

TOWNSHIP OF MILLSTONE

ORDINANCE NO. 20-06
INTRODUCTION DATE: 02-19-2020
ADOPTION DATE: 03-18-2020

ORDINANCE AMENDING CHAPTER XXXV (LAND USE AND DEVELOPMENT REGULATIONS), ARTICLES 3, 4, 5, 7, 9, 11 AND 17, SECTIONS 3-9.3(ESCROW FEES), 4-9.12 (FENCES), 4-11.4 (NOISE), 4-14.8.c.1 (SITE DEVELOPMENT STORMWATER PLAN), 4-16 (ARCHITECTURAL GUIDELINES & DESIGN STANDARDS FOR NONRESIDENTIAL BUILDINGS), 5-15 (PCD PLANNED COMMERCIAL DEVELOPMENT) 5-16, 5-16.2, 5-16.4, 5-16.6 (FHSC), 7-3.4(EMERGENCY SPILLWAYS), 9-5 (ENVIRONMENTAL CONSTRAINTS) 11-5.9, 11-11, 11-14.8.b, 11-24, 11-25.6, 11-30, 11-32.3, 11-33 (DESIGN AND PERFORMANCE STANDARDS) AND 17-1 (RIPARIAN ZONE ORDINANCE) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

BE IT ORDAINED by the Township Committee of the Township of Millstone, County of Monmouth, State of New Jersey as follows:

CHAPTER XXXV, Land Use and Development Regulations, Article 3, Fees and Fee Schedule, Section 3-9.3b. the following paragraph shall be added:

Notwithstanding anything herein to the contrary, in the event that required escrow fees, as calculated by the fee schedule, exceed the sum of \$75,000.00 in the aggregate then there shall be an initial deposit in the amount of \$75,000.00. As the application progresses and the escrow account is drawn upon the Applicant shall make additional deposits in order to replenish the escrow account to a minimum balance of \$20,000.00.

CHAPTER XXXV, Land Use and Development Regulations, Article 4, Regulations Applicable to All Zoning Districts, Section 4-9.12d.7. is added as follows:

4-9.12

d.

7. On nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” security fencing and sound walls may have a height necessary to provide adequate security for the premises and adequate sound attenuation but not to exceed twenty (20) feet, unless a higher sound attenuation is demonstrated to be required in order to comply

with NJDEP noise regulations in which case adequate screening shall be provided to mitigate any adverse visual impacts..

CHAPTER XXXV, Land Use and Development Regulations, Article 4, Regulations Applicable to All Zoning Districts, Section 4-11.4 is amended to add a final paragraph as follows:

“Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” the NJDEP noise standard shall apply of 65 decibels during the daytime (7 a.m. – 10 p.m.) and 50 decibels during the nighttime (10 p.m. to 7 a.m.)”

CHAPTER XXXV, Land Use and Development Regulations, Article 4, Regulations Applicable to All Zoning Districts, Section 4-14.8.c.1. is amended to add a final paragraph as follows:

“Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” the Topographic Base Map and Drainage System Map shall not be required to show properties extending 500 ft. (Topographic Base Map) and 2,000 ft. (Drainage System Map) from the subject property as a checklist requirement. During the course of the application the municipal agency may require submission of additional documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met.

CHAPTER XXXV, Land Use and Development Regulations, Article 4, Regulations Applicable to All Zoning Districts, Section 4-16.1a. is amended to read as follows:

4-16.1 Applicability.

a. Any application for site plan approval and/or any application for a construction permit for any nonresidential building in the Township of Millstone shall comply with these “Architectural Guidelines & Design Standards For Nonresidential Buildings” (referred to as “guidelines and standards”). “Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” shall be exempt from Section 4-16.

CHAPTER XXXV, Land Use and Development Regulations, Article 5, Zoning District Regulations , Section 5-15.5 is amended to add a final paragraph as follows:

“Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the

Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” the following standards will be applicable in lieu of those set forth above:

Maximum Building Height* 50 feet

*Building Height shall be defined as the vertical dimension measured to the highest point of a building from the average elevation of the finished grade at the four corners of the building, irrespective of existing topographical elevations provided that the average elevation of finished grade shall not be more than six (6) feet above the average elevation of pre-development existing grade at the four corners of the building.

Maximum Percent Building Coverage 20 percent

Maximum Building Floor Area Ratio .20

CHAPTER XXXV, Land Use and Development Regulations, Article 5, Zoning District Regulations , Section 5-15.6b. is replaced with the following:

b. Any property adjacent to a residential district shall provide a buffer that is twenty-five (25) percent of the lot depth or one hundred fifty (150) feet, whichever is greater. “Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” the buffer shall be one hundred fifty (150) feet and shall not be required to meet the twenty-five (25) percent lot depth requirement.

CHAPTER XXXV, Land Use and Development Regulations, Article 5, Zoning District Regulations , Section 5-16 is amended to include a final paragraph as follows:

“Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” shall be exempt from Section 5-16 and subject to all applicable NJDEP rules and regulations.

CHAPTER XXXV, Land Use and Development Regulations, Article 7, Off Street Parking and Loading, Section 7-3.4 is amended to include a final paragraph f. as follows:

7-3.4f. “Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket

No. MON-L-2501-15” the minimum illumination shall not be less than two-tenths (0.2) footcandle anywhere in the vehicular circulation/parking and pedestrian circulation areas and the mounting height of light fixtures shall not be more than 25 feet above ground level. The requirement that spacing of fixtures shall not exceed 5 times the mounting height shall not apply.

CHAPTER XXXV, Land Use and Development Regulations, Article 9, Development Application Requirements, Sections 9-5.2 and 9-5.3 are amended to add an additional paragraph as follows:

“Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” this prohibition shall not apply and reasonable disturbance of these features, as determined by the municipal agency, may be permitted.

CHAPTER XXXV, Land Use and Development Regulations, Article 11, Design and Performance Standards and Construction Specifications, Section 11-5.9 is amended to add an additional final paragraph as follows:

“Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” privately owned and maintained detention basins, retention basins or other stormwater detention/retention/infiltration facility need not be located on a separate lot to be dedicated to the Township.

CHAPTER XXXV, Land Use and Development Regulations, Article 11, Design and Performance Standards and Construction Specifications, Section 11-14.8b is amended to add an additional final paragraph as follows:

“Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” the requirements respecting a maximum of twenty (20) continuous parking stalls and separation of modules by a landscape buffer strip shall not apply.

CHAPTER XXXV, Land Use and Development Regulations, Article 11, Design and Performance Standards and Construction Specifications, Section 11-24.1 is amended to add an additional final paragraph as follows:

“Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of

Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” the requirements of Section 11-24 shall not be applicable.

CHAPTER XXXV, Land Use and Development Regulations, Article 11, Design and Performance Standards and Construction Specifications, Section 11-25.6 is amended to add an additional final paragraph as follows:

“Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” the requirements of Section 11-25.6 shall not be applicable.

CHAPTER XXXV, Land Use and Development Regulations, Article 11, Design and Performance Standards and Construction Specifications, Section 11-30.3 is amended to add an additional final paragraph as follows:

“Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” the requirements of Section 11-30.3 shall be revised such that the number and location of soil sampling shall be reduced to the minimum number and locations deemed reasonably necessary by the the municipal engineer to determine whether contamination exists.

CHAPTER XXXV, Land Use and Development Regulations, Article 11, Design and Performance Standards and Construction Specifications, Section 11-32.2 is amended to add an additional final paragraph as follows:

“Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” shall be exempt from Section 11-32 and subject to all applicable NJDEP rules and regulations.

CHAPTER XXXV, Land Use and Development Regulations, Article 11, Design and Performance Standards and Construction Specifications, Section 11-33.1 is amended to add an additional final paragraph as follows:

“Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” shall be exempt from Section 11-33 and subject to all applicable NJDEP rules and regulations.

CHAPTER XXXV, Land Use and Development Regulations, Article 17, Riparian Zone Ordinance, Section 17-1.1 is amended to add the following final paragraph:

“Notwithstanding anything herein to the contrary, on nonresidential properties being developed pursuant to a certain Settlement Agreement in the case of “In the Matter of the Application of the Township of Millstone and the Planning Board of the Township of Millstone, County of Monmouth, Superior Court of New Jersey, Law Division, Monmouth County Docket No. MON-L-2501-15” shall be exempt from Section 17 and subject to all applicable NJDEP rules and regulations.

BE IT FURTHER ORDAINED by the Township Committee of the Township of Millstone, County of Monmouth, State of New Jersey as follows:

All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

If any section, subparagraph, sentence, clause or phrase of this Ordinance shall be held to be invalid, such decision shall not invalidate the remaining portion of this Ordinance.

This Ordinance shall take effect upon adoption and publication according to law and filing with the Monmouth County Planning Board.

EXPLANATORY STATEMENT: This Ordinance revision is designed to implement the provisions of the Settlement Agreement reached between Millstone Township, Fair Share Housing Center and Showplace Farms, LLC and approved by Order of the Superior Court of New Jersey, Monmouth County, Law Division, Docket No. MON-L-2501-15 dated November 12, 2019 resolving the Township of Millstone’s Mount Laurel Declaratory Judgment action to satisfy its Constitutional obligation to provide its fair share of affordable housing.