

**MILLSTONE TOWNSHIP  
BOARD OF ADJUSTMENT  
MEETING MINUTES  
FEBRUARY 26, 2020**

Meeting called to Order by Vice-Chairman Barthelmes at 7:35 p.m.

Reading of Adequate Notice by Mr. Morelli

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

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

**APPROVAL OF MEETING MINUTES:** January 26, 2020.

The eligible members having reviewed the Minutes, Mr. Morelli made a Motion to approve the minutes and Mr. Ferrara offered a Second. Roll Call Vote: Morelli, Ferrara, Lambros, Mostyn and Barthelmes voted yes approve the meeting minutes.

**NEW APPLICATIONS:**

**Z19-07 STEWART, DANIEL AND DOMENICA** – Block 31.01, Lot 33 located at 2 Evergreen Court consisting of 2.62 acres in the R-130 Zoning District. Applicant proposes to construct a 2-car garage seeking variances relief from building size of 1,782.5 s.f. where 900 s.f. is permitted; height of 28.82 where 16' is permitted; maximum accessory structure variance sought for 2,697.5 s.f. where 1,800 s.f. is permitted; seeking relief from ORD 4-9.11.d from architectural standards where garage visible from Evergreen Court; seeking variance relief from side yard setback where existing shed has a setback of 7.2 ft. and 20 ft.' is required. Deemed Complete 1-31-20. Date of Action 5-30-20. Noticing required.

Attorney Jared Pape representing the applicant. Attorney Pape asked the Board if the application could be carried to the next meeting, March 25, 2020 in order to revise the plans to make them more consistent with the Board Professionals' reports. The Board agreed to the application being heard in March but required that the applicant re-notice.

No extension of time is needed.

**Z20-01 VULPIS, JEFFREY AND JENNIFER** – Block 39.01, Lot 19.12 located at 1 White Birch Drive consisting of 2,54 acres in the R-130 Zoning District. Applicants seeks to construct an inground pool on a corner lot, two front yards. Seeking relief from Ord. 4-9.4 and 4-9.96. Deemed Complete 2-7-20. Date of Action 6-6-20. Noticing Required.

Attorney Salvatore Alferi representing the applicant.

Attorney Vella advised that he has read the noticing packet, finding same in order to accept jurisdiction over the application.

Attorney Vella read the following exhibits into the record:

- A-1 Jurisdictional Packet
- A-2 Application dated 1-16-20
- A-3 Web Site Notice
- A-4 Property Survey Prepared by Dominick J. Venditto, III dated 7-19-19
- A-5 Pool Grading Plan prepared by James E. Maccariella, Jr., P.E. dated 10-18-19; last revised 2-12-20
- BOA-1 Engineer's Report dated 2-7-20
- BOA-2 Planner's Report dated 2-18-20

Mr. Alferi explained that the applicant is before the Board for the construction of an inground pool of a parcel of land that is a corner lot thus having two front yards. The pool is not permitted in the front yard. The applicant could not install the pool without seeking variance relief.

Mr. Alferi advised that the 10-18-19 plan, that includes tree clearing, shows the setback along Back Bone Hill Road. The 10-18-19 plan which includes the tree clearing area. The plan reflects that the Back Bone Hill Road is 100.3 feet from the edge of the pool. The existing shed is 8 feet in high. be removed from the area to make way for the pool.

The applicant will be removing 15 trees and will plant shrubbery and trees by the deck area and around the patio and behind the pool.

The applicant will install 6 lantern style lights. The fence will be a 4ft. high Jerith fence and will be to code.

The pool equipment is located on the right side of the house

The applicant advised that the property is heavily wooded and private. They will keep the property as natural as possible.

The accent lights are to light the pool area.

The front yard setback variance is really intended that the principal dwelling is a certain distance from the front yard.

The pool will be 600 s.f. and the Jacuzzi will be 30 s.f.

The applicant explained that the septic is located on the other side of the property and this proposed location the only location where the pool could be installed

Engineer Shafai stated that the grading plan must be consistent with the tree removal.

At the time of the issuance of a pool permit they will have to revisit the construction access point.

At 7:55 Vice-Chairman Barthelmes opened the application to the public. Seeing no public comment, he closed the application to the public at the same time.

Vice-Chairman Barthelmes offered that the applicant is doing what he can due to the positioning of the principal structure. He feels this is a reasonable request.

Mr. Morelli stated that this is not an elaborate plan and the Engineer testified that the property is all wooded.

Attorney Vella read the conditions of approval should the Board vote positively for the application, including but not limited to, the applicant is to revise the plans to reflect that there will be tree clearing, the Board Engineer will revisit the construction access at the time of applying for a building permit.

Mr. Frost Made a Motion to approved as conditioned and Mr. Ferrara offered a Second. Roll Call Vote: Frost, Ferrara, Mostyn, Morelli, Lambros and Barthelmes voted yes to approve.

**Z-20-02 GRIGOLI, FRANK** – Block 62, Lot 21.06 located at 8 Mineral Springs Road consisting of 3.38 acres in the R-130 Zoning District. Applicant seeks variance approval for a shed constructed in the side yard setback where 20 feet is required and 8.8 feet exists. Deemed Complete 2-10-20. Date of Action 6-9-20. Noticing Required.

Attorney Robert Shea representing the applicant.

Attorney Vella advised that he has read the noticing packet, finding same in order to accept jurisdiction over the application.

Attorney Vella read the following exhibits into the record:

- A-1 Jurisdictional Packet
- A-2 Application dated 12-3-19
- A-3 Aerial photos provided by applicant (2)
- A-4 Copy of property survey prepared by Crest Engineering dated 10-23-18
- A-5 Variance Sketch prepared by Crest Engineering dated 11-15-19  
Consisting of 3 pages
- BOA-1 Code Enforcement Department Notice of Violation for an accessory structure erected without obtaining zoning or construction permits
- BOA-2 Zoning Officer's denial for 800 s.f. shed; updated survey needed; conservation easement monuments will be required dated 8-9-18
- BOA-3 Zoning Officer Denial for 711 s.f. Shed dated shed located in conservation easement dated 9-18-20

- BOA-4 Resolution 19-137 Governing Body Resolution Authorizing Litigation to Compel Removal of Encroachments in a Conservation Easement dated 6-5-19
- BOA-5 Ordinance 19-15 Authorizing the Exchange of Easement interest for property adopted 9-18-19
- BOA-6 Certification Letter from Crest Engineering that the 6 Conservation Easement Monuments have been set dated 12-27-19
- BOA-7 Engineer's Report dated 1-31-20
- BOA-8 Planner's Report dated 2-12-20
- BOA-9 Two Photos taken by Code Enforcement Official taken May, 2019 from adjoining property

Mr. Shea provided a brief background advising that the parcel was previously owned by a Mr. D'Agostino who bought it from Roma Builders. The swimming pool, paver area and the shed were added prior to 2015.

Mr. Shea stated that Mr. Grigoli had obtained a Certificate of occupancy on two separate occasions.

He stated that the shed was there in 2006 and up to 2015.

On 9-18-18, the Zoning Officer's denial set forth items that the applicant was to provide. A new survey provided that the shed was in an easement area and located in the side yard setback. Crest Engineering prepared the current survey which included the height of the shed.

Attorney entered into evidence, Exhibit A-6, a packet prepared by the applicant's attorney of 8 items.

Mr. Shea stated that because the survey reflected that the location of the pool and shed was in the conservation zone area, He worked with Township Attorney Duane Davison and NJDEP Green Acres, wetland division and were able to redraw the conservation lines that were located to the right of Mr. Grigoli's home. They were able to do a 1 for 1 swap of conservation area.

Mr. Shea advised the Board that the applicant had to redraw the conservation areas around the shed and the pool and paver area. They entered into a Settlement Agreement and had 6 months within which to rectify the situation. An ordinance was introduced and Attorney Davison will be filing those deeds. Mr. Shea advised the Board that Attorney Davison had to be satisfied that the NJDEP was satisfied.

Board Engineer Shafai stated that the NJDEP did not have a wetland issue with the location of the shed. The issue is with the location of the shed. The applicant had to work out the easement issue before he could apply to the Board for a variance for the side yard setback location.

Attorney Vella stated that because the Town gave a certificate of occupancy does not mean that

the location of the shed is in the appropriate place.

Attorney Vella swore in Franck Grigoli, the property owner. He stated that when he purchased the property, the shed was there. The shed was built without a permit.

He explained to the Board that it was poorly constructed and he put new plywood in and made it aesthetically pleasing. He stated that he keeps his quad in there.

The size of the new shed is 24.8 feet by 28.9 feet and 14 feet in height.

Mr. Grigoli has a faucet in the back with no running water and no septic. It is only used during the summer.

When asked what is located behind his property Mr. Grigoli stated what is behind the property is a neighbor's house some 200 yards away from him.

Attorney Vella entered into evidence:

Exhibit A-7 Aerial subject property.

Exhibit A-8 Six (6) aerials of subject property.

Attorney Vella Swore in Lorali Totten Crest Engineering who is testifying as a Planner and Engineer this evening. The Board is familiar with Ms. Totten and accepts her as both an expert Planner and Engineer.

Attorney Vella entered into Evidence:

Exhibit A-9 - 3 picture panoramic pictures taken of the shed by Lorali Totten today.

Exhibit A-10 Photo take from the shed

Ms. Totten stated that this is a C1 variance based upon hardship. The shed has been on the property since 2006. She had looked at the Google view of the property in 2006 and 2007 and she advised that you can see the pool and other improvements. She stated that the shed is on an angle. Twenty percent (20%) of the shed is located over the setback.

She offered that this does not have a significant impact. She offered that there is no safety issue. The shed looks good aesthetically pleasing. Ms. Totten offered that for the negative criteria, the shed has been there for a while and the impact is minor although it does not follow the ordinance.

At 8:48, Vice-Chairman Barthelmes opened the application to the public.

Attorney Vella swore in Michael Januszka, 3 Sawmill Pond Rad.

Mr. Januszka does not remember a shed being built there previously.

He stated that he can see the structure from his master bathroom.

Due to the size, he questioned if structure this could be considered a shed. He offered that on Zillow, there are three pictures of the building.

Attorney Vella Entered into evidence the following exhibits:

O-1 Photo of interior of shed from Zillow

O-2 Photo of interior of shed from Zillow

On the listing of the home for sale, he lists the shed as a guest house.

This is a shed without a working bathroom.

Seeing no further public comment on the application, the public portion closed at 9:01 p.m.

Mr. Grigoli advised that this was erroneous and he had spoken to the realtor about this description of the shed.

The Board has concerns that the new property owner may turn this into a rental which Attorney Vella advised is not permitted. This is never to be used as a guest house.

Attorney Vella advised that if the Board should approve the application, they will deed restrict the use of the shed in order that all future property owners are apprised of this information. The space is note to be used from commercial uses. The shed bathroom cannot be connected to the septic system.

Mr. Grigoli advised that the water to the building bathroom is provided by a garden hose.

The Board having discussed the application, Mr. Ferrara made a Motion to approve the application as conditioned and Mr. Frost offered a Second. Roll Call Vote: Ferrara, Frost, Lambros, Morelli, Mostyn and Barthelmes voted yes to approve as conditioned.

Seeing no new or old business, Vice-Chairman asked for a Motion and a Second. Mr. Mostyn made the Motion and Mr. Morelli offered a Second and by unanimous vote, the meeting adjourned at 9:08 p.m.

Respectfully submitted,

Pamela D'Andrea