

**MILLSTONE TOWNSHIP
PLANNING BOARD
MEETING MINUTES
JUNE 10, 2015**

At 7:32 p.m., Vice-Chairman Pepe, called the meeting to Order.

The Secretary read the Adequate Notice.

Salute to the Flag.

Roll Call: Present: Pepe, Grbelja, Pinney, Beck, Pado, Ziner, and Kocur.

Absent: Newman, Kinsey, Bailey and Kurzman

APPROVAL OF MINUTES: May 13, 2015

The Board having reviewed the meeting minutes and recommended changes having been made, Committeewoman Grbelja made a Motion to approve the meeting minutes and Ms. Pinney offered a Second. Roll Call Vote: Grbelja, Pinney, Beck, Ziner and Kocur voted yes to approve the Meeting Minutes.

PUBLIC COMMENT PORTION: 15-Minute Limit

At 7: 34 p.m., Vice-Chairman Pepe opened the meeting to the public for public comment portion of the meeting. Seeing none. He closed that session at the same time.

RESOLUTION:

P15-01 NAP CONSTRUCTION, LLC. Block 58, Lot 4.06. Located on Trenton-Lakewood Road consisting of 9.53 acres in the Neighborhood Commercial (NC) zone. Applicant sought and was granted approval to subdivide the parcel into three (3) residential lots and one (1) commercial lot at the 5-13-15 Meeting.

Mr. Ziner made a Motion to memorialize and Committeewoman Grbelja offered a second. Roll Call Vote: Ziner, Grbelja, Pinney, Beck and Kocur

ORDINANCE REVIEW AND RECOMMENDATION:

ORDINANCE 15-12

AN ORDINANCE AMENDING CHAPTER XXXV (LAND USE), ARTICLE VI (CONDITIONAL USES) SECTION 6-3 (WIRELESS COMMUNICATION FACILITIES), OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY

Attorney Steib advised that the FCC's recent revisions for co-locations include definition language and time frames within which Boards have to act. This Ordinance is brought into conformance with the FCC regulations. Attorney Steib reported that Towns now have a shorter time frame to process.

Mr. Steib advised that this ordinance contains simple revisions that amend accessory buildings.

Mr. Pado made a Motion finding the Ordinance consistent with the Master Plan and Mr. Beck offered a Second. Roll Call Vote: Pado, Beck, Pinney, Pepe, Grbelja, Ziner and Kocur voted yes to finding the Ordinance consistent with the Master Plan.

ORDINANCE 15-14

AN ORDINANCE AMENDING CHAPTER XXXV (LAND USE AND DEVELOPMENT REGULATIONS), ARTICLE IV (REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS), SECTION 4-9.11 (ACCESSORY BUILDINGS SIZE AND ARCHITECTURAL RESTRICTIONS) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY.

Committeewomen Grbelja reported that the Ordinance was amended to modify the size of the accessory buildings. She advised that the Township wanted to make sure that accessory buildings proposed to be constructed in the side yard adjacent to the home or visible from the street, that the building is architecturally consistent with the home.

Committeewoman Grbelja made a Motion finding the Ordinance consistent with the Master Plan and Mr. Pado offered a Second. Roll Call Vote: Grbelja, Pado, Beck, Pinney, Pepe, Ziner and Kocur voted yes to finding the Ordinance consistent with the Master Plan.

WAIVER REQUEST:

P14-18 BLACK BEAR DAY CAMP, LLC. - Block 35, Lots 17.01, 19, 19.01, 19.02 and 20. Located at 457 Stage Coach Road consisting of 30 acres in the Recreational Camp (RC) Zone. Application submitted 11/25/14. Deemed incomplete 12/12/14. Application is for preliminary and final site plan approval to add a 2,500 s.f. addition to an existing pavilion; construct a new 3,200 s.f. pavilion, add a 3,200 s.f. in-ground pool with 2,800 s.f. concrete decking, 300 s.f. filter and 200 s.f. pool house; further request approval for previously installed baseball field, shed, dugout, fencing and scoreboard on Lot 20. Applicant seeks checklist waivers from providing property full survey, topography and grading plan for baseball field. No noticing required.

Attorney Vince Halleran representing the applicant.

Attorney Steib advised that the applicant is before the Board requesting waivers from having to submit items required on the checklist and he explained.

Engineer Matt Shafai stated that three buildings and a baseball field were constructed in the summer camp without obtaining permits from the Township. Engineer Shafai stated that the applicant submitted an application on November 14, 2014. Many of the

required items were not submitted and in his report dated December 12, 2014, the Engineer issued his incompleteness report concerning the missing items. He offered that the survey the applicant had submitted was outdated and did not reflect the build-up of the property.

Engineer Shafai advised that prior to this application, the neighbor complained that the baseball field was constructed next to her house. The dugout, fence and scoreboard have been installed without the issuance of any permits or site plan review. Code Enforcement Officer, Dan Specht, made the first inspection, issued the owner a violation so that no more work could take place without Planning Board approval.

Engineer Shafai stated that the application was deemed incomplete December 12, 2014. The applicant advised Mr. Shafai that that more time was needed in order to prepare topography. To date, no topography has been provided. Engineer Shafai stated that since 2007, new buildings and new fields have been constructed every year without any approval.

Attorney Steib swore in the Board Engineer Matt Shafai.

The process was discussed. The applicant submits his application and plans which are reviewed for completeness. Engineer Shafai refers to his December 12, 2014 report and stated that the report advises the applicant that the application is either complete or incomplete. Engineer Shafai provide the applicant a list of the items that are missing from his submission to the Board.

Marked into evidence as Exhibit PB-1 Report of Board Engineer dated 12-12-14

Attorney Steib swore in Mark Magid, 20 Garnet Lane, West Windsor, New Jersey. Mr. Magid is the Director of Black Bear Day Camp for the past 21 years. Black Bear Day Camp is located at 457 Stage Coach Road.

Mr. Magid was asked what waivers he is seeking.

He advised that currently, there are two (2) waivers requested, for the complete property survey and the topographic and for a grading plan for the newly graded baseball field.

Mr. Magid provided a history of the property. He stated the property encompasses 20 acres zoned RC Zone, which allows for days camps and activities such as baseball. He purchased the farm property in 1999, which he advised was a working farm until January 2015. He stated that this property falls under farm assessment.

Mr. Magid stated that many years ago, Lot 20 had a topography prepared when the property was a farm. The farm property consists of 14.5 acres. Mr. Magid stated that all work done on the on baseball field was performed when it was a farmed property.

Mr. Magid stated that in June 2014, he approached Engineer Shafai advising him that he needed to construct additional buildings on property. He wanted to clear an area of disturbance and submit the Plan to the Board and then he would agree to have a full site plan prepared of the property. He stated that in September 2014 this was submitted to the Engineer. The survey that was supplied was from 2007.

Mr. Magid stated that this plan was almost identical to the plan that Planning Board approved at the Frogbridge Day Camp in 2014. He advised that he reviewed the video of that meeting.

Mr. Magid reported that the issue more of concern is the request for the topography and grading relating to the baseball field. He stated that the farm property is located in the RC Zone. He stated that baseball permitted in the RC Zone. He does not feel baseball itself needs site plan approval. The land disturbance related to the baseball field was done from 1999-2013, in accordance with the farmland assessed property.

No land disturbance was done on the camp at any time. Mr. Magid stated that the work performed encompassed less than 5000 square feet. Mr. Magid stated that Freehold Soil Conservation had no issue and they have accepted his exemption application.

Mr. Magid read aloud from the Land Use and Development Code Book, Section 35-3-7.1.

He felt the use of the baseball field for 39 days 7 hours a day for kids to use is less intensive then the use of a horse paddock. Mr. Magid feels that he took flat level land and changed it to a baseball field.

At what point does the Board get involved.

Committeewoman Grbelja stated that you cannot compare a farm to a baseball field where you have children playing on a field. You are changing the use from a farm to a recreational area. The property services the public and we have an obligation to make sure that any services Mr. Magid provides are safe. If the baseball field is not correct in the way in which they are laid out, it can cause an injury.

Attorney Steib advised that he is not here to discuss the change of use of the property that is the jurisdiction of the Zoning Board. Mr. Steib stated the applicant concedes he needs site plan approval otherwise, he would not be before the Board. The only issue here for the Board is what information do they need in order to make an educated decision on his application for site plan. Attorney Steib advised Mr. Magid if he feels the

Board does not need the information then to explain to the Board why they do not need the information.

In discussing the baseball field, Mr. Magid offered that when they put the backstop fence up, they should have come to the construction department for permits since they required footings. He stated that did not realize that at that time. Mr. Magid stated that the dugouts are not real dugouts. He feels he did not need any permits because the land was flat and level when it was a farm. Mr. Magid stated that Crest Engineering took topography that reflects the land is perfectly level. He feels a topography and grading plan are not required. Engineer Shafai advised that he only asked for a topography and grading plan of the baseball field, not the entire property.

In discussing the scoreboard, Mr. Magid stated that it is a none electric piece of wood.

Mr. Ziner asked if a site plan was prepared when the horse farm changed its use to the day camp. A site plan was never prepared.

Attorney Steib entered into evidence:

Exhibit A-1 Letter from Crest Engineering prepared by Peter Strong dated June 2015

PB-2 Application for a zoning permit for Block 35, Lot 20, dated of August 20, 2014, and denial dated September 11, 2014, stating that Planning Board Site Plan approval is required for proposed use of farm/baseball field.

Attorney Steib stated that under the municipal land use law, the applicant has an opportunity to appeal the zoning officer's decision and must do so within 20 days of the denial date. Attorney Steib advised that appeal would be before the Board of Adjustment and that time has come and gone. He advised Mr. Magid that everything in the past is irrelevant and for him to focus on what information does the Board need to determine to whether to grant site plan approval.

Mr. Halleran stated the application is incomplete and has technical details and the applicant is trying to explain to the Board why he does not need to provide them to the Board. Attorney Steib advised that if the Board grants the waiver request and the application is before the Board, the Board feels that they do not have enough information, the applicant would be required to provide that to the Board.

There was discussion as to the waiver request.

Vice-Chairman Pepe asked Engineer Shafai to go through the waiver requests one at a time.

Engineer Shafai stated the applicant is asking for a waiver of provision of a full-blown site plan. Engineer Shafai strongly suggested that the survey be provided because

there have been many improvements over the years that should be reflected on a survey. He stated that errors on the plan can be corrected.

Engineer Shafai stated that the applicant has given us most of the topography already. Engineer Shafai would need more information at the property line to see how the water is leaving the property with concerns for the neighbor's property.

They are asking for a waiver from the actual checklist where these items are being requested waived.

They are asking for a waiver from the provision of a complete topography. We can waive most of the topography and we can ask for a topography of the area that we are working on.

The Ordinance states that if you have 60 acres or more, the ordinance asks for a calculation of how many of those acres are buildable. Engineer Shafai explains how it is calculated. His concern is that this property contains steep slopes and hills. This information would show those areas to prevent any future construction in those areas. He advised that it is a rather simple procedure for the Engineer to perform. At least identify the sloped areas was his request.

The Ordinance calls for a landscape plan. Engineer Shafai stated that if no landscape is being proposed then that could be a waiver request. The applicant is not proposing any landscaping.

The Ordinance calls for an Environmental Impact Statement (EIS). Engineer Shafai advised that they could perform a brief EIS report. Crest Engineering could prepare that easily.

Engineer Shafai stated that they do not need the utility letter so that could be waived. The requirement for a lighting plan could be waived as well if the applicant is not requesting any lighting. Mr. Magid advised that they are not requesting any lighting. Mr. Shafai advised the Board the requirement for the provision of a Traffic impact Statement could be waived as well.

Vice-Chairman Pepe reiterated that the EIS could be a brief one. The Environmental Commission would like to see a brief EIS.

Mr. Pado asked about Lot 20 containing the 4.5 acres. When the baseball field came in the farm assessment came off. He feels that a topography and survey must be done of that area because of the change of use. Two lots merged into the one with one farm assessed property changing to recreational camp.

Ms. Pinney wanted to be clear about the two major items that the applicant is seeking waivers from at this time with the understanding that they would provide them subsequently should the Board require them.

Vice-Chairman Pepe offered that what was before the Board was should the Board grant a waiver for the incompleteness items of this application understanding that even if the Board grants the waivers now, they will still get a second chance to request them if they are needed.

Declaring the application complete means that the applicant can come to the Board for them to hear the Site Plan Application. No work can be done on site until they come to the Board for Site Plan Approval.

Attorney Steib confirmed that this just means that the applicant can proceed to the Board for them to hear the site plan application.

Vice-Chairman Made a Motion to include: Waiving the requirement of the survey at this time. Waive the complete topography of the full site but require the topography and grading of the baseball area. Not waiving the identification of the critical areas. Waiving the provision of the landscape plan, utility statement and waiving the Traffic Impact Statement. These waivers are waived until the Board decides the items are needed or if they are needed at all.

Attorney Steib refers to Engineer Shafai's December 12, 2014 report and goes over the item numbers being waived and not waived in the Motion as follows:

- Item 1. Full survey waived at this time.
- Item 2. Irrelevant just putting lot numbers on the plan.
- Item 3. Not waiving topography and grading for the ball field.
- Item 4a. Waiving complete topography.
- 4b. Board not waiving identification of critical areas.
- 4c. Waiving landscape plan.
- 4d. Not waiving provision of EIS.
- 4e. Waiving statement from utility companies.
- 4f. Waiving Traffic Impact Study.
- 4g. Waiving lighting plan.

The Motion was to permit the waivers as stated. The items not mentioned here but that are set forth in Engineer's December 12, 2014 report must still be provided.

Committeewoman Grbelja offered a Second to that Motion. Roll Call Vote: Pepe, Grbelja, Kocur, Pinney voted yes. Pado, Beck and Ziner voted no. The Motion passed with a 4 to 3 vote.

OLD BUSINESS:

Attorney Steib advised that the Board must enter into Executive Session to discuss legal matters. At 8:30 p.m., Committeewoman Grbelja made a Motion to go into Executive Session and Vice-Chairman Pepe offered a Second.

At 8:40 p.m. the Board returned to the Regular Meeting and by Motion of Mr. Beck and Second offered by Ms. Pinney and by unanimous vote, the meeting adjourned at 8:45 p.m.

Respectfully submitted,

Pamela D'Andrea