

ORDINANCE No. 2011 –003

**AN ORDINANCE
CLARIFYING PLANNING BOARD ORGANIZATION PROVISIONS AND AMENDING
THE DEVELOPMENT ORDINANCE OF THE BOROUGH OF MILLSTONE,
SOMERSET COUNTY, NEW JERSEY**

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Millstone, Somerset County, New Jersey that the Development Ordinance of the Borough of Millstone is hereby amended as follows:

SECTION ONE: Section D-132A is amended to read as follows:

D-132 PLANNING BOARD

A. ESTABLISHMENT

The Planning Board shall consist of the following classes:

Class I The Mayor

Class II One of the officials of the municipality other than a member of the governing body to be appointed by the Mayor.

Class III A member of the governing body to be appointed by it.

Class IV Six other citizens of the municipality to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one member may be a member of the board of education. A member of the environmental commission who is also a member of the planning board shall be a Class IV planning board member .

Alternate members Alternate members of the Planning Board shall be designated at the time of appointment by the Mayor as "Alternate Number 1," "Alternate Number 2," "Alternate Number 3," and "Alternate Number 4".

The terms of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than two alternate members shall expire in any one year; provided, however that in no instance shall the terms of the alternate members first appointed exceed two years.

A vacancy occurring otherwise than by expiration of term shall be filled by the Mayor for the unexpired term only:

No alternate member shall be permitted to act on any matter which he has either directly or indirectly any personal or financial interest.

An alternate member may, after public hearing if he requests one, be removed by the governing body for cause.

Alternate members may participate in discussions of the proceedings but may not vote except in absence or disqualification of a regular member of any class of the Planning Board.

A vote shall not be delayed in order that a regular member may vote instead of an alternate member, In the event that a choice must be made as to which alternate member is to vote, alternate number 1 shall vote.

SECTION TWO: Section D-132H is amended to read as follows:

H. POWERS AND DUTIES GENERALLY

The planning board is authorized to adopt by laws governing its procedural operation. It shall also have the following powers and duties:

- (1) To make and adopt and from time to time amend a master plan for the physical development of the Borough including any areas outside its boundaries, which in the board's judgment bear essential relation to the planning of the Borough, in accordance with the provisions of C. 40:55D.28.
- (2) To administer the provisions of the land subdivision ordinance and site plan review ordinance of the Borough in accordance with the provisions of said ordinance and the Municipal Land Use Law of 1975, C. 40:55D-1 et seq.
- (3) To participate in the preparation and review of programs or plans required by state or federal law or regulations.
- (4) To assemble data on a continuing basis as part of a continuous planning program.
- (5) To annually prepare a program of municipal capital improvement projects projected over a term of six years, and amendments thereto, and recommend same to the governing body.
- (6) To consider and make report to the governing body within thirty-five days after referral as to any proposed development regulation submitted to it pursuant to the provision of C. 40:55D 16(a) and also pass upon other matters specifically referred to the planning board by the Borough Council, pursuant to the provisions of C. 40:55D.26(b).
- (7) When reviewing applications for approval of subdivision plans, site plans or conditional uses to grant to the same extent and subject to the same restrictions as the zoning board of adjustment:
- (8) Variances pursuant to subsection 57c of Ch 291 Laws of N.J. 1975 from lot area, lot dimensional set back and yard requirements provided that such relief from lot area requirements shall not be granted for more than one lot.

(9) Direction pursuant to section 25 of said act for issuance of permit for building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to section 23 of said act.

(10) Direction pursuant to section 27 of said act for issuance of a permit for a building or structure not related to a street.

Whenever relief is requested pursuant to the subsection, notice of hearing on the application for development shall include reference to the request for a variance or direction for issuance of a permit as the case may be.

(11) To perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies or officers.

(12) To exercise all of the powers granted zoning boards of adjustment by N.J.S.A. 40:55D-1 et seq.

SECTION THREE: Section D-132 is amended by adding a NEW Section M as follows:

M. EXPIRATION OF VARIANCE

Any “d” variance from the terms of this ordinance hereafter granted permitting the erection or alteration of any structure or structures or permitting a specified use or any premises shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance, or unless such permitted use has actually been commenced within nine months from the date of adoption of the resolution memorializing the approval of the variance; except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the planning board to the governing body or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding.

SECTION FOUR: Section D-133 is hereby deleted, and the section designation is reserved.

SECTION FIVE: The title of Section D-134 is hereby amended to read “PROVISIONS APPLICABLE TO THE PLANNING BOARD.”

SECTION SIX: Section D-135 is amended by deleting Subsections A and B, re-lettering Subsections C as A, and changing re-lettered A as follows:

.A. APPEALS FROM THE PLANNING BOARD TO GOVERNING BODY

An appeal from any decision of the planning board granting a “d” variance pursuant to the provisions of c. 40:55D-70 (d) may be taken to the governing body provided such appeal shall be made within ten days of the date of publication of such final decision of the planning board.

SECTION SEVEN: Effective Date

This Ordinance shall take effect upon its passage and publication and its filing with the Somerset County Planning Board, as provided for by law.

I, Gregory J. Bonin, Borough Clerk of the Borough of Millstone, in the County of Somerset, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of an ordinance adopted by the Borough Council of the Borough of Millstone during their regular meeting of June 20, 2011.

A handwritten signature in black ink, appearing to read 'G. J. Bonin', with a stylized flourish at the end.

Gregory J. Bonin, Millstone Borough Clerk