

TOWNSHIP OF MARLBORO

ZONING BOARD OF ADJUSTMENT

1979 TOWNSHIP DRIVE

MARLBORO, NJ 07746-2299

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

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Ronald D. Cucchiaro, Esq.

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Birdsall Engineering

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

Planner

T & M Associates

Richard Cramer, P.P.

Administrative Officer

Zoning Officer

Sarah Paris

Traffic Engineer

ZONING BOARD OF ADJUSTMENT

OCTOBER 19, 2010

SALUTE TO FLAG

SUNSHINE LAW READ

ROLL CALL:

PRESENT:

Michael Shapiro, Jennifer Bajar,
Michael Mahon, Matthew Weilheimer,
Mark Ellenberg,

ALSO PRESENT:

Ronald Cucchiaro, Esq., Board Attorney,
James Priolo, P.E., Board Engineer
Richard Cramer, P.P., Board Planner
Sarah Paris, Zoning Officer

ABSENT:

Ira Levin, Alan Zwerin, Frank Yozzo

The Board accepted the minutes of October 5, 2010.

Offered: Michael Shapiro

Second: Michael Mahon

Ayes: 5

Nays: 0

Absent: 3

Abstain: 0

No Public Session.

ZB10-6394 – T-Mobile Northeast LLC

Continuation of a Public Hearing for approval to construct a wireless communications facility, requiring use and bulk variances for an undersized lot and having insufficient fall zone on property located at 112 Amboy Road, Morganville, NJ, Block 172, Lot 34, in an IOR Zone.

Additional Evidence Entered:

- A – 34 Site Plan prepared for 112 Amboy Road, Block 172, Lot 34, prepared by Charles J Stewart, GCStewart Associates, Inc., and Kunjan Shukla, Amara, 320 Runnymede Road, Essex Fells, NJ, Revised 10/06/10.
- A – 35 Report (Revised Use Variance and Site Plan) prepared by Richard S. Cramer, PP, AICP, T&M Associates, Eleven Tindall Road, Middletown, NJ, Dated 10/15/10.
- A – 36 Correspondence re Block 172, Lot 34 Site Plan for T-Mobile Northeast, LLC, from Robert W. Clark, PP, Director, Monmouth County Planning Board, Freehold, NJ, Date 9/27/10.
- A – 37 Report (Revised Review #2) prepared by James A. Priolo, PE, PP, CME, Birdsall Engineering, Inc., 611 Industrial Way West, Eatontown, NJ, Dated 10/19/10.
- A – 38 Report prepared by Sgt. Joseph Lenge, Traffic & Safety Bureau, 1979 Township Drive, Marlboro, NJ, Dated 10/12/10.

The existing access off Amboy Road will be the access into the site.

Mr. Cucchiaro stated that as in the September 7, 2010 meeting, Mr. Weilheimer is recusing himself. He also stated that the application cannot be approved or denied as five Board members are needed to approve.

Reginald Jenkins, Esq., representing the applicant, addressed the Board stating that they are aware and they will be providing testimony this evening. They agree to the Board members listening to tapes provided.

Mr. Jenkins stated revisions were made to the proposed plan to make it a more conforming site by moving the 150 foot monopole further up the property. There are still the use variance components and compliance still remains with the federal and state.

Ms. Bajar asked if they had spoken with the water company. Mr. Jenkins stated that they will address through next witness.

Mr. Charles Stewart, their Planner, was sworn in. He is the Vice President of Stewart Associates, Essex Fells, NJ, and has previously testified and been accepted as a professional witness. Mr. Stewart described the revised plan of 10/06/10. The compound is now southerly (instead of northerly) located, 130 feet off Amboy Road and the rear property line. The compound and the cabinets are the same and it is still the same 150 foot monopole. If it were to fall, it would bend in half and fall on itself.

Mr. Cucchiaro agreed the design is suppose to do what it says; but, there are some that have fallen. Mr. Cucchiaro inquired if he looked at Oswego and Mr. Stewart stated he was not aware of this. Mr. Cucchiaro stated we always prepare for the 100 year storm even if it does not occur.

Mr. Stewart said the pole is designed for the 100 year storm and Mr. Cucchiaro stated any failure would come from the manufacturer themselves.

Mr. Stewart stated the fence surrounding the compound is a tight two inch mesh and to climb it would be quite difficult. He said the fence is secure. Ms. Bajar asked if they could make it 1¼ inches. Mr. Stewart said they could.

Mr. Mahon inquired as to the specifics on the pole. Mr. Stewart stated it is a steel pole and meets the standards. Mr. Mahon inquired as to the gauges and Mr. Stewart answered that the pole is ASTM A 572 material, with a controlled silicone content, and galvanized coating.

Mr. Cucchiaro questioned the soil and Mr. Stewart stated this is typically done after approval.

Ms. Bajar requested the specs to document the stability. Mr. Stewart stated that it can be supplied.

Mr. Shapiro inquired if thought was given as to how it relates to the use in this area. Mr. Jenkins answered that this was done, to insure they are not interfering with current site conditions.

Mr. Ellenberg asked if the fall zone would go into the roadway. Mr. Stewart answered, "Yes, the roadway is 130 feet away". Mr. Ellenberg inquired if they considered elsewhere and he asked if they were aware that children's parties are down the road.

Ms. Paris stated this is a congested site, can you flag out so the Board can see; Mr. Shapiro agreed. Ms. Paris also inquired if Mr. Petrucelli will be giving testimony. There is also a Landscaping business there and this is yet another non-conforming use. Is he living up to his resolution?

Mr. Jenkins answered that they can view the site. He also stated that the lease powers are obviously first. T-Mobile should be able to address the landlord issues. We do not know the extent of the previous use variance.

Mr. Cucchiaro stated that the town has the power to issue a summons. Such things come to light when you start looking into. A use variance cannot be granted until we understand what is going on, there may be additional relief required. Mr. Cucchiaro stated that he has expanded on his use variance and he will need to correct. Mr. Jenkins stated that we need to know the owner's intent.

Mr. Shapiro answered we just found this out about the use and resolution; we do not really know what is going on at this property.

Mr. Jenkins said they will look into from T-Mobile's standpoint.

Mr. Cucchiaro stated if there is something happening on the property, we may have to repeat testimony.

Mr. Shapiro said they need to discuss with the owner.

Motion to Workshop:

Offered: Michael Shapiro Second: Michael Mahon

Mr. Shapiro stated we need to know what the owner is doing.

Ms. Paris asked if they were living within the structure of the original resolution.

Ms. Bajar stated that the property is in violation. Messrs Mahon and Ellenberg were in agreement.

Out of Workshop:

Offered: Michael Shapiro Second: Michael Mahon

Mr. Shapiro offered apologies to counsel and professionals. Mr. Jenkins asked if their additional testimony would not be accepted.

Mr. Cucchiaro stated there is some doubt here; it is a legal matter. Mr. Shapiro agreed and that we would like to look into. Ms. Bajar stated that the property is actually in violation.

Mr. Jenkins did not necessarily agree with this. Mr. Cucchiaro stated you could be increasing intensity by an additional use variance.

Sarah will find out what the intentions are. Mr. Shapiro asked Mr. Jenkins to contact her office.

Mr. Jenkins signed an Extension of Time for December 7, 2010 (through December 31, 2010) with no further notice to property owners.

Mr. Jenkins asked for previous paperwork and Ms. Paris agreed look into the archives.

ZB10-6400 – Milora, Paul & Jackie

Public Hearing for approval to place a twelve foot high pool slide having insufficient side yard setback for an accessory structure and a paved surface within five feet of property line at 305 Sinclair Court, Morganville, NJ, Block 193.05, Lot 44, in an R-40/30 Zone.

ZB10-6403 – Harvey V. Holland III

Public Hearing for approval to construct a second story to an existing non-conforming structure on a non-conforming lot having insufficient lot area, frontage, width, depth, front, side and rear yard setbacks for principal and accessory structures at 2 Herbert Street, Marlboro, NJ, Block 216, Lot 1, in a LI Light Industrial 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 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 of Block 216, Lot 1, prepared John J. Yuro, Jr., 4 Wolcott Drive, Jackson, NJ, Dated 3/29/94.
- A – 16 Report prepared by John W. Borden, Fire Sub-Code Official/Fire Inspector, Marlboro Township, 1979 Marlboro, NJ, dated 9/21/10.
- A – 17 Report prepared by Sgt Joseph Lenge, Traffic & Safety Bureau, Marlboro Township, 1979 Township Drive, Marlboro, NJ, dated 9/20/10.
- A – 18 Environmental Report prepared by Marlboro Township Environmental Commission, Marlboro, NJ, Dated 9/30/10.
- A – 19 Report prepared by James A Priolo, PE, PP, CME, Birdsall Engineering, 611 Industrial Way West, Eatontown, NJ, Dated 10/15/10.
- A – 20 Report prepared by Richard S Cramer, PP, AICP, T&M Associates, Eleven Tindal Road, Middletown, NJ, Dated 10/14/10.

Mr. Harvey Holland, the owner of 2 Herbert Street, is sworn in.

Harvey Holland has a one and one-half story home with one bedroom and one bathroom. The house is small and he would like to expand his family. He would require a second story to include an additional bedroom and bathroom.

Mr. Shapiro inquired about the garage which is in right of way. If the road is widened, he would have to move the garage. Mr. Holland said he is aware of this; he signed papers for this when he purchased.

Mr. Holland also said the garage is a separate structure from the house and he will not be changing the footprint.

Mr. Mahon asked if there was city water and sewer. Mr. Holland answered that there was.

Mr. Weilheimer inquired if they widened the road, what would happen with the garage? Mr. Priolo Did not know if they can relocate. Mr. Holland thought the wall could come in.

Mr. Ellenberg inquired about the property behind Mr. Holland is owned by Marlboro. Mr. Holland answered that the owner is Marlboro and there is no sidewalk or curbs.

Motion to Workshop:

Offered: Michael Shapiro Second: Michael Mahon

Ms. Bajar said the property is three sided. Will Mr. Holland have to return to the Board regarding the garage?

Mr. Cucchiaro said we can discuss.

Mr. Cramer stated this is a well established small residential lot. It is a modest expansion, an established use. It does satisfy the positive criteria.

Mr. Cucchiaro inquired if the three frontages constitute a hardship? Mr. Cramer said it is a hardship.

Mr. Weilheimer asked if Mr. Holland could move the garage now if he wants to. Mr. Cucchiaro said nothing should be in the right-of-way. If the town needs it, then he would have to move.

Out of Workshop:

Offered: Michael Shapiro Second: Michael Mahon

There were no public questions.

Motion to Approve:

Offered: Michael Shapiro Second: Jennifer Bajar

Motion to Accept.

All in favor, Motion Approved.

MEMORIALIZATIONS

ZB 10-6399–Michael Grande

Memorialization of a Resolution for approval to construct a 1176 square foot pool patio which exceeds permitted lot coverage for principal structure and exceeds total lot coverage at 6 Rodeo Drive, Block 392, Lot 27.12 in the R-25 Zone.

ZB 10-6401–The Brickman Group, Ltd. LLC

Memorialization of a Resolution for approval for an industrial use in an Industrial Park where the zone was changed to C-1 Village Commercial at 52 North Main Street, Block 213, Lot 43 in the C-1 Village Commercial Zone.

Meeting Adjourned at 10 p.m.

Respectfully submitted,