

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
JANUARY 24, 2018**

Meeting called to Order by Chairman Novellino at 7:31 p.m.

Reading of Adequate Notice by Mr. Barthelmes.

Attorney Vella Swore in Members

Salute to the Flag and observance of a moment of silence for the troops.

Roll Call: Present - Barthelmes, Morelli, Mostyn, Novellino and Ferro.
Absent - Conoscenti, Ferrara, Frost and Lambros.

ELECTION OF OFFICERS:

CHAIRMAN:

Election of Officers began with a nomination for Chairman. Mr. Ferro made a Motion to nominate Mr. Novellino to serve as Chairman. Mr. Morelli offered a Second. Roll Call Vote: Ferro, Morelli, Mostyn, Barthelmes and Novellino voted yes to the election of Mr. Novellino to serve as Chairman.

Congratulations to Mr. Novellino. Mr. Novellino thanked the Board

VICE-CHAIRMAN:

Election of the Office of Vice-Chairman. Chairman Novellino made a Motion to nominate Mr. Barthelmes to serve as Vice-Chairman. Mr. Morelli offered a Second. Roll Call Vote: Novellino, Morelli, Mostyn and Ferro voted yes to the election of Mr. Barthelmes to serve as Vice-Chairman. Mr. Barthelmes abstained.

Congratulations to Mr. Barthelmes. Mr. Barthelmes thanked the Board.

SECRETARY:

The Motion to appoint Pamela D'Andrea as the Board Secretary was made by Chairman Novellino with a Second offered by Mr. Ferro. Roll Call vote was taken: Novellino, Ferro, Morelli, Mostyn and Barthelmes voted yes to appoint Ms. D'Andrea.

Ms. D'Andrea thanked the Board.

Chairman Novellino announced that the Township has a fair and open bidding process for the appointment of Board professionals. No bids were received outside of those

submitted by the present Board Professionals. Chairman Novellino personally reviewed all of the bids. He offered that the Board professionals do an outstanding job and recommended to the board that all be re-appointed.

ELECTION OF BOARD PROFESSIONALS:

ATTORNEY:

A Motion to appoint Gregory W. Vella, Esq. of the firm of Collins, Vella & Casello, L.L.C. as Board Attorney was made by Chairman Novellino with a Second offered by Vice-Chairman Barthelmes. Roll Call Vote: Novellino, Barthelmes, Mostyn, Morelli and Ferro voted yes to appoint Gregory W. Vella, Esq.

Attorney Vella thanked the Board.

ENGINEER:

The Motion to appoint Leon S. Avakian, Inc. as the Board Engineering firm with Matt Shafai, P.E. as the principal Engineer was made by Chairman Novellino with a Second offered by Mr. Ferro. Roll Call Vote: Novellino, Ferro, Morelli, Mostyn and Barthelmes voted yes to appoint Mr. Shafai.

Mr. Shafai thanked the Board.

PLANNER:

The Motion to appoint the firm of Heyer Gruel & Associates with Fred Heyer as principal Board Planner was made by Chairman Novellino and Mr. Morelli offered a Second. Roll Call Vote: Novellino, Morelli, Mostyn, Ferro and Barthelmes voted yes to appoint Fred Heyer, P.P.

Mr. Heyer thanked the Board.

COURT REPORTER:

The Motion to appoint Angela Buonantuono as the Board Court Reporter was made by Chairman Novellino and a Second offered by Vice-Chairman Barthelmes. Roll Call Vote: Novellino, Barthelmes, Morelli, Mostyn and Ferro voted yes to appoint Ms. Buonantuono.

Ms. Buonantuono thanks the Board.

DESIGNATION OF THE OFFICIAL NEWSPAPER:

The Motion to designate The Asbury Park Press and the Times of Trenton as the official Board newspapers was made by Chairman Novellino with a Second offered by Vice-Chairman Barthelmes. Roll Call Vote: Novellino, Barthelmes, Morelli, Mostyn and Ferro voted yes to designate the Asbury Park Press and The Times of Trenton as the official newspapers.

REGULAR MONTHLY MEETING SCHEDULE:

The Motion to adopt a regular monthly meeting schedule for 2018 and the first meeting date of 2019 with the meetings to begin at 7:30 p.m. in the Municipal Building located at 215 Millstone Road, Millstone Township, New Jersey, was made by Chairman Novellino and a Second offered by Vice-Chairman Barthelmes. Roll Call Vote: Novellino, Barthelmes, Morelli, Mostyn and Ferro voted yes to as follows:

January 24 2018	July 25, 2018
February 28, 2018	August 22, 2018
March 28, 2018	September 26, 2018
April 25, 2018	October 24, 2018
May 23, 2018	November 28, 2018
June 27, 2018	December 26, 2018
	January 23, 2019

Chairman Novellino read the dates into the record prior to the vote.

APPROVAL OF MEETINGMINUTES: November 29, 2017

The eligible members having reviewed the minutes, Chairman Novellino made a Motion to approve the minutes and Mr. Morelli offered a Second. Roll Call Vote: Novellino and Morelli voted yes to approve the meeting minutes.

APPROVAL OF EXECUTIVE SESSION MINUTES: November 29, 2017

The eligible members having reviewed the Executive Session Minutes, Chairman Novellino made a Motion to approve the minutes and Mr. Morelli offered a Second. Roll Call Vote: Novellino and Morelli voted yes to approve the minutes.

COMPLETENESS WAIVER HEARING:

COMPLETENESS SUBMISSION WAIVER HEARING:

Z17-09 McDONALD'S CORPORATION - Block 57.01, Lot 19.02 located at 542 Monmouth Road consisting of 3.48 acres in the Highway Commercial 1 (HC-1) Zone. Applicant seeks completeness submission waivers related to their application for a Conditional Use Variance, Amended Preliminary and Final Major Site Plan Application with bulk variance request. The application is not deemed complete.

Attorney Vella explained the waiver hearing is not a public noticed hearing and is for the Board to consider the applicant's request for waivers from providing information on the completeness checklist as set forth in the Board Engineer's letter. The Board must determine either to grant the submission waivers requested or to have the applicant provide them. The Board must make that determination.

COMPLETENESS SUBMISSION WAIVER HEARING:

Z17-09 McDONALD'S CORPORATION - Block 57.01, Lot 19.02 located at 542 Monmouth Road consisting of 3.48 acres in the Highway Commercial 1 (HC-1) Zone. Applicant seeks completeness submission waivers related to their application for a

Conditional Use Variance, Amended Preliminary and Final Major Site Plan Application with bulk variance request. Application not deemed complete. No Noticing required.

Attorney Scott Lippert for the firm representing the applicant McDonald's Corporation.

Attorney Vella swore in the applicant's Engineer, Bradford Bohler of Bohler engineering who presented his credentials including that he is a professional engineer licensed in New Jersey and six (6) other states. He has received his BE in Civil Engineering from Purdue University. Mr. Bohler has testified before over 70 Boards in NJ. The Board accepts Mr. Bohler as an expert witness.

Referring to The Engineer's Report of 1-4-18, Engineer Shafai lists the completeness waivers that the applicant is seeking.

Mr. Lippert stated that page two of the report, C18 the applicant is to make improvements to the drive thru with a limit of work within 40 feet of building.

He explained a general proposal of the work that they wish to construct and the submission waiver requests. They are going to give the building a new skin with more of a modern feel. They are going to freshen up in the interior and add a new driveway. Mr. Lippert stated that they would be adding side-by-side two-lane drive thru. No trees are being taken down, they are not proposing any easements, bench marks are not applicable since they are working in the middle of the property, no drainage details are proposed on site, no changes are to be made in the septic design. The septic is in operation and working.

Mr. Lippert explained that they are adding the driveway to mitigate backup during the peak summer hours, the side-by-side driveway allows smaller orders to get thru more quickly and more efficiently.

After the waiver requests were explained, Engineer Shafai advised the Board that he has no issues with any of the waivers requested. He stated that the lighting and drive thru could be addressed at the application hearing.

Attorney Vella stated that if the Board grants the waivers, the applicant could move to the next step. During the hearing, the applicant can provide the lighting plan or it can be provided as a condition of approval. The completeness waivers do not limit the Board's ability to ask for these as conditions of approval. Attorney Vella asked the Board do need to the waiver items produced in order to make a decision in this application.

After considering the request, Mr. Ferro made the Motion to grant the waivers and Mr. Morelli offered a Second. Roll Call Vote: Ferro, Morelli, Mostyn, Barthelmes and Novellino voted yes to grant the submission waivers.

NEW APPLICATION:

Z17-09 McDONALD'S CORPORATION - Block 57.01, Lot 19.02 located at 542 Monmouth Road consisting of 3.48 acres in the Highway Commercial 1 (HC-1) Zone. Applicant seeks to construct an additional drive thru with improvements and ADA accessible parking. Applicant seeks a Conditional Use Variance, and Amended Preliminary and Final Major Site Plan Application with bulk variance request. Deemed complete 1-14-18. Date of Action: 3-29-18. Noticing Required.

Attorney Vella read the following Exhibits into Evidence:

- A-1 Jurisdictional packet
- A-2 Application dated 11-15-17
- A-3 Web Notice
- A-4 Preliminary and Final Site Plan with Aerial prepared by Bohler Engineering dated 10-20-17
- A-5 Architectural Drawings prepared by Robert Goldman Architect dated 6-10-17
- A-6 Stormwater Management Summary prepared by Bohler Engineering dated November 2017
- A-7 Mounted Color Rendering of Site Plan
- A-8 Mounted Aerial of Site Plan
- A-9 Mounted Color Elevation of Building Plan (front)
- A-10 Mounted Color Elevation of Rear and Front of the Proposed Building
- BOA-1 Engineering Report dated 1-4-18
- BOA-2 Planning Report dated 1-12-18
- BOA-3 Planning Board Resolution granting Preliminary and Final Site Plan approval with variances and waivers memorialized on 4-1-97.
- BOA-4 Planning Board Resolution granting Minor Site Plan memorialized on 1-23-02
- BOA-5 Planning Board Resolution granting Minor Site Plan approval to install additional for outdoor table and seating and additional interior seating memorialized on 1-23-02

Attorney Vella advised the Board that the application is a conditional use variance. He explained that if an applicant cannot meet all of the conditions set forth in the ordinance for the zone, the applicant must come to this Board for relief. He advised that the Board has jurisdiction over this application because the applicant cannot meet all of the conditions.

Attorney Vella swore in Engineer Bohler. Mr. Bohler appeared before the Board previously and he is accepted as a professional engineer.

Entered into Evidence:

Exhibit A-7, Color Rendering of the Site Plan

Exhibit A-8 Aerial of 542 Monmouth Road

Mr. Bohler explained the location of the lot borders on Jackson Township. There are 112 seats in the restaurant with a play area located inside. There is site access off Pine Drive where the menu and order board for the drive thru are located that traverses east toward the County Road. Mr. Bohler explained that the delivery trucks can enter the property via Novad Court. There are 92 parking spaces.

Mr. Bohler explained that the loading zone is not going to change. Deliveries are made during non-peak hours, 2 to 3 times per week in early morning. The trash enclosure is Mr. Bohler explained the lighting poles are 15 to 20 feet in height and are located in middle of the lot pointed down. There is perimeter lighting. He advised that the lighting would not change.

Mr. Bohler advised that there is a freestanding sign on site and no change is proposed to that. He explained the location of the existing five (5) building signs. The entrance and exit directional signs would not change.

Mr. Bohler explained that trucks coming into loading area are 40-foot wheel base trucks. They fit in the loading zone, pulling in headfirst.

Engineer Shafai asked about the drive-thru space, which is approximately 30-feet. He stated that the applicant is reducing that to 28.5-feet in front of the building and 22-feet. This is being reduced from 18-feet to 19-feet. He feels trucks can still make the turn. This is possible to achieve when they restripe.

Attorney Vella Entered into Evidence, Exhibit A-9, Mounted Color Elevation Plan.

Mr. Bohler referring to Exhibit A-9, explained what applicant is proposing on the site.

McDonald's program of improving its sites and providing a more modern building interior and exterior and this site is part of that program. He explained how the old look is being removed and the new look is taking its place.

Planner Heyer asked about the materials to be used. Mr. Bohler advised that he has reviewed the Township's architectural standards and he explained how they incorporated that ordinance into their exterior renovation, providing a decorative cap, replacing the glass windows but not adding new windows. Mr. Bohler stated that they are not adding any new seating. Mr. Bohler explained that in 2002, McDonald's was approved to install 48 additional seats. Those seats were never added.

Attorney Vella entered into Evidence:

Exhibit A-9, Mounted Color Elevation of the Building Plan (front)
Exhibit A-10, Mounted Color Rendering of the Rear and Front of the New Proposed Building.

In Exhibit A-9, Mr. Bohler referred to the signage. He explained that they are reducing the sign by reducing the "M" on the logo.

Planner Heyer stated that the square footage meets the ordinance but the second sign requires a variance. He stated that the sign is already an existing variance and the proposed sign requires a variance, it is a technical variance.

The sign located at the road is not changing The "M" logo is larger on the building at 21s.f. and will be reduced to 14 s.f.It is internally illuminated

Chairman Novellino would like the applicant to get as close to compliance with the ordinance as possible.

Mr. Bohler advised that the new canopy has been reduced but it is still an existing variance. He explained that the canopy overhangs 9 inches further at 95.8 feet as opposed to the 98 feet, so they lessen the variance needed.

Mr. Bohler explained that 12 parking spaces are undersized so they are proposing 10 that are properly sized.

Mr. Bohler explained how the drive-thru will work to better move traffic.
Engineer Shafai provided the parking on the property exceeds the parking requirement.

To change to access points or circulation except the drive thru.
Engineer Bohler stated that there will be a slight reduction of impervious coverage.
Delivery and truck deliveries will not change and occur at off peak hours.
The grass back at the islands will not change. There is no change to lighting.
The menu boards are digital and resemble a large iPad.
Engineer Shafai has an architectural question as to the playground area on page one of the site plan. Mr. Bohler stated that the play area will be removed. The seats will be moved around. Engineer Shafai wanted this noted on the plans.

Attorney Vella stated that as a conditional use standard, the maximum seating is 60. This post dates the construction of the McDonalds. In June 2003, the restaurant conditional use standards were in place. Attorney Vella will make a condition of approval that the seating does not exceed 112 seats. Planner Heyer stated that they Septic might be impacted with the installation of more than 112 seats. The removal of the playarea allows the operator to consider potential to place more seats.

Mr. Lippert stated that more patrons utilizing the drive-thru would mean fewer patrons inside. Engineer Shafai stated that seating is subject to the Board of Health. Engineer Shafai asked for confirmation as to the size of the signage. Mr. Bohler stated that there

will be two (2) McDonald's signs, 33 s.f. each. The Arch sign is 145 s.f. Planner Heyer stated that the ordinance allows for a 60-s.f. sign. The applicant is non-compliant because they have spread the signs out.

Mr. Bohler stated that the drainage will be compliant. Engineer Shafai stated that there are new NJDEP rules. The applicant agreed to replace all of the dead trees and shrubs along Pine Drive. Engineer Shafai asked for a note to be placed on the plan that the existing broken concrete curb will be replaced.

Planner Heyer offered that the applicant will comply with the architectural ordinance as to colors and materials in general. He stated that the Board could grant approval for the pitch of the roof since it aesthetically complies with the overwhelming majority of the architectural standards and complies with the spirit of the ordinance and not the letter of the ordinance. Planner Heyer stated that a bulk variance is needed for the front yard setback. The metal canopy provides protection and sunlight shielding and is located on 2/3rds of the building.

Chairman Novellino went over all of the variances that were noted in Planner Heyer's Report.

The Board had no questions. They discussed that this proposal will make a less attractive building more attractive and bring it a bit toward conformity. The proposal will help for better traffic flow and a better functioning building. The property technically has three front yards. Under C2, the benefits for granting the variances outweigh the detriments. There is no negative impact on the Zoning Plan.

Chairman Novellino opened the matter to the public at 9:12 p.m. Seeing no one from the public to comment, the matter was closed at the same time.

Board discussion. Mr. Ferro asked about the ADA Plan. The renovation is replacing the sidewalk to be compliant with the ADA. They will be taking parking spaces and turning them into ADA compliant parking on the side that fronts Monmouth Road.

Regarding lighting, Planner Heyer stated that the ordinance limits the lighting to ½-foot candle at the property line. Mr. Bohler stated that there will be LED accent lights on the building. The lights located in the middle of the parking lot are not substantially bright. Mr. Bohler stated that the current lights at the driveway are higher. Planner Heyer stated that those lights can be brighter. Attorney Vella added that they applicant can be required to provide a lighting to show compliance with the lighting ordinance. He stated that Engineer Shafai can review the plan and if it does not comply, he would assure that the applicant makes it right. The Board agreed.

Mr. Mostyn feels that updating the facility fits with the modernization of McDonalds. Moving toward LED lighting is beneficial. Planner Heyer stated that the lighting plan at the property would demonstrate compliance.

Chairman Novellino sees improvements in the visuals of the site. Having a very efficient flow through the drive-thru lanes is a benefit to the public. He did not see any negatives in approving this application. They are not increasing the size or intensity of what is going on. The impervious coverage going down a slight amount and overall tradeoffs are well worth it.

Mr. Mostyn stated that they are improving an existing non-conforming use with a slight reduction in lot coverage that aesthetically looks better.

Attorney Vella read the conditions of approval should the Board vote in favor of the application, including but not limited to: the applicant shall not extend the seating past 112 seats with the revised layout, the applicant shall confirm the architectural plans reflect the dead trees and bushes and will comply with new shade tree ordinance, the applicant shall provide a lighting plan at property line, the applicant shall comply with the Board Engineer's report and change the drainage inlet castings on the revised plans, the existing curbs and broken concrete shall be repaired, the applicant shall prepare a developer's agreement and post the proper bonding for the project, etc.

Mr. Morelli made a Motion to approve as conditioned and Vice-Chairman Barthelmes offered a Second. Roll Call Vote: Morelli, Barthelmes, Mostyn, Ferro and Novellino voted yes to approve the application.

OLD BUSINESS:

The Board having reviewed the 2017 Annual Report, Mr. Mostyn made a Motion to approve the Annual Report and Mr. Ferro offered a Second. Roll Call Vote: Mostyn, Ferro, Morelli, Barthelmes and Novellino voted to adopt the Report. A copy will be provided to the Township Committee and the Planning Board.

EXECUTIVE SESSION: At 9:15 p.m., Attorney Vella announced that the Board will be entering in to an Executive Session to discuss pending litigation matters. Chairman Novellino made a Motion, Mr. Morelli offered a Second and by unanimous vote the Board left the Regular meeting and went into the Executive Session.

At 9:25 the Board returned into the regular session. Seeing no further business on the Agenda, Chairman Novellino made a Motion to Adjourn and Mr. Morelli offered a Second and by unanimous vote the meeting adjourned.

Respectfully submitted,

Pamela D'Andrea