

**MILLSTONE TOWNSHIP PLANNING BOARD
MEETING MINUTES
OCTOBER 11, 2006**

Vice-Chairman Haag opened the meeting at 7:35 p.m.

The Secretary read the adequate notice.

The Vice-Chairman called for a salute to the Flag.

Roll Call: Members Present: Blanco, Haag, Sico, Pepe, Pado, and Kucziniski. Absent: Grbelja, D'Amico, Zanetakos, Newman and Murphy.

APPROVAL OF MINUTES: Approval of the August 9, 2006 Minutes were tabled to the end of the meeting. Only Mr. Blanco and Mr. Kucziniski were eligible to vote on the minutes.

Mr. Blanco made a Motion to approve the September 13, 2006 Minutes and Mr. Kucziniski offered a Second. Roll Call Vote: Blanco, Kucziniski, Pepe, Sico, Haag and Pado voted yes to approve.

PUBLIC COMMENT PORTION:

Deb Novellino of the Shade Tree Commission voiced her concerns regarding the Kensington Resolution that is to be memorialized this evening. She had requested that funding for re-forestation come from the difference in the planting of a replacement tree. Brenda Tannenbaum of the Shade Tree Commission expressed her concerns that the Board secures a replacement tree that will not be substantially smaller than the 41 inch tree removed. The Shade Tree representatives explained to the Board the steps they took to protect the tree that was removed. They advised the Board that protective fencing was not placed around the tree and debris was piled up against the tree.

Shade Tree recommended to have the tree valued. Mr. Sico did not want the Township to pay to have the tree valued. Mr. Pepe voiced his concerns that Resolutions must be complied with. Matt Shafia reported that he advised the developer at a pre-construction meeting to protect the tree and the next day, the tree was cut down.

The public portion of the meeting was closed to the public.

RESOLUTIONS:

P04-46 KENSINGTON ORGANIZATION Block 60.01, Lot 17 and 18.01. Mount Holly-Freehold Road. NC Zone. 1.43 ac. Preliminary and Final Major Subdivision (construction of 6,363 sq. ft. retail bldg.) Resolution Memorialized . 8/10/05.

The Board discussed the Resolution prepared by Attorney Steib. Attorney Steib advised that he had reviewed the plans, which noted that the tree was a 40-inch oak

and was to remain. He stated that if the Board feels that the Resolution does not represent their findings or is an inadequate representation of the procedural history, then memorialization could be tabled.

The Board asked that the applicant return to answer some questions at the next meeting.

P06-03 SOIFER – Block 15, Lot 1. Located at intersection of Disbrow Hill Road and Huneke Way. Located in the RUP Zone. Applicant seeks Final Major Subdivision Approval to construct 5 residential lots. Preliminary Approval Granted 9/14/05. Final Approval Granted 9/13/06.

Mr. Blanco made a Motion to Memorialize the Resolution and Mr. Kuczinski offered a Second: Roll Call Vote: Blanco, Kuczinski, Sico, Pado and Haag voted yes.

P05-30 512 ROUTE 33, LLC – Block 22, Lot 7. Located on Route 33. 9.23 acres in the HC Zone. Applicant seeks Preliminary and Final Site Plan approval to construct a 15,925 s.f. retail center. Variances needed. Approval Granted 9/13/06.

Mr. Kuczinski made a Motion to Memorialize the Resolution and Mr. Blanco offered a Second: Roll Call Vote: Kuczinski, Blanco, Sico, Pado and Haag voted yes.

P05-29 PAUL, EUGENE – Block 36, Lots 28, 30 and 32. Located along Millstone Road in the R-130 Zone consisting of 8.87 acres. Minor Subdivision w/ variance. Applicant proposes to consolidate 3 existing vacant contiguous lots into two new building lots. Application Deemed Complete 5/23/06. Carried from 6/14/06.; 8/9/06.

Mr. Paul's counsel in written correspondence has asked that the matter be carried to the next meeting in November and he granted the Board an extension of time to the end of November 2006.

The matter was carried to November 8, 2006 without any further noticing required.

P06-09 J. W. POOLE, L.L.C. – Block 16, Lot 9.08. Located on Rike Drive. 3.06 acres located in the BP Zone. Preliminary Major Site Plan granted 6/14/06. Applicant seeks Final approval to construct a one-story, 9,984 s.f. bldg.

Attorney Kenneth Pape, representing the applicant, requested that the matter be carried to the December 13, 2006 meeting and granted an extension through December 31, 2006.

P06-05 COUNTRY ROAD ESTATES – Block 57.01, Lot 1. Located at Old Noah Hunt Road and Trenton Lakewood Road (County Road 526). Zoned RU-P consisting of 58.405 acres. Applicant seeks Preliminary Major Subdivision approval to construct 6 residential lots. Variance needed. Carried from 8/9/06; 9/13/06.

Mr. Steib advised that he has reviewed the jurisdictional packet and found same to be in order and the Board has jurisdiction over the application.

Mr. Steib read the following exhibits into evidence:

- A-1 Jurisdictional Packet
- A-2 Web Notice Posted 7/10/06
- A-3 Application dated 1/27/06
- A-4 Statement of Environmental Impact prepared by Maser dated January 2006, Last Revised July 2006
- A-5 Storm water Management Report prepared by Maser dated January 6, 2006, Last Revised May 9, 2006
- A-6 Sampling Location Plan Prepared by Mid State Engineering Inc. dated 2/17/06
- A-7 Soil Sampling Report Prepared by Chet Di Lorenzo of Midstate Engineering, dated 3/24/06
- A-8 Preliminary Plat Major Subdivision prepared by Maser dated January 6, 2006, Last revised 7/17/06
- A-9 Aerial of Property (undated)
- A-10 Proof of delivery Notice of Hearing (Green Card) for NJ Gas 7/17/06
- A-11 Aerial exhibit prepared by Maser dated January 5, 2006
- A-12 Preliminary Plat Major Subdivision Landscape & Details prepared by Maser dated January 6, 2006
- A-13 Map for Revised Lots 1.01 & 1.02 Prepared by Maser dated October 11, 2006
- PB-1 Board Engineer Report dated 7/26/06
- PB-2 Report of Board Planner dated 6/28/06
- PB-3 Freehold Soil Conservation Certification Letter dated 6/30/06
- PB-4 MC Planning Board Disapproval dated 3/27/06
- PB-5 NJDEP Stream Encroachment Determination dated 3/17/06
- PB-6 Environmental Commission Report dated 4/25/06
- PB-7 Environmental Commission Report dated 7/28/06
- PB-8 Shade Tree Commission Report

Kenneth Pape, Esq. representing the applicant gave a brief overview of the application. He explained the application is for a six-lot subdivision consisting of 59.42 acres located in the RU-P, 10-acre zone. The Lee Family is the owner of the property and D.E.N.J. is the applicant of the project known as Country Road Estates. The lots range from 9.1 to 10.5 acres with an average size lot of 9.9 Acres. Mr. Pape advised that the applicant went to the Monmouth County Planning Board who required that the driveways be shared. The applicant has the MCPB's approval. The Roadway is a scenic roadway and the frontage will be screened and landscaped. Mr. Pape explained the wishbone shape of the driveway as approved by the MCPB.

Attorney Steib swore in Julia Algeo, P.E. with Maser. She presented her credentials and was accepted as an expert. Mr. Pape went over the approvals that were received.

Entered into Evidence:

A-11 Aerial Photo

A-12 Color Rendering of the Site

A-13 Modified lot line adjustment plan

Ms. Algeo testified that the property is known as Block 57.01, Lot 1 located on Trenton-Lakewood Road (CR 526) and the southeast corner of Old Noah Road. The property was farmed and vacant except for one residential structure. Ivanhoe Brook runs along the property. 195 is located to the East. Located across Trenton-Lakewood Road is a residential development of 3-acre lots. The property gently slopes southeasterly toward the pond and stream tributary. The property is located in the RU-P zone. The property consists of 59.452 acres before the ROW dedication.

Ms. Algeo refers to Exhibit A-12 and goes over the proposed development of the 6 lots. Lot 1.01 consists of 10.129 acres, lot 1.02 consists of 10.06 acres, lot 1.03 consists of 9.718 acres, lot 1.04 consists of 9.692 acres, lot 1.05 consists of 9.661 acres and lot 1.06 consists of 9.143 acres.

Ms. Algeo advised that the ROW dedication required by the MCPB and the Township is located on Trenton-Lakewood Road. Rt. 526 is a scenic roadway and the MCPB wanted some road widening but wants to maintain a rural appearance.

Ms. Algeo testified that soil testing was done by an outside firm and the results are reflected on the landscape plan.

Ms. Algeo advised that they could comply with the report of Engineer Matt Shafia. The driveway configuration was approved by the MCPB. There will be a common driveway for every two lots. Common driveway easements will be in place for the short portion of the shared driveway.

Mr. Sico voiced his concerns over who is responsible for snow plowing/maintenance of the common driveway portion. He asked if there would be some physical delineation. Engineer Shafia asked the applicant about facing the lots on Old Noah Road. Mr. Pape discussed the uniformity of the development as proposed.

Ms. Algeo discussed the septic systems for the proposed lots would be located in the front portion of the lot and would be a standard system. The septic slopes down from the home.

Mr. Algeo discussed the conservation easements. The DEP has issued an LOI. She described the location of the wetlands. The easements will be dedicated to the Township and will be monumented.

Ms. Algeo advised that the applicant would comply with the landscape comments.

Engineer Shafia asked if the pond would be in a conservation easement. The property owner of lot 1.01 will own a portion of the pond, which is an agricultural pond. The other portion would be in a conservation easement. It was discussed that the homeowner will use the pond for recreation or irrigation. Planner Alan S feels the entire pond should be in a conservation easement and the homeowner can use it. Engineer Shafia advised the pond and the wooded area around it should be in a conservation easement.

Referring to Exhibit A-13, there was discussion about shifting of lots 1.01 and 1.02 to avoid disturbing the wetlands buffer. There was discussion about variances that may result in the reconfiguration.

Referring to Exhibit A-11, Mr. Pape and Ms. Algeo offered that the low density of the zone is met, that the project has no negative impact on the zoning plan.

Engineer Shafia advised the Board that the EC had requested that additional testing be done near the storage tanks. Mr. Pape stated that they will provide that then they remove the tanks

Mr. Pepe asked the applicant if they tried to purchase any vacant property from adjacent owners to the east. Planner Schectel asked if that area would be low density.

Mr. Pape advised that 12 ½ trees per acre will be added and additional trees will be planted along the common barrier. The applicant wants to landscape properly and not add trees just to have them. He stated that the property owners might have horses.

Ms. Algeo will work with the Planner and provide a landscape plan.

Noise insulation was discussed. Mr. Pape advised that additional insulation in the houses is planned. Planner Schectel advised that the tree consensus could be waived since there are not trees.

Mr. Pape asked about the conservation easement to include the pond. Attorney Steib advised that the homeowner would have access for recreation and for irrigation.

The applicant agrees to secure the permit to remove the tank and get the closure permit. Mr. Pape advised that the EC would be satisfied as long as the applicant gets the closure permit. The applicant agrees to perform one more test in that area.

Mr. Blanco had concerns about the smaller lot, which is one acre short. Mr. Pape advised that the farmer who owned the property did not develop the property when the zoning was 3-acres and all of the lots around this property are 3 acres. He advised that all of the lots are buffered and are 50 feet wider than what the zone calls for. Mr. Pape offered that he is comfortable that both the intent of the Master Plan and the zone have been met.

The applicant will write to adjacent owners regarding purchasing a portion of property. The application is carried to November 8, 2006 with no further noticing required. The applicant granted an extension of time through November 30, 2006.

Mr. Jerry Baldacino was sworn in as the applicant. He advised that his engineer could have made the lots larger but discussed the ROW dedication.

P05-19 HUNEKE, ROBERT – Block 16, Lots 6 and 6.02. Located at 21 Huneke Way. Consists of 35.82 acres in the RU-P Zone. Applicant seeks Final Major Subdivision Approval to modify two lots into 3 lots. Preliminary granted 2/06.

Mr. Pape representing the applicant is before the Board for Final approval of the major subdivision.

Mr. Steib reads the following Exhibits into evidence:

- A-10 Draft Deed of Restrictive Covenant
- A-11 NJDEP application for Transition Area Waiver to construct homes and driveway dated 4/12/06
- A-12 Existing Conditions Plan & Soil Log Results Map prepared by Crest dated 3/31/05 last Revised 9/26/06
- A-13 Final Plat of Major Subdivision dated 4/28/05 Last Revised 9/26/06
- A-14 Resolution Granting Preliminary Major Subdivision Approval 3/8/06
- A-15 Letter from Pape dated 11/09/06 granting extension of time through December 31, 2006.
- PB-8 Monmouth County Planning Board Final Approval dated 7/27/06
- PB-9 Board Engineer Report dated 8/4/06
- PB-10 Board Planner E-mail Report dated 8/08/06
- PB-11 Board Attorney Report dated 8/18/06
- PB-12 Board Planner Conformance Review of Preliminary Major Subdivision & Final Major Subdivision & Final Major Subdivision Application dated 10/03/06
- PB-13 Letter from Township Engineer dated 10/09/06

Engineer Shafai asked if there was a driveway on the plan. Mr. Pape advised that the driveway is existing and the applicant wants it to remain where it is. Engineer Shafai advised that it is better to not have the driveway located in the wetland buffer and now that the barn is coming down, the driveway can be moved. Mr. Pape advised that the driveway has been located in that place for 50 years and the applicant will seek a general permit from the DEP.

Mr. Peter Strong is sworn in as applicant's engineering expert. He presented his credentials to the Board and is accepted as an expert. Mr. Strong refers to the plan and points to the location of the driveway. He advised that if they don't get the general

permit, they will be back to the Board for a revised plan. Engineer Shafai advised the applicant that this is his chance to get out of the buffer area.

At 9:30 p.m., the applicant asked the Board for a ten minute break. At this time, the Board took advantage of that time to conduct their executive session. At 9:30 p.m., the Meeting room was cleared and the Board went into executive session to discuss a pending legal matter by Motion of Mr. Sico and Second offered by Mr. Kuczinski.

At 9:45, the Board returned to the Regular Session.

APPROVAL OF MINUTES: Approval of the August 9, 2006 Minutes. A Motion to approve was made by Mr. Blanco, Mr. Kuczinski offered a Second. Roll call Vote: Mr. Blanco and Mr. Kuczinski voted yes to approve.

The Huneke application continued at 9:47 p.m.

Mr. Pape offered that if the driveway could remain until the house is torn down and then the driveway will be moved out of the buffer area.

The location of the conservation easement was discussed. The woodland around the property is in a managed forest. Follow the existing woodland line around the perimeter. Engineer Shafai stated that anything on this property requires a NJDEP permit and this language should be put in the Resolution. Mr. Pape advised that the LOI basically states the same thing.

Mr. Pape advised the Board that Mr. Huneke does not want a bridle trail on his property. Mr. Pape argued that preliminary was approved without the bridle path.

Planner Schectel stated that the barn on lot 6.01 will be demolished prior to the issuance of a c/o. The Conservation easement on the final plat is to clarify the new building envelope by inserting an arrow.

At 10:00 p.m., the application was open to the public. Sworn in is Pat Butch, Chairwoman of the Open Space and Farmland Preservation. She stated that five years ago when the Master Plan was developed, a bridle path system was put in place. She explained the trails and how they connect. She stated that there is an Ordinance adopted in 2005 that gives the Board authority to put a trail in place. The DEP does allow trail through wetlands in passive and Recreation County and State Parks. Ms. Butch advised that wetlands do not prohibit trails. Ms. Haag asked if the trails go past paddocks. Ms. Butch has a trail on her property, which goes, past her paddocks. She advised the Board that there is a need for a trail that will connect the Soifer property. She explained the importance of the trail system stating the unsafe conditions of having to travel along a road for horse and rider. Without this trail, it will be ½ to 1 mile that will have to be traversed on the roadway without a shoulder.

The application was closed to the public at 10:10 p.m.

Mr. Pepe asked if a bridle path will hinder putting a house on the lot? Attorney Steib reads the Ordinance into the Record (a copy of which is attached hereto and made a part of the Minutes).

Attorney Steib advised that the general terms and conditions of the Preliminary approval shall not be changed. Attorney Steib read from the statutes and cited Tennis Club Assoc v. Teaneck. Attorney Steib stated that it was inappropriate to impose new conditionals from what was decided at Preliminary. He stated that Final approval can be granted if it meets the design standards and he explained. Attorney Steib stated that the Ordinance was on the books prior to the Preliminary approval. The Board can consider if the intent of the Ordinance did not impact the design standards. He discussed if it was an inadvertent omission by the Board. Two members voted no at Preliminary because the applicant did not want the trail. The majority voted yes to approve the Preliminary application.

There was discussion that the members may not have been aware of the Ordinance regarding the trail. It appears that it was intended for this to be covered in the Master plan.

Mr. Sico made a Motion to carry the matter to November 8, 2006 and Mr. Blanco offered a Second. By unanimous vote the matter is carried to 11/8/06.

Motion of Mr. Pepe, Second offered by Mr. Sico and unanimous vote, adjourned the meeting at 10:30 p.m..

Respectfully submitted,

Pamela D'Andrea