

TOWNSHIP OF MARLBORO

ZONING BOARD OF ADJUSTMENT

1979 TOWNSHIP DRIVE

MARLBORO, NJ 07746-2299

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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 20, 2009

SALUTE TO FLAG

SUNSHINE LAW READ

ROLL CALL

PRESENT: *Glenn Malysz, Robert Knight, Michael Mahon,
*Jennifer Bajar, Matthew Weilheimer, Lewis
Wildman, Paul Schlaflin, Frank Yozzo

(*NOTE: Glenn Malysz and Jennifer Bajar left meeting at approximately 10:00pm)

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

ABSENT: Michael Shapiro

No public comment.

The Board accepted the minutes of October 6, 2009

Offered: Glenn Malysz

Seconded: Robert Knight

Ayes: 5

Nays: 0

Absent: 1

Abstain: 3

ZB 09-6370 – Pfitzer, Kenneth

Public Hearing for approval to construct a 30' x 60' pole barn, which exceeds permitted building height and lot coverage for an accessory structure on a lot with insufficient width and frontage at 105 Nolan Road, Morganville, Block 143, Lot 21.02, located in the R-60 residential 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 Owners Affidavit of Authorization and Consent
- A – 14 Application Affidavit of Completeness
- A – 15 Conflict & Contribution Disclosure Statement
- A – 16 Survey of Property prepared for Kenneth Pfitzer, Jr., Robert Yuro Associates, Inc., 606 Hulses Corner Road, Howell Twp, Dated January 20, 2009.
- A – 17 Drainage Statement prepared by Robert Yuro, Yuro Engineering, PA, 606 Hulses Corner Road, Howell, NJ Dated September 29, 2009.
- A – 18 Report from Gravatt Consulting, prepared by Bruce Jacobs, P.E., dated, October 8, 2009.
- A – 19 Side & End Elevations prepared for Kenneth Pfitzer, by R & R Builder, 365 E. Fulton, Ephrata, PA, Dated 9/09/09.
- A – 20 Coverage for Pfitzer Property, 105 Nolan Road, Morganville, Block 143, Lot 21.02.

Applicant, Mr. Kenneth G. Pfitzer, 105 Nolan Road, Morganville, NJ 07751 sworn.

Mr. Pfitzer advised he would like to erect a pole barn with a concrete slab poured inside which would strictly be used to store away his motor coach in the winter. It would absolutely not be used as living space.

Lewis Wildman asked the applicant why he's proposing such a large structure, it's double the size he would need for a motor coach.

Applicant explained the size is esthetically pleasing and he would also use it to store other items such as a tractor and generator. Mr. Pfitzer advised he would use crushed concrete from the end of the driveway to the proposed structure to drive the motor coach back and forth.

Proposing to remove existing shed.

Glenn Malysz advised he would like to see a design of the driveway, the Board needs to consider impervious coverage for the proposed stone and/or pavers.

The Board Engineer advised applicant to install a Storm Drainage System for the roof drains. Applicant needs to submit a plan of the drainage system to the Board Engineer for approval.

The applicant advised the proposed driveway would be between 10ft. – 12ft. wide. The proposed structure would have a 2ft. roof overhang all around with sliding doors instead of garage doors to make it look more like a farm building.

Mr. Malysz asked that the Board do a quick calculation of lot coverage, applicant is asking for 18% where 15% is allowed.

Mr. Malysz asked the applicant if the pole barn came in a kit and if the sizes were predetermined. The applicant advised that yes, they were.

Open to the public for comment. No public comment.

Workshop

Offered by: Glenn Malysz

Seconded by: Lewis Wildman

Jennifer Bajar advised she would like to see the proposed coverage be reduced to half for both the driveway and the structure. Possibly moving the structure a little closer to reduce the length of the driveway.

Paul Schlaflin would like to hear testimonial on electric.

Glenn Malysz advised that as part of a stipulation of the Resolution, it be noted this structure is for storage only.

Out of Workshop

Offered by: Glenn Malysz

Seconded by: Lewis Wildman

Applicant has made a reasonable accommodation by reducing the size of the proposed structure to 25' x 50' and agreeing to an installation of a water drainage system upon Board Engineer's approval.

Glenn Malysz advised Board would allow a maximum of 3,000sq. ft.

Motion to grant application with the following conditions:

Approval contingent on Board Engineer's recommendations

Proposed size reduced to 25 ft. x 50 ft.

Offered by: Glenn Malysz

Seconded by: Michael Mahon

Ayes: 7

Nays: 0

Absent: 1

Abstain: 0

ZB 09- 6372 – LUV Venue Entertainment Facility, LLC

Public Hearing for Interpretation of the Zoning Ordinance regarding a night club for teens at 12 Route 9 North, Block 176, Lot 5.01, in the C-4 zone.

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

- A – 1 Petition on Appeal
- A – 2 Statement of Reasons for Interpretation
- A – 3 Indemnification and Hold Harmless Agreement
- A – 4 Disclosure Statement
- A – 5 W 9
- A – 6 Tax Collector's Certification
- A – 7 Notice
- 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 Owners Affidavit of Authorization and Consent
- A – 15 Conflict & Contribution Disclosure Statements
- A – 16 “Exhibit A” Layout of Shopping Center
- A – 17 Report prepared by Thomas Scangarello, Planning Design Collaborative, LLC, Dated October 13, 2009.

John Giunco, Esq. on behalf of applicant.

Mr. Edward Gomez, 47 Rockwell Avenue, Staten Island, NY sworn.

Mr. Gomez explained that his family owns several restaurants in Bayonne and Staten Island, they have been in the business for many years. He is proposing a catering hall in which people would rent out the space for events, they would not provide alcohol but you would be allowed to bring your own. The building can accommodate 200 – 250 people.

The Board Planner asked the applicant if the Board finds that the restaurant and catering hall are okay but not the teen nights, would the applicant still go ahead with this project?

The applicant answered no, the teen nights are vital to their plan.

Open to the public for comment. No public comment.

John Carlo Lisi, sworn.

Mr. Lisi explained that he is a teen night expert, he has 17 years in the entertainment industry, and he runs a mobile DJ company. Some of the places he hosted teen nights were, Club Abyss-Sayreville, The Mansion-Brick, Sting Rays/Birch Hill-Marlboro and a few others. Mostly, teen nights would be for dancing and providing a safe place for teens to hang out. Also considering having a game room.

The Board inquired about what type of security would be provided for the teen nights.

Mr. Lisi advised they would have professional security staff posted at the door, people would get frisked and they would have female security for the girls.

Mr. Lisi explained that currently they didn't have all the details worked out as far as hours of operation but they would adhere to what ever the Township required. Possible age range for "Teen Nights" would be 13-17.

Thomas Scangarello, P.P., Board Planner was sworn in.

The Board Planner advised the Board that this application was before the Board for an interpretation, a dance hall is not a permitted use however the catering hall could possibly be considered as permitted.

The Board had several concerns on the "teen nights", security issues, parking issues, underage drinking concerns, the age range from 13-17 year olds being there all at the same time.

The applicants advised these issues would all be addressed and controlled through a professional security staff. They would also require a dress code for the "Teen Nights".

Mr. Lisi also advised that he spoke with the Township EDC (Economic Development Committee) and they were in support of the "Teen Nights". Also since Mr. Gomez holds a liquor license at other facilities, ABC informed them 25 times during the year they could provide alcohol as part of their catering hall function.

Open to the public for comment. No public comment.

The applicant's attorney advised the Board although the Ordinance does not specifically mention these uses it does however mention taverns, bars and night clubs under the C-4 Parking Standard. The use that is being proposed is better than what could go in there in the future.

The Board Planner also advised that the Township does have a curfew in the 108-4 section of the Ordinance.

Open to the public for comment. No public comment.

Workshop

Offered by: Glenn Malysz

Seconded by: Robert Knight

Glenn Malysz advised the Board he would call their names and he would like to here a vote on the catering hall and dancing ("teen night") separately.

Jennifer Bajar said no to both.

Matthew Weilheimer said he agreed with the Zoning Officer's decision.

Frank Yozzo said no to both.

Lewis Wildman said yes to the catering hall no to the dance hall.

Robert Knight said yes to the catering hall no to the dance hall.

Out of Workshop

Offered by: Glenn Malysz

Seconded by: Robert Knight

Motion to grant interpretation of a catering hall as a permitted use:

Offered by: Glenn Malysz

Seconded by: Michael Mahon

Ayes: 4

Nays: 3

Absent: 1

Abstain: 0

Motion to grant interpretation of a dance hall as a permitted use:

Offered by: Glenn Malysz

Seconded by: Michael Mahon

Ayes: 0

Nays: 7

Absent: 1

Abstain: 0

Dance hall denied by Board as a permitted use.

Applicant to come back before the Board for a use variance of the catering hall portion. Hearing scheduled for November 24, 2009.

Glenn Malysz and Jennifer Bajar left the meeting, Robert Knight has taken over as Chair.

ZB 09- 6371 – TDA Capital, LLC

Public Hearing for a use variance and site plan approval to construct a warehouse and office at 114 Tennent Road, Morganville, Block 147, Lot 28.02 in the C-2 Neighborhood Commercial 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 Owners Affidavit of Authorization and Consent
- A – 14 Application Affidavit of Completeness
- A – 15 Conflict & Contribution Disclosure Statements
- A – 16 Preliminary and Final Site Plan prepared by Victor Vinegra of Harbor Consultants dated 5/18/09
- A – 17 Architectural Drawing and reduced elevations by ROY Quackenbush dated 5/28/09
- A – 18 Stormwater Management Report prepared by Harbor Consultants dated 5/18/09

- A – 19 Planning Board Resolution 920-04 granting subdivision approval
- A – 20 Report from Gravatt Consulting, prepared by Bruce Jacobs, P.E., dated Oct. 14, 2009.
- A – 21 Report prepared by Thomas Scangarello, PP Planning Design Collaborative, 150 Himmelein Road, Medford, NJ, Dated October 20, 2009.
- A – 22 Report from John W. Borden, Fire sub-Code Official dated October 14, 2009
- A – 23 Waiver Request from providing Environmental Impact Report, prepared by Harbor consultants dated October 2, 2009
- A – 24 Letter of Absence of Wetlands and Transition Area from NJDEP stamp dated January 14, 2004.
- A – 25 Test Pit Log dated 2/5/08
- A – 26 Traffic Engineering Review prepared by Mark W. Kataryniak, PE, Medina Consultants, 3379 Quakerbridge Road, Suite 200, Hamilton, NJ, Dated October 19, 2009.
- A – 27 Color rendering of *SHEET #5* of Site Plan.

Sal Alfieri, Esq. on behalf of applicant.

Mr. Alfieri advised applicant Bifurcated application tonight; if use is granted they will come back for site plan approval.

The proposed application is before the Board because the warehousing aspect is not a permitted use.

Anthony Gallerano, P.E., Harbor Consultants, 320 North Avenue East, Cranford, NJ sworn in and accepted as an expert witness.

Mr. Gallerano advised they are proposing to demolish the 2 existing structures and construct 2 new buildings. First floor will be used for storage and second floor will be used for office space.

There are no wetlands, flood plains or environmental issues.

950 sq.ft. per unit, per floor. It is a small use that doesn't require a lot of space. It is designed for flex space which is targeted towards small contractors, to be used to store small vehicles, equipment and tools.

No manufacturing will be done on site, no tractor trailers, no outdoor storage.

C-2 zone permitted Retail uses would attract much more traffic to the site than this application is proposing.

Paul Schlaflin asked about hours of operation and lighting.

Mr. Alfieri advised the Board that there would most likely be some emergency lighting and all of the Board Engineer's issues will be addressed if they come back for the site plan.

Public Comment.

Mr. William Schin, 7 Wooleytown Road, Marlboro, NJ 07746 sworn.

Mr. Schin explained he lives on Wooleytown Road and his property gets flooded when it rains now. His concern is will this issue get worse than it already is.

The applicant's Engineer advised Mr. Schin that there would be zero discharge, water runs away from Tennent Road.

John Leoncavallo, P.P. sworn in and accepted as an expert witness.

Mr. Leoncavallo explained to the Board that the permitted uses would generate more traffic, use as flex space is better economically, the area is very mixed and the proposed structure is esthetically pleasing to the existing non-conforming lot. The proposed structure will not over intensify the look of the property with numerous buildings, it will look like one long building and it is an improvement to what exists.

There would be no substantial harm to the zone or zone plan. They would provide an adequate buffer and meet the requirements.

Paul Schlaflin advised that one of the requirements should be that the dumpster just be used for this property only and no outside garbage should be brought in. Also there should be no parking in the front of the building.

Public Comment.

Mr. Paul Firth, 3 Wooleytown Road, Marlboro, NJ 07746 sworn.

Mr. Firth explained to the Board he has concerns with the lighting and the possible hours of operation. He is also concerned with possible diesel traffic going in and out of the property. He stated that certain contractors who might use this space start very early in the morning and come back very late.

Mr. Alfieri stated that these types of issues would be addressed at the time of the Site Plan, if they get to that point.

Thomas Scangarello, P.P., Board Planner was sworn in.

The Board Planner advised some of the requirements that should be noted:

- Occupancy of the downstairs should be restricted to same as the upstairs
- No outdoor storage or accessory structures
- Limit hours of operation
- No on-site operation such as conducting business on-site or repair shops
- Façade signage to be addressed
- 1 dumpster for trash and 1 for recycling – not one for each tenant

The Board Planner also stated that he thinks the applicant had presented enough testimony for the Board to consider the use variance. However, Mr. Scangarello advised the Board he had some concerns with the compatibility of the building structure to the residential area. He stated that the applicant should consider making some subtle changes to some minor architectural features of the building to make it look less industrial.

Sal Alfieri advised that the applicant would work with the Board Planner to that respect.

Mark Kataryniak, P.E., Board Traffic Engineer sworn.

The Board Traffic Engineer advised that from a use standpoint, the traffic intensity is not as severe.

Workshop

Offered by: Robert Knight

Seconded by: Lewis Wildman

The Board discussed possible hours of operation could be 7am – 7pm. The lights should be on timers and accessory structures need to be addressed to only 1 dumpster and 1 recycle bin.

Matthew Weilheimer advised he was in favor of the application as long as all the neighbors concerns were taken into consideration.

Sarah Paris stated that there should be no snow removal business allowed to use this space due to their hours of operation.

Out of Workshop

Offered by: Robert Knight

Seconded by: Lewis Wildman

Motion to grant application with the following conditions:

Approval contingent on Board Planner's recommendations

Offered by: Robert Knight

Seconded by: Michael Mahon

Ayes: 6

Nays: 0

Absent: 3

Abstain: 0

Applicant to come back for Site Plan approval with no further notice unless there are substantial changes. Hearing scheduled for December 15, 2009.

MEMORIALIZATIONS

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

Memorialization of a resolution granting 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.

Offered by: Robert Knight

Seconded by: Michael Mahon

Ayes: 3

Nays: 0

Absent: 3

Abstain: 3

ZB 09- 6369 – Annetta, John

Memorialization of a resolution granting approval to enlarge and roof existing deck having insufficient lot frontage, rear yard setback, and exceeding principal building coverage at 4 Wolcott Court, Morganville, Block 360.02, Lot 18.51, located in a R-20, AH-1 Zone.

Offered by: Robert Knight

Ayes: 2

Absent: 3

Seconded by: Michael Mahon

Nays: 0

Abstain: 4

Meeting adjourned.

Respectfully submitted,

Danielle R. Cipriani