

Township of Millburn
Minutes of the Planning Board
February 7, 2018

A regular meeting of the Township of Millburn Planning Board was held on **Wednesday, February 7, 2018** at 7:30 PM in Millburn Town Hall.

Chairman Kenneth Leiby opened the meeting by reading section 5 of the Open Public Meetings Act.

The following members were present:

Daniel Baer
Elaine Becker
Cheryl Burstein
Dianne Eglow
Roger Manshel
Miriam Salerno
Joseph Steinberg
Beth Zall, Vice Chairwoman
Kenneth Leiby, Chairman

Also present:

Ed Buzak, Board Attorney
Eric Fishman, Court Reporter
Martha Callahan, Township Engineer
Eileen Davitt, Zoning Officer/Board Secretary

APPROVAL OF MINUTES

A motion to approve the minutes of January 17, 2018 was made by Cheryl Burstein, seconded by Beth Zall, and carried with a unanimous voice vote.

MEMORIALIZATIONS

Appl#18-001, 35 Blaine Street, LLC, 35 Blaine Street, Millburn

Upon a motion made by Roger Manshel, seconded by Elaine Becker, and with the following roll-call vote:

Daniel Baer – yes
Elaine Becker – yes
Roger Manshel – yes

Miriam Salerno – yes
Joseph Steinberg – yes
Beth Zall – yes
Kenneth Leiby – yes

the following resolution was approved:

**RESOLUTION
PLANNING BOARD
TOWNSHIP OF MILLBURN**

In the Matter of:

**35 Blaine Street, LLC
Major Subdivision
Application No. 18-001
Block 1101, Lot 19
Preliminary and Final Major Subdivision Approval
Variances
Waivers**

WHEREAS, 35 Blaine Street, LLC ("Applicant") previously submitted to the Township of Millburn Planning Board ("Board") an application dated March 21, 2017 for preliminary and final major subdivision approval to subdivide property commonly known as 35 Blaine Street ("Prior Application") and formally known as Block 1101, Lot 19 on the Official Tax Map of the Township of Millburn ("Property") into two conforming lots for the purpose of constructing a single family home on each lot; and

WHEREAS, The Board held a hearing on the Prior Application on June 7, 2017; and

WHEREAS, by Resolution adopted on July 5, 2017 the Board granted preliminary and final major subdivision approval to subdivide the Property into two conforming lots, proposed Lot 19.01 consisting of approximately 7,591 square feet (.174 acres) and proposed Lot 19.02 consisting of 8,346 square feet (.192 acres), on which Applicant intended to construct two single family homes, along with the waiver of the requirement that the Applicant submit an Environmental Impact Statement and waiver of various "checklist" requirements ("Prior Resolution"); and

WHEREAS, the subdivision granted by the Prior Resolution was not perfected by the Applicant; and

WHEREAS, Applicant submitted to the Board a new application dated October 25, 2017 for preliminary and final major subdivision approval involving the same Property into two lots, consisting of one conforming lot (proposed Lot 19.02) for a two family dwelling and one non-conforming lot (proposed Lot 19.01) for a single family dwelling and for (i) a "c" variance for

insufficient lot width and lot frontage on proposed Lot 19.01 of 37.8 feet whereas 40 feet is required; and (ii) a waiver of the requirements that there be submitted with the application an Environmental Impact Statement; and

WHEREAS, the Applicant submitted plans entitled "Preliminary & Final Major Subdivision Plat, 35 Blaine Street, Tax Lot 19, Block 1101, Township of Millburn, Essex County, New Jersey", dated October 1, 2017, prepared by Casey & Keller, Millburn, New Jersey, consisting of 4 Sheets ("Plans"); and

WHEREAS, notice to adjacent property owners and public notice was provided under the requirements of the Municipal Land Use Law and Section 424 of the Development Regulations and Zoning Ordinance of the Township of Millburn; and

WHEREAS, a public hearing was held on the application on January 17, 2018; and

WHEREAS, the Applicant was represented by Michael D. Sullivan, Esq., and testimony was provided by Michael T. Lanzafama, P.E. & P.P. ("Applicant's Planner"); and

WHEREAS, the Board having considered the testimony and reviewed the Exhibits related thereto, together with the application and Plans, hereby makes the following findings of fact:

1. The property is located at 35 Blaine Street, and is formally known as Block 1101, Lot 19 on the Official Tax Map of the Township of Millburn. Existing Lot 19 consists of an aggregate of 15,937 square feet or 0.366 acres. The Property fronts on Blaine Street near the intersection with Church Street and is located in the R-7 Zone District which has a minimum lot size of 4,000 square feet for single family dwellings and 5,000 square feet for a two family dwelling, making Lot 19 significantly oversized for the zone.

2. The Property backs up to property of the Millburn Board of Education. There are no wetlands on the Property nor is the Property located in a flood hazard area. There are no riparian areas, wetland buffer areas, or steep slope areas. The dwelling house previously existing on the Property has been demolished.

3. The current application seeks to subdivide the vacant property into two lots, proposed Lot 19.01, consisting of approximately 6,491 square feet on which a single-family home will be constructed and proposed Lot 19.02 consisting of 9,446 square feet on which a two-family home will be constructed.

4. Both proposed new lots are sufficiently sized for their respective intended uses in the R-7 Zone District in which they are located. However, proposed Lot 19.01 (the single family dwelling lot) would not be conforming with regard to lot width and lot frontage, with 37.8 feet proposed, whereas 40 feet is required. Proposed Lot 19.02 would be conforming with 50 feet required for two family dwelling lots and 50 feet is provided.

5. The dividing line between the two lots extends for 179.12 feet on an east/west plane.

6. The configurations of proposed Lot 19.01 and proposed Lot 19.02 are essentially rectangular except for the rear property line, which runs on a diagonal making one lot deeper than the other. Plans for the single family and the two family dwelling houses have not been provided for either of the lots, but a building envelope was depicted on the Plans for each of the lots. The Applicant intends to construct a single family dwelling of approximately 2,466 square feet on Lot 19.01 and a two family dwelling of approximately 3,590 square feet on Lot 19.02. The Township Planner pointed out in his Report that the Township adopted Ordinance No. 2491-17 in December 2017 ("2017 Ordinance"), which Ordinance, among other things, revises the bulk standards for one and two family structures in the R-7 Zone. The Applicant acknowledged that fact and agreed that the proposed dwellings on each proposed new lot and any plans which it submits for such dwellings would comply with all the bulk and other provisions in the 2017 Ordinance. The Applicant acknowledged and accepted that side yard requirements for single family dwellings in the 2017 Ordinance will result in a narrow single family structure on proposed Lot 19.01.

7. Public sanitary sewer and public water are available and will be utilized for the two dwelling units.

8. The Applicant's Planner testified concerning the request for an EIS waiver. The Property had previously been developed as a single family home (now demolished) and there are no steep slopes present. The Property contains no "specimen trees."

9. The Applicant's Planner testified in support of the Applicant's request for the lot width and lot frontage variances on proposed Lot 19.01. Both proposed new lots significantly exceed the minimum lot area required under the Township Code of 4,000 square feet for a single family residence and 5,000 square feet for a two family residence in the R-7 Zone. Lot 19.02 is fully conforming. The surrounding neighborhood is made up of a mix of one and two family homes. The granting of the variance would advance the purposes of the Municipal Land Use Law, specifically to advance the goal of infill housing in areas where infrastructure exists; would provide adequate light, air and space; and would create an appropriate density and variety of residential uses, i.e., one and two family structures. The frontage and width variance requested is 2.2 feet and therefore de minimis. The Board found that the granting of the variance will not cause a substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan or zoning ordinances, particularly given the de minimis nature of the variance.

10. The Board is of the view that preliminary and final major subdivision approval should be granted along with the lot width and lot frontage variances for proposed Lot 19.01; the waiver of minimal checklist items; and the waiver from the requirement that an Environmental Impact Statement be submitted in accordance with the requirements and conditions as set forth in this Resolution and subject to the conditions as set forth below.

NOW, THEREFORE, BE IT RESOLVED that this Resolution shall serve to memorialize the action of the Planning Board of the Township of Millburn on January 17, 2018, granting (i) preliminary and final major subdivision approval; (ii) a "c" variance for insufficient lot width and frontage on proposed Lot 19.01 permitting a lot width and frontage of 37.8 feet whereas 40 feet is required; (iii) a waiver of the requirements that there be submitted with the application an Environmental Impact Statement; and (iv) a waiver of various application checklist items, subject to the following conditions:

1. The Applicant shall comply with all applicable municipal ordinances and regulations, as well as all County, State and Federal Laws applicable to this development application.

2. The foregoing is subject to review of, approval by, and requirement imposed by such other Federal, State, County and local bodies having jurisdiction over the development.

3. The Applicant shall remit all outstanding escrow fees as requested by the Township of Millburn.

4. The Applicant shall submit applications to, and obtain approval from, the Essex County Planning Board and the Hudson-Essex-Passaic Soil Conservation District, if applicable.

5. The Applicant shall comply with the requirements, requests and recommendations set forth in the Reports from the Police Department (1-17-18); the Township Forester (1-10-18); and the Township Planner (1-17-18) to the extent applicable; and

6. The Applicant shall abandon the prior unperfected approval granted by the Prior Resolution adopted on July 5, 2017.

7. Prior to the perfection of this major subdivision approval, the Applicant shall demolish all ancillary structures on the Property and remove all other improvements such that each of the two proposed lots are vacant with no improvements thereon, all such removal and demolition to be completed to the satisfaction of the Township Engineer prior to the legal creation of the two proposed lots approved herein. This subdivision shall be perfected in accordance with the requirements and provisions of the Municipal Land Use Law.

8. The Applicant shall submit revised preliminary and final subdivision plans as may be required by the Township Engineer and other Township professionals, consistent with the approval granted herein, including, without limitation, the revision of the Zoning Table on the Plans to comply with the 2017 Ordinance.

9. The Prior Resolution is hereby rescinded and declared null and void and of no legal effect.

10. The Applicant shall be bound to comply with all representations made before this Board by the Applicant's witnesses and the Applicant's counsel during the course of the public

hearing on the application held on January 17, 2018, and the same are incorporated herein and are representations upon which this Board has relied in granting the approvals set forth herein and shall be enforceable as if those representations were made conditions of this approval.

11. This Resolution is a memorializing Resolution adopted pursuant to N.J.S.A.40:55D-10g(2), memorializing action taken by the Board at its meeting on January 17, 2018.

Appl#18-002, The Peccary, LLC, 315C Millburn Avenue, Millburn

Upon a motion made by Cheryl Burstein, seconded by Beth Zall, and with the following roll-call vote:

- Daniel Baer – yes
- Elaine Becker – yes
- Cheryl Burstein – yes
- Dianne Eglow – yes
- Roger Manshel – yes
- Miriam Salerno – yes
- Joseph Steinberg – yes
- Beth Zall – yes
- Kenneth Leiby – yes

the following resolution was approval:

**RESOLUTION
PLANNING BOARD
TOWNSHIP OF MILLBURN**

In the Matter of:

**The Peccary, LLC
Site Plan Application No. 18-002
Block 702, Lot 15
Conditional Use and Preliminary and Final Site Plan Approval
Variances
Waivers**

WHEREAS, The Peccary, LLC ("Applicant") has made application to the Township of Millburn Planning Board for conditional use approval for a fast food restaurant establishment in the B-4 zone and for preliminary and final site plan approval, and for the following: (i) a variance from the loading space requirement; (ii) a variance for parking requirements; and (iii) a

waiver of the requirement that an Environmental Impact Statement be submitted, all as set forth in the application submitted and in more detail below, in connection with a change of use from retail sales to a fast food restaurant at premises commonly known as 315 Millburn Avenue and formally known as Block 702, Lot 15 on the Official Tax Map of the Township of Millburn ("Property"); and

WHEREAS, the Applicant has submitted (i) a plan entitled, "Change of Use Group, Major Site Plan, 315 Millburn Avenue, Block 702, Lot 15, Township of Millburn, Essex County, NJ," consisting of one sheet, prepared by Casey & Keller, Inc., dated October 20, 2017 ("Plan"); (ii) Architectural Plans entitled, "Floor Plan, The Peccary Coffee Bar, 315C Millburn Avenue, Millburn, NJ," consisting of 2 sheets, prepared by Jeff Jordan Architects, LLC, dated September 14, 2017 ("Architectural Plans"); and (iii) a resized Sheet A-100 "Floor Plan" of the Architectural Plans, dated September 14, 2017, revised January 18, 2018 ("Revised Architectural Plans"); and

WHEREAS, the Applicant has provided the requisite notice to property owners and published public notice in accordance with the notice requirements of the Municipal Land Use Law and Section 424 of the Development Regulations and Zoning Ordinance of the Township of Millburn; and

WHEREAS, a public hearing was held on the application on January 17, 2018; and

WHEREAS, the Applicant was represented by Justin Calta, Esq. and testimony was provided by Michael Lanzafama, P.E., P.P. ("Applicant's Planner") and by David Hu, principal of The Peccary, LLC in support of the application; and

WHEREAS, the Board having considered the testimony offered on behalf of the Applicant and having reviewed the Exhibits related thereto, together with the application and Plans, hereby makes the following findings of fact:

1. The Property is located at 315 Millburn Avenue, and is formally known as Block 702, Lot 15 on the Official Tax Map of the Township of Millburn. The Property is located in the B-4 Zone with a commercial building containing eight commercial units. The unit in question, designated as 315C Millburn Avenue ("Unit C"), is currently vacant and is the subject of this application. There is a parking area on the Property to the rear (north) of the building containing six parking spaces.

2. The Applicant seeks conditional use approval, preliminary and final site plan approval from the Planning Board for a change of use from retail sales to a fast food restaurant (i.e. a coffee house cafe) and two variances hereinafter described, and certain waivers. Restaurants, fast food restaurants, retail food establishments and eating and drinking places are conditional uses in the B-4 zone.

3. The Applicant seeks a variance from the loading space requirement per Section 607.1 and for a variance from the parking requirement of Section 607.4. In addition, the Applicant seeks a waiver from the requirement that it submit an Environmental Impact Statement.

4. The Applicant contended and the Township Planner confirmed that the closest part of the structure exclusive of parking and loading area is not less than 125 feet from the nearest lot line in a residential district (± 213 feet) and that there are no drive-up windows thereby satisfying the conditional use requirements for fast food restaurants in the B-4 Zone.

5. The Applicant seeks to renovate the interior of the vacant retail unit. Specifically, the Applicant seeks to operate a coffee house/café which will also serve light fare, such as croissants and pastries, prepared off-premises to accompany the coffee.. The retail space will be 1,200 square feet. There will be a seating area as shown in the Revised Architectural Plans of 275 square feet for approximately 15-18 customers. In addition, there will be an office, a bathroom and storage. There is a basement of 400 square feet, accessible only from outside, which will also be utilized for storage.

6. The hours of operation will be Monday - Friday 6:30 a.m. - 3:00 p.m. The Applicant testified that in the future once the "business stabilizes" he may likely have weekend operation as well. The Applicant also testified that trash will be placed in the in-store storage areas and will be picked up by Waste Management 2 or 3 times per week.

7. The Applicant's principal, Mr. Hu, testified concerning the request for a loading space variance, stating that he expects deliveries to be by Federal Express package truck. He testified that deliveries of coffee and other products would be small in size, at most requiring a "hand push-cart", suggesting that there was no need for a separate loading space.

8. The Applicant's Planner testified concerning parking. The Applicant's principal, Mr. Hu, testified that there are six parking spaces behind the building which are available for tenants. Because these spaces are often occupied by other tenants he does not plan on being able to use them. The proposed coffee shop is expected to have 5 employees in addition to Mr. Hu for a total of 6 employees. There will be 3 to 4 employees working per shift, but there will be overlap between shifts where more than 3-4 employees will be present. The Applicant's principal testified that he intends to purchase 6 Business Parking Permits for the above-referenced employee staff. The report of the Township Planner, dated January 17, 2018, states that a total of 7 parking spaces were required for the former retail use. Based on the proposed 1,200 square feet for a fast food use plus the basement the Township Planner calculated that 35 parking spaces would be required for a fast food restaurant pursuant to Section 607.2 of the Township Code. Section 607.4 of the Township Code provides that if there is a change of use of an existing premises which increases the number of off-street parking requirements, and the Applicant proposes no additional off-street parking, then the Applicant shall purchase Business Parking Permits for the shortfall. Here, there is a net increase of 28 parking spaces (new use 35 spaces less former use 7 spaces). The Applicant has proposed purchasing 6 Business Parking Spaces leaving a shortfall of 22 parking spaces.

9. The Applicant's Planner testified that customers would utilize nearby parking and not make use of the Business Parking Permits. He testified that within walking distance are a parking deck, Parking Lots 1, 7 and 12, and on-street parking ample to accommodate customers of the proposed coffee shop. The use of perimeter parking instead of on-site parking is consistent with the Master Plan. With regard to the loading space variance, the Applicant's Planner noted that the premises have been successfully utilized without a loading space for years

and it has never caused any problems. Given the size and scope of the proposed operations, supplies will be delivered in small quantities, usually by Federal Express/UPS delivery, such that a loading space is not necessary. Delivery of goods without a loading space is not out of character for the area.

10. The Board determined that granting a variance for the shortfall of 22 parking spaces resulting from the conversion from retail use to a fast food restaurant pursuant to Section 607.4 of the Development Regulations and Zoning Ordinances of the Township of Millburn is justified due to the hardship created by the current full use of the Property and the physical inability to provide additional spaces on-site. Further, because the purchase of additional Business Parking Permits will not benefit the patrons (who will be unable to utilize those permits) imposing a requirement that the Applicant purchase 22 Business Parking Permits would be a hardship upon the Applicant and would not address any potential shortfall in the number of parking spaces. In addition, the granting of this variance will not cause a substantial detriment to the public good nor substantially impair the Zoning Plan or the Zoning Ordinance because the Applicant will purchase Business Parking Permits for its employees who will be on-site for a longer time period than transitory patrons, provided, however, that the Applicant be required to purchase Business Parking Permits for all employees, but not less than for the 6 employees currently planned as set out above.

11. Given the testimony regarding delivery of supplies in small quantities to the premises and its past history of functioning adequately without a designated loading space, the Board is satisfied that a variance from the requirement that a loading space should be provided is fully justified. The Board also found that the checklist waivers requested in the application were reasonable and within the general purpose and intent of the site plan review.

12. In support of the application for the waiver of the submission of an Environmental Impact Statement, it was noted that the site is fully developed and the application involves interior renovations only with no proposed changes to the exterior of the building, except for signage. There will be no effect on any environmental aspects of the Property.

13. The Board is of the view that the Applicant has met the conditional use requirements for a fast food restaurant in the B-4 Zone and therefore that conditional use approval should be granted; that preliminary and final site approval should be granted; that a parking variance for 22 additional parking spaces and a variance from the requirement of providing a loading space should be granted; and that the checklist and Environmental Impact Statement waivers should be granted, all in accordance with the requirements as set forth in this Resolution and subject to the conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED that this Resolution shall serve to memorialize the action of the Planning Board of the Township of Millburn taken on January 17, 2018, granting (i) conditional use for a fast food restaurant establishment in the B-4 zone; (ii) preliminary and final site plan approval for a change in use from retail sales to a coffee shop on premises known as 315C Millburn Avenue; (iii) parking space variance for 22 parking spaces; (iv) a loading space variance whereby no loading space will be required; and (v) the waiver of the submission of an Environmental Impact Statement and various checklist items as set forth above, subject to the following conditions:

1. The Applicant shall comply with all applicable municipal ordinances and regulations, as well as all County, State and Federal Laws applicable to this development application.

2. The foregoing is subject to review of, approval by, and requirement imposed by such other Federal, State, County and local bodies having jurisdiction over the development.

3. The Applicant shall remit all outstanding escrow fees as requested by the Township of Millburn.

4. The Applicant shall submit applications to, and obtain approval from, the Essex County Planning Board and the Hudson-Essex-Passaic Soil Conservation District, if applicable.

5. The Applicant shall be required to purchase Business Parking Permits for all employees, but not less than 6, to provide additional parking as required by Section 607.4 of the Township Code, as set forth herein and shall be required to purchase additional Business Parking Permits for each additional employee in excess of 6.

6. The Applicant shall make all reasonable efforts to comply with the sustainability requirements, goals and objectives of the Township of Millburn in the course of converting from retail use to a fast food restaurant.

7. The Applicant shall comply with the requirements, requests and recommendations set forth in the Reports from the Township Forester (1-10-18), Police Department (1-17-18) and the Township Planner (1-17-18) to the extent applicable.

8. The parking space variance granted herein is justified based upon the change of use to a fast food restaurant of the particular character outlined herein and will run with the land only to the extent that the use proposed herein does not change. Upon a subsequent change of use, the Board reserves the right to re-examine the propriety of this variance in light of the new use proposed and may rescind, modify, extend or expand the parking space variance as justified by the facts elicited in the new application and the parking needs generated by the new change of use.

9. The Applicant shall be bound to comply with all representations made before this Board by the Applicant's principal and Applicant's witness during the course of the public hearing on the application held on January 17, 2018 and the same are incorporated herein and are representations upon which this Board has relied in granting the approvals set forth herein and shall be enforceable as if those representations were made conditions of this approval.

10. This Resolution is a memorializing Resolution as set forth pursuant to N.J.S.A.40:55D-10g(2), memorializing action taken by the Board at its meeting on January 17, 2018.

APPLICATIONS

APPL#18-003, NEW JERSEY AMERICAN WATER, 167 JFK PARKWAY, SHORT HILLS

Niall O'Brien, Attorney for the applicant, stated his appearance. The applicant is before the Board seeking minor site plan approval for an upgrade to the property, consisting of the construction of a new storage facility and a new pole barn. The project will provide additional on-site storage for New Jersey American Water and will have minimal impact on the site.

Michael Polito, P. E., Mott McDonald representative, appeared and was sworn.

Cheryl Burstein raised an issue with regard to a conflict of interest due to Mott McDonald's consulting work with the Township of Millburn.

Attorney Ed Buzak thought it best for the matter to be carried to the next available agenda in order to allow research into a potential conflict of interest.

The matter was carried to March 7, 2018 with no further notice required.

BUSINESS

Board Attorney Ed Buzak and Township Planner Paul Phillips gave a brief presentation regarding the Fair Share Affordable Housing Element of the Master Plan.

Ed Buzak gave a brief history of the Mount Laurel doctrine. In 1975, the Mount Laurel case started the affordable housing issues. In that particular case, the municipality was sued by a number of groups alleging that their zoning was exclusionary in that it did not allow for the opportunity for the construction of affordable housing. The Supreme Court heard the case and determined that every municipality that was developing in New Jersey had an obligation through its Zoning Ordinance to provide a realistic opportunity for the construction of that municipality's fair share of the region's low and moderate income needs. That became known as Mount Laurel I.

Eight years later in 1983, it became clear that many municipalities were not taking this requirement seriously and were not rushing to change their zoning ordinances to provide this realistic opportunity. In 1983, the Supreme Court revisited the issue (which became known as Mount Laurel II) and was frustrated that their ruling was being ignored. The Supreme Court decided that they, rather than the Legislature or the municipalities, were going to enforce the requirements. At the time, developers who filed lawsuits against municipalities claiming that the zoning laws were arbitrary and capricious were having the matters remanded back to the municipalities to change their zoning laws. However, this resulted in the municipalities changing their zoning in the ways they felt best served the municipality. The Supreme Court decided to change the laws such that when builders filed a lawsuit and sought to build a development with an affordable set-aside, the Supreme Court would grant the developer that

right and the municipality would be ordered to re-zone the property in that fashion. The Supreme Court thereby created a mechanism to enforce the municipalities' constitutional obligation. The developers were used as a pawn to move the doctrine forward.

In 1985, the Legislature created the Fair Housing Act at the urging of the Supreme Court. This took the constitutional obligation and packaged it into a Land Use Law. It also created an alternative mechanism for municipalities that wanted to step forward and satisfy their obligation. If the municipality attempted to fulfill their obligation, they would be able to proceed through an administrative process, and be protected against these builder's remedy lawsuits. The Fair Housing Act created the Council on Affordable Housing (COAH) to create a numerical obligation of a municipalities' affordable housing obligation.

Paul Phillips, Township Planner, spoke about the Fair Share Housing Plan as it relates specifically to Millburn Township. He gave a brief overview of the draft *Housing Element and Fair Share Plan* dated February 2018 which was prepared in accordance with the MLUL, the Fair Housing Act and the Second Round Substantive Rules of the New Jersey Council on Affordable Housing.

Mr. Phillips stated that the Supreme Court, in 2015, endorsed the previous methodologies employed in COAH's first and second rounds to establish third round fair share obligations. However, the Courts did not adopt specific methodologies or formulas for municipalities to calculate their third round fair share obligation. Estimates proffered by various experts resulted in Millburn's present need obligation ranging between 109 – 140 units. The 1999-2025 Fair Share obligation ranged from 545 units to 1,373 units.

Paul Phillips stated that there are few sites in the municipality that are of a size, shape and location to accommodate residential development on the scale required to address Millburn's Fair Share obligation. Millburn is a built-out community with significant acreage reserved for conservation land, which accounts for approximately 30% of the Township's area.

Due to the lack of available, vacant land, Millburn is seeking a vacant land adjustment. All of the vacant sites in the Township were inventoried and the resulting analysis show that there are only approximately 13.9 acres of developable, vacant land. Based on the vacant land adjustment, the Township's realistic development potential (RDP) is 17 units. In addition to addressing the RDP, the Township must also provide a response toward the "unmet need" of the obligation not addressed by the realistic development potential. Paul Phillips explained that the "unmet need" is the difference between the RDP and the sum of the prior round obligation of 261 units and a third round prospective need obligation ranging from 545 units to 1,373 units.

Paul Phillips stated that future affordable housing development in the Township will likely occur through the redevelopment of previously improved sites. In 2015, Millburn rezoned a developed property at 233 Canoe Brook Road to encourage the creation of affordable housing. The approved mixed-use site plan for that property will include 30 low- and moderate-income units. The Township is also proposing further implementation of affordable housing overlay zoning within areas that are conducive to multifamily redevelopment. In addition, the Township

will establish a mandatory set-aside ordinance where any qualifying residential development will be required to provide a 20% affordable housing set-aside for sale units and a 15% set-aside for rental units.

Questions and comments were received from several residents, including Ann Levison, David Cosgrove, Jean Cosgrove, Debra Nevis and Cary Heller.

ADJOURNMENT

A motion to adjourn was made by Cheryl Burstein, seconded by Joseph Steinberg, and carried with a unanimous voice vote. (10:00 PM)

Eileen Davitt
Board Secretary

Motion: CB
Second: JS
Date adopted: 2/28/18