

**BOARD OF ADJUSTMENT  
MEETING MINUTES  
JUNE 28, 2006**

Meeting called to Order by Chairman Novellino at 7:30 p.m.

Vice-Chairman Barthelmes Read the Adequate Notice.

Salute to the Flag.

Roll Call. Present: Lambros, Lesto, Novellino, Curcio, Finley, Barthelmes, Morelli, Iradi and Devine.

Approval of May 24, 2006 tabled to that July 28, 2006 Meeting.

**RESOLUTION:**

**Z05-03 CHARLES NOREIKA** - Block 50, Lots 1.01, 1.02, 1.03 & 2. Located on Paint Island Spring Road and Millstone Road. 30.1 acres located in the R-80 Zone. Applicant seeks Preliminary Major Subdivision approval to develop 10 residential lots, 1 commercial lot and 1 lot for drainage. Use variance needed. Application Denied on 5/24/06.

Mr. Curcio made the Motion to memorialize the Resolution and Mr. Morelli Offered a Second. Roll Call Vote: Curcio, Morelli and Lambros voted yes to memorialize.

**NEW APPLICATION:**

**Z06-03 MECCA INVESTORS** – Block 16, Lot 10.05. Located at 200 Meca Drive. Property consists of 130,266.99 s.f. in the BP Zone. Applicant seeks to modify the existing building to function as a Montessori School. Amended Preliminary and Final Site Plan. Application Deemed Complete: 6/7/06. Date of Action 10/05/06.

Board Attorney Vella advised he has read the jurisdictional packet and finds same to be in order to hear the application.

Kenneth Pape, Esq. representing the applicant.

Attorney Vella reads the following exhibits into evidence:

- A-1 Jurisdictional Packet
- A-2 Web Notice Posted 6/19/06
- A-3 Application 4/27/06
- A-4 Letter from Crest Engineering explaining proposed project dated 4/25/06
- A-5 Declarations of Covenants & Restrictions prepared by Heilbrunn, Pape & Goldstein, LLC dated 2/14/01 Recorded 2/20/01
- A-6 First Amendment to Declarations of Convents & Restrictions prepared by Heilbrunn, Pape & Goldstein dated 11/24/04 Recorded 12/13/04
- A-7 Resolution Granting Preliminary & Final Major Site Plan Approval dated 6/14/04
- A-8 Resolution Granting Minor Site Plan Approval dated 8/10/05
- A-9 Amended Preliminary & Final Site Plan prepared by Crest

	Engineering dated 4/4/06
A-10	"Use" Variance and Amended Preliminary & Final Major Site Plan
A-11	Traffic Report prepared by Oracle Engineering, Inc. dated 6/12/06
A-12	Architectural prepared by Kevin Roy dated 4/25/06
A-13	Preliminary & Final Site Plan prepared by Crest Engineering dated 4/4/06
A-14	Amended Permit by MCBH 4/8/05
A-15	Mounted colored site plan approved by Planning Board
A-16	Mounted colored site plan of current application
A-17	Mounted photos of existing building and floor plan
BOA-1	Board Engineer Report dated 6/9/06
BOA-2	Report of Board Planner dated 6/21/06

Mr. Pape gave a brief overview of the application. The applicant seeks permission to use the 7,800 existing office building as a Montessori School. The school provides education for Kindergarten through sixth grade, ages 6 to 12. There would be before school and after school care. The school is currently located in Manalapan and wishes to relocate to Millstone.

Jayesh Patel, a licensed professional engineer with Crest Engineering, is sworn in, presented his credentials and is accepted as applicant's expert witness.

Referring to Exhibit A-15, Mr. Patel explains the site. Nine parking spaces are located on the north side of the building. Parking will be realigned to make a drop-off and pick-up area for students. The 50' x 40' fenced in play area would be located on the south side of the building. Landscape trees will be eliminated in the play area and relocated along the fenced area. The light pole located in the play area will be eliminated. The building location and drainage would remain the same. Mr. Patel testified that a change to the septic as set forth in Exhibit A-13, would be minor. A few linear feet have already been added to the septic and the change is a below the ground change.

Attorney Vella swore in Dan Beaumont, the project Supervisor. Mr. Beaumont advised the exterior of the building would receive minor changes. The utility room would have access from the outside. Essentially, the building is the same as when the Planning Board approved the application.

Attorney Vella swore in Kenneth Fears of Oracle Engineering as applicant's traffic expert. Mr. Fears has testified before the Board and the Board accepted him as a traffic expert.

Mr. Fears testified that he prepared the original traffic study for the Moto Industrial Business Park. He has been doing site-specific studies as well. He stated that the original study reflects conservative figures. Mr. Fears stated that the current findings reflect that numbers generated are well below his original study.

Mr. Fears stated that there are more inbound trips in the morning and more outbound trips in the afternoon.

Referring to Exhibit A-16, Mr. Fears stated that staff members greet the parent who stays in the car. The staff member then takes the child into the building. Parents can

park if they want to come into the building. There is ample parking for both buildings. Referring to the exhibit, Mr. Fears explained the onsite circulation of traffic.

Board Planner Richard Coppola questions the number of parking spaces that are needed for the facility. Mr. Fears stated that his past experience has been with 200 children registered, when the site is at full capacity, then 34 parking spaces would be needed. For this facility, he stated that 18-24 spaces would be needed since the capacity would be 80 registered students. He stated that he was confident there is ample parking.

Mr. Fears stated that the drop off area diminishes the need for parking spaces. Board Engineer Matt Shafai asked if there are any problems with cars stacking when children are dropped off at school since there is only room for two vehicles. Mr. Fears advised that the drop off area is not in an active traffic isle.

Mr. Novellino asked for the actual numbers for students per trips. Mr. Fears advised 80 students to trips generated would be 63 trips in the morning and 14 trips in the afternoon/evening. Departures in the afternoons are spread out. Children are picked up at different times.

Attorney Vella swore in Lydia Cruz of Millstone. Ms. Cruz runs the school. She explained that the School has a program in the morning and a full day program. There is before and after school care.

Mr. Pape advised the Board that the Monmouth County Board of Health places the restriction on the number of students/staff. In this case 80 students to 11 staff.

Ms. Cruz described the drop off. Due to the way the school is set up, 3 staff members are needed in order to escort a student from the car to the classroom. The car is turned off. She explained how the child is accompanied to their classroom. The pick up of the children works the same way as the drop off procedure. Presently, they have 14 parking spaces with 62 students in Manalapan. The Millstone property will have 30 parking spaces with 80 children.

The hours of operation are 9:00 a.m. until 2:45 p.m. , when school is in session. Before school care begins at 7:30 a.m. until 8:45 a.m. After school care runs from 3:00 p.m. until 6:00 p.m. Presently, they have 4 children in after school care. The facility is more of a school rather than a care facility.

Concerning the 50' x 40' playground outside, Engineer Shafai asked for clarification regarding the movement area. Ms. Cruz said that could be a play area. Ms. Cruz clarified that the outdoor play area is fenced with 4' black chain link fencing. Mr. Coppola said that the play area meets the State code for the amount of play area for a school.

Attorney Vella swore in Allison Coffin, applicant's professional planner. Ms. Coffin presented her credentials and was accepted as applicant's expert.

Ms. Coffin advised she had reviewed the plans and application and did a site visit. She gave a brief overview of the property as a 7,900 s.f. building located in an office park on

2.99 acres located in the BP zone. She testified that a school is not permitted in this zone.

Ms. Coffin went over the positive criteria for this application. She found no detrimental impact on traffic than was originally anticipated. Ms. Coffin stated that there are no signs of noise or odor to impact the BP zone. She testified that the look of the building fits in with the existing office buildings. She found no substantial detriment to the project and stated that it fits in and the site is suitable to the proposed use.

Mr. Pape stated that the school is in line with the goals of the Township and the Master Plan. Mr. Coppola advised that he takes no issue with the findings of the applicant's planner.

The Manalapan facility has a present enrollment of 62 and the Millstone facility could have a maximum capacity of 80 according to Ms. Cruz. The school is a tax paying property. Ms. Cruz testified that the majority of children reside in Millstone.

At 8:35 p.m., Chairman Novellino opened the application to the public. Seeing no public comment, the application was closed.

Mr. Morelli voiced his concern of using the limited amount of space in the BP zone for other uses. Mr. Coppola stated that Mr. Morelli had a valid point. He advised that schools are not permitted in any zone in the Township and that any approval for a school would have to be a "D" Variance. His concern is that a school in the BP zone would be the impact on traffic but that concern has been lessened due to the fact that the lot is on a cul-de-sac. The front portion of the Park is mostly office use and he finds that is compatible with the school. Mr. Coppola said it is a nice entrance use and cited that it is well kept.

Mr. Pape summarizes the application. Exhibit A-14 is taken off of the record as an exhibit.

Mr. Vella went over the conditions of approval.

Mr. Finley made a Motion to approve as conditioned and Mr. Lesto offered a Second. Roll Call Vote: Finley, Lesto, Barthelmes, Iradi, Lambros, Morelli and Novellino voted yes to approve.

**Z06-02 MILLSTONE ACQUISITION** – Block 20, Lot 3.14. Located at Route 33 and Dugan's Grove Road. 6.41 acres located in the HC Zone. Applicant seeks a minor subdivision to keep the existing uses with new lot for a proposed day care center. Proposed new building consisting of 7,500 s.f. with one-story. Deemed Complete: 5/24/06. Date of Action: 9/21/06.

Mr. Iradi stepped down for the application.

Gerald Sonnenblick, Esq. representing the applicant.

Board Attorney Vella asked if any Board member has a conflict of interest, due to Mr. Iradi is a Board Member, to step down. No member, other than Mr. Iradi stepped down for the application.

Attorney Vella announced that he has read the jurisdictional packet and found same to be in order to accept jurisdiction over the application.

Attorney Vella reads the following exhibits into evidence:

- A-1 Jurisdictional Packet
- A-2 Web Notice
- A-3 Aerial prepared by CME Associates
- A-4 Minor Subdivision Map prepared by ESP Associates dated 4/18/06
- A-5 Environmental Impact Statement Prepared by ESP Associates dated April 2006
- A-6 Soil Sampling & Analysis Report prepared by ESP Associates dated April 2006
- A-7 Mounted aerial photo with overlay
- A-8 Mounted colored rendering of proposed Site Plan
- A-9 Picture of silo
- A-10 Picture of Luchento's parking lot
- A-11 Picture of old tractor on site
- A-12 Picture of various debris on site
- BOA-1 Board Engineer Report dated 6/2/06
- BOA-2 Report of Board Planner Dated 6/14/06

Attorney Sonnenblick gave a brief overview of the project. The applicant seeks to subdivide 1-½ acres from a parcel for purposes of a child care center. The childcare center is a permitted use. A "D" Variance is needed due to the activity that is taking place on the site. There are three boarding houses on the property. Mr. Sonnenblick advised the Board that this is a bifurcated application.

Robert Carpenito is sworn in. Mr. Carpenito is co-owner of the business. He testified that this is a family owned and operated business since 1999. The existing Center is located in Freehold, 12,000 s.f. center that accommodates 225 children. The Center offers day care for children from six weeks of age to six years old, five days per week from the hours of 6:30 a.m. to 6:30 p.m. The proposed project will be a 7,500 s.f. center to accommodate a total capacity of 130 children. There are a maximum of 12 full-time employees and 7 part-time employees.

Mr. Carpenito testified that a parent can park and either escort their child into the Center or have their child escorted in. The busiest time of the day is between the hours of 8:00 a.m. to 9:00 a.m. Pick-up is between the hours of 3:00 p.m. and 6:30 p.m.

Mr. Coppola asked about the number of parking spaces need. Mr. Sonnenblick said there would be 51 spaces provided. With a proposed cross-access easement, there would be additional parking at Luchento's Restaurant. The applicant will have all parking lots paved and enhanced with landscaping.

Mr. Devine asked about the type of residents in the boarding houses. Attorney Sonnenblick advised that the residents work at Show Place Farms.

Sworn in James Befarah, realtor who sold the property to the present owner. His has been the real estate agent to this property since 1972. Mr. Befarah stated that the

main house is a licensed boarding house. It was formerly used as a rest home. It contains 6-9 bedrooms and a kitchen. Two smaller buildings serve as efficiency apartments. He testified that groomers and trainers who work at Show Place Farms reside there.

Mr. Sonnenblick stated that the property would be cleaned up. They will make the property more compatible with the Rt. 33 corridor. Mr. Novellino stated that he had visited the property and stated that it needed to be cleaned up. Mr. Novellino asked how many people reside in each unit and it was testified to that 19 residents reside in the three buildings.

Mark Lascavage of ESP was sworn in as applicant's licensed professional engineer. He presented his credentials and was accepted as their witness.

Entered into evidence, Exhibit A-7, Aerial photo with tax map and Mylar overlay.

Entered into evidence, Exhibit A-8, Color rendering of the conceptual layout plan with landscape added.

Engineer Lascavage offered a brief overview of the site. The property is known as Block 20, Lot 3.14 consisting of 6.41 acres located on the westerly corner of Dugan's Grove Road and Route 33 in the HC zone. Mr. Lascavage stated that currently on the property is Luchento's restaurant, three boarding houses and a detached garage. He stated that the northeast corner to the southwest corner gently slopes. There are no wetlands. The septic system would be on the northeast corner of the property. The day care center will be located on the western side of the lot.

Engineer Lascavage described the surrounding properties. The property will be subdivided in a north to south direction down the center of the property. 7,500 s.f. would be used for the day care center with 51 parking spaces in front and access off of Rt. 33. The Engineer advised that 24 parking spaces are required, 51 will be provided.

Engineer Lascavage went over the proposed landscaping of the property. The pool and splash pad would be located to the west of the property. Planner Coppola advised that this might not be the best location and suggested moving it to the rear portion of the property. The area will be fenced in accordance with the code. Stormwater management will be located in the front along Route 33. Soil testing was done for that area. The area will be landscaped and will not be intrusive. The applicant is proposing the installation of a 4' fence to the golf facility.

Engineer Lascavage stated that two septic systems presently serve the property. The applicant proposes to install an additional septic to service for the day care center. There is a NJDEP permit out on the property. The property owner hired his own engineer to design an aerobic septic system for the restaurant portion of the site. Mr. Lascavage explained that the private engineer can work around the applicant's proposed site plan.

Board Planner Coppola asked for clarification of the applicant's proposal. The applicant would have to have the septic system, approved and constructed.

Board Planner Coppola discussed the condition of the site, environmental concerns and the various uses on the property. He stated that the subdivision had to be resolved.

The Board took a break from the application to entertain accepting jurisdiction over the WaWa application. Attorney Vella advised he had reviewed the jurisdictional packet and found same to be in order. Attorney Timothy Prime representing the applicant WaWa asked that the application be carried to September 27, 2006 in order that the applicant can appear before the Township Committee. The applicant will re-notice and granted an extension of time to hear the application through the end of September, 2006.

Continuing with the Millstone Acquisition application. The applicant went over the variances that they are requesting. The garage existing on Lot 3.01 will be removed. Regarding lot 3.15 where the proposed day care center will be, Engineer Lascavage explained the variances needed for frontage and width. He explained that the lot could conform but two of the three homes would have to be removed.

Planner Coppola discussed that the applicant may have the need for an additional variance for the lot and he explained.

Engineer Lascavage went over the proposed overflow parking that can be used by both the day care center and the restaurant.

Engineer Shafai asked about the ditches that are not naturally occurring.

The applicant was requested to provide copies of the certificates of occupancy that were issued on the properties. Attorney Vella suggested that the applicant obtain these documents from the building department. He explained what is evidence of a pre-existing non-conforming use.

James Higgins was sworn in as applicant's professional planner. He presented his credentials and was accepted by the Board as applicant's expert.

Mr. Higgins gave a brief overview of the property. The lot is irregularly shaped. The eastern portion of the property is developed. The boarding homes are not permitted in the zone. The western portion of the property is vacant.

Exhibit A-9, photograph of the concrete silo was entered into evidence. The golf course wraps around the west and north of the property. Mr. Higgins went over the positive criteria of the application. Mr. Higgins stated that the boarding houses are in close proximity to the agricultural farm located across the street. He presented that it is not a benefit to the town to eliminate the boarding houses. Mr. Higgins believes the boarding houses to be a legal, pre-existing, non-conforming use and offers why they should continue. He stated that he found no adverse impact on the surrounding properties. Mr. Higgins went over the benefits to the community in continuing the boarding house use.

The following exhibits were marked into evidence:

- A-10 Photo depicting the disrepair of Luchento's asphalt parking lot
- A-11 Photo of old tractor located on the property
- A-12 Photo of the existing debris on the site

The applicant will repave the parking lot area. Attorney Sonnenblick stated that improvements bring the property more into compliance with the intent and purpose of the zone. The applicant will provide a cross access easement and explained how that would function and give the appearance of a single site.

Planner Coppola remarked on the testimony of Planner Higgins. He stated that the property is not a farm. The boarding houses primarily serve as residences for Show Place Farms employees. The Board cannot limit the number of occupants in the boarding houses. The use might serve as a benefit now but this use does not run with the land. Mr. Coppola advised this is a D1 variance involved in this application. There are two buildings that are non-conforming and could be removed to get the three acres needed to make the property conforming. Mr. Coppola asked Mr. Higgins what are the special uses for the boarding houses to remain?

Mr. Coppola stated the benefit of the cross access easement to aid in the flow of the traffic and the silo removal and clean up of the debris on the property.

The Board discussed that the clean up and maintenance of keeping the property clean is a code enforcement issue, presently and in the future.

Attorney Vella explained how the subdivision and the use variance are intertwined. The bifurcated use variance allows the applicant to reserve providing an expensive site plan until the use is granted. He stated that the Board needs sufficient evidence regarding the septic.

Engineer Shafai stated that he would need to review the proposed septic plan for the restaurant and boarding houses

The Board had concerns regarding the lot functioning if the Board granted the subdivision.

The Board carried the application to September 27, 2006. They requested that the owner of the property make himself available to answer questions. Mr. Shafai would need to review the proposed septic plan that the owner's Engineer is preparing. The applicant is to obtain information regarding the certificate of occupancy issued by the building department concerning the boarding houses.

The applicant granted an extension of time through September 2006.

Old Business:

Chairman Novellino advised the Board members that he has spoken with Mitch Newman, the Planning Board Chair, regarding a joint effort to come up with architectural standards for both Boards. The Township Committee is aware of this matter and is supportive of setting architectural standards.

Mr. Coppola discussed the scope of coverage of a potential standard. He stated that a standard is not going to solve all of the problems but it will make for a clearer set of guidelines. Mr. Coppola advised that he has been authorized to draft an ordinance.

Mr. Coppola stated that a design ordinance creates a general perimeter. The applicant can request a design waiver if you do not have an ordinance in place to prohibit it. The board voiced their concerns that they do not want to adopt a standard that dictates that every building looks the same. The Board suggested that an architect be commissioned to help.

Mr. Vella provided an update concerning the Paramount application that had been before the Board. As a condition of approval, the applicant was to reach out to Upper Freehold Township for an annexation agreement. Freehold Township advised that they did not want to enter into such an agreement with the applicant. Mr. Vella would be working with the parties in preparing an inter-local services agreement between the parties and Upper Freehold Township. Mr. Vella will keep the Board apprised.

The meeting adjourned at 11:30 p.m. by Motion to Mr. Finley and Second by Mr. Lesto and unanimous vote.

Respectfully submitted,

Pamela D'Andrea