



**MILLSTONE TOWNSHIP ZONING BOARD OF ADJUSTMENT
MINUTES
February 28, 2024**

The Millstone Township Zoning Board of Adjustment regular meeting was called to order by Chairman Mostyn on Wednesday, February 28, 2024 at 7:30 p.m. in the Municipal Meeting Room, 215 Millstone Rd., Millstone Township, NJ 08535. Notice of this meeting was provided in accordance with the Open Public Meetings Law.

Secretary Sims read the Open Public Meetings Act Statement.

There was a salute to the Flag and an observance of a moment of silence offered for those serving and those who have served our country in the past.

Roll call for the below members was called:

Present: Chairman Mostyn, Mr. Barthelmes, Ms. Beckish, Mr. Lambros, Mr. Morelli and Ms. Arpaia (Alt. 1).

Absent: Mr. Ferrara, Mr. Sinha; one vacant seat (Alt. #2).

Attending: Greg Vella, Esq.; Matt Shafai, PE, PP, Board Engineer; McKinley Mertz, PP, AICP, Board Planner; and Danielle Sims, Board Secretary.

Ms. Arpaia was seated for Mr. Ferrara.

MINUTES:

Minutes from January 24, 2024 (Reorganization & Regular Meeting)

Chairman Mostyn noted the Board received the minutes in advance of the meeting for their review. With no comments from the Board, Mr. Barthelmes made a motion to adopt the Minutes from October 25, 2023, which was seconded by Ms. Arpaia. The Minutes were adopted on a roll call vote: Chairman Mostyn, Mr. Barthelmes, Ms. Beckish, Mr. Lambros and Ms. Arpaia (5-0).

RESOLUTION(S):

ZB2024-08 Annual Report of the Millstone Township Zoning Board of Adjustment

Attorney Vella prepared the resolution in advance of the meeting for the Board's review. Mr. Morelli made a motion to memorialize the resolution of approval, which was seconded by Mr. Barthelmes. With no comments from the Board, the resolution was adopted on a roll call vote in favor: Chairman Mostyn, Mr. Barthelmes, Ms. Beckish, Mr. Lambros, Mr. Morelli and Ms. Arpaia. Motion approved, 6-0.

APPLICATION(S):

Green Leaf Pet Resort & Hotel, LLC

Block 59 Lot 9.05 – Northeast corner Monmouth Rd./CR 537 and Burnt Tavern Rd.

Use Variance Application # Z23-08

Request to ratify the use variance approvals granted in 2015 to construct an Emergency Pet Facility sign (Z15-04). Alternatively, if the Board finds a new variance is necessary, the applicant is use variance approval to construct a freestanding Emergency Pet Facility sign on a lot with no primary structure in the HC Zone. The sign is 60" wide x 101.89" in height, with a 12.15" brick planter base, advertising the requesting Green Leaf Pet Resort & Hotel (business on Burnt Tavern Rd.) Emergency Pet Facility and Millstone Elks. A NOV was issued for construction without permits.



Mr. Vella, Esq. reviewed the notice package in advance of the meeting and confirmed that it was in proper form, so the Board can take jurisdiction to hear the continued application.

Mr. Peter Licata, Esq. appeared on behalf of the applicant.

The following witnesses were sworn and were under oath:

Matt Shafai, PE, PP – Board Engineer
M. McKinley Mertz, PP, AICP – Board Planner
Allison Coffin, PP – Applicant’s Planner

The following exhibits were marked in evidence, including new exhibits:

APPLICANT’S EXHIBITS

- A-1 Jurisdictional Notice (Proof of Service)
- A-2 Application, Checklist(s) and Administrative Forms
- A-3 Correspondence
- A-4 Outside Agency Approvals
- A-5 Prior Resolution Z15-04
- A-6 Prior Approved (Z15-04) Signage Detail
- A-7 Aerial of Site, source County of Monmouth Photography – 2011 Pictometry 2011
- A-8 Prior Approved (Z15-04) Signed Use Variance Plan, prepared by Main Street Surveying, dated 5/8/15, signed by Board on 12/11/15
- A-9 Notice of Violation dated 10/11/2023
- A-10 Extension of Time to Act

BOARD’S EXHIBITS

- ZB-1 Photo of sign and new base installed, taken by Zoning Official, 12/2023
- ZB-2 Planner’s Review dated 12/5/23

Attorney Vella explained that the applicant previously received use variance approval for the sign several years ago. The approval had conditions including the filing of various deed restrictions for right-of-way and sight-triangle easement dedications and conservations easement, which never were filed. The applicant also installed the signs, without completing resolution compliance and without obtaining permits. The applicant is appearing before the Board to re-approve the previous application. There is a slight modification of the sign base from what was previously approved.

Mr. Peter Licata, Esq. confirmed the explanation of Attorney Vella. He noted that the sign was to help people locate the emergency pet shelter. He noted the various easements were prepared and reviewed and were never filed. There are approximately 4.7-acres of conservation easement area that will be dedicated to the Township, in addition to the right-of-way and sight triangle easements.

Ms. Allison Coffin was sworn in and provided the Board her credentials as a licensed Planner and was accepted as a professional Planner. She confirmed that there were never any bulk variances considered as part of the original approvals (none are currently proposed). The approvals were granted in 2015 for the construction of a 26 s.f. sign, non-illuminated sign. The site is extremely restricted due to the wetlands and setbacks on the site.

The sign was previously approved as a directional sign for the Emergency Animal Shelter and to replace the old “Millstone Elks” sign on the site and, in Ms. Coffin’s opinion, is the only



reasonable use of the site due to the site constrictions. If the Board would act favorably, the applicant would obtain the required permits.

Mr. Vella confirmed that the sign that was approved is the sign that was constructed. The base of the sign was originally shown as a rectangular brick planter base. The applicant instead constructed a circular stone planter base. Mr. Licata indicated that the applicant would like to maintain the circular planter base and indicated they would add the plantings to the base.

Planner Mertz noted the sign will need to meet the setbacks. Engineer Shafai indicated that the applicant will need to provide an actual survey to show that the sign meets the required setback. Mr. Licata agreed.

Mr. Lambros noted that the County has presented a concept plan for roadway improvements and recalled that they would be requiring additional property. He asked if the approval would push the sign into the wetlands if the County requires the taking of the land for the roadway improvements. Attorney Vella noted that if the County purchases the property, particularly through eminent domain, they would not need to come back for any new setbacks, but the sign would not be able to be placed in the wetlands.

Mr. Licata stated the sign construction was staked out by the surveyor that prepared the plan. They will provide an as-built construction plan. Attorney Vella noted that any improvements by the County may end up "wiping out" the sign completely.

Mr. Lambros confirmed the purpose of the sign is a directional sign, primarily for the emergency pet shelter, but also a directional sign for the Elks. Attorney Vella noted that the County previously adopted a resolution supporting the need for the emergency pet shelter. Mr. Licata noted the County had also entered into an agreement with the applicant for this purpose.

Chairman Mostyn opened the matter to the public. With no members from the public present, Chairman Mostyn closed the matter to the public.

Attorney Vella read the conditions and items the applicant agreed to during the course of the hearing, confirming that the applicant will comply with the conditions of the original approval and will be able to keep the circular stone base and will add plantings to the base area, subject to providing an as-built survey confirming the location of the sign is not in the right-of-way, easements, setbacks or conservation areas. The applicant will be required to obtain any required permits and pay any required fees.

With no further discussion from the Board, Ms. Beckish made a motion to grant the required use variance relief subject to the conditions and testimony placed on record. This motion was seconded by Mr. Morelli. Application Z23-08 was approved with the following votes in favor: Chairman Mostyn, Mr. Barthelmes, Ms. Beckish, Mr. Lambros, Mr. Morelli and Ms. Arpaia. Approved 6-0.

Gregg Pesciotta
Block 31.01 Lot 13 – 11 Fox Hill Drive
Variance Application # Z23-09

Request to maintain a 595 s.f. detached garage structure, which was built without prior approvals or permits, on an existing 125,547 s.f. residential property in the R-130* Zoning District (*Per §35-4.2.1, using R-80 requirements). The structure requires variance relief for 17.3' setback; whereas 20' is required. Several Submission Waivers are requested from the Board. The application was deemed incomplete, pending the Board's consideration of the submission waivers. The applicant will continue with the public hearing should the Board grant the waivers and deem the application complete.



Ms. Beckish indicated she had a conflict with this application and left the dais.

Mr. Vella, Esq. reviewed the notice package in advance of the meeting and confirmed that it was in proper form, so the Board can take jurisdiction to hear the continued application.

Mr. Gregg Pesciotta. appeared as applicant.

The following witnesses were sworn and were under oath:

Matt Shafai, PE, PP – Board Engineer
M. McKinley Mertz, PP, AICP – Board Planner
Gregg Pesciotta – Applicant
Mark Rohmeyer – Applicant's Engineer

The following exhibits were marked in evidence, including new exhibits:

APPLICANT'S EXHIBITS

- A-1 Jurisdictional Notice (Proof of Service)
- A-2 Application, Checklist(s) and Administrative Forms
- A-3 Correspondence
- A-4 Survey of Property, one (1) sheet, prepared by Morgan Engineering, dated 9/21/23
- A-5 Variance Plan, one (1) sheet, prepared by Morgan Engineering, dated 10/23/23
- A-6 Engineer's Response to completeness/review comments, 2 pages, prepared by Morgan Engineering, dated 2/6/24
- A-7 Updated Variance Plan, one (1) sheet, prepared by Morgan Engineering, revised 2/6/24
- A-8 Series of seven (7) photos of the property, provided by Applicant, date and source unknown, rcvd. 2/5/24
- A-9 Exhibit Aerial Map September 2023, prepared by Morgan Engineering & Surveying
- A-10 Exhibit Aerial Map March 2023, prepared by Morgan Engineering & Surveying

BOARD'S EXHIBITS

- ZB-1 Engineer's Review and Incomplete letter dated 1/2/24
- ZB-2 Planner's Review dated 1/29/24

Mr. Pesciotta was sworn in. Mr. Pesciotta stated that he constructed a garage, without permits, to hold some supplies for a contracting company in which he was a partner. He failed to maintain the required 20' setback. The height of the building is 14.3' and is 24.2' by 24.5', for a total of 595 square feet.

Mark Rohmeyer was sworn in and provided his credentials as a licensed engineer. The Board accepted his qualifications as a professional engineer.

Mr. Pesciotta stated that he uses the garage as a storage building for his lawn maintenance equipment, and typical household storage.

Mr. Rohmeyer introduced additional Exhibits A-9 and A-10. He explained that there are approximately 160' of trees between the structure and the residential area to the rear of the property.

Engineer Shafai stated that he recommends that the application be deemed complete and grant the requested submission waivers.



Chairman Mostyn opened the matter to the public. With no members from the public present, Chairman Mostyn closed the matter to the public.

Attorney Vella read the conditions and items the applicant agreed to during the course of the hearing, confirming that the applicant will be required to obtain any required permits and pay any required fees.

The Board explained that the structure has been in this location for approximately 20 years without any issues. The structure is remotely located and does not have any negative impact on the surrounding area.

With no further discussion from the Board, Ms. Beckish made a motion to grant the setback variance relief subject to the conditions and testimony placed on record. This motion was seconded by Mr. Morelli. Application Z23-08 was approved with the following votes in favor: Chairman Mostyn, Mr. Barthelmes, Mr. Lambros, Mr. Morelli and Ms. Arpaia. Approved 5-0.

Ms. Beckish returned to the dais.

Jonathan Tierney
Block 50 Lot 23 – 414 Millstone Rd.
Variance Application # Z23-11

Proposal to construct a 75' x 21' (1,575 s.f.) ground mounted solar array on a 4.843-acre residential lot in the R-80 Zoning District; whereas the maximum permitted on a lot less than 5-acres is 900 s.f. The lot currently contains a single-family dwelling unit, an inground pool, a one-story pool house with a garage attached by a breezeway and a shed. (Previous ZB app. # ZC01-16) Several Submission Waivers are requested from the Board. The application was deemed incomplete, pending the Board's consideration of the submission waivers. The applicant will continue with the public hearing should the Board grant the waivers and deem the application complete.

Mr. Vella, Esq. reviewed the notice package in advance of the meeting and confirmed that it was in proper form, so the Board can take jurisdiction to hear the continued application.

Mr. Jonathan Tierney. Appeared as the applicant.

The following witnesses were sworn and were under oath:

Matt Shafai, PE, PP – Board Engineer
M. McKinley Mertz, PP, AICP – Board Planner
Jonathan Tierney – Applicant
Andrew Declaro – Solar Me, Applicant's solar contractor

The following exhibits were marked in evidence, including new exhibits:

APPLICANT'S EXHIBITS

- A-1 Jurisdictional Notice (Proof of Service)
- A-2 Application, Checklist(s) and Administrative Forms
- A-3 NJDEP Landscape Project Map, 1 sheet, dated 10/25/23
- A-4 Copy of Construction Permit Application Subcode Tech Sheets, prepared by Solar Me
- A-5 Spec Sheets for Q.Peak Duo Blk ML-G10+ Series, prepared by Q.Cells, undated
- A-6 Plot Plan, 1 sheet, drawn on property survey, source not indicated
- A-7 Ground mount solar plans, 3 sheets, prepared by Solar Me, dated 11/27/23
- A-8 Permit Plan set, 9 sheets, prepared by Solar Me, dated 10/18/23



- A-9 Copy of Survey of Property, one (1) sheet, prepared by Crest Engineering, dated 6/7/19
- A-10 Prior Resolution ZC01-16 and corresponding Meeting Minutes from 12/17/2001
- A-11 Stake-out Plan, 1 sheet, source not indicated, undated
- A-12 Review Response prepared, prepared by applicant, dated 1/24/24

BOARD'S EXHIBITS

- ZB-1 Engineer's Review and Incomplete letter dated 1/10/24
- ZB-2 Planner's Review dated 1/25/24

Mr. Pesciotta was sworn in.

Mr. Declaro appeared as the applicant's solar contractor and was sworn in. Mr. Declaro stated that they are proposing to construct a 29.16 kw ground mounted solar system. He stated that the system is designed to power to the applicant's home.

Mr. Tierney stated that his house has several roof lines and would be very difficult to install on the rooftop.

Planner Mertz noted that there is no limit to the size of a roof mounted system and the applicant confirmed that the applicant is seeking relief to construct a 1,575 square foot, ground mounted solar array; whereas only 900 square feet is permitted for lots under five-acres. Mr. Declaro stated that the system designed is scalable.

Mr. Declaro stated that a 29.16 kw system is typical for a house of this size. The pool house (a previous variance application). He stated that they have received approval from JCP&L to construct this system.

Mr. Declaro stated that they install a netting under the system to deter deer and other animals from getting into the wiring. Mr. Tierney stated he would install arborvitaes or relocate some of the ones he recently planted, if the Board would like. Engineer Shafai stated that the ordinance requires a buffer to the neighboring areas. Engineer Shafai inquired if the applicant would install buffer should there be any glare or reflection to the neighboring lots. Mr. Tierney stated he would install trees if necessary.

Mr. Barthelmes stated that the applicant is asking for a big deviation from the ordinance. They are requesting 1,575, square feet where only 900 s.f. is permitted. He is concerned that any approval would set a precedent. Attorney Vella explained that there is no precedent, in so long as the Board is not arbitrary and capricious.

Ms. Beckish stated that the State and the Environmental Commission is encouraging green infrastructure and feels that restricting the size is in conflict. Planner Mertz stated that the restriction is only on a ground mounted system. The permitted size is relative to the size of the property.

Mr. Declaro stated that the height of the proposed solar structure is under the maximum 12', as permitted. The proposed structure is approximately 394' feet from the right-of-way.

Planner Mertz inquired if the system can be split between roof mounted system and ground mounted. Mr. Declaro stated that there are so many hips and valleys and would be very difficult to design a system on the roof for the house. Ms. Mertz suggested that they would not typically count a ground mounted solar system as part of the overall accessory structure size allowance.

The Board suggested they may want to include something in the annual report to address the limits on the size of the ground mounted systems. After further discussion, they suggested that they should not make the recommendation, as there are situations where you may want to have certain controls in place.



Chairman Mostyn opened the matter to the public. With no members from the public present, Chairman Mostyn closed the matter to the public.

Attorney Vella read the conditions and items the applicant agreed to during the course of the hearing. The applicant would be required to add trees to prevent any glare and to properly screen the array to the satisfaction of the Board Engineer. The applicant will provide a copy of the approval from JCP&L and obtain the required permits.

With no further discussion from the Board, Ms. Arpaia made a motion to grant the required use variance relief subject to the conditions and testimony placed on record. This motion was seconded by Ms. Beckish. Application Z23-11 was approved with the following votes in favor: Chairman Mostyn, Mr. Barthelmes, Ms. Beckish, Mr. Lambros, Mr. Morelli and Ms. Arpaia. Approved 6-0.

BOARD DISCUSSION:

There were no other business matters up for discussion.

ADJOURNMENT:

With no further business, Chairman Mostyn adjourned the meeting.

Respectfully submitted,


Danielle B. Sims, Board Secretary