06. Located on Route 526 in the NC Zone consisting of 9.537 acres. Applicant received Preliminary and Final subdivision approval in June 2005. The applicant returned to the Board to amend their prior to subdivide the parcel into six lots; five for commercial purposes and one lot for private roadway. The approval was memorialized 3-12-08. Applicant returns for a one-year extension of time. The zone has not changed. No noticing required.

Attorney Peter Klauser representing the applicant. He reported that this is the first extension of time requested by this applicant. The application was approved for a commercial subdivision consisting of five building lots and one lot for the private road. The protection expired March of 2010. The applicant is asking for a one year extension of time to perfect the application. Mr. Klauser advised that the lots have been offered for sale but there are no commercial tenants at this time. There has been no zone change to the property.

Mr. Kurzman asked about the applicants approvals. Mr. Steib explained that they remain valid as long their approvals last. The statute states that the Board can grant three one-year extensions of time.

Ms. Grbelja stated that when the applicant went through their project there was some controversy. The application that was approved does fit and the only waiver was that granted for the private roadway which the applicant must maintain. The variance requested and granted was for not having frontage on a public street. The plan fits in with what is in the Master Plan and each individual lot owner would have to come back to the Board for site plan approval.

Ms Pinney made the Motion to grant the first one-year extension of time and Ms. Grbelja offered a Second. Roll Call vote: Pinney, Grbelja, Pado, Beck and Newman voted yes. Kurzman, Masci and Weintraub voted no.

REVIEW AND RECOMMEND:
ORDINANCE NO. 10-12

AN ORDINANCE AMENDING CHAPTER XXXV (LAND USE) AND SECTIONS THERETO CREATING SECTION 11-33 (THREATENED AND ENDANGERED SPECIES) OF THE REVISED ORDINANCES OF THE TOWNSHIP OF MILLSTONE

Engineer Shafai explained the ordinance. He advised that the ordinance requires applicants to perform a study as to any threatened or endangered species. The study must be performed by a qualified person. Such departments as the NJDEP and the Pinelands Commission have a list of persons who have been certified to be qualified to perform the study. The list would be updated annually as more people become qualified. The Board Secretary would have such a list available for the public.

This ordinance may be the first one of its kind in the State of New Jersey. It was prepared by the coordinated efforts of Mr. Davison, Ms. Lisa Spaziano, Mr. Shafai and the Environmental Commission.

Mr. Coppola advised that the ordinance embellishes what is in the zone plan and is in compliance with the Master Plan.

Mr. Shafai explained that the ordinance requires that an applicant must come to the appropriate Board for soil removal or soil importation permits. The ordinance would affect steep slopes so that a property owner cannot demolish the slope. The ordinance allows for conservation easement markers to be set, delineating that area. The ordinance encompasses the whole idea of the threatened and endangered species and protection of the conservation easements by marking them.

Ms. Grbelja advised that this ordinance encompasses many ordinances and offered a brief explanation.

Mr. Steib responded to the question of the threatened and endangered species portion of the ordinance applying to applicants that have come to the Board seeking an extension of time on a prior approval. Mr. Steib advised that you cannot change the rules.

Ms Grbelja added that the ordinance brings credibility to land use development that has the applicants perform an assessment. Mr. Shafai reiterated that the applicant must enlist the services of someone who is qualified to perform the study.

Mr. Masci, the liaison to the Environmental Commission, explained that the EC has worked very diligently on this ordinance during the past three years.

It was discussed that the ordinance enhances what the Township has now.

This would be part of the development application checklist. Subdivision applications and site plan applications would be subject to perform the study. The Planning Board and Board of Adjustment and the Environmental Commission would look at the study provided by applicants.

Mr. Pado Made a Motion to recommend to the Township Committee that the ordinance is consistent with the Master Plan and Mr. Masci offered a second. Roll Call Vote: Pado, Masci, Grbelja, Kurzman, Pinney, Weintraub, Beck and Newman voted yes to the recommendation.

NEW BUSINESS:

Mr. Coppola provided a hand-out to the Board which summarizes the proposed S1 bill and the Governor's Task Force findings.

He advised that we are still in COAH's jurisdiction and have until July to finalize everything and the Township is moving forward in that regard.

Mr. Coppola advised that if the Township gets certification, perhaps sometime in September, and rules change, we may be able to reduce the number of affordable units and increase the buffer. He stated that the worst thing would be to be subject to the Builders Remedy. Mr. Coppola explained how this would break the zone plan for the Township.

The S1 bill is in its fourth version. Mr. Coppola offered that this is not a good bill for towns. He explained how the bill does not provide any number of obligations to a town. Mr. Coppola feels that the Court will not uphold this bill.

Mr. Coppola advised that a town would have to zone 20% vacant land with access to sewers and the bill does not specify public sewers, it states access to sewers, it could be a package treatment facility. If you are not an "inclusionary municipality" and all of the power shifts to the Office of Smart Growth, the problem with the bill does not include any rules. Now you would have the Department of Smart Growth developing its own rules. If a town does not meet any one of the three criteria he mentioned, is not considered an inclusionary municipality and has to zone 20% of its land.

Mr. Coppola offered that the good aspect of the bill is that does create an inherently beneficial criteria. It says you cannot look at negative criteria and deny because it is inconsistent with your Master Plan you can only deny it because it does not promote public good, but it does promote public good. He offered it is a Catch 22 situation.

Towns are on the defensive and this will create a lot of work for attorneys, planner sand engineers defending what is left of home rule.

Mr. Coppola explained that the Governor's Task Force came out with a very thoughtful piece that would allow towns themselves with criteria to come up with a number of units that it is obligated to provide. The Task force does not want Smart Growth to be the new COAH, they want the counties to do that. He feels that there is merit in this since the counties have knowledge of their municipalities. Mr. Coppola offered scenarios on how to calculate the obligation.

Mr. Coppola advised that the plan recognizes a rural community such as Millstone. A town can use all mechanisms that are silent in S1 bill such as group homes accessory apartments, migrant worker homes, etc. He feels it is a more workable bill.

The reality is that groups are working to get changes to S1 made. Mr. Coppola feels that the S1 Bill and the Task force on are on two different ends of the spectrum. .

The lawsuit is in the appellate division who has not done anything about it. He hopes that the Governor's Task Force becomes the fundamental group. He has been asked to meet with them but that meeting has not been set up yet.

When we receive substantive certification, we are protected from the builders remedy. He offered that our Town is on the right track. Presently there are two diverse

Seeing no further business on the Agenda, Chairman Newman asked for a Motion to Adjourn. Ms. Grbelja made a Motion to adjourn and Ms. Pinney offered as second and by unanimous vote, the meeting adjourned at 8:30 p.m.

Respectfully submitted,

Pamela D'Andrea