

# TOWNSHIP OF MARLBORO

## ZONING BOARD OF ADJUSTMENT

1979 TOWNSHIP DRIVE

MARLBORO, NJ 07746-2299

PHONE: (732) 536-0200 EXT. 509 FAX: (732) 617-7225

Web: [www.marlboro-nj.gov](http://www.marlboro-nj.gov) e-mail: [zoning@marlboro-nj.gov](mailto:zoning@marlboro-nj.gov)

### **Chairperson**

Glenn Malysz

### **Vice-Chairperson**

Robert Knight

### **Secretary**

Lewis Wildman

### **Members**

Michael Mahon

Jennifer Bajar

Matthew Weilheimer

Lewis Wildman

Michael Shapiro

Paul Schlaflin – Alt #1

Frank Yozzo – Alt #2

### **Zoning Board Clerk**

### **Attorney**

Michael Steib, Esq.

### **Engineer**

Gravatt Consulting Group

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

### **Planner**

Planning Design Collaborative, LLC

Thomas Scangarello, P.P.

### **Traffic Engineer**

Medina Consultants

Mark Kataryniak, P.E.

### **Administrative Officer**

### **Zoning Officer**

Sarah Paris

## MINUTES

## ZONING BOARD OF ADJUSTMENT

OCTOBER 6, 2009

SALUTE TO FLAG

SUNSHINE LAW READ

## ROLL CALL

**PRESENT:** Glenn Malysz, Michael Mahon, Jennifer Bajar,  
Robert Knight, Michael Shapiro, Paul Schlaflin

**ALSO PRESENT:** Michael Steib, Esq. Board Attorney  
Bruce Jacobs, P.E., Board Engineer  
Thomas Scangarello, P.P., Board Planner  
Sarah Paris, Administrative Officer

**ABSENT:** Lewis Wildman, Matthew Weilheimer, Frank  
Yozzo

No public comment.

The Board accepted the minutes of September 15, 2009

Offered: Glenn Malysz

Seconded: Robert Knight

Ayes: 6

Nays: 0

Absent: 3

Abstain: 0



Offered by: Glenn Malysz

Seconded by: Michael Shapiro

Paul Schlaflin is not in favor of this application, he feels that the lot is too small.

The other Board members agreed that they would be in favor of the application, it is practical, fits in with the neighborhood and will make it look more appealing.

Out of Workshop

Offered by: Glenn Malysz

Seconded by: Michael Shapiro

Open to the public for comment. No public comment.

Motion to grant application with the following conditions:

Must meet all the technical requirements addressed by the Board Engineer in his letter dated, September 16, 2009.

Structure is not to be enclosed.

Offered by: Glenn Malysz

Seconded by: Michael Mahon

Ayes: 5

Nays: 1

Absent: 3

Abstain: 0

**ZB 09- 6352 – New Cingular Wireless PCS, LLS d/b/a AT&T Mobility**

Public Hearing for approval to amend resolution approved May 5, 2009. Applicant is requesting a deviation in lot coverage at Service Road off of Beacon Hill Road, Marlboro, Block 132, Lot 19, located in the LC Land Conservation Zone.

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

- A – 1 Petition on Appeal
- A – 2 Denial by Zoning Officer
- A – 3 Proposal for Site MO 323, Block 132, Lot 19, Service Road off of Beacon Hill Road for New Cingular Wireless PCS, LLC d/b/a AT&T Mobility.
- A – 4 Disclosure Statement
- A – 5 W 9
- A – 6 Tax Collector's Certification
- 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 Affirmation of Local Pay to Play Ordinance
- A – 13 Application Affidavit of Completeness
- A – 14 Correspondence from R. Michael Maus, AT&T, 340 Mt. Kemble Avenue, Morristown, NJ stating Cingular is now the new AT&T dated 8-13-08.
- A – 15 AT&T Comprehensive Plan, Site MO-323, Service Road off Beacon Hill Road, Morganville, NJ, Dated 6-13-07.
- A – 16 AT&T Calculated Radio Frequency Emissions, Site M0-323, NYNYNJ6323, Dated 6-13-07.

- A – 17** Letter regarding structural integrity regarding equipment cabinets and the antennas to be mounted to the tank prepared by Robert A. Delery, P.E., and Paul C. Beck, P.E., President, Paul Beck Associates, P.A., 12 Kulick Road, Fairfield, NJ 07004, dated June 5, 2007.
- A – 18** Indemnification and Hold Harmless Agreement
- A – 19** New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility, Applicant's Letter of Commitment to lease excess space submitted by JA Babinski, Day Pitney, LLP, PO Box 1945, Morristown, NJ, dated November 17, 2008.
- A – 20** Title Sheet, Site Plan for Site Number MO-323, Beacon Hill Water Tank, prepared by General Dynamics, 630 Freedom Business Center, 3<sup>rd</sup> Floor, King Of Prussia, PA, dated. 11/19/08.
- A – 21** Report prepared by John W. Borden, Fire Sub-Code Official/Fire Inspector, Marlboro Township, 1979 Township Drive, Marlboro, NJ 07746, dated February 2, 2009.
- A – 22** Report prepared by David Thesing, Gravatt Consulting Group, 414 Lacey Road, Forked River, NJ, Dated February 4, 2009.
- A – 23** Report prepared by Thomas Scangarello, Planning Design Collaborative, LLC, 150 Himmelein Road, Medford, NJ dated 2-6-09.
- A – 24** Report prepared by Sgt Joseph Lenge, Division of Police, Marlboro Township, dated 2/9/09.
- A – 25** Memo from Michael B. Steib, Esq. regarding New Cingular wireless PCS, LLC, d/b/a AT&T Mobility Use Variance and Site Plan, Block 132 Lot 19, dated February 10, 2009.
- A – 26** Owners Affidavit of Authorization and Consent
- A – 27** Enlarged copy of A-15 showing AT&T coverage, Board mounted map of Marlboro submitted as evidence on 2/17/09.
- A – 28** Overlay map exhibiting AT&T coverage in and around Marlboro Township including proposed site.
- A – 29** Aerial second map showing AT&T coverage in and around Marlboro Township including proposed site prepared by Jarmel Kizel Witczak, Land Planning and Design, LLC, 81 East Water Street, Suite 1B, Toms River, NJ dated 2/17/09.
- A – 30** Enlarged site plan – N0323 gives more topographic information prepared for Cingular Wireless by General Dynamics (General Dynamics Network Systems), 630 Freedom Business Center, 3<sup>rd</sup> Floor, King Of Prussia, PA dated 10/24/06.
- A – 31** Environmental Report prepared by Marlboro Township Environmental Commission, 1979 Township Drive, Marlboro, dated 2/23/09.
- A – 32** Site Conformity Assessment (Site No. M0-323) prepared by Ronald C. Petersen, R. C. Petersen Associates, LLC, 170 Fairview Drive, Bedminster, NJ dated 2/16/09.
- A – 33** Aerial photo of the site and vicinity.
- A – 34** Photo Simulation Board #1
- A – 35** Photo Simulation Board #2
- A – 36** Photo Simulation Board #3
- A – 37** Minor Site Plan for Beacon Hill Water Tower Prepared by Charles Witczak, Jarmel Kizel Witczak, 81 East Water Street, Suite 18, Toms River, NJ, last revised August 28, 2009.
- A – 38** Report prepared for amended resolution prepared by Bruce Jacobs, PE, Gravatt Consulting Group, 414 Lacey Road, Forked River, NJ, dated September 16, 2009.
- A – 39** Resolution Granting Variance Approval for ZB09-6352, New Cingular Wireless, PCS, LLC, AT&T Mobility, dated May 5, 2009.

Michael Levine, Esq. on behalf of applicant.

Last hearing in April, Resolution adopted 5/5/2009, applicant was granted a use variance and a series of bulk variances.

Jim Dowling, Planner, 299 Madison Avenue, Morristown, NJ sworn in and accepted as an expert witness.

Board Planner stated that as a condition of the first approval, the applicant was supposed to give a landscape plan with more variety than 12 Cedars. The Board Planner would be in favor of the application with the condition that a supplemental Landscape Plan be submitted for the entrance way at the gate.

Board Attorney advised that the condition already exists in the present Resolution.

Workshop

Offered by: Glenn Malysz

Seconded by: Robert Knight

Board would be in favor of the application with the slight modification of the landscape design which would need to be submitted to the Board Planner for approval.

Out of Workshop

Offered by: Glenn Malysz

Seconded by: Michael Shapiro

Open to the public for comment. No public comment.

Motion to grant application with the following conditions:

Modify landscaping design and submit to Board Planner for approval.

Offered by: Glenn Malysz

Seconded by: Michael Shapiro

Ayes: 6

Nays: 0

Absent: 3

Abstain: 0

**ZB 09-6367 – Heln Management, LLC**

Continuation of a Public Hearing for approval to construct an addition to an existing single family home having insufficient lot area, depth, front yard setback and exceeding total building and total lot coverage at 136 Beacon Hill Road, Morganville, Block 153, Lot 78.01, located in an LC–Land Conservation Zone.

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

- A – 1 Petition on Appeal
- A – 2 Denial by Zoning Officer
- A – 3 Indemnification and Hold Harmless Agreement
- A – 4 Disclosure Statement
- A – 5 W 9
- A – 6 Tax Collector's Certification
- 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 Affirmation of Local Pay to Play Ordinance
- A – 13 Application Affidavit of Completeness
- A – 14 Stormwater Calculations for Block 153, Lot 78.01, by A. J. Garito, Jr., PE, Two River Engineering, Colts Neck, NJ dated May 1, 2009.
- A – 15 Variance Plan prepared by A.J. Garito, Jr., Two River Engineering, Colts Neck, NJ, dated 5/15/09.
- A – 16 Architecturals for 136 Beacon Hill Road, Morganville, Block 153, Lot 78.01, prepared by Roy L. Quackenbush, 346 Pleasant Valley Road, Old Bridge, NJ. dated 9/27/08.
- A – 17 Report prepared by David Thesing, Gravatt Consulting Group, 414 Lacey Road, Forked River, NJ, Dated 8/6/09.
- A – 18 Color rendering of existing conditions plan prepared by A.J. Garrito dated 2/25/09

- A – 19 Color rendering of Variance Plan prepared by A.J. Garito, Jr., Two River Engineering, Colts Neck, NJ, dated 5/15/09.
- A – 20 Photo Board consisting of nine (9) photos
- A – 21 Reverse side of A-20 consisting of five (5) photos.

Jennifer Krimko, Esq. on behalf of the applicant.

AJ Garrito, P.E., Two River Engineering, 265 Route 34, Colts Neck, NJ was sworn in and accepted as an expert witness.

Ms. Krimko advised that the existing house is located in the LC zone of which the principle structure was grandfathered in under the R-80 zone.

Mr. Garrito, Engineer, advised that two driveways are existing on the property and the applicant would be eliminating the driveway that runs off Beacon Hill Road and would only be keeping the driveway on Kaiser Court. The proposed structure would be larger than what exists on the property today but is approximately the same in impervious coverage. There would be no other disturbances of the property than what has already been disturbed.

Approximately 350 additional square footage being added.

The Board expressed some concerns about the location of the driveway that will remain. The applicant has no problem with shifting the location of the driveway.

Sarah Paris will submit the plan for the driveway to the Township's Traffic & Safety Bureau for approval.

Applicant's Engineer stated that the grading would not change or deviate from the submitted plans.

Mr. Jeffrey P. Miller, owner of property, East Brunswick, NJ sworn.

Glenn Malysz questioned the history of the property. Mr. Miller explained the mound of dirt on site was something he inherited with the property and would have no problem with having it removed. Mr. Miller also stated that the structure was partially demolished when he purchased it. Heln Management will develop the house and live in it.

Roy Quackenbush, Architect, 346 Pleasant Valley Road, Old Bridge, NJ sworn in and accepted as an expert witness.

Mr. Quackenbush stated the client gave him photos of a home he had seen in Texas. The features of the proposed home would compliment the character of the neighborhood. The size of the proposed home fit in structurally and architecturally with the area.

Andrew Janiw, Planner, 315 Highway 34, Colts Neck, NJ sworn in and accepted as an expert witness.

Mr. Janiw advised that the existing vegetation well remain. The shed would be removed. The R-80 zone allows for 6% and they are proposing 7.2%. They would only disturb areas that have already

been disturbed, basically changing concrete and slab for walls and roof. The existing home has fallen into disrepair.

The proposed structure includes a four car garage.

Jennifer Bajar asked if the applicant would consider a three car garage to come closer to the requirements of the R-80 zone.

#### Workshop

Offered by: Glenn Malysz

Seconded by: Robert Knight

Paul Schlaflin is not in favor of this application. He was not impressed by the testimony given and feels that a smaller home would be just as fitting in the area.

Michael Shapiro was not in favor of the application at first but after hearing testimonies he feels it fits in with the neighborhood, it is smart planning and a definite improvement to the existing.

Robert Knight feels that the proposed structure is too large and the request is unreasonable.

Jennifer Bajar was unsure but felt there should be some give and take and a reduction in the size of the proposed structure would be a good idea.

Michael Mahon complimented the witnesses on the presentation but felt the proposed structure was too large.

Glenn Malysz felt that it was definitely an improvement and was in favor of the application.

Overall the Board felt would like to see a reduction in the square footage of the proposed structure to be more conforming with the R-80 zone.

#### Out of Workshop

Offered by: Glenn Malysz

Seconded by: Michael Shapiro

Open to the public for comment. No public comment.

Jennifer Krimko, Esq., requested an adjournment so that they may take some of the Board's requests into consideration. She advised that when they come back in front of the Board with a new proposal it will not be fully conforming otherwise they would not have to come back before this Board. Ms. Krimko also explained that the applicant could build a larger structure than what is proposed without seeking approval from the Board because the R-80 zone allows for a 10,000 sq.ft. home.

The Board advised the applicant to come back at a later date with a revised plan.

This hearing will be carried until December 1, 2009 with no further notice. Applicant signed an extension of time form.

## MEMORIALIZATIONS

### ZB 09-6368 – McNiff, Shawn & Maria

Memorialization of Resolution granting approval to keep an existing 10' x 12' shed in a conservation easement at 60 Waterford Avenue, Morganville, Block 143.02, Lot 45, located in a MFD-1 Multi-Family District Zone.

Offered by: Glenn Malysz

Seconded by: Michael Shapiro

Ayes: 6

Nays: 0

Absent: 3

Abstain: 0

Meeting adjourned.

Respectfully submitted,

Danielle R. Cipriani