

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
SEPTEMBER 23, 2020**

Due to the Covid-19 Pandemic State of Emergency the Millstone Township Board of Adjustment meeting scheduled for Wednesday, September 23, 2020 at 7:30 p.m. will be held using the Zoom Conferencing platform. Members of the public have the option to attend the meeting either by using a device (PC, laptop, tablet or smartphone) or by dialing in via telephone.

Meeting called to Order by Chairman Novellino at 7:30 p.m.

Reading of Adequate Notice by Vice-Chairman Barthelmes.

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

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

APPROVAL OF MINUTES: August 26, 2020

The Board having reviewed the Meeting Minutes and suggested changes having been made, Mr. Ferrara made a Motion to adopt and Mr. Frost offered a Second: Roll Call Vote: Ferrara, Frost, Morelli, Barthelmes, Mangano and Novellino votes yes to approve.

RESOLUTIONS:

Z18-05 McCaffery, James - Block 42, Lot 11.03 located at 72 Stillhouse Road consisting of 3.70 acres located in two zones; R80 and RU-P Zone. Applicant sought and received approval to a six-month extension of time to construct a single-family dwelling on a vacant lot.

The Board having reviewed the Resolution, Mr. Ferrara made a Motion to Memorialize the Resolution and Mr. Frost offered a Second: Roll Call Vote: Ferrara, Frost, Morelli, Barthelmes, Novellino and Mangano voted yes to memorialize.

RESOLUTION:

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 proposed 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. Applicant asked the application be dismissed without prejudice.

The Board having reviewed the Resolution, Mr. Morelli made a Motion to Memorialize the Resolution and Mr. Ferrara offered a Second: Roll Call Vote: Morelli, Ferrara, Frost, Barthelmes, Novellino and Mangano voted yes to memorialize.

RESOLUTION: Z19-06

SILVI GROUP COMPANIES – Block 22, Lot 13 located at 470 Route 33 in the HC Zone consisting of 13.405 acres. Applicant Sought and received Preliminary and Final Site Plan Approval, Use Variance Approval to add a 9,600 s.f. new building to the site. Removal of existing maintenance building. Addition of employee parking and installation of natural gas fueling.

The Board having reviewed the Resolution, Mr. Morelli made a Motion to Memorialize the Resolution and Mr. Mangano offered a Second: Roll Call Vote: Morelli, Mangano, Ferrara, Frost, Barthelmes and Novellino voted yes to memorialize.

NEW APPLICATION:

Z20-06 LENZO FAMILY, LLC – Block 17, Lot 8.06 located at 595 State Highway 33 consisting of 12.39 acres in the HC and PCD Zoning Districts. Applicant seeks approval to install a propane cylinder fill station. Applicant further seeks bulk variance relief for total square footage for two entrance signs on the property. Minor Site Plan and Use Variance. Deemed Complete: 8-18-20. Date of Action: 12-16-20. Noticing required.

Attorney Jared Pape representing the applicant, the Lenzo Family,

Attorney Vella advised that he has read the jurisdictional packet and finds same to accept jurisdiction over the application.

Attorney Vella read the following exhibits into the record:

- A-1 Jurisdictional packet
- A-2 Application dated 4-21-20
- A-3 Color Aerial of property prepared by Crest Engineering dated 3-25-20
- A-4 Minor Site Plan of Property prepared by Crest Engineering dated 3-25-20
- A-5 Survey of Property prepared by Crest Engineering dated 3-23-20
- A-6 Entrance Wall Signage Plans prepared by APCO dated 9-26-19, Last Revised 3-6-20
- A-7 Propane Cylinder Filing Station System Layout prepared by Chestmont Engineering dated 7-1-19
- BOA-1 Engineer Report dated 8-18-20
- BOA-2 Planner Report dated 9-1-20
- BOA-3 Resolution for Bifurcated Use Variance approval dated 4-27-16

- BOA-4 Resolution for Minor Subdivision and Preliminary Major Site Plan Approval dated 2-22-17
- BOA-5 Resolution for Final Major Site Plan Approval dated 8-23-17
- BOA-6 Fire Department Report Dated 4-20-20

Mr. Pape provided that the application is amended Site Plan application. He stated that the Colonial RV project was approved in 2016 and 2017. He stated that the applicants have been working to construct the site and they have returned to the Board to address several items. Mr. Pape stated that a variance for signage is required and he explained that the applicant had three signs approved. Two of the wall signs are located at the entrance of Route 33. Mr. Pape explained that as the signs were being installed, Mr. Shafai noted that the lettering exceeded what was approved. Mr. Pape provided that the architectural drawings are still in sync with Resolution and exactly the same. The lettering takes a bit more room than what was expected.

Mr. Pape advised that the second item concerns a propane filling station. The station was not included in the original site plan. They included the footprint of where the station would be located but the station itself was not approved. Mr. Pape advised that the applicants have received approval from the DCA who has approved the plan. Mr. Pape clarified that the station is solely for filling the tanks of their customers and is not open to the public. He further stated that the station is not open when the dealership is closed.

Attorney Vella swore in Lorali Totten, P.E. P.P. Ms. Totten will be testifying as both a planner and an engineer this evening. Ms. Totten has appeared before the Board on many occasions and is accepted as a professional planner and engineer.

Referring to Exhibit A-5, the location of the filling station, Ms. Totten stated that this may be a non-conforming use or an expansion of a non-conforming use.

Board Planner Mertz provided that this application was approved previously as a Use Variance. The propane tank is not permitted use in any zone. Her report, Exhibit BOA-2, cites a specific section in the Zoning and Land Use Administration book states that any new accessory use still requires a new D1 variance. It is her opinion that is what the applicant requires tonight.

Attorney Vella agrees with Planner Mertz. The original application was a D1 variance and the Board received all uses they were proposing on the site. He provided that perhaps the introduction of the propane use would have changed the outcome of the application. Attorney Vella feels that we did not grant all accessory uses to an RV sale facility.

Ms. Totten stated that the operations of the filling station are strictly for the use as an accessory use to fill the tanks on the RV vehicles so they do not have to leave the facility without them filled. It is an expected service for the purchase of the vehicles. Ms. Totten

advised only for their customers. This is not a separate function of this facility it is in integral part of their facility. Ms. Totten feels that it promotes the purpose of Zoning and is an accessory use to the business to meet the needs of its customers to fill their propane tanks to provide a full RV Dealership and feels this is perfectly suited to house a propane filling station.

Attorney Vella swore in John Lenzo and James Lenzo.

John Lenzo explained why they needed the propane filling station. The new units are brought to their facility for their customers and they will fill the propane tanks that operate the refrigerator and the stove among other items. The purpose is to just provide this for their customers.

Regarding the signage, Mr. Pape asked about the signage. John Lenzo explained that they are not sure how the sign did not contain the "Colonial Airstream" but the and RV was left out. If it were not so important to have that on the sign they would not bother but it is so important. They clarified that the material, backlighting and lettering is what was proposed and approved it is just that the "and RV" was left off.

Ms. Totten continued with her testimony. The negative criteria she feels the proposal will not be detrimental to the zone plan. Passing by public will not even know that it is there. There will not be any signage or advertising for the filling station and it provides a service to customers who are part of the public. The installation of the station will not change the circulation and no substantial impact to the zoning plan. This is a specific function to buyers of the RVs and is not a separate function.

Ms. Totten states that the Board granted a use variance for the RV Sales. This is very specific use and very particularly incidental to the use of this facility and a service to the sales of the RVs.

Planner Mertz agrees with the analysis of Ms. Totten. Planner Mertz asked the applicant about residents of Millstone who are Airstream customers using the station to fill their tanks before a trip.

Mr. John Lenzo stated that they would use the filling station for just their customers. This lasts for the entire season and it lasts for the whole year. He feels that people would not come to them to fill a tank because they can be filled in the campgrounds. If someone was coming in for service they would check and fill their tank.

Planner Mertz feels that it is an accessory use to the RV facility. It is not anywhere visible for the right of way and far from neighbors on either side. Both Planner Mertz and Ms. Totten included aerial in the exhibits and there are no real uses that are nearby that this filling station could impact. She is comfortable with her testimony. Planner Mertz asked for some discussion about safety.

Mr. Pape advised that there are no negative comments from the Fire Department and the DCA has approved the site. There are bollards around the propane area with a gate as well.

Engineer Shafai's report addresses the bollards protecting the area.

Chairman Novellino asked how often does the tank get refilled. Mr. John Lenzo stated that he was trying to calculate and provided potentially one to two times per year.

Regarding the sign variance, Ms. Totten advised that by allowing the Lenzos to complete the sign to allow a desirable visual. What is missing is three letters to complete the sign and make it look balanced that was so carefully designed by the architect. This is the appropriate location for a sign. This proposal will not have a and will not have a substantial effect to the public good and Ms. Totten explained. The walls are installed and will not change. The lettering was approved and will not change. The variance to add three letters is a very small piece to the entire sign. Ms. Totten explained the proposal. The original variance was granted for four sides of sign face and the total size is less than what the ordinances permits, she feels that there is no detriment to the zone plan to add the three letters on the signs.

Board Planner Mertz advised that the application presents no detriment to the original plan. They are requesting a variance for the sign. Planner Mertz stated that she has no problem with what the applicant is requesting. The retaining wall is larger and bigger and already constructed and previously approved. Planner Mertz stated that the addition of a few extra letters is not going to change the way the sign looks and will provide additional information. She has no problem with the bulk variance or Ms. Totten's testimony.

Mr. Frost stated that it makes sense to have the propane filling station on the site in order to service their customers. How do you deal with public who may want to utilize the service?

Mr. John Lenzo advised that the propane is for his customers and new customers.

Chairman Novellino asked Board Engineer Shafai if he had any concerns. Engineer Shafai stated that the applicants have DCA approval and he has no concerns with this application.

Chairman Novellino opened the application to the public at 8:28 p.m. Seeing no public comment on the application he closed it at the same time.

The Board discussed the application.

Mr. Ferrara sees no negative impact and sees it as a plus and has wondered why the rest of the lettering was not on the sign.

Mr. Morelli feels that it makes perfect sense to have a propane filling station at the site. He offered that the sign looks nice lit from behind and the extra letters will finish it off.

Chairman Novellino discussed the use variance for the propane filling station. He agrees

with the other members that it is an appropriate use for the RV dealership to service their customers. He feels it is specifically suited and sees no negative impact. He offered that he does not see a huge environmental danger and he explains.

Chairman Novellino discussed the signage stating that he likes having one sign on the wall.

Attorney Vella went over the conditions of approval should the Board vote positively on this application.

Chairman Novellino asked for a Motion and a Second to either approve or deny the application. Mr. Morelli made a Motion to approve as conditioned and Mr. Mangano offered a Second. Roll call Vote: Morelli, Mangano, Ferrara, Frost, Barthelmes, Lambros and Novellino voted yes to approve.

Z20-08 TLP REALTY, LLC.- Block 16.01, Lot 1 located at 400 Rike Drive consisting of 3.47 acres located in the BP Zoning District. Applicant seeks to construct an attached 3,198 s.f. garage and storage structure to the existing building, new structure is 24 ft. ht. Minor Site Plan and D-2 Variance Approval needed. Deemed complete 8-25-20. Date of Action 12-23-20. Noticing required.

Attorney Peter Licata representing TLP Realty LLC.

Board Attorney Vella advised that he has reviewed the noticing packet and finds same in order to accept jurisdiction over the application.

Board Attorney Vella read the following exhibits into the record:

- A-1 Jurisdictional Packet
- A-2 Application dated 4-6-20
- A-3 Aerial of the Property
- A-4 Waiver Request from Requirement of providing the EIS
- A-5 Site Plan prepared by Geller Sive dated 3-10-20
- A-6 Color Architectural Plan (1 Page) of Garage Addition prepared by Solutions Architecture dated 7-20-20
- BOA-1 Engineer's Report dated 8-25-20
- BOA-2 Planner's Report dated 9-11-20

Attorney Vella swore in applicant Thomas Pado.

Mr. Pado stated that he is seeking to add a four-bay garage to his existing building. The space is to be constructed over his existing paved area located behind building. The space is presently used to park his commercial trucks and for loading and unloading equipment. If

the Board approves the addition, Mr. Pado will use the garage for indoor storage for equipment staged for HVAC system components for his jobs and for storage of his trucks. This will allow him to bring his materials indoors.

The architectural features match the exterior of the existing building to make it appear as part of the existing building.

Attorney Vella swore in Gary Chiang, P.E. Mr. Chiang presented his credentials including that he graduated from NJIT and has been a licensed professional engineer in New Jersey for the past 20 years and has testified before several municipalities.

Mr. Chiang describes the location and size of the proposed addition located to the rear of the property.

Attorney Vella swore in James Higgins the applicant's planner.

Mr. Higgins advised to prepare for this evening, he has reviewed the application and site plan, reviewed the aerial and the zoning ordinance. Mr. Higgins provided a brief overview of the site. The parcel consists of 3.47 acres located in the Business Park Zone. He explained that the property has two frontages on Rike Drive.

Mr. Higgins stated that while an accessory structure of 1,000 s.f. is permitted in the zone, the applicant seeks to construct a 3,224 s.f. structure which requires a D1 variance and he explains that it is the size of the structure that requires the variance. Mr. Higgins demonstrated how the site is particularly suited for the structure. He stated that proposed accessory abuts the existing building. There is no direct access to the principal building because there is a fire-rated wall. Mr. Higgins advised that from the outside you would think that this structure was part of the principal building.

Mr. Higgins stated that the site can accommodate the use and he sees no substantial detriment. The structure is not visible from the street or from neighboring properties. Mr. Higgins stated that the façade will match the existing building exactly. There is no additional impervious coverage to impact storm water management.

Board Planner Mertz agreed with Mr. Higgins' testimony except that the Township Ordinance was amended specifically for storage for site maintenance items and Mr. Pado is proposing to house trucks and HVAC equipment on site.

Planner Mertz stated that if there was a door connecting the structure and the building, that would be an expansion of the existing structure. Planner Mertz feels that with the color and materials and appearance, you would think that this was part of the original structure. A waiver of roof pitch is required. She advised that the proposed pitch of the roof is appropriate for the building. Planner Mertz sees no negative impact on the Township Zoning Plan or the Master Plan.

Chairman Novellino asked the Board if they have any questions of Mr. Chiang or Mr. Higgins.

Attorney Vella had a point of clarification. He asked Mr. Higgins if the applicant had proposed access via the principal structure would a variance be needed? Mr. Higgins advised that on variance would be needed in that situation. Mr. Higgins stated that because the wall is fire-rated there can be no access. Mr. Higgins stated that there is more of a technical issue that gets us to the D1 variance.

Chairman Novellino asked what activities would be taking place in the structure such as repairing automobiles or renting out of the space. Mr. Pado answered no to both questions.

Chairman Novellino opened the application to the public at 9:03 p.m. Seeing no public comment on the application he closed the public portion at 9:03 p.m.

Planner Mertz advised that her office performed a site visit. She stated that there was equipment around the refuse area and this will be stored in the accessory structure and therefore hidden from view.

There was Board discussion concerning the application.

Mr. Frost asked if any flammable items would be stored in the building and Mr. Pado advised no.

Chairman Novellino advised that based on the planning testimony for the D1 use variance, there would not be any automobile repair in the structure. He feels the site is well suited for this particular use. Chairman Novellino stated that it is best to store items and vehicles indoors and a plus for tenants in the business park. He feels that the positive criteria are being met and the zoning plan is not being impacted and has no issues with this application.

Attorney Vella discussing the conditions of approval should this application be approved including but not limited to, the architectural features will match the exterior of the building, any new addition will not be rented to a new tenant, the design waiver of the roof is noted.

Chairman Novellino asked for a Motion and a Second to either approve or deny the application. Mr. Lambros made a Motion to approve as conditioned and Mr. Frost offered a Second. Roll call Vote: Lambros, Frost, Morelli, Mangano, Ferrara, Barthelmes and Novellino voted yes to approve.

Seeing no new or old business, Chairman Novellino asked for a Motion and a Second to adjourn.

Respectfully submitted,

Pamela D'Andrea

