

**MILLSTONE TOWNSHIP
PLANNING BOARD
MEETING MINUTES
AUGUST 11, 2010**

At 7:40 p.m., Chairman Newman Pepe called the meeting to Order.

The Secretary read the Adequate Notice.

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

APPROVAL OF MINUTES: The eligible Board members have reviewed the June 9, 2010 meeting minutes. Ms. Grbelja made a Motion to approve and Mr. Blanco offered a Second. Roll Call Vote: Grbelja, Blanco, Pepe and Beck voted yes to approve the minutes.

PUBLIC COMMENT PORTION: Chairman Newman opened the public comment portion to the public at 7:45 p.m. Seeing no public comment, he closed that portion of the meeting at 7:45 p.m.

RESOLUTION:

P10-08 33 ASSOCIATES (RIVERSIDE CENTER) – Block 18, Lot 2.02. Located on Route 33. 57.7 acres located in the PCD Zone. Applicant received Preliminary Major Subdivision approval in Resolution Memorialized 1-10-07 and Final Major Subdivision Approval in Resolution Memorialized 7-11-07. Applicant sought and was granted their second one-year extension of time.

The Board had reviewed the Resolution. Mr. Pepe made a Motion to Memorialize and Mr. Blanco offered a Second. Roll call vote: Pepe, Blanco, Grbelja and Beck voted yes to memorialize.

P10-10 IDEAL TILE - Block 18, Lot 2.03 Located on Old Route 33 and Farrington Blvd. 14.93 Acres located in the PCD Zone. Applicant received Preliminary and Final Site Plan approval to construct a 94,500 s.f. warehouse/storage area, a 4,000 s.f. showroom and 4,000 s.f. of administrative offices in Resolution memorialized 7- 11-07. Applicant sought and received a two-year extension of time to allow for the creation of the subdivision which this application is part of (Block 18, Lot 2.02).

The Board had reviewed the Resolution. Mr. Blanco made a Motion to Memorialize and Mr. Pepe offered a Second. Roll call vote: Blanco Pepe, Grbelja and Beck voted yes to memorialize.

P10-09 MILLSTONE PROPERTY INVESTMENTS – Block 16, Lots 11.01, 11.02 & 11.03. Located Prodelin Way and State Highway Route 33 consisting of 9.3 acres

located in the HC (Highway Commercial) Zone. Applicant received Preliminary Site Plan approval in Resolution Memorialized 6-13-07 to construct a one-story 9,900 sq. ft. day care center along with a 6,000 sq. ft. one-story office and storage building. Applicant sought and received a one-year extension of time.

The Board had reviewed the Resolution. Mr. Blanco made a Motion to Memorialize and Mr. Pepe offered a Second. Roll call vote: Blanco Pepe, Grbelja and Beck voted yes to memorialize.

EXTENSION OF TIME:

P10-11 BENTON FIBRE AND DRUM – Block 16, Lot 9.12 – Located on Rike Drive in the Moto Industrial Park in the BP Zone. The Lot consists of 10.04 Acres of property. The applicant received Preliminary and Final Major Site Plan approval to construct an additional one-story 8,435 s.f. building for office space 6-11-08. Applicant returns for a one-year extension of time. No zone change. No noticing required.

Attorney Kenneth representing the applicant. Mr. Pape advised that the applicant is before the Board this evening to request the first one year extension of time to construct an 8,000+ s.f. building, to be located in the front yard of the Greif Building on Rike Drive. He explained that due to the economic conditions, the applicant is seeking protection by requesting an extension of time. Mr. Pape explained that the DRCC has considered the application exempt. The applicant is thus seeking his first one year extension to take him from July 9, 2010 to July 9, 2011.

Attorney Steib stated that the extension of time is subject to the conditions set forth by the Board in the Preliminary and Final approvals of this application.

Mr. Pado has stepped down. Mr. Blanco made a Motion to grant the extension as conditioned and Ms. Pinney offered a Second. Roll Call Vote: Blanco, Pinney, Grbelja, Kurzman, Pepe, Beck and Newman voted yes to the extension.

WAIVER HEARING AND MINOR SUBDIVISION (LOT LINE ADJUSTMENT): P10-04 HUNEKE, ROBERT –Block 16, Lots 6 and 6.02 – Located at 21 Huneke Way. Property located in the RU-P zone. Existing Lot 6.0 consists of 25.316 acres; Lot 6.02 consists of 10.518 acres. The applicant is seeking completeness checklist waivers in connection with their Minor subdivision (lot line adjustment) application (not yet deemed complete pending waiver hearing). No noticing required for waiver hearing. If waivers granted, then applicant shall proceed with Minor Subdivision (lot line adjustment) application to create new lot 6.03 consisting of 13.611 acres; and new Lot 6.04 consisting of 22.028 acres. No new lots being created. No variances requested. No noticing required.

Attorney Michael Steib having read the noticing packet found same in order to accept jurisdiction over the application.

Attorney Steib read the following exhibits into evidence:

- A-1 Jurisdictional Packet
- A-2 Application dated April 7, 2010
- A-3 Survey of the Property prepared by Daniel Hundley of Crest Engineering dated 12/8/04; Last Rev. 11/23/09
- A-4 Minor subdivision Plan prepared by Maser Consulting dated 1/12/10, Last Rev.7/8/10
- A-5 Aerial of property
- PB-1 Report of Board Engineer dated 6-25-10
- PB-2 Report from Planner dated 8-4-10
- PB-3 Memo from the Open Space Farmland Preservation Council dated 7-27-10.
- PB-4 State of NJ DEP LOI ext. dated 3-3-10
- PB-5 Freehold Soil Conservation Letter of Exemption dated 2-5-10
- PB-6 Letter from the EC dated 8-10-10

Mr. Pape explained that a three lot subdivision was approved by this Board. The wetland delineation was approved by the NJDEP. He explained that shortly thereafter, the NJDEP amended their decision and increased the buffer. The applicant was forced to withdraw his major subdivision application.

The applicant returned to the Board for a minor subdivision. Mr. Pape explained that the property has been in the family since 1943. Mr. Huneke is looking to adjust the lot line that would actually follow the existing fence that is in place and has been in place for many years.

Mr. Pape advised the Board that the applicant abandons the major subdivision request. Mr. Pape refers to Mr. Shafai's report entered into evidence as Exhibit PB-1 and goes through the waivers requested.

The applicant requests to have the property shown on a one page map.

Regarding tree preservation, there are no trees to be removed.

Mr. Pape advised that the EIS that was submitted to the NJDEP is more accurate than the EIS that was submitted to the Board and the Environmental Commission (EC) in 2005.

The applicant has had utility service to his home for the past 70 years so the applicant requests a waiver from providing those letters to the utility companies advising that they can provide service to the property.

Mr. Steib advised the Board that the waivers must be considered first. If waivers are granted then the applicant can proceed with his minor subdivision application.

Mr. Shafai advised the Board that he is fine with the applicant's request to reduce the scale of the project.

Regarding the placement of structures on the map that are within 200 feet of the property is if your subdivision is going to impact the surrounding property, Mr. Shafai advised that there is sufficient buffering from the surrounding property lines. There is some topography and wooded areas shown on the map, Chairman Newman stated that there is at least partial provision of that checklist requirement. Mr. Shafai had no problem with that waiver.

Mr. Coppola calls to the Board's attention that the subdivision itself may take down some trees. Mr. Blanco asked how the Board protects the property from any future removal of the trees. Mr. Coppola asked the Board to consider working it out with the applicant to have the limits of disturbance on the plan. If that is agreed to, then the Board knows what area trees can be cleared from and what area is protected in a conservation easement.

Mr. Pape reads from the prior Resolution adopted by the Board reflecting that the historic pesticide report and an EIS had been submitted. Ms. Pinney stated that since the last subdivision approval, an ordinance was passed to protect threatened and endangered species. Mr. Pape stated that during the re-examination that took place with the NJDEP, Mr. Huneke was required and did provide a threatened and endangered review to the NJDEP. Ms. Grbelja does not feel that that the NJDEP is thorough.

Attorney Steib swore in applicant, Robert Huneke. He advised that the Herpetological Associates out of Lakewood performed an involved survey. The NJDEP summoned him to the State House with the Attorney General's office, the head of the NJDEP, a State Senator and himself. In that meeting, Mr. Huneke advised that he had never seen a bog turtle on his property. He feels that the NJDEP looked at a map and never visited the property to find one. The NJDEP determined his wetland resources are exceptional.

The NJDEP took the buffers back to 50 feet. If he wanted to do a major subdivision, the buffer would be 150 feet.

Mr. Huneke explained the reason for the lot line adjustment is that he is trying to correct a mistake that he and his Dad created in the 1970's. He advised that the Herpetological Associates walked his property. He offered that a wood turtle is not indigenous to his type of property.

Mr. Shafai stated that if Mr. Huneke did not build by 2014, when the NJDEP approval expires, he would lose his buffer. He explained the circumstances.

The Horse Trail issue will wait for the presentation of the application.

Chairman Newman opened the checklist item issues to the audience at 8:17p.m. Seeing no public response, that portion was closed at 8:17 p.m.

Mr. Blanco asked the applicant if written documentation concerning the existence or non-existence of any threatened and endangered (T&E) species exist on his property.

Mr. Huneke advised that the NJDEP designated an area of exceptional wetlands where he cannot build. He stated that there may be or may not be threatened and endangered species there. The NJDEP retained the right to designate the area as exceptional.

The Board requested applicant to provide a copy of the report that the Herpetological Associates provided to the NJDEP.

The Board would approve a waiver of Checklist item D5 if the Herpetological Associates could provide that they performed a field walk of the site and did not encounter any T&E species and submit this information to the Board.

The Board voted on the waiver request. Mr. Kurzman made a motion to grant the waivers, Mr. Pado offered a Second. Roll Call vote: Kurzman, Pado, Pepe, Pinney, Beck, Grbelja and Newman voted yes. Mr. Blanco voted no.

The applicant requested a five minute recess at 8:30 p.m.

During that time, the Board addressed the next item of Board business on the Agenda:

ORD. 10-20 – ORDINANCE AMENDING CHAPTER XXXV (LAND USE) ARTICLE VI (CONDITIONAL USES), SECTION 6-3 (WIRELESS COMMUNICATION FACILITIES)

Mr. Coppola clarified that there is no change to the substance of the Ordinance. He advised that a provision has been added to address when the approvals expire. Township Attorney Davison recommended that such a provision be put in place. This addition was drafted to the submission requirements and review procedures. The

provision is for a two year time period to allow everything to stay intact and the opportunity to receive one 12- month period of extension. This must be done in writing and an application fee is involved.

This Ordinance is not for new towers. It is for a power tower with antennas attached to it. This Ordinance gives the applicant a deadline within which to construct his antenna.

Mr. Coppola finds the amendment consistent with the Master Plan.

Mr. Blanco made the Motion that the Amendment is consistent with the Master Plan and Mr. Pepe offered a second. Roll Call Vote: Blanco, Pepe, Pado, Beck, Kurzman, Pinney, Grbelja and Newman voted yes.

Returning for the continuation of the prior application at 8:35 p.m.

The Huneke family owns two lots consisting of 33 acres that has been in the family for 67 years. A fence had been installed years ago that separates the farms. The applicant is looking to adjust lot line so that it is coincidental with the fence. There are three acres affected with the lot line adjustment.

Entered into evidence:

Exhibit A-6 , Prepared by Maser dated July 13, 2010 "Proposed Monumentation Plan for Minor Subdivision .

Sworn in Mr. Nicholas Poruchynsky, P.E., P.P, received BS from Rutgers school of engineering. He presented his credentials. He has been working in field 13 years in civil site design; last 4 years he has worked for the Maser firm. He had testified before various Planning Boards and Zoning Boards. He is accepted as an expert witness.

Entered into Evidence:

Exhibit A-7, Color enhanced Minor Subdivision plat dated January 12, 2010, last revised July 8, 2010.

Mr. Poruchynsky described the lots and acreages. Lot 6 (to the west) 25 acres and Lot 6.02 10.5 acres. New Lots 6.03 (to the west)13.611 acres and new lot 6.04 (to the east) 22.028 acres.

Exhibit A-8 , Aerial of Huneke Subdivision lot line adjustment. Mr. Poruchynsky explained the orientation of the property. He explains the location of the cleared areas and the wooded and wetland area.

Mr. Huneke is trying to swing the lot line so that it does not interfere with the existing paddock area on Lot 6.02. The applicant advised that the County has requested that on existing lot 6 located on Huneke Way, that they offer a roadway dedication.

The property is located in the RU-P zone, minimum ten acre zone. The applicant is not seeking any variances. But for a small piece of uplands, all of the land that would be transferred is located in a conservation easement. The applicant is seeking a waiver from the number of conservation monuments that he shall install. The applicant would install at the four corners along with some at other strategic spots, (12) to be put in place.

The applicant will not increase the development potential of the lots in the ""swing"" area. The applicant would place the entire treed area in a conservation easement. Mr. Huneke is part of a forested program and would thin the area that is forested.

Mr. Shafai stated that the applicant is seeking waivers from installing conservation easement monuments in the area that would be going through the paddock and he has no problem with that.

The dedication on Huneke Way is to the Township.

The bridle path easement was discussed. Mr. Coppola stated that the barn that exists on proposed lot 6.04, will not come down.

Bridle path easement. Mr. Pape advised the Board that Mr. Huneke does not want a path on his property.

Mrs. Pat Butch, Chairperson of Millstone Township Open Space and Farmland Preservation is sworn in. She explained how a portion of the subject property would be important in connecting the trails that already exist. The property is designated in the Master plan as an important piece in this connection. However, with respect to this piece of property, a relatively small portion of it is in the area that would be for the bridle connection. Mrs. Butch is seeking some way, that we could solve that issue, consider other alternatives, purchase that sliver, etc. We have to figure out a connection to that property.

Mr. Pape summarizes the application.

Mr. Steib went over the conditions of approval, including but not limited to: the abandonment of the prior subdivision approval; applicant is to provide verification from the Herpetological Associates that 1) it had reviewed the site and had found no threatened and endangered species and 2) this minor subdivision will not have any adverse impact on any threatened and endangered species; the upland property in the northerly site does not need to be monumented, but in the south, applicant is to increase the area of the conservation easement in the southern uplands in conjunction with review by the professionals; the conservation easement will continue to be utilized for wooded management programs, no conservation easement on Lot 6.03, etc.

Ms. Pinney made a Motion to approve as conditioned and Mr. Pado offered a Second. Roll Call Vote: Pinney, Pado, Blanco, Grbelja, Kurzman, Beck and Newman voted yes to the approval.

REVIEW AND RECOMMEND:

The Township Committee, in Resolution 10-128, authorized the Planning Board to undertake a preliminary investigation and hearing to determine if the property, known as Block 20, Lot 5 consisting of 33 acres in the PCD Zone located at the intersection of New Jersey State Highway Route 33 and Millstone Township Route 13 a/k/a Bergen Mills Road, qualifies under the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et. seq., as an area in need of redevelopment. The Board approved the Planner, Richard Coppola, to prepare a report of his preliminary findings.

Mr. Coppola advised that this is part of the ongoing mediation process with COAH. In order to stay in with COAH and to receive certification, COAH requires that a land area be designated as an area for redevelopment.

Mr. Coppola offered that this affords certain financial opportunities. This process began in July 2010 wherein the Governing Body asked the Planning Board to investigate this matter. Mr. Coppola explained that a preliminary investigation report should be prepared under the redevelopment law and not the Municipal Land Use Law (MLUL). He explained the criteria as well as what the Board's responsibility is in this process.

The Town has until October 19th to complete this assignment. Any units not needed may increase the buffer to the residents behind the property.

The most important objective is to protect Millstone Township and its zone plan. Mr. Coppola explained that this is a key point that we are in and are not likely to get any more extensions. Tonight the Board would authorize the preliminary investigation report. Mr. Coppola will be sending out his draft report shortly.

Respectfully submitted,

Pamela D'Andrea

