

# TOWNSHIP OF MARLBORO

## ZONING BOARD OF ADJUSTMENT

1979 TOWNSHIP DRIVE

MARLBORO, NJ 07746-2299

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### **Chairperson**

Glenn Malysz

### **Vice-Chairperson**

Michael Fishman

### **Secretary**

Robert Knight

### **Members**

Matthew Weilheimer

Adrienne Spota

Lewis Wildman

Michael Mahon

Joseph Sparacio - Alt.#1

Steven Pitchon - Alt.#2

### **Zoning Board Clerk**

Yvonne Cautillo

### **Attorney**

Michael Steib, Esq.

### **Engineer**

Gravatt Consulting Group

David Thesing, F.E., P.F.

### **Planner**

Thomas J. Scangarello, P.F.

Planning Design Collaborative, LLC

### **Administrative Officer**

### **Zoning Officer**

Sarah Paris

## MINUTES

### ZONING BOARD OF ADJUSTMENT

MAY 6, 2008

REGULAR MEETING

SALUTE TO FLAG

SUNSHINE LAW READ

### ROLL CALL

**PRESENT:** Glenn Malysz, Robert Knight, Michael Mahon,  
Adrienne Spota, Lewis Wildman, Michael Fishman,  
Matthew Weilheimer, Steven Pitchon, Jennifer Bajar

**ALSO PRESENT:** Michael Steib, Esq. Board Attorney  
Sarah Paris, Administrative Officer  
David Thesing, Engineer  
Thomas Scangarello, Board Planner

The Board accepted the minutes of April 15, 2008, with a change made to change "carried" to the word "approved" in the vote for ZB 08-6320 and ZB 08-6324. This change was offered by Glenn Malysz and seconded by Adrienne Spota.

### MINUTES APPROVED:

Offered: Glenn Malysz

Ayes: 9

Absent: 0

Second: Adrienne Spota

Nays: 0

Abstain: 0

Public Session:

Joseph Sparacio spoke regarding his resignation from the Board and wishing his replacement, Jennifer Bajar, good luck. Mr. Sparacio thanked the town and the Board for the privilege of service. His time became very limited between family, business and volunteer work. Mr. Malysz also thanked him for his service to the residents of Marlboro Township. Mr. Malysz welcomed Jennifer Bajar as the newest member of the Zoning Board.

**ZB 08-6325 – Meiterman Commercial Properties, LLC**

Public Hearing for Approval to amend Resolution ZB01-6007A for Meiterman Commercial Properties, Preliminary Final Site Plan, Block 268.01, Lot 43 and Southpoint Property Management Preliminary and Final Site Plan ZB03-6097, Block 268.01, Lot 42. The applicant is owner of the property known as 176 Route 9 North, Englishtown, NJ 07726. Said property is located in a C-3 Zoning District.

Application was read into the record. The Board took jurisdiction and the following evidence was entered the evidence:

- A – 1            Petition on Appeal
- A – 2            Indemnification and Hold Harmless Agreement
- A – 3            Disclosure Statement
- A – 4            W 9
- A – 5            Tax Collector's Certification
- A – 6            Affidavit of Completeness
- A – 7            Notice To Adjoining Property Owners
- A – 8            Adjacent Property Listing
- A – 9            Certified White Receipts and Green Cards
- A – 10           Affidavit of Service
- A – 11           Affidavit of Publication
- A – 12           CME Associates Report Reviewing Meiterman Commercial Properties Applications for Amended Preliminary and Final Site Plan Application #ZB01-6007A, dated May 30, 2003.
- A – 13           Memorializing Resolution Re: Meiterman Commercial Properties Application for Amended Preliminary and Final Site Plan Application #ZB01-6007A, Block 268.01, Lot 43 and Southpoint Property Management Application for Preliminary and Final Site Plan Application #ZB03-6097, Block 268.01, Lot 42.
- A – 14           Parking and Traffic Study prepared by Jay S. Troutman, Jr., PE, McDonough & Rea Associates, Inc., Dated April 18, 2008.
- A – 15           Affirmation of Local Pay To Play Ordinance dated 3/31/08
- A – 16           Gravatt Consulting Group Report prepared by David A. Thesing, P.E., dated April 29, 2008.
- A – 17           Hamal Associates, Inc. Report prepared by Harold K. Maltz, P.E., President, dated May 2, 2008

After review for completeness of the application, Mr. Steib stated there is a technical defect and rather than proceed, we request to continue on June 17, 2008.

Kenneth Pape, Esq., said he will secure the additional owner's signature and signed an Extension of Time to continue June 17, 2008.

**ZB 08-6315 – Marlboro Auto Wreckers**

Continuation of a Public Hearing for an interpretation of the Junkyard Ordinance relating to the recycling of scrap metal at 153 Tennent Road, Block 170, Lot 3, in the LC zone.

**ZB 08-6316 – Morganville Auto Wreckers**

Continuation of a Public Hearing for an interpretation of the Junkyard Ordinance relating to the recycling of scrap metal at 249 Spring Valley Road, Block 172, Lot 13 in the LC Zone.

**ZB 08-6317 – Schechter Enterprises**

Continuation of a Public Hearing for an interpretation of the Junkyard Ordinance relating to the recycling of scrap metal at 158 Tennent Road, Block 147, Lot 34, in the C-2 Zone.

Mr. Steib noted that the Board received a transcript of proceedings dated May 12, 1983 from the Superior Court of New Jersey, along with various other documents that were obtained through OPRA requests. This documentation was hand delivered from Giordano, Halleran & Ciesla on the morning of the Board's hearing, May 6, 2008.

Mr. John Giunco, Esq. on behalf of the applicant presented Andrew Janiw, Professional Planner, Beacon Planning, 41 Highway 34 South, Colts Neck, NJ. Mr. Janiw was accepted as an expert planner.

A short review was given from March 4, 2008 meeting.

Jennifer Bajar said she is eligible to vote as she has listened to tapes.

Additional photographs were submitted as evidence:

- |        |  |
|--------|--|
| A – 18 | Three aerials: one for each of the sites, showing non auto scrapping     |
| A – 19 | Series of 9 photographs depicting scrapping at 3 different locations     |
| A – 20 | 158 Tennent Road Property depicting 9 photos of various items for scrap  |
| A – 21 | 6 Photos of Spring Valley Road Property showing older trailer & vehicles |

The 1983 transcript depicts Elaine Schechter's position and explanation regarding the March 4, 2008 meeting. The scrap iron collected shows this is an ongoing since inception. They never intended to abandon the scrap use.

Per Michael Steib, Justice Mark Sullivan's judgment was received the morning of the May 6, 2008 meeting and is not yet reviewed by the Board Members. Mr. Steib had concerns because the items were not reviewed.

Public Comments:

Mr. Dan Matarese, 485 Tennent Road, Marlboro, NJ is sworn in. He presented questions to the Professional Planner, Andrew Janiw, regarding the operation of the facility at Spring Valley Road. He also questioned the acetylene tanks used to cut up cars at the auto junk yard at 158 Tennent Road. Mr. Mataresi commented that there was not scrap in the truck at 153 Tennent Road; this is a tow lift. Mr. Mataresi also asks if Mr. Janiw is aware of current rates?

Mr. Leonard Cholish, 35 Squire Road, Long Valley, NJ is sworn in. He states that the junkyards are collecting scrap other than automobile scrap. Between 1975 – 1980 he brought in equipment using a car crusher and crane. He states it was a full facility on Tennent Road. He also did a major job at the Spring Valley Road site. Everything was co-mingled and had to be separated due to individual pricings.

Mr. Anthony Aurieamma, 2 Beena Way, Manalapan, New Jersey went into business in 1979. He sold scrap metal, including screens, tubing, pipes, etc which is still ongoing today. The Schechter's would sometimes buy and sell at higher prices. He works only one site in Marlboro now. He has not serviced the other two lots since the 1980's.

Mr. Clyde Cameron, 128 Grove Street, Aberdeen Township sworn in. He would pick up and sell to Mr. Schechter. It was siding, refrigerators, windows, iron, and etc. not automotive materials.

Mr. Kenny Miller was not able to attend due to illness. Exhibit E (letter) was submitted with the May 6, 2008, in the transcript package. He did witness non-automotive scrap. Mr. Stein stated that generally we do not accept certifications if the witness is not present.

#### Zoning Board Questions:

Tom Scangarello, Board Planner, agrees with Michael Stein. It is more complicated than appears. If the Board finds okay, there will be more creeping of non conformity. This will grow and expand and there will be no control over this and there will be environmental conditions to remediate. If a use variance and site plan is required, there will be control of what is going on. Mr. Junco asks that the environmental comments be ignored. There is no scientific basis regarding environmental.

#### Public Questions:

Mr. Paul Schaflin of 21 Stonehenge Way, sworn in. He states he has been going to junkyard since he was 14 years old. There is no evidence of activity on Spring Valley Road since 1992. There is nothing there and if there is to be a use, the residents should be protected.

Mr. Dan Mataresi, already sworn in, makes statements as to scrap metal already being done illegally in this town and if permitted there will be full blown metal yards.

Ms. Nicole Singh of 168 Texas Road, is sworn in. She states that if license is converted to a scrap metal license, it will hurt the surrounding neighborhood. There will be noise, air pollution, and trucks that don't obey speed limits.

Mrs. Pearl Richardson of 148 Greenwood Road is sworn in. She explained her concern about the value of her house.

Linda Abedrabbo, 134 Greenwood Road is sworn in. She expressed her concern if the Schechter's are allowed to operate auto salvage and recycling, the diesel odor will be "devastating".

Mr. Peter Bellone of 157 Tennent Road is sworn in. He lives directly next to 153 Tennent Road since 1982. Mrs. Schechter is a good neighbor and he would prefer to see scrap. If it is there for a while, they are very neat and clean.

Mr. Anthony Aurieamma has dealt with every junk yard in Marlboro Township since 1979. None of the others are as clean as the Schechter's.

Ms. Mariya Breyter, 337 Texas Road, Morganville is sworn in. She chose to build here three years ago. The community has a nice future and trucks do not belong here.

Mr. Giunco summation states that none of his client's properties are camouflaged or deceptive. Anyone who purchased a house knew the junk yards were there since the 1950's. This is so because of the Real Estate Disclosure law. The law is very clear on pre-existing uses. They presented a series of evidence and want to continue to operate as was in the 1980's and 1990's. The Schechter's have complied. The law is very clear on pre-existing uses. The interpretation is given. They are protected from scrap metal activities and the licenses are in accordance with the ordinance.

Out of Workshop:

Mr. Malysz asked if the members felt that they have enough information to make their decision or should they adjourn to digest the submitted information and read the transcript. The majority of Board members felt that they needed to read the transcript prior to making an interpretation.

A motion was offered.

This hearing was adjourned to July 1, 2008. An extension of time is granted to July 30, 2008. There will be no further notice.

### ***MEMORIALIZATIONS***

#### **ZB 08-6322 – Perri, John, Jr.**

Memorialization of a Resolution granting approval to construct a new single family residence with an insufficient front and side yard setback at 10 Orchard Street, Marlboro, New Jersey, Block 219, Lot 7, in the LI, Light Industrial zone.

Offered by: Glenn Malysz

Seconded by: Adrienne Spota

Ayes: 5

Nays: 0

#### **ZB 08-6323 – Steve & Joann Erickson**

Memorialization of a Resolution granting approval to construct a 1,436 square foot addition to the existing house in excess of permitted lot coverage for principal structure at 25 Mitchell Court, Marlboro, New Jersey, Block 225, Lot 173, in the R-30/20 residential zone.

Offered by: Glenn Malysz

Seconded by: Lewis Wildman

Ayes: 4

Nays: 0

Motion Approved.

**ZB 08-6320 – Santangelo, Steve & Nebesnak, Stacie**

Memorialization of a Resolution granting approval to construct an 8' x 10' shed and a 4' fence within 100 feet of the top of the bank of a stream at 38 Guest Drive, Morganville, NJ, Block 275, Lot 36 in the R-20 zone.

Offered by: Glenn Malysz                      Seconded by: Robert Knight  
Ayes:                      4                                      Nays: 0

Motion Approved.

**ZB 08-6324 – Fazio, Thomas & Melissa**

Memorialization of a Resolution granting approval to construct a 350 square foot deck with insufficient rear yard setback for an accessory structure at 276 Spring Valley Road, Morganville, New Jersey, Block 147, Lot 1. Said property is located in the LC zone.

Offered by: Glenn Malysz                      Seconded by: Michael Mahon  
Ayes:                      4                                      Nays: 0

Motion Approved

Hearing is adjourned at 11:05 p.m. by Robert Knight and seconded by Michael Mahon.

Respectfully,

Yvonne M. Cautillo