

TOWNSHIP OF MARLBORO

ZONING BOARD OF ADJUSTMENT

1979 TOWNSHIP DRIVE

MARLBORO, NJ 07746-2299

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Engineer

Birdsall Engineering

James Priolo, P.E.,

Planner

T & M Associates

Richard Cramer, P.P.

Traffic Engineer

French & Parrello

Mark Kataryniak, PE, PTOE

Administrative Officer

Zoning Officer

Sarah Paris

MINUTES

ZONING BOARD OF ADJUSTMENT

APRIL 17, 2012

8:00 p.m.

SALUTE TO FLAG

SUNSHINE LAW READ

PRESENT:

Michael Shapiro, Matthew Weilheimer
Alan Zwerin, Ira Levin, Jennifer Bajar
Ibrahim El Naboulsi, Stacey DiGrande

ALSO PRESENT:

Ronald D. Cucchiaro, Esq, Board Attorney
Sarah Paris, Administrative Officer
James Priolo, PE, Birdsall Services Group
Richard Cramer, P&P, T&M Associates
Mark Kataryniak, PE, French & Parrello

ABSENT:

Frank Yozzo

The minutes of the March 20, 2012 meeting were approved:

Offered: Michael Shapiro

Ayes: 7

Seconded:

Nays: 0

Absent:

No one signed to speak from the Public.

ZB12-6442 – Okun, Jeff & Janet

Public Hearing for approval to construct a 675 square foot addition to an existing garage exceeding permitted lot coverage for an accessory structure at Block 299, Lot 135.01 in an R-20 Residential Zone located at 491 Union Hill Road, Marlboro, NJ.

Mrs. Okun sworn in, Owners of 491 Englishtown, NJ. Mr. Nunez, Toms River, NJ, Contractor.

- 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 List of Property Owners within 200 feet
- A – 9 Certified White Receipts and Green Cards
- A - 10 Affidavit of Publication
- A – 11 Affidavit of Service
- 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 Property for 491 Union Hill Road, Block 299,
Lot 135.01, prepared for Jeff & Janet Okun, by Roger A. Strevell,
56 Main Avenue, Ocean Grove, NJ, Dated 3/11/92.
- A – 16 Addition to Two-Car Garage for 491 Union Hill Road,
Marlboro, NJ, prepared by Neal M. Tanis, RA, AIA,
Associated Architects, 12 Botany Village Square, Clifton, NJ,
Dated 3/14/12.
- A – 17 Engineering Report from Birdsall Service Group, prepared
by James Priolo, P.E., P.P., C.M.E. dated April 11, 2012.

Mrs. Okun will use the garage (25x21 square feet) to house antique cars for their hobby.

- A – 18 Three color photos of the cars
- A – 19 Cars currently owned.
- A – 20 Color photo of detached garage

There were no questions from the public.

Motion to Approve.

Offered by:	Michael Shapirio	Ayes:	7
Seconded:	Jennifer Bajar	Nays:	0

Motion Approved.

ZB12-6438 – FSB–Marlboro, LLC

Public Hearing for approval to construct a three story, eighty-six unit Assisted Living Facility with associated parking where Assisted Living is not a permitted use in the Office Professional Transitional 2 Zone located at 23 Route 520 and 53 Route 520, Block 176, Lots 38, 39, 40 and 41.

Mark Policastro, Esq. requested this hearing be carried to May 15, 2012. The applicant will renote for the May 15, 2012 meeting. Extension of time signed to May 15, 2012.

Mr. Policastro will be available this evening to speak individually so the applicant will be in a position to address some of their concerns.

ZB12-6437 – Tiba Associates, LLC - Amended

Continued Public Hearing for approval to use property as a 7,350 plot cemetery where it is not a permitted use and to retain an existing home as a care taker's residence at Block 146, Lot 48 in an LC zone located at 340 Spring Valley Road, Morganville, NJ.

Mr. El Naboulsi recused himself.

Sal Alfieri, Esq., stated this is the second hearing with additional evidence submitted:

- A- 23 Request to amend Tiba Associates LLC, Block 146, Lot 48, application to provide for the retention and use of the existing home on the subject property as a care taker's residence, submitted by Salvatore Alfieri, Esq., Cleary, Giacobbe, Alfieri, Jacobi, LLC, 5 Ravine Drive, Matawan, NJ, Dated 3-21-12.
- A – 24 Soil Log and Interpretation for 340 Spring Valley Road, Block 146, Lot 48, prepared by Hussain Ibrahim, PE, Ameritech Engineering, Inc., 757 Ridgewood Avenue, North Brunswick, NJ, Dated 3/19/12.
- A – 25 Stormwater Management Report for Block 146, Lot 48, prepared by Hussain Ibrahim, PE, Ameritech Engineering, Inc., 757 Ridgewood Ave, North Brunswick, NJ, Dated 3/20/12.
- A – 26 Use Variance Plan for Block 146, Lot 48, revised by Sharif H. Aly, Ameritech Engineering, Inc., 757 Ridgewood Avenue, North Brunswick, NJ, Revised 4/02/12.
- A – 27 Notice Dated March 21, 2012 served for April 17, 2012 Meeting.
- A – 28 List of Property Owners within 200 feet
- A – 29 Certified White Receipts and Green Cards
- A - 30 Affidavit of Publication
- A – 31 Affidavit of Service
- A – 32 Second Report prepared by James A. Priolo, PE, Birdsall Services Group, 611 Industrial Way West, Eatontown, NJ 07724, Dated 4/9/12.

Mr. Sharif H. Aly, PE, Ameritech Engineering, Inc., 757 Ridgewood Avenue, North Brunswick, NJ, presented additional evidence:

- A – 33 Aerial Map of Tax Map Block 146, Lot 48 drawn up by Ameritech Engineering, Inc., 757 Ridgewood Avenue, North Brunswick, NJ, Tax Map 34, Submitted 4/17/12.

He stated soil borings were done eight feet down along the perimeter of the wetlands. The holes were left open for eight hours. There was no water in the holes.

Mr. Aly said there was no flooding in the basement and is comfortable that the water table is okay. There will be over 5,000 gravesites lost. The applicant is giving up a twenty foot buffer; they would like the Board to consider a thirty-five foot buffer.

There will be a three foot berm. There will also be evergreens that at maturity will reach up to about 50 feet in height. They should almost double in size in a couple of years. There will also be a fence.

Ms. Bajar was concerned about the drainage with the caskets. Mr. Aly stated a casket goes down a total of six feet. He said that drainage was not a factor and Mr. Priolo also concurred about the drainage. Mr. Cucchiaro said extensive drainage will be covered with the bifurcated application.

A – 33 Color Rendering Concept of the revised plans (4/2/12).

Mr. Daniel Matarese, 485 Texas Road, Morganville, NJ, questioned the testing with the borings. This is normally a wet area and there has been no rain in the past few months. He stated that we are minus seven inches of rain in the last three months. Mr. Priolo answered borings going down showed no water. Ms. Bajar confirmed there was no discoloration of soil showing water. Mr. Matarese stated that he is still questioning and opposing, saying the natural flow of water will be disturbed.

There were no questions from the public.

Ms. Bajar inquired if the applicant would be opposed to do more borings at the lowest point and Mr. Aly answered that this can be done.

Mr. Scott Kennel, Traffic Engineer, McDonough & Rae, Lakewood Road, Manasquan, NJ, checked the intersection. Various traffic counts were done on Saturday and at peak hours, on March 24, March 28 and May 13, 2012. There was not much increase since the 2005 date. Saturdays also operated well. There was only one car accident since 2009 and it is considered to be operating efficiently.

The necessity for a traffic signal was also studied and it was suggested that it was not warranted.

Improvements would be made between Texas Road and the access to the driveway.

Mr. Kataryniak stated that he reviewed Mr. Kennel's information and sees no issue with an increase in traffic due to events. There is no safety issue and with the four way stop put in place, this is an improvement.

There were no questions from Board and no questions from the Public.

Mr. Matarese questioned an accident incident on November 9, 2011, saying he personally saw another accident.

Heather Pylarinos, 284 Spring Valley Road, Morganville also questioned seeing accidents. She stated that many times she cannot exit the driveway due to the traffic.

Mr. Matarese would like to do his own study and will submit to the Zoning office.

Ms. Alison Coffin, Licensed Planner, has previously been accepted as a witness by the Board. She stated the applicant is seeking use variance approval for a bifurcated application.

The applicant is proposing the site for use as a Muslim cemetery. It is not a permitted use in an LC zone; a D-1 variance is needed. They do provide the requirements of a cemetery, along with a peaceful area. It would not detriment the Master Plan.

Ms. Coffin stated they should be given same protection as a religious worship. There is a pressing need for the same type of cemetery. The use is quiet, with low intensity and there is no negative impact.

Mr. Richard Cramer stated that they are meeting the needs of all New Jersey residents. Mr. Cucchiaro stated this is an entirely beneficial use, reading a list of places that are beneficially inherent.

Mr. Alfieri inquired if the use variance gets met without the beneficially inherent use. It does get met.

There were no Board Questions.

Mrs. Heather Pylarinos also said she believes that Marlboro already exceeds the number of cemeteries allowed. Mr. Alfieri answered the governing body will deal with this issue. Mr. Cucchiaro added they are not able to go forward until the governing body or the State Board grants approval.

Mohamed Mosaad said he was recently at the cemetery on Texas Rd, where there is a Muslim section. They are allotted a specific amount of graves.

There were no further questions.

Workshop Offered:

Offered: Michael Shapiro

Second: Stacey DiGrande

Ms. Bajar did request additional borings.

Discussion followed by Messrs. Zwerin and Weilheimer regarding testimony in support of the use. Mr. Cucchiaro said if you find there is negative criteria going forward, you could deny in the second phase.

Mr. Cucchiaro also stated there is nothing that identifies cemeteries as inherently beneficial. You cannot discriminate against any religious land use.

Per Mr. Levin, if we are speaking only to the use, we have to consider ordinances with the direction of governing body. Mr. Zwerin also stated this is a mixed use; Mr. Cucchiaro stated that this is different from a traditional mixed use.

Mr. Cucchiaro questioned the Stormwater Management, and Mr. Matarese's accident study. There was questioning regarding the need of this type of cemetery. Testimony has been given that on Texas Road, there is already a Muslim section; does the Board believe there is a need in the community.

Mr. Shapiro said there is a need for further clarification.

Mr. Weilheimer said the use is for a cemetery.

Ms. Bajar said she has concerns for the use of the caretaker's home with her biggest concern is for the site plan.

Mr. Cucchiaro inquired if the Board received enough information.

Mr. Shapiro also inquired if the other Muslim site is at capacity.

Mr. Masaad testified that this is exclusive use for a Muslim cemetery and that the Millstone cemetery is exclusive which also appears to be full.

Mr. Cucchiaro stated that we cannot determine what is important to a Muslim burial.

Mr. Masaad also stated they would prefer an exclusive cemetery.

Mr. Alfieri stated that Mr. Scott Kennel (Traffic) 3/27/11 was forwarding emails to Sarah Paris, Zoning Officer.

A – 34 Copy of Email forwarded from JKushner@marlboropd.org to skennel@mratraffic.com regarding the OPRA request sent from McDonough & Rea Associates, 1431 Lakewood Road, Manasquan, NJ.

It stated on 4/11/12 that since 2008 there is only one accident report at Spring Valley from Judy Kushner, Marlboro Police Department.

Mr. Kataryniak said that the four way stop condition occurred after 2005. Mr. Matarese did say the intersection is better.

Mr. Shapiro also stated that we have to take Mr. Matarese's word that there have been additional incidents.

Five Minute Break.

Mr. Matarese, 485 Texas Road, Morganville, NJ, is sworn in. The Internet says there is a known Muslim cemetery in town. In Millstone, there are many thousands of graves left for use. Mr. Alfieri also concurred that the site Matarese read from was from the New York Times.

It was never part of the Master Plan to have cemetery in an LC Zone.

Mr. Matarese also stated that Burnt Fly Bog has never been cleaned up; most people were not around twenty-five ago. He also inquired if this becomes a religious cemetery, is this now going to be tax free.

Mr. Cucchiaro stated that fiscal zoning is an unlawful purpose. Mr. Matarese stated he believes this is not a good thing.

Mr. Cramer commented on ratables. The Board is guided by land use, not tax revenue. Revenue is not a consideration.

Mr. El Naboulsi resides at 32 Overhill Drive, Marlboro. He is sworn in; he is a recused member of the Board and speaking as a resident. As far as cemeteries, he would like one to be buried where he resides. We are not supposed to be buried in a casket. Per the State of New Jersey, we do require use of a casket. This is a sacred place. As a religious obligation, I should be buried in a Muslim cemetery. We are running out of plots in Millstone.

Mr. Hassan Elmansaury Marlboro, NJ born in Marlboro. Some of the comments made, need is also required.

You cannot see where the cemetery begins and ends. It is so crowded, and everyone needs a proper burial. Forest Green is not a municipal cemetery. We are speaking of respect of the dead.

Mr. El Mansoury, 107 Scarborough Way said he belongs to same the Mosque as Mr. El Naboulsi and asked if we are here to justify need of cemetery.

Mr. Cucchiaro stated that the Board acts according to the Municipal Land Use. This is all standard for a funeral home, pet shop, etc; need is part of the requirements.

Mr. El Mansoury stated they are required to be buried in a Muslim cemetery. Marlboro now has a large Muslim area. We would like a place where we reside.

Mrs. Heather Pylarinos, 284 Spring Valley Road, Morganville, NJ (Block 146, Lot 46), said she is not objecting on religious grounds, only to use. The land is spongy.

Ms. Marlana Schilke, 13 Glen Road, Monroe, New Hampshire, said she currently not a resident, but is considering purchasing Lot 7. My concern is that the land cannot be disturbed. Will excavation cause the water flow to also be disturbed.

Mr. Kennel stated there is no ground water passing through.

Workshop:

Offered By: Michael Shapiro

Seconded By: Jennifer Bajar

There are two uses; one for the cemetery and the caretaker's home.

Ms. Bajar stated as for the use, we do understand the need for; much beneficial information has been given. All agreed for use of a cemetery and that the caretaker use is a necessity.

Motion to Approve

Offered By: Michael Shapiro

Seconded By: Jennifer Bajar

Ayes: 6

Nay: 0

Recused: 1

Mr. Cucchiaro explained the applicant must still prepare an application for site plan approval and there is a resolution required from the governing body. The State Cemetery Board will have the final say about the use of the cemetery.

Meeting adjourned at 11:00 pm.

Respectfully submitted

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