

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
SEPTEMBER 25, 2019**

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

Reading of Adequate Notice by Vice-Chairman Barthelmes.

Chairman Novellino read the additional Noticing required by the Township.

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

Attorney Vella swore in new Board member Mr. Mangano who will be serving as the Alternate II member.

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

MEETING MINUTES: The Board having reviewed and commented on the Meeting Minutes, Mr. Mostyn made a Motion to Approve and Mr. Frost offered a Second. Roll Call Vote: Mostyn, Frost, Lambros, Morelli and Novellino voted yes to approve.

RESOLUTION:

Z19-02 SUNDIAL SOLAR INNOVATIONS - Block 35, Lot 3.08 located at 2 Cheryl Lane consisting of 2.71 acres located in the R-130 Zoning district. Applicant sought variance relief to install ground mounted solar arrays consisting of 1,603 s.f. where 900 s.f. is permitted. Applicant sought side yard setback variance relief where 40 feet is required, 20 feet is requested. Deemed Complete 6-24-19. Date of Action: 10-22-19. Approval Denied.

The Board having reviewed the Resolution, Mr. Ferrara made a Motion to memorialize the Resolution and Mr. Morelli offered a Second. Roll Call Vote: Ferrara, Morelli, and Conoscenti voted yes to memorailize.

NEW APPLICATION:

Z19-03 KALEZIC, ADRIAN - Block 62, Lot 31.11 located at 4 Moonlight Court consisting of 2.6 acres in the R-130 Zoning District. Applicant removed soil, regarded, disturbed steep sloped area and removed approximately 30,000 s.f. of trees without apply for permits or variances. Applicant proposes to restore and stabilize the area by re-grading and planting trees and shrubs. Variance needed for Ord. 11-24-3, disturbance of steep slopes. Deemed Complete 7-22-19. Date of Action 11-19-19. Noticing Required.

Mr. Conoscenti, stepped down from the dais due to a conflict.

Attorney Vella having reviewed the jurisdictional packet in order announced that the Board was able to accept jurisdiction over the application.

Attorney Vella entered into Evidence the following Exhibits:

- A-1 Jurisdictional Packet
- A-2 Application dated 7-8-19
- A-3 Website Notice
- A-4 Aerial prepared by Crest Engineering dated 4-19-19
- A-5 Boundary and Topographically Survey prepared by Crest Engineering dated 12-31-18
- A-6 Variance Plan prepared by Crest Engineering dated 4-19-19
- A-7 EIS prepared by Crest Engineering dated 7-8-19
- A-10 Alternate Restoration Plan 3 walls
- BOA-1 Engineer's Report dated 7-22-19
- BOA-2 Planner's Report dated 8-2-19
- BOA-3 Planning Board Preliminary Subdivision Approval for Old Forge II dated 10-22-86
- BOA-4 Planning Board Final Subdivision Resolution for Old Forge II dated 1-28-87
- BOA-5 Letter from Zoning Code Enforcement dated 8-16-18 cease any further construction on premises without zoning permit.
- BOA-6 Notice of Violation issued by Zoning Code Enforcement dated 12-21-18 for not providing remediation plan to Township Engineer

Attorney Kenneth Pape representing the applicant.

Mr. Pape stated that the applicant had modified the grading of his property in error. HE has appeared before the municipal court and acknowledges the violations. The Court will hear them again after the Board hearing this application. The applicant disturbed the grading of the property behind the home. Mr. Pape explained that there is a ridge behind the property and the property owner removed the ridge.

Mr. Pape advised that this action required the applicant to come to the Board.

Attorney Vella swore in Lorali Totten, P.E., P.P. of Crest Engineering. Ms. Totten has appeared before the Board in the past. She presented her credentials and was accepted as an expert witness. She will be testifying as both as an engineer and a planner.

Attorney Vella marked into Evidence A-4, Aerial prepared in 2015.

Ms. Totten explained the location of the structures on the aerial.

Attorney Vella marked into Evidence A-8, Mounted Color Rendering of Sheet 3 of 5 of A-6.

Ms. Totten stated that the color area of the exhibit is the area that would be disturbed and regraded and excess soils are to be removed. The area will be replanted and regraded. She explained the location of disturbance and regrading is intended to make a smooth grade with a swale and berm to keep the runoff from the neighbor. Ms. Totten stated that this will create a uniform slope of 15%.

Attorney Vella advised the Board that they could grant a variance for the disturbance of the steep slopes, consider Engineer Shafai's approach to better engineering or have the applicant restore the area the way it was before the disturbance.

Mr. Pape refers to the Exhibit and explained what the property looked like prior to the homeowner removing the ridge. He explained that the applicant was advised to cease all work. He did not have the opportunity at that point to clean up the area prior to coming to the Board.

Attorney Vella marked into Evidence Exhibit A-9 Regrading and Landscape Sheet 4 of 5, Color Mounted Rendering of the Landscape Plan.

He explained the installation of dry well will help take care of the water problem.

Attorney Vella marked into Evidence, Exhibit A-10, Alternate Restoration Plan. Engineer Shafai advised the Board that he just received this today. It is not fully designed.

The plan restores the original ridge line of 18 inches (not 6 feet) with gentle slopes and walls tiered. The purpose is to restore stormwater management.

Engineer Shafai's concern is that the drainage must go where it was before the slope was taken down.

Ms. Totten explained the proposed plan. She will incorporate landscape plan into the alternate restoration plan.

Vice-Chairman Barthelmes asked for the applicant to explain the water situation that they are trying to resolve.

Mr. Pape stated that the neighbor below is experiencing flooding and the applicant wishes to reestablish the ridge. The walls are designed properly to achieve this and they will be landscaped. Vice-Chairman Barthelmes asked if the walls will be stepping down toward the neighbor.

Engineer Shafai stated that the walls will be covered by landscaping. He asked about the trees that were disturbed.

At 8:10 p.m., Chairman Novellino opened the application to the public.

Attorney John Rentschler representing the Dunhams , 194 Stillhouse Road who live behind the subject property. Mr. Dunham sworn in.

Attorney Vella marked into evidence for the Objector:

O-1 13 -Page Package of Photos of Subject Property and Neighbors Property

Mr. Dunham took the photos Dec ember 2018.

Attorney Vella entered into Evidence, the following Exhibits:

O-2 Picture of Neighbor's property on front

O-3 Picture of erosion on 4-19-19

Chairman Novellino asked Mr. Pape if he disagrees that construction taking place on the applicant's property, is causing the flooding shown in the photos of the neighbor's property. He advised that he is not an engineer and does not know if the situation is due to the hill being disturbed.

Mr. Dunham advised that the property was wooded so if it rained, his property did not flood previously.

Attorney Vella entered into Evidence, the Objector's Exhibits O-4, Picture of Pipe Erosion.

Mr. Pape stated that the applicant put the pipe in place to push the water away from the affected neighbor.

Engineer Shafai explained how the proposed swale will direct water away from the neighboring properties.

See no further public comment, Chairman Novellino closed that portion as 8:31 p.m.

The Board discussed that if the neighbor's comments are accurate, the Board wants to make a list of the applicant's commitments to control the stormwater flow. Chairman Novellino stated that the steep slope ordinance is in place to prevent the erosion of steep slopes and prevent solid run off into the streams. Water runoff and aesthetics must be addressed in the plans before the board votes on the application.

Engineer Shafai stated with walls in place this would control water flow the way it should be controlled. Engineer Shafai asked the applicant to put hay bales and silt fence in place to protect the neighbors property from runoff until the construction is completed. Mr. Pape would like to have engineer Shafai to look at the site before the applicant removes the spoils.

Attorney Vella announced that the application will be carried to the October 23, 2019 meeting without any further noticing to take place.

Z1919-04 SIX, GAIL AND CLINTON- Block 43, Lot 4 located at 241 Woodville Road consisting of 0.96 acres located in the RU-P zone. Applicant seeks to construct a single-family dwelling on an undersized lot. Ordinance Section 4-2.2, Undersized Vacant Lots allows the lot to comply with the R-80 Zoning District. Three (3) variances needed. Deemed Complete: 8-16-19. Date of Action 12-14-19. Noticing required.

Attorney Vella having reviewed the jurisdictional packet in order announced that the Board was able to accept jurisdiction over the application.

Attorney Vella entered into Evidence the following Exhibits:

- A-1 Jurisdictional Packet
- A-2 Notice to Abutting Property Owners sent certified mail, R.R.R. dated . 5-16-19
- A-3 Application dated 5-13-19
- A-4 Website Notice
- A-5 Boundary and Topographically Survey prepared by James J. Heiser dated 3-29-19
- A-6 Variance Plan prepared by Geller Sive & Company dated 7-18-19

The applicant provided additional documentation that was entered into Evidence as follows:

- A-7 Revised Architectural Plans dated 4-16-19
- A-8 Deed from Wagner to Kristoph dated 5-7-98
- A-9 Deed from Kristoph to Kristoph Horticulture dated 10-7-04
- A-10 For Lot 7.02 Hoh to Kristoph
- A-11 Deed Munyak to Kristoph
- A-12 MCBOH Septic Report 6-10-19

Sworn in and presented his credentials Michael Geller of Geller Sive, P.E., P.P.

He stated that in May 7, 1998, Mr. Kristoph owned Lots 2.02 and 7.02. He explained that those lots did not merge and are being taxed separately. The Doctrine of Merger was explained when an

undersized lot exists. The exceptions to the Doctrine were explained. Lot 7.02 faces another road.

Mr. Geller advised the Board that 241 Woodville Road as it is known in Millstone is also known as Smithville Road or Rote 527 in Manalapan.

Mr. Geller explained that lot is located in the Rural Preservation (RU-P) zone and has a 75 ft. front yard setback, is the vacant , mostly wooded except for a small portion along Woodville Road.

Mr. Geller explained that under 4-2.2 of the ordinance, this lot can be built subject to the R-80 Zone requirements.

Mr. Geller explained the history of the lot offering that Mr. Kristoph purchased the lot to allow his children to have a farm stand on the lot. The lot has sat vacant ever since and never merged with Lot 7.02.

Attorney Vella entered to Evidence:

A-13 List of undersized properties in vicinity

A-14 Map of A-13

Mr. Geller explained that 8 residential lots as listed on Exhibit A-13, are less than 2 acre lots located in the vicinity.

Mr. Geller anticipated that the architectural plans of the home meet the setbacks.

He advised that septic system has been approved by Monmouth County Board of Health. He stated that the paved driveway will be 15 feet in width. There will be onsite turn around and two parking spaces. Mr. Geller stated that the roof top runoff will meet with the Board Engineer's approval.

Mr. Geller discussed the 4 variances that are needed, including one useable, developable, contiguous acre of land and lot width/frontage. The applicant can meet the diameter buildable area.

Attorney Vella stated that the Board Engineer's report noted that the applicant will be required to dedicate 25 feet of ROW to the County.

Mr. Geller advised the letters sent out to abutting property owners to buy/sell land received no offers.

Mr. Geller stated that this is a classic C1 hardship on the applicant. Mr. Geller stated that of the 13 undersized lots, 6 do not comply with the setbacks in the zone.

Mr. Geller read from the Dallmeyer v. Lacey Twp. case. There is no land available in order to eliminate the variance. He advised there are no negative criteria or detriment to the neighborhood by granting the variances. Mr. Geller advised that the applicant will comply with

the professionals' reports.

Board Planner Mertz that the applicant has done their due diligence. She stated that the home does look like it fits in the neighborhood.

Board Engineer Shafai stated that the proposed home seems to be a good fit for the neighborhood.

At 9:30 p.m., Chairman Novellino opened the application to the public. Seeing no public comment on the application, he closed the public portion at the same time.

The Board discussed the application citing that from the roadway, the lot does not seem to be undersized relative to existing homes in the neighborhood, the proposed home seems to be a good fit aesthetically and not an monstrous home. The applicant had to come to the Board because the lot is undersized per the ordinances.

Chairman Novellino asked for a Motion to either approve or deny the application. Mr. Frost made a Motion to Approve and Mr. Ferrara offered a Second. Roll Call Vote: Frost, Ferrara, Barthelmes, Conoscenti, Morelli, Mangano and Novellino voted yes to approve with conditions.

Seeing no new or old business, Chairman Novellino asked for a Motion and a Second to adjourn the meeting. Mr. Morelli made the Motion to Adjourn and Mr. Ferrara offered a Second and by unanimous roll call the meeting adjourned at 9:35 p.m.

Respectfully submitted,

Pamela D'Andrea