

**MILLSTONE TOWNSHIP
PLANNING BOARD
MEETING MINUTES
FEBRUARY 8, 2017**

At 7:31p.m., Mitch Newman called the meeting to Order.

The Secretary read the Adequate Notice.

Salute to the Flag.

Attorney Steib swore in appointed Members as follows: Mayor Kuczinski and Class IV member Rose Oxley.

ROLL CALL: Present: Grbelja, Kuczinski, Oxley, Pado, Pepe, Kocur, Ziner and Newman.
Absent: Beck, Pinney and Curtis.

APPROVAL OF MEETING MINUTES: January 11, 2017.

The Board having reviewed the meeting minutes, Committeewoman Grbelja made a Motion to approve the meeting minutes and Mr. Pado offered a Second. Roll Call Vote: Grbelja, Pado and Newman voted yes to approve the minutes.

PUBLIC COMMENT PORTION: 15-Minute Limit.

NEW APPLICATION:

P17-01 MILLSTONE TOWNSHIP- Block 57, Lot 16 - Property consists of 53.2985 acres located on Burnt Tavern Road in the Business Park (BP) Zone. The Applicant requests minor subdivision approval to subdivide a 53.2985-acre tract located on Burnt Tavern Road into two lots. Proposed Lot 16.03 will have a lot area of 13.7855 acres and require a variance for one of its frontages of 50.06 ft. where 250 ft. is required. Proposed Lot 16.04 will have a lot area of 39.5130 acres and require variances for lot frontage of 25.30 ft. where 250 ft. are required and a contiguous buildable lot area less than one (1) acre where one (1) acre is required. Deemed Complete: 1-20-17. Date of Action: 5-19-17. Noticing Required.

Duane Davison, Esq. appearing on behalf of the applicant, The Township of Millstone. Attorney Steib read the following evidence into the Record:

- A-1 Jurisdictional Packet
- A-2 Application dated 1-18-17
- A-3 Website Notice posted 1-23-17
- A-4 Minor Subdivision Prepared by Leon S. Avakian, Inc. dated 1-4-17
- A-5 Aerial of Property Prepared by Leon S. Avakian, Inc. 1-2017
- A-6 Phase I - EIS prepared by Donald A. DiMarzio, M.S., P.P. dated 9-2016

Board Attorney Steib advised that the record would reflect that the Mayor and Committeewoman Grbelja have stepped down for the application.

Attorney Davison asked that Township Engineer Matt Shafai be sworn in. Engineer Shafai advised that he holds a professional engineering license since 1987. He has been the Township Engineer since 2004. He advised that under his direction the Minor Subdivision map was created. He confirmed that the Township has title to Lot 16. The Board accepts him as an expert witness.

Attorney Davison asked Engineer Shafai how this subdivision application came about. Engineer Shafai stated that the Town approached Green Acres to purchase or contribute to the preservation of the back end of the property. He stated that in order for them to purchase the back end of the property, a subdivision was required.

Attorney Davison asked how the subdivision line of proposed Lots 16.03 and 16.04 came about. Engineer Shafai stated that they already had a wetland delineation with a 50 ft. wetland buffer approved by the NJDEP. He explained that instead of following the zigzag line of the wetland buffer, they just straightened out that line. Engineer Shafai provided that the only environmental constraints are located on proposed Lot 16.04 which is encumbered by wetlands and buffers with just 1.83 acres of uplands.

Attorney Davison asked Engineer Shafai if proposed Lot 16.04 would be restricted as open space and passive recreation pursuant to Green Acres' restrictions. Engineer confirmed this.

Engineer Shafai stated that the property is located in the Business Park (BP) Zone.

Addressing the variances requested, Engineer Shafai stated there are two variances one is for lot frontage. Proposed Lot 16.03 has adequate road frontage but there is a 25 ft. strip of land, which will provide access to proposed Lot 16.04, the Green Acres parcel. The Ordinance requires 250 ft. we only can provide 25 ft. He stated that we do not need any more than that since we are not building anything on that lot.

There was discussion that the secondary entrance to Lot 16.03 of 50.06 feet does not require a variance because there is adequate frontage consisting of 298 ft.

Attorney Davison asked Engineer Shafai to explain the additional variance needed for proposed Lot 16.04. Engineer Shafai advised that the Ordinance requires one (1) contiguous acre of uplands. Attorney Davison stated that even though the Lot has 1.83 acres of uplands they must be contiguous. Engineer Shafai stated that is correct.

Chairman Newman asked if the 25-foot access to proposed Lot 16.04 would be paved. Engineer Shafai advised that that will be a bridle path so he feels it would be natural.

Engineer Shafai confirmed that the subdivision would be perfected by Deed. Chairman Newman asked if any restrictions concerning Lot 16.04 would be placed on the plan or in the Deed. Attorney Davison advised that we could place some restrictions relating to Lot 16.04 but he feels that those restrictions will come as a result of the Green Acres' funding. He stated that this property would be placed on the Township ROSI and will fall under all of Green Acres' restrictions. Chairman Newman feels that the Letter of Interpretation (LOI) reflects that the land is encumbered by wetlands and undevelopable and having this placed on the plan or in the Deed would create the

same thing. Attorney Davison concurred that the environmental constraints would make the land undevelopable.

Attorney Davison asked about the planned use of Lot 16.03. Engineer Shafai advised that he has not been given any plans at this time. Attorney Davison reported that Lot 16.03 is planned to be a component in compliance with the Township's Affordable Housing Plan and Engineer Shafai concurred. Attorney Davison stated that open space, as well as Township sponsored affordable housing is permitted in any zone. Engineer Shafai advised that they were.

Referring to Exhibit A-5 Aerial, Engineer illustrated the location of the property upland area.

Asking about Exhibit A-6 Phase I EIS, Engineer Shafai advised that soil testing was performed. The soil testing revealed the soil was clean. Engineer Shafai felt that there would be no adverse impact on the neighboring properties.

Chairman Newman opened the application concerning the Engineer's testimony to the public at 7:47 p.m. Seeing no public comment, he closed the public portion at the same time.

Fred Heyer, P.P. is a principal of Heyer, Gruel and Associates in Red Bank, NJ was sworn in by Attorney Steib. Mr. Heyer is the Township Planner for the past three years. He offered that he has been a licensed planner in the State of New Jersey since 1986. He is a member of the American Institute of Certified Planners. He is accepted as an expert witness.

Planner Heyer stated that as the Township Planner for the past three (3) years. He is familiar with the Land Use Development Regulations and the Master Plan. He is familiar with the Millstone Township past affordable housing endeavors and the current litigation and the development of plans to address the Township's affordable housing regulations. Planner Heyer advised that he is the Township's Affordable Housing Planner in preparing the Fair Share Housing Plan.

Planner Heyer stated that one of the purposes of purchasing this property was to develop the upland portion to provide affordable housing but a second component is satisfied in that there is a significant open space component. He advised it was a rare situation to advance two significant components of the Master Plan by providing affordable housing and acquiring and preserving open space which is particularly environmentally sensitive.

Planner Heyer stated that the site's given its location and lack of environmental constraints lends it to be well suited for affordable housing. He offered that existing affordable housing developed by the Affordable Housing Alliance is located immediately next to this property.

Addressing the variances requested, Planner Heyer stated that one variance is needed for the lack of frontage for the rear lot and the second is due to the lack of contiguous acreage in the rear. Both are designed to assure that any lot is developable business lot. Planner Heyer offered that since Lot 16.04 is not going to be developed as a business lot, the one-acre developable area standard is not necessary and he explained. Since the rear lot is to be used for open space, and will not be developed as a business lot, Planner Heyer stated that it is not necessary to have the frontage. He feels that the 25.03-foot frontage access to the property for passive open space is adequate.

In discussing the variances, Planner Heyer stated that the variances can be granted under the Municipal Land Use Law definition of C1 and C2 variances. He explained that C2 variances

promote the purposes of zoning to provide adequate light, air and open space. Planner Heyer stated that the property is particularly well suited for both intended public uses, open space on the environmentally constrained portion in the rear and affordable housing on the uplands portion in the front lot. Planner Heyer stated that by granting a C2 variance, the purposes of the Millstone's Master Plan and Development Regulations are advanced.

Planner Heyer offered that from a C1 prospective, which is a hardship variance, the property is extremely unusual in its shape with broken frontages and is environmental constrained. The lot has sufficient area but lacks frontage. Planner Heyer stated that the variances are in part driven by the need to have sufficient lot frontage. He offered that these are existing conditions of the property. Planner Heyer offered that these conditions present an undue burden on the development of the property.

Attorney Davison asked Planner Heyer if there would be any detriment to the public good if the Board granted this minor subdivision. He offered that there would not be any detriment whatsoever as the plan advances the purposes of both the Open Space Plan and the Housing Plan. Planner Heyer stated that this plan would not be a detriment to the ordinance because the ordinance standard is in place for business lots and this is not to be a developed business park lot.

Chairman Newman opened Planner Heyer's testimony to the public for comment at 7:53 p.m. Seeing no public comment, Chairman Newman closed that portion at the same time.

Attorney Davison asked Committeewoman Grbelja to offer comments on what the Township envisions for the property. Attorney Steib swore in Committeewoman Grbelja. She advised that this parcel of property is located close to 500 acres of property owned by Green Acres Fish and Game Division. Committeewoman Grbelja explained that on adjacent properties we have some corridors that will allow the free flow of wildlife from Lot 16.04 to other properties and onto the 500 acres that is designated by Fish and Game. She stated that the Township is looking forward to working with Green Acres to preserve this property providing open space and green acres to our residents as well as protect the wildlife in Millstone.

Attorney Davison asked about the Township working with the representative of Green Acres to preserve this property. Committeewoman Grbelja advised that for several years they have had this property on their target list, have watched it for the purposes of incorporating this land into our plan to provide a larger area satisfying our Open Space requirements. She confirmed that there is an application that has been submitted to Green Acres. Committeewoman Grbelja advised that funding would be 50% of the value of that area. She advised that we are preserving the entire lot 16.04 as a green acres lot with no exception areas.

Chairman Newman opened Committeewoman Grbelja's testimony to the public for comment at 7:56 p.m. Seeing no public comment, Chairman Newman closed that portion at the same time.

The Board having no questions, Chairman Newman asked for a Motion and a Second. Vice-Chairman Pepe Made a Motion to approve the application for Minor Subdivision with variances and Mr. Pado offered a Second. Roll Call Vote: Pepe, Pado, Oxley, Kocur and Newman voted yes to approve.

OLD BUSINESS: Mt. Laurel Update.

Attorney Steib advised the update is public record. The Supreme Court decided the gap case. They had decided that towns must figure what their obligations would have been during the gap period of 1999- 2015 when COAH failed to act. Attorney Steib stated that this information must be captured in some fashion and must be included in our Housing Plan. He stated that we must include present need. He stated that the prior round is fixed in time 1986-1999; prospective housing need cannot be included in the prior round. Attorney Steib explained how we must capture present need.

Attorney Steib stated that the next round will start with the Courts having a conference with the towns that are involved in the litigation. Millstones obligation numbers are calculated by a Court Master. Attorney Steib advised that the Fair Share's expert and the Court appointed consultant and the consortium's expert will work to come up with those figures. A conference date has not been received yet.

Seeing no further Old Business or New Business, Chairman Newman asked for a Motion and a Second to adjourn. Committeewoman made a Motion to adjourn, Chairman Newman offered a Second and by unanimous vote, the meeting adjourned at 8:03 p.m.

Respectfully submitted,

Pamela D'Andrea