



MILLSTONE TOWNSHIP PLANNING BOARD MINUTES January 11, 2023

The Millstone Township Planning Board Reorganization and regular meeting was called to order by Mr. Newman on Wednesday, January 23, 2023 at 7:30 p.m. at the Municipal Meeting Room, 215 Millstone Road, Millstone Township, NJ 08535. Notice of this meeting was provided in accordance with the Open Public Meetings Law, including a notice for change of venue from being held virtually, to be held at the Municipal Meeting Room, in person.

Ms. Sims read the Open Public Meetings Act Statement.

There was a salute to the Flag.

OATHS OF OFFICE:

The following Board members appointed by the Mayor were sworn in for their term:

- Al Ferro (Class I), Mayor (or Designee, Stephen Lambros) Ending December 31, 2023 (1-year)
- Deepti Sinha (Class II) Ending December 31, 2025 (3-years)
- C/W Tara Zabrosky (Class III), Committeewoman Ending December 31, 2023 (1-year)
- Thomas Pado (Class IV) Ending December 31, 2026 (4-years)
- Jeff Ziner (Class IV) Ending December 31, 2026 (4-years)

Roll call for the below members was called:

Present: Mr. Newman, Mr. Lambros, C/W Zabrosky, Mr. Beck, Mr. Pado, Ms. Sinha, Mr. Ziner, Mr. Kotby and Ms. Riley.

Absent: Mr. Pepe and 1 vacant seat (Alt. II).

Attending: Michael Steib, Esq.; Matt Shafai, PE, PP, Board Engineer; M. McKinley Mertz, AICP, PP, Board Planner; Angela Buonantuono, Board Court Reporter; Danielle B. Sims, Board Secretary.

Ms. Riley was seated for Mr. Pepe.

ELECTION OF OFFICERS:

Chairperson: Nominations for Chairperson were open. There was a motion made by Mr. Pado to nominate Mitch Newman as Chairperson, which was seconded by Mr. Lambros. With no alternative nominations made, Mr. Newman was named Chairman of the Board on a roll call vote in favor: Chairman Newman, Mr. Lambros, C/W Zabrosky, Mr. Beck, Mr. Kotby, Mr. Pado, Ms. Sinha, Mr. Ziner and Ms. Riley.

Vice- Chairperson: Nominations for Vice-Chairperson were open. There was a motion made by Mr. Lambros to nominate Chris Pepe as Vice-Chairperson, which was seconded by Mr. Newman. With no alternative nominations made, Mr. Pepe was named Vice-Chairman of the Board on a roll call vote in favor: Chairman Newman, Mr. Lambros, C/W Zabrosky, Mr. Beck, Mr. Kotby, Mr. Pado, Ms. Sinha, Mr. Ziner and Ms. Riley.

APPOINTMENTS AND RESOLUTIONS OF REORGANIZATION:

The Board reviewed the proposals received in advance of the reorganization meeting. It was noted that there were no competing bids received for the professional services of Board Attorney, Board Engineer, Board Planner and Board Court Reporter.



The Board made the following appointments and adopted the corresponding resolutions:

PB2023-01 Board Attorney, Professional Legal Services

Chairman Newman made a motion to appoint Michael B. Steib, Attorney-at-Law of the Law Offices of Michael B. Steib, PA and adopt the corresponding resolution. The motion was seconded by Mr. Ziner, with all in favor on a roll call vote: Chairman Newman, Mr. Lambros, C/W Zabrosky, Mr. Beck, Mr. Kotby, Mr. Pado, Ms. Sinha, Mr. Ziner and Ms. Riley.

PB2023-02 Board Engineer, Professional Engineering Services

C/W Zabrosky made a motion to appoint Matt Shafai, PE of Leon S. Avakian, Inc. and adopt the corresponding resolution. The motion was seconded by Chairman Newman, with all in favor on a roll call vote: Chairman Newman, Mr. Lambros, C/W Zabrosky, Mr. Beck, Mr. Kotby, Mr. Pado, Ms. Sinha, Mr. Ziner and Ms. Riley.

PB2023-03 Board Planner, Professional Planning Services

Mr. Kotby made a motion to appoint McKinley Mertz, PP, AICP, LEED Green Associate of Heyer, Gruel & Associates and adopt the corresponding resolution. The motion was seconded by Chairman Newman, with all in favor on a roll call vote: Chairman Newman, Mr. Lambros, C/W Zabrosky, Mr. Beck, Mr. Kotby, Mr. Pado, Ms. Sinha, Mr. Ziner and Ms. Riley.

PB2023-04 Professional Court Reporting Services, Court Stenographer to the Board

Chairman Newman made a motion to appoint Angela C. Buonantuono, CCR, RPR, CLR of AB Court Reporting, LLC and adopt the corresponding resolution. The motion was seconded by Ms. Riley, with all in favor on a roll call vote: Chairman Newman, Mr. Lambros, C/W Zabrosky, Mr. Beck, Mr. Kotby, Mr. Pado, Ms. Sinha, Mr. Ziner and Ms. Riley.

PB2023-05 Board Secretary

Chairman Newman made a motion to appoint Danielle B. Sims as Board Secretary and adopt the corresponding resolution. The motion was seconded by Mr. Ziner, with all in favor on a roll call vote: Chairman Newman, Mr. Lambros, C/W Zabrosky, Mr. Beck, Mr. Kotby, Mr. Pado, Ms. Sinha, Mr. Ziner and Ms. Riley.

PB2023-06 Designation of Official Newspapers

Chairman Newman made a motion to designate the Asbury Park Press and The Times of Trenton as the official newspapers of the Board and adopt the corresponding resolution. The motion was seconded by Mr. Kotby, with all in favor on a roll call vote: Chairman Newman, Mr. Lambros, C/W Zabrosky, Mr. Beck, Mr. Kotby, Mr. Pado, Ms. Sinha, Mr. Ziner and Ms. Riley.

PB2023-07 Adopting Rules and Regulations (By-laws) of the Planning Board

This matter and corresponding resolution were tabled to the February meeting to allow the Board members further time to review.

PB2023-08 Adopting 2023 Meeting Schedule & Setting 2024 Reorganization/First Meeting

Chairman Newman made a motion to adopt the meeting schedule provided and setting the 2024 Reorganization and first meeting for 2024 and adopt the corresponding resolution. The motion was seconded by Mr. Ziner, with all in favor on a roll call vote: Chairman Newman, Mr. Lambros, C/W Zabrosky, Mr. Beck, Mr. Kotby, Mr. Pado, Ms. Sinha, Mr. Ziner and Ms. Riley.

Those appointed and present thanked the Board members.

PUBLIC COMMENTS:



Chairman Newman opened the meeting up to members of the public for comments on matters not before the Board. With no members of the public coming forward, Chairman Newman closed the public comments session.

MINUTES:

Minutes from December 14, 2022

Chairman Newman asked the Board if they had any comments on the minutes that were prepared. With no comments from the Board, Mr. Ziner made a motion to adopt the Minutes from the December 14, 2022 Planning Board Meeting, which was seconded by Mr. Kotby. The Minutes were adopted on a roll call vote: Chairman Newman, C/W Zabrosky, Mr. Beck, Mr. Kotby, Mr. Pado, Ms. Sinha, Mr. Ziner and Ms. Riley.

APPLICATION(S) BEFORE THE BOARD:

Request for Adjournment

JLE, LLC

Block 20, Lots 3.13 – 530 State Highway 33

Preliminary and Final Major Site Plan Application # P21-03

Proposal to demolish the existing retail golf facility and construct a 282,252 s.f. warehouse/office building with four (4) separate office spaces in the corners (2,400 s.f. per office = 9,600 s.f. office total), 96 loading bays, four (4) loading ramps and four (4) compactor bays, with associated site improvements on an approximately 43-acre property in the PCD Zoning District. Variance relief is required. The Board took jurisdiction on October 12, 2022 and carried without further notice to 11/9/22, then 12/14/22.

Mr. Kenneth Pape, appeared on behalf of the applicant. He stated that they are working on substantial changes to the plan and requested the matter be placed on the February 8, 2023 meeting. He stated they would provide new notice for the February 8, 2023 Planning Board meeting. Board Secretary Sims asked that any revisions be submitted with enough time to review the substantial changes. The matter was adjourned by the Board. An extension of time to act through February 28, 2023 is on file.

Request for Adjournment and to Carry Without Further Notice

37 Burnt Tavern, LLC

Block 57, Lots 17.02 & 17.03 – 37 & 41 Burnt Tavern Road

Preliminary Major Site Plan Application # P21-16

Proposal to construct a 148,553 s.f. warehouse building (142,393 sf warehouse and 6,160 office area) on an undeveloped 10.88-acre parcel of land within the BP (Business Park) Zoning District with associated site improvements (Phase I). Phase II would consist of nine (9) additional loading stalls and reconstruction of a portion of the parking area in the front of the building. Applicant is only seeking Preliminary Major Site Plan approvals and is not seeking any variance relief at this time. The Board took jurisdiction on October 12, 2022 and carried without further notice to 11/9/22, then 12/14/22.

Mr. Kenneth Pape, appeared on behalf of the applicant. He requested the matter be adjourned and carried to the February 8, 2023 meeting without any further notice. The Board took no exception to this request. The matter was adjourned and an announcement was made that the application was carried to February 8, 2023 at 7:30 pm, without any further notice. An extension of time to act through February 28, 2023 is on file.



Request for Reconsideration/Rehearing
Hexa Builders, LLC
Block 9, Lot 7 – 711 Perrineville Road
Preliminary and Final Major Site Plan Application # P21-05

Proposal to develop a 36.5-acre property in the R-MF (Multi-Family) Zoning District with 122 market-rate townhouses across 16 buildings and 48 affordable units within two three-story apartment buildings with associated site improvements. Applicant has submitted a motion to reconsider the Board's previous determination. The Applicant has granted an extension of time to act on the resolution in order for the Board to hear the request for reconsideration (rehearing). The resolution of denial was carried and the Board did not memorialize the resolution.

Attorney Steib reviewed the notice provided in advance of the meeting and the Board has jurisdiction to hear the request for reconsideration/rehearing.

Mr. Guinco, Esq. appeared on behalf of the applicant and stated that he has filed a motion to reconsider the denial action taken by the Board. Chairman Newman confirmed that the Board received and reviewed the motion (marked Exhibit A-48) in advance of the meeting.

Attorney Steib confirmed that notice was provided. He stated he reviewed the transcript, reviewed the motion and recognized that there was in fact a mistake made regarding the tree ordinance. If the applicant meets the requirements, they would be entitled to an approval. He reviewed the reasons the applicant has cited to make the request for reconsideration.

Mr. Guinco, Esq. noted he had the opportunity to review the proposed draft resolution. He noted that the site would be eligible to build 242 units on the site with 48 affordable apartment rental units. The applicant reduced the number of market rate units and maintained the number of affordable units. There were no requests for variances during the course of the hearing as all possible need for variance relief was removed during the course of the hearing. He cited the Pizzo-Manton case, where the application meets the standards and is entitled to an approval. He believes that the Board has made a mistake of law and that this application should be open to reconsideration by the Board.

Mr. Guinco, Esq. acknowledged that the Board's draft proposed resolution is only granting preliminary and final is not being considered in the draft resolution. He noted the requirements in the draft resolution requires the applicant to provide Threatened and Endangered Species report, the Tree Clearing Survey and a Sound Evaluation Test. He argued these proposed conditions and requested that these be removed from the conditions as they, in his opinion, do not meet the settlement agreement and the ordinance.

Attorney Steib advised the Board that ample case law and statutory law allows them to revisit a determination if they find that there has been a mistake or something that was not taken into consideration.

Chairman Newman offered the matter to the public as part of the Board's reconsideration of the application.

Mr. Charles Boris of 60 Red Valley Road, Clarksburg, NJ appeared. He expressed he feels that the applicant intentionally wanted to "go down this road" in order to go in front of the courts.

Ms. Kathryn Lugo of 112 Baird Road appeared and asked about the relaxation of the environmental requirements. Attorney Steib explained that COAH regulations encourage municipalities to relax standards that may be costly for an affordable development. The applicant had requested that the Board relax the standards for providing a tree survey and the Threatened and Endangered Special



Report. Attorney Steib explained that the Board has responded that these should be done. Ms Lugo supports the Board on this.

Ms. Rita Hyland of 1038 Windsor Road asked that the Board to not waive the Threatened and Endangered Species Report, due to the sensitive natural resources in this area.

Mr. Charles Boris of 60 Red Valley Road appeared again and asked about the costs of performing the additional testing. Chairman Newman noted that it is not the intent of the Board to waiver all of the requirements. Mr. Boris does not feel the applicant is doing their due diligence. Attorney Steib noted that relaxing certain requirements is the directive given from the Supreme Court.

With no further comments or questions from the public, Chairman Newman closed the public.

Attorney Steib noted that the number of market rate units being provided would only require the applicant to construct 24 affordable units, but are maintaining the 48 affordable units. He also addressed the statement provided by Mr. Guinco regarding final approval. He stated that his understanding is the Board has found many little outstanding items that have not yet been addressed and does not agree that Final approval would be warranted. Regarding the required threatened and Endangered Species report and the Tree Survey, Attorney Steib stated that a relaxation does not mean the Board is to give everything up/waive everything. The Board has offered to only require the applicant to prepare a Tree Survey on the area of disturbance and not require it be done for the entire site. Regarding the sound testing condition, Chairman Newman feels the sound letters from a manufacturer do not relate into the field. Mr. Guinco stated that it would be difficult as the sound would not be able to be tested until the air conditioning unit is in place and the C.O. would be issued. He stated it is typical to rely on the manufacturers specifications. Chairman Newman stated that his intent is not to test each and every individual unit. He believes it can be done in phases of sections and can be worked out with the Board Engineer. Mr. Guinco asked the Board to rely on the manufacturers' specifications. Mr. Ziner noted that 170+/- units, the level may be something that is "unaccustomed" to the town. The aggregate noise level is his concern as it would equate to noise pollution. Mr. Guinco argued this requirement. Chairman Newman suggested building by building. Mr. Lambros believes the applicant can achieve the NJDEP requirements in regards to level of noise. Chairman Newman is in favor of leaving the wording and allowing the Applicant to work out the testing with the Board Engineer.

Ms. Mertz confirmed the upper/loft level of the townhomes will not be bedrooms. There was discussion about the bathrooms shown on the townhome plans on the upper (attic/loft) level. C/W pointed out that the applicant had not provided new architectural plans to reflect that the bathrooms were not going to be in the loft areas. Mr. Guinco acknowledged that there will not be any bedrooms or bathrooms in the attic/loft area of the townhomes and the plans have just not been revised yet. He suggested if any building plan comes in with a bathroom in the attic/loft area, that they be denied.

Mr. Guinco provided a final statement before the Board discussion, making an argument that the Board can grant preliminary and final with the same conditions. He stated that withholding final approval would impose additional costs on the applicant. Chairman Newman noted that these circumstances are unique enough to proceed as proposed and that the final application fee already applied would be used for the eventual final site plan application.

Mr. Ziner made a motion for the Board to reconsider the application, which was seconded by Chairman Newman, with all in favor on a roll call vote: Chairman Newman, Mr. Lambros, C/W Zabrosky*, Mr. Beck, Mr. Pado and Mr. Ziner.

*Certified reviewed the recording/transcript and reviewed the Exhibits and is eligible to vote



RESOLUTION(S):

Hexa Builders, LLC

Block 9, Lot 7 – 711 Perrineville Road

Preliminary and Final Major Site Plan Application # P21-05

The Board was provided with a copy of a draft Preliminary Major Site Plan resolution in advance of the meeting. There was a motion to approve the application for Preliminary Major Site Plan only and to adopt the corresponding resolution made by Mr. Ziner, which was seconded by Chairman. There were no further comments or discussion from the Board. The application was granted preliminary approval and the resolution was adopted on the following roll call vote: Chairman Newman, Mr. Lambros, C/W Zabrosky*, Mr. Beck, Mr. Pado and Mr. Ziner.

Request for an Extension of Time for Filing Minor Subdivision

CRP/CHI Showplace Farms Owner, LLC

Block 23, Lot 8 (proposed Lots 8.01 and 8.02) – 505 State Highway 33

Minor Subdivision and Bulk Variance Application # P21-15 (Ext.)

The Board was provided with a copy of the draft resolution in advance of the meeting. Chairman Newman made a motion to adopt the resolution of approval, which was seconded by Mr. Ziner. There were no comments or discussion from the Board. The resolution was adopted on the following roll call vote: Chairman Newman, C/W Zabrosky, Mr. Beck, Mr. Kotby, Mr. Pado, Ms. Sinha, Mr. Ziner and Ms. Riley.

CORRESPONDENCE/BOARD DISCUSSION:

Chairman Newman asked the Board to review the proposed Rules and Regulations before the next meeting.

Mr. Lambros inquired about the status of the Master Plan. Ms. Mertz noted that the Master Plan is good until 2027, as the re-examination report is required every ten years. She noted the Master Plan can undergo a periodic review and make recommendations as needed at any time. Ms. Mertz added that a build out analysis or community impact analysis would be required in the next re-examination. Board Secretary Sims noted that the proposed Board Rules and Regulations set forth provisions for standing committees and the intent is to set the Master Plan Subcommittee for the next meeting to start reviewing the Master Plan. Ms. Mertz noted that this work would have to be budgeted by the Township Committee.


NEW/OLD BUSINESS:

None.

ADJOURNMENT:

With no further business and with all in favor, Chairman Newman closed the meeting.

Respectfully submitted,


Danielle B. Sims, Board Secretary