

TOWNSHIP OF MARLBORO

ZONING BOARD OF ADJUSTMENT

1979 TOWNSHIP DRIVE

MARLBORO, NJ 07746-2299

PHONE: (732) 536-0200 EXT. 3509 FAX: (732) 617-7225

web: www.marlboro-nj.gov e-mail: zoning@marlboro-nj.gov

Chairperson

Michael Shapiro

Vice-Chairperson

Jennifer Bajar

Secretary

Michael Mahon

Members

Frank Yozzo

Ira Levin

Matthew Weilheimer

Alan Zwerin

Paul Schlaflin - Alt. #1

Marc Ellenberg. # 2

Zoning Board Clerk

Yvonne Cautillo

Attorney

Ronald D. Cucchiaro, Esq.

Engineer

Birdsall Engineering

Al Hilla, P.E., P.P.

Planner

T & M Associates

Richard Cramer, P.P.

Administrative Officer

Zoning Officer

Sarah Paris

Traffic Engineer

Medina Consultants

Mark Kataryniak, PE, PTOE

PRESENT:

**Michael Shapiro, Jennifer Bajar,
Michael Mahon, Matthew Weilheimer,
Ira Levin, Mark Ellenberg, Frank Yozzo**

ALSO PRESENT:

**Ronald Cucchiaro, Esq. Board Attorney
Al Hilla, P.E., Board Engineer
Richard Cramer, P.P., Board Planner
Mark Kataryniak**

ABSENT:

Alan Zwerin

MINUTES

ZONING BOARD OF ADJUSTMENT

JULY 6, 2010

SALUTE TO FLAG

SUNSHINE LAW READ

ROLL CALL

No one signed up for Public Session.

ZB 10-6382 – Joseph and Barbara Drago

Continuation of a Public Hearing for approval to convert existing office to a landscaping business office and have outdoor storage of mulch and stone, trucks and equipment where landscaping is not a permitted use at 24 Route 9, Morganville, NJ, Block 176, Lot 14, located in a C-4 Regional Commercial Zone.

Sal Alfieri, Esq., for the applicant stated that he had inquired about Planning Board Minutes and was told they were not available.

He also submitted additional evidence:

A - 29 Certification from the New Jersey Motor Vehicle Commission

A - 30 License (previously sent by mail – A-28) now entered as evidence by

Sal Alfieri, Esq. 7/6/10.

- A – 31 Correspondence prepared by Salvatore Alfieri, Esq., Cleary Alfieri & Jones, 5 Ravine Drive, Matawan, NJ, Dated 5-14-10 (previously recorded as A-26).
- A – 32 Series of Color photos taken after the April 20, 2010 meeting presented by Mr. Drago, 7/6/10.

Mr. Drago submitted photographs. He stated there are two storage units. Ms. Paris inquired how much mulch will be stored. Mr. Drago answered that they are standard bins, having about thirty yards of mulch per bin, and 20 - 30 yards of stone.

Mr. Shapiro questioned Mr. Kataryniak regarding the site triangle and he stated they are in compliance with the code.

Workshop:

Offered: Michael Shapiro

Seconded: Michael Mahon

Mr. Weilheimer stated that he is satisfied and in favor of the application. Messer's Mahon, Yozzo, Ellenberg and Ms. Bajar had no questions or comments. Mr. Shapiro is also in favor.

Mr. Levin stated he has no issue with the use application. He is questioning the documentation of the 1980's. If the state grants a license, you cannot open business anywhere. Where does it say that he can go against the parking in front of building?

Mr. Ellenberg inquired if there is an approval, will limitations be included? Per Ms. Paris, the car business was a preexisting, nonconforming condition. This is a landscaping business. He stated it should be clear, the bins and the cars worked on should be out of site.

Out of Workshop

Offered: Michael Shapiro

Second: Michael Mahon

Mr. Alfieri stated the client testified that they agreed to move the cars. A letter from Mr. Drago was also discussed. The number of repaired cars out front along with the type of equipment, no pesticides, no chemicals, and no new signs were also discussed.

Sarah questioned the height of the material in the bins; Mr. Drago said no higher than four feet.

Mr. Alfieri stated that the business has been going on since 1978. He also stated they would prefer eight cars. Mr. Drago stated there are presently eight vehicles, his own and his father's car with the eight overnight.

Workshop

Offered: Michael Shapiro

Second: Michael Mahon

Mr. Mahon inquired about sidewalks on Route 9. Mr. Cucchiaro said that there must be DOT approval and if you set up a fund, it must be used as a sidewalk. If the DOT does not want the sidewalks, the fund can be returned after ten years.

Ms. Bajar stated that this would be expensive (about \$16,000 - \$17,000). Mr. Weilheimer thought they should look to the DOT. Mr. Kataryniak said the typical sidewalk should be four feet, a three foot buffer, with an added curb. The right of way or dedication may become an issue.

A poll was taken regarding the sidewalk (three for the sidewalk and three against).

Out of Workshop

Offered: MShapiro

Second: MMahon

Mr. Cucchiaro asked if the township would be the applicant for the sidewalk. Mr. Alfieri thought the money will sit there; he believes when Costco goes in, the sidewalks will then go forward. The money will sit there.

Mr. Shapiro stated you cannot wait to see what others are doing.

Out of Workshop

Offered: MShapiro

Second: JBajar

There were no board questions; no public questions.

Offered: MShapiro

Motion to Approve with all the stipulations presented, retaining no funds, and having no more than eight cars maximum.

Second: MMahon

Motion Approved.

ZB 10-6389 – Ivan Pinhas

Public Hearing for approval for a use variance for more than one principal structure and multiple uses (two single family dwellings and a landscape business), including an expansion of one of the homes, at 244/246 Boundary Road, Marlboro, NJ, Block 360, Lot 3, located in an R-80 Residential Zone.

Robert Munoz, Esq., 100 Willow Brook Road, Freehold, NJ, representing the applicant, stated since they renoticed, they will be starting over. He will summarize. He introduced Ivan Pinhas, who resides at 246 Boundary Road.

The Pinhas property is between Crine and Dutch Lane Roads, next to Industrial Park. Mr. Pinhas stated that in 1995 he was looking for a place to reside and have a landscaping business. This was a light industrial area. He did lease in 1995 as an organic landscaping business.

Mr. Munoz presented an appraisal for property located at 246 Boundary Road:

A – 30 Appraisal prepared by Gary Bish, Bish Appraisals, Inc. dated 4/12/98.

This appraisal was performed when he was looking to purchase the property. It states the zoning to be an LI zone and that it is non conforming. He obtained Certificates of Occupancy when he purchased in 2000. The property was still to be used as a landscaping property with an existing pole barn on property (garage carport).

Mr. Pinhas stated that since 2000, his employees pick up equipment, and empty out when they return at the end of the day. He has four mason dump trucks, and one pick up truck that is taken home at night. There is a fence that blocks the view of the trucks on the south side of property.

There is a compost pile, which composts for up to one year. There is also some storage of pavers that are leftover from jobs. Sometimes pavers are brought in and kept in rear for specific jobs. The employees arrive at 8:00 am, and return from 4:00 to 7:00 pm. They do not work on Sundays or holidays and they have no customers coming to the site. He stated he has rented a container for storage of items, such as tools.

Mr. Pinhas would like to expand his home for two bedrooms and a bathroom upstairs. His employee resides in the front rental. He has always kept the property clean.

Mr. Weilhemer inquired as to the company name. Mr. Pinhas stated, "Naturally Green".

Mr. Pinhas stated that he does not obtain an annual license. Mr. Cucchiaro recommended that he look into licenses. If approved, a condition would be to have licenses supplied.

There were no other questions from the Board or from the Public.

Workshop:

Offered: MShapiro

Second: MMahon

There were questions regarding the storage bin and the "no work" on Sundays, Holidays.

Mr. Levin stated that aside from the licenses, he had no issues. Ms. Bajar commented that if you purchase the property, you should follow through on all channels.

Messers. Weilheimer and Mahon were not entirely comfortable with the application. Mr. Ellenberg saw no problem with this application.

Ms. Paris stated that the LI Zone never allowed a mixed use. If there is no proof, you cannot present as nonconforming.

Ms. Bajar stated it is the business that is illegal being there. Ms. Paris said that if you are comfortable with the application, you can make it a legal use.

Out of Workshop

Offered: MShapiro

Second: JBajar

Mr. Munoz stated they believed they were a preexisting non conforming use. We were trying to explain, how we arrived here. There is really no business on site; there are no chemicals on site and they are closed holidays. (Mr. Cucchiaro stated holidays were a cultural issue.) When Mr. Pinhas first came to this property, it was Casola Farms, with trucks coming in and out on the other side.

Mr. Kataryniak stated that based on testimony, it would be good to have an accurate survey.

Questions from Board.

Mr. John Ploskonka, PE, Concept Engineering Consultants, PA, 227 Route 33, Manalapan, NJ was sworn in. He is a Planner since 1970, and PE since 1960 and accepted as a professional.

The variance sketch reflects the property and the surrounding area.

Mr. Ploskonka presented an aerial photo (A-22).

He stated Mr. Pinhas was renting for about five-six years. Originally two policemen rented each obtaining certificate of occupancy's. We were surprised to see the business was not a preexisting non conforming use.

Mr. Ploskonka stated the property is kept well. His photographs show the landscaping and mulch piles. The pole barn and landscaping materials are shown with 60-70 feet of trees.

We were here for expansion of the home; variance was needed for side yard setback, second floor. It will be an improvement with greens and an enhanced buffer. You can not see through bamboo. Fencing should be routed to the rear. The location is ideal for expansion of the home. There have been no citations, nor have neighbors questioned after noticing twice. He will maintain and improve property. Mr. Pinhas is a good neighbor and a Marlboro resident.

Mr. Ploskonka maintained the buffer is unique and sees no detriment to the neighbors. You will not be able to see the addition from Castle Hill. The property will be upgraded.

Mr. Richard Cramer stated two separate variances were needed: the first, to expand the structure in a residential zone. It will be brought into conformity. The second, that there are already two dwellings, which makes it non conforming. The other is the commercial business, with no site plan approval. The Board needs to focus on the introduction of the commercial into the residential. This is a residential property and zone. Will this be for the public good, or a hardship?

Mr. Yozzo inquired if Mr. Pinhas needed this as income: Mr. Pinhas answered "yes".

There were no public questions.

Workshop:

Offered: MShapiro

Second: JBajar

Mr. Levin stated he is okay with the application.
Mr. Weilheimer commented that he does not like the mixed use.
Mr. Mahon said he would like to come back with a site plan.
Mr. Cucchiaro stated if the use is appropriate, they will have to provide.
Ms. Bajar asked if they want to expand the home, will they need to expand the business in the future?
Mr. Yozzo believes the application is very grey.
Mr. Levin said it is a transitional area. It has already been there for fifteen years.
Ms. Bajar stated the decision can be made, if we can see the addition.

Mr. Shapiro stated he is sympathetic; has no problem with improving the property. He also would like a site plan.

Out of Workshop

Offered: MShapiro
Second: JBajar

Mr. Munoz stated they will obtain the licenses and plans, asked if this can this be carried.
Application carried to August 17, 2010.

ZB 10-6392 – Jack and Maria Sansolo

Public Hearing for approval to construct a 16' x 32' above ground pool with insufficient front yard setback and a six foot vinyl fence to come off the front of the home where only rear is permitted at 8 Danielle Way, Morganville, NJ, Block 176.05, Lot 8, located in an RSCS Zone.

The application was read into the record. The Board took jurisdiction and 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 Tax Collector's Certification
- A – 6 W-9
- 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 Survey prepared by William J Buttler, Control Layouts, Inc.
71 Paterson Street, New Brunswick, NJ, Dated 8/21/97.
- A – 16 Report prepared by Alan P Hilla, Jr, PE, Birdsall Engineering Inc.
611 Industrial Way West, Eatontown, NJ, dated 6/30/10.

Mr. Yozzo recused himself.

Mr. and Mrs. Sansolo reside at 8 Daniele Way, Morganville. They are seeking approval to install 16' x 32' above ground pool, with privacy fencing.

Mr. Mahon stated that there is already a plastic fence.

Messrs. Weilheimer and Ellenberg had no questions.

Mr. Cucchiario stated positive criteria are needed.

Mr. Sansolo stated swimming will be good exercise for his back and he is looking into coil heat for therapeutic reasons. The children will have use of pool.

Mr. Sansolo said there will be a privacy fence. The community already has several pools and Janwich Court already has an above ground pool variance approved, above ground.

Ms. Paris stated you must plant evergreens to cover the front.

There were no questions from the Board.

Public Questions:

Paul J. Urbania, Esq., 494 Sycamore Avenue, Shrewsbury, NJ, is representing the objectors Ilya and Tatyana Sokolowsky, 3 Janet Court, Morganville, NJ 07751.

They are objecting that there already is a six foot vinyl fence, already have a variance. The deck will be 52 inches above the ground. People on the deck will be above the fence.

Mr. Sansolo agreed.

Ms. Bajar stated that the deck not on survey; they are not able to put on the deck.

Mr. Weilheimer: will check prior variances

Mr. Levin stated that the drawing is inadequate. It is not a true representation of what is on the site.

Mr. Elio Sokolowsky, 3 Janet Court is objecting to application. He stated if this were approved it will be in his front yard; his house will be boxed in. He has been told that this could diminish value of my property. He presented pictures as evidence:

P – 1 - 4 Photos taken about June 30, 2010 from Mr. Sokolowsky's front yard, taken from Janet Court toward the Sansolo home. They also show the existing fence On the Sansolo property.

Ms. Paris presented the variance for the Sansolo addition.

Ms. Bajar asked if can be an option to install evergreens on the side of the Sokolowsky property, not just in the front. Mr. Shapiro though they could probably come in quite a few feet in from the neighbor's side.

Mr. Cucchiario marked two resolutions into evidence.

A – 17 Resolution

A – 18 Resolution

Mr. Ellenberg inquired if they could bring the pool in four feet.

Ms. Bajar stated the whole point is to soften the appearance on the outside.

Ms. Paris also stated if the pool is 12 feet instead of 16 feet they might be able to put a 4 foot rail around it. The homeowner could put this additional safety around it. They do not need fence at all. Ms. Bajar commented that she likes the idea of vegetation, not a fence. If the neighbor okays the vegetation, it then becomes neighbor's property.

Mr. Urbania said the fence would extend 16 feet.

Mr. Levin said that the neighbor is concerned how his front yard will look. There should be a compromise here: a smaller pool, or larger, with vegetation. Mr. Shapiro stated do you shrink the pool with high fence, or do they do vegetation.

Discussion followed Mr. Ellenberg inquired if they could pull in the fence; Ms. Bajar stated that it is not a requirement to put buffer on the neighbor's side.

Ms. Paris stated they must be six feet away from the pool.

Mr. Weilheimer said maybe there should be no pool.

Mr. Levin suggested coming out of workshop so they can make their own decision. Do not see how you can keep it the size it is.

Mr. Cucchiaro stated the purpose is to assist the applicant.

Ms. Bajar said she has no issue, but they must work out between the neighbors. They cannot make it look bad.

Out of Workshop

Offered: MShapiro

Second: J Bajar

Mr. Urbania asked for clarification.

Ms. Paris said that the Zoning Board realizes they only need to meet the setback one time, not twice.

Mr. Sokolowsky said he would like the appropriate distance if there is a buffer.

Mr. Sansolo inquired if he can do what he wishes if he reduces the pool. Ms. Bajar said that he can have a total of nine feet high.

Mr. Sansolo stated that he would shrink down the pool, put fence, and place mature trees inside fence. He would drop the pool size to a 15' x 30' pool.

Mr. Levin asked if this would be acceptable? Mr. Sokolowsky stated that he will be boxed in.

Mr. Shapiro asked if there is any compromise.

Ms. Paris stated if the Board denies, they can still put trees.

Mr. Sokolowsky stated that he is fine with trees, he does not like the fence.

Ms. Paris also stated they cannot put a chain link in the 2nd yard.

Mr. Urbania asked if they can they discuss on the outside, to work out with neighbor. Mr. Sansolo stated that he does not want to postpone. The two neighbors, agreed to discuss for five minutes.

Mr. Sansolo stated they will reduce the size of the pool to 15' x 30'. They agreed to the vegetation with shrubs on the inside on the neighbor's side and on Janet Street. They will follow ordinance for the distance of the trees.

Mr. Cucchiaro asked that each neighbor sign the plan. Mr. Sansolo asked if he could memorialize now.

Mr. Cucchiaro stated they are not able to memorialize tonight. He did say they can proceed at their own risk with the application.

Additional evidence of the marked up copy was presented.

A – 19 Marked up copy.

The Board fund that the existing non conformities will be intensified by the proposed pool. Motion to Approve with all suggested recommendations.

Offered: MShapiro

Second: MMahon

Motion Approved.

MEMORIALIZATIONS

ZB 10- 6380 – Anil & Rupali Jain

Memorialization of a resolution granting approval to build a single family dwelling with insufficient front yard setbacks located at 9 Station Road, Morganville, NJ, Block 171, Lot 73 and within the LC Zone.

ZB 10-6390 – Michael and Susan Weber

Memorialization of a resolution granting approval to construct a 13' x 16' deck with insufficient distance between structures located and having insufficient lot frontage at 25 Marlboro Street, Morganville, NJ, Block 124, Lot 10, located in a R-30/20 Zone.

ZB 10-6391 – Carole Leunes

Memorialization of a resolution granting approval to construct a single family dwelling exceeding lot coverage for principal building at 4 Serenity Place, Marlboro, NJ, Block 364, Lot 41.02, located in an R-80 Residential Zone.

Meeting Adjourned at 11:30 p.m.

