

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

October 24, 2013

The Marlboro Township Council held its regularly scheduled Council Meeting on October 10, 2013 at 7:00 P.M. at Marlboro Greens, 1 Ivy Hill Drive, Englishtown, New Jersey.

Council President LaRocca opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of the location change of this regularly scheduled meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on March 20, 2013; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building, filed in the office of the Municipal Clerk and placed on the township website and Channel 77.

The Clerk called the Roll.

PRESENT: Councilman Cantor (7:15pm), Council Vice President Marder, Councilwoman Mazzola, Councilman Metzger and Council President LaRocca.

Also present were: Township Attorney Louis N. Rainone, Business Administrator Jonathan Capp, Municipal Clerk Alida Manco and Deputy Municipal Clerk Deborah Usalowicz.

The following Resolution #2013-307/Ordinance #2013-015 (AS AMENDED - Amending Section 220-140 - Standards for Sheds) was introduced by reference, offered by Councilman Cantor and seconded by Council President LaRocca and was passed on a roll call vote of 5 - 0 in favor. Council President LaRocca explained that the ordinance has now been changed to reflect lot sizes rather than zones.

RESOLUTION # 2013-307

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2013-15 (As Amended)

AN ORDINANCE AMENDING SECTION 220-140(E) ENTITLED "LOCATION" OF THE MARLBORO TOWNSHIP CODE TO AMEND PROVISIONS ESTABLISHING SPECIFIC SETBACK STANDARDS TO BE SOLELY APPLICABLE TO SHEDS

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on November 14, 2013 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2013-15 (AS AMENDED)

AN ORDINANCE AMENDING SECTION 220-140(E) ENTITLED "LOCATION" OF THE MARLBORO TOWNSHIP CODE TO AMEND PROVISIONS ESTABLISHING SPECIFIC SETBACK STANDARDS TO BE SOLELY APPLICABLE TO SHEDS

WHEREAS, the Section 220-140(E) of the Township Code entitled "Location" provides guidelines to for the location of accessory buildings and structures, however, same does not include provisions solely applicable to sheds

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, that Section 220-140 of the Code of the Township of Marlboro entitled "Accessory Buildings and Structures" is hereby amended and supplemented to amend section 220-140(E) entitled "Location" amend the provisions establishing specific setback standards to be solely applicable to sheds which are placed on a property as an accessory structure as follows:

2) The setbacks for sheds that are placed on a property as an accessory structure shall be as follows within a residential zone:

- a) Sheds shall not be larger than one-hundred-twenty square feet and not taller than eleven (11') feet in height, and shall be setback a minimum of five (5') feet from side and rear property lines on lots which are less than 20,000 s.f. in size.
- b) Sheds shall not be larger than one-hundred-fifty square feet and not taller than eleven (11') feet in height, and shall be setback a minimum of five (5') feet from side and rear property lines on lots which are equal to 20,000 s.f. but equal to or less than 40,000 s.f. in size.

c) Sheds shall not be larger than two hundred square feet and not taller than eleven (11') feet in height, and shall be setback a minimum of five (5') feet from side and rear property lines on lots greater than 40,000.

d) Not more than one such shed shall be permitted to be placed on the property.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall only apply to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed invalid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

Councilman Metzger recused himself and left the room. The following Resolution #2013-308 (Person to Person Consumption License Transfer - AJR Restaurant Corp. (d/b/a Damon's Grill) to Rosalita's Roadside Cantina of Marlboro, LLC) was introduced by reference, offered by Council Vice President Marder and seconded by Councilwoman Mazzola and was passed on a roll call vote of 3 - 0 in favor with Councilman Cantor abstaining (Absent: Metzger).

RESOLUTION # 2013-308

A RESOLUTION OF THE TOWNSHIP OF MARLBORO AUTHORIZING A PERSON -TO-PERSON TRANSFER OF PLENARY RETAIL CONSUMPTION LICENSE NUMBER 1328-33-018-001 FROM AJR RESTAURANT CORP. D/B/A DAMON'S GRILL TO ROSALITA'S ROADSIDE CANTINA OF MARLBORO, LLC

WHEREAS, application was made to the Township of Marlboro ("Township") by Rosalita's Roadside Cantina of Marlboro, LLC ("Applicant") for a person-to-person transfer of Plenary Retail Consumption License Number 1328-33-018-001 ("License") presently held by AJR Restaurant Corp. D/B/A Damon's Grill which is to be sited at 180 Route 9 North, Marlboro, N.J. (the "Premises");and

WHEREAS, the Applicant has disclosed, and the appropriate Township officials have reviewed, the source of all funds used in connection with the purchase of said license, which information

is contained in the report of the Police Department concerning this transfer application; and

1. The submitted application form is complete in all respects;
2. The applicant is qualified to be licensed according to all standards established by the New Jersey Alcoholic Beverage Control Act, the regulations promulgated thereunder, as well as any pertinent local ordinances or Division-approved conditions; and
3. The Applicant has disclosed and the Township has reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the licensed business; and

WHEREAS, the Township Council of the Township of Marlboro has reviewed the application and all supporting documentation and finds it appropriate to approve the transfer of the aforesaid plenary retail consumption license.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro that the application by Rosalita's Roadside Cantina of Marlboro, LLC for a person to person transfer of Plenary Retail Consumption License Number 1328-33-018-001 presently held by AJR Restaurant Corp. D/B/A Damon's Grill be and is hereby is approved subject to the conditions set forth hereinbelow:

1. The approval of the Division of Alcoholic Beverage Control to the person-to-person of the aforesaid license to Rosalita's Roadside Cantina of Marlboro, LLC.
2. That, prior to the use of the aforesaid license for the sale, service or consumption of alcoholic beverages on the premises, the licensee notify the Code Enforcement Officer of the Township of Marlboro in order that said officials shall make an inspection of the premises and issue a determination of the maximum permitted occupancy of the premises pursuant to applicable Township ordinances.
3. That the licensee comply with the aforesaid maximum occupancy of the premises as determined by the Code Enforcement Officer of the Township of Marlboro.

4. Subject to final clearance from all appropriate law enforcement agencies.

BE IT FURTHER RESOLVED that the license transferred herewith shall be subject to suspension or revocation for a violation of any of the aforesaid conditions pursuant to N.J.S.A. 33:1-32; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Rosalita's Roadside Cantina of Marlboro, Inc, 180 Route 9 North, Marlboro, New Jersey 07026
- b. AJR Restaurant Corp., D/B/A Damon's Grill, 180 Route 9 North, Marlboro, New Jersey 07726
- c. Township Administrator
- d. Township Building Department
- e. Township Chief Financial Officer
- f. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2013-309 (Person to Person Consumption License Transfer - IR Restaurant Corp (d/b/a Illusion) to AGPC Management, LLC) was introduced by reference, offered by Council President LaRocca, seconded by Council Vice President Marder and was passed on a roll call vote of 4 - 0 in favor with Councilman Cantor abstaining.

RESOLUTION # 2013-309

A RESOLUTION OF THE TOWNSHIP OF MARLBORO AUTHORIZING A PERSON
-TO-PERSON TRANSFER OF PLENARY RETAIL CONSUMPTION LICENSE
NUMBER 1328-33-007-004 FROM IR RESTAURANT CORP.
D/B/A ILLUSION TO AGPC MANAGEMENT, LLC

WHEREAS, application was made to the Township of Marlboro ("Township") by AGPC Management, LLC ("Applicant") for a person-to-person transfer of Plenary Retail Consumption License Number 1328-33-007-004 ("License") presently held by IR Restaurant Corp. D/B/A Illusion which is to be sited at 47 Tennent Road, Marlboro, N.J. (the "Premises");and

WHEREAS, the Applicant has disclosed, and the appropriate Township officials have reviewed, the source of all funds used in connection with the purchase of said license, which information is contained in the report of the Police Department concerning this transfer application; and

1. The submitted application form is complete in all respects;

2. The applicant is qualified to be licensed according to all standards established by the New Jersey Alcoholic Beverage Control Act, the regulations promulgated thereunder, as well as any pertinent local ordinances or Division-approved conditions; and
3. The Applicant has disclosed and the Township has reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the licensed business; and

WHEREAS, the Township Council of the Township of Marlboro has reviewed the application and all supporting documentation and finds it appropriate to approve the transfer of the aforesaid plenary retail consumption license.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro that the application by AGPC Management, LLC for a person to person transfer of Plenary Retail Consumption License Number 1328-33-007-004 presently held by IR Restaurant Corp. D/B/A Illusion be and is hereby is approved subject to the conditions set forth herein below:

1. The approval of the Division of Alcoholic Beverage Control to the person-to-person transfer of the aforesaid license to AGPC Management, LLC.
2. That, prior to the use of the aforesaid license for the sale, service or consumption of alcoholic beverages on the premises, the licensee notify the Code Enforcement Officer of the Township of Marlboro in order that said officials shall make an inspection of the premises and issue a determination of the maximum permitted occupancy of the premises pursuant to applicable Township ordinances.
3. That the licensee comply with the aforesaid maximum occupancy of the premises as determined by the Code Enforcement Officer of the Township of Marlboro.
4. Subject to final clearance from all appropriate law enforcement agencies.

BE IT FURTHER RESOLVED that the license transferred herewith shall be subject to suspension or revocation for a violation of any of the aforesaid conditions pursuant to N.J.S.A. 33:1-32; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. AGPC Management, LLC, 101 North Union Avenue, Cranford, New Jersey 07016
- b. IR Restaurant Corp., D/B/A Illusion, 1 Marigold Lane, Manalapan, New Jersey 07726
- c. Township Administrator
- d. Township Building Department
- e. Township Chief Financial Officer
- f. DeCotiis, FitzPatrick & Cole, LLP

As the consent agenda, the following resolutions were introduced by reference, offered by Councilman Metzger, seconded by Councilman Cantor and passed on a roll call vote of 5 - 0 in favor: Res. # 2013-310 (Discharge of Mortgage - 20 Thrasher Court), Res. # 2013-311 (Discharge of Mortgage - 59 Thrasher Court), Res. # 2013-312 (Budget Amendment - Drunk Driving Enforcement Grant), Res. # 2013-313 (Authorizing Lien for Overgrown Vegetation - 4 Evans Drive), Res. #2013-314 (Cancel Taxes - Block 157, Lot 13), Res. #2013-315 (Refunds for Overpayments - Various).

RESOLUTION #2013-310

A RESOLUTION OF THE MARLBORO TOWNSHIP TOWN COUNCIL
AUTHORIZING A DISCHARGE OF A REPAYMENT MORTGAGE AND AN
AFFORDABLE HOUSING AGREEMENT, BOTH DATED FEBRUARY 2, 2001,
WHICH WERE RECORDED AGAINST REAL PROPERTY LOCATED AT
20 THRASHER COURT, MARLBORO, NEW JERSEY, WHICH IS
NOW OWNED BY EEVA-LIISA OPPENHEIMER

WHEREAS, a residential unit commonly known as 20 Thrasher Court, Marlboro, New Jersey ("the Property"), is an affordable unit and its affordability controls are governed by the provisions of New Jersey's Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) and the substantive and procedural rules of the Council on Affordable Housing (N.J.A.C. 5:96-1 and 5:97-1 et seq.); and

WHEREAS, Eeva-Liisa Oppenheimer purchased and became the record owner of the Property by way of a purchase of same on or about September 28, 2012, by way of deed from Steven Fereno and Marie Fereno, which deed was recorded on October 23, 2012, in deed book 8977, page 7360, in the Monmouth County Clerk's Office; and

WHEREAS, the prior owner, Marie Fereno, had executed a repayment mortgage on or about February 2, 2001, in favor of the Department of Community Affairs which is an agency and an instrumentality of the Township of Marlboro (the "Mortgage"); and

WHEREAS, the Mortgage was subsequently recorded in the Monmouth County Clerk's Office on February 9, 2001, in Mortgage Book MB-8005, at Page 2581 et seq.; and

WHEREAS, also on or about February 9, 2001, Marie Fereno executed an affordable housing agreement ("the Agreement") with the Agreement being recorded in the Monmouth County Clerk's Office also on February 9, 2001, in Mortgage Book MB-8005, at Page 2551 et seq.; and

WHEREAS, Eeva-Liisa Oppenheimer, now, as the owner of record seeks to have both the Mortgage and the Agreement discharged of record since they are encumbering the Property and they should have previously been discharged but were not; and

WHEREAS, the parties now ask that the Township of Marlboro discharge and release both the Mortgage and the Agreement; and

WHEREAS, the Marlboro Township Council finds that there is good cause for the release of the Mortgage and the Agreement for the reasons sets forth herein and because of the change in ownership from Fereno to Oppenheimer;

NOW THEREFORE BE IT RESOLVED that the Honorable Mayor Jonathan L. Hornik is hereby authorized to sign the attached discharge for the Mortgage and Agreement which hereby releases and discharges the Mortgage and the Agreement;

BE IT FURTHER RESOLVED that subsequent to Mayor Hornik's signature of said discharge of the Mortgage and Agreement that said discharge will be recorded in the Monmouth County Clerk's Office;

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Township Business Administrator, Jon Capp;
- b. Thomas P. Howley, Municipal Housing Liaison;
- c. Kenneth W. Biedzynski, Affordable Housing Special Counsel.

RESOLUTION # 2013-311

A RESOLUTION OF THE MARLBORO TOWNSHIP TOWN COUNCIL
AUTHORIZING A DISCHARGE OF A REPAYMENT MORTGAGE DATED
APRIL 10, 2001, WHICH WAS RECORDED AGAINST REAL PROPERTY
LOCATED AT 59 THRASHER COURT, MARLBORO, NEW JERSEY

WHEREAS, a residential unit commonly known as 59 Thrasher Court, Marlboro, New Jersey, and identified as Block 412, Lot 307, Qualifier C0059 ("the Property"), is an affordable unit and its affordability controls are governed by the provisions of New Jersey's Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) and the substantive and procedural rules of the Council on Affordable Housing (N.J.A.C. 5:96-1 and 5:97-1 et seq.); and

WHEREAS, Maria Cornelsen purchased and became the record owner of the Property by way of a purchase of same on or about April 10, 2001, by way of a deed which deed was recorded on April 19, 2001, in deed book 8017, page 1696, in the Monmouth County Clerk's Office; and

WHEREAS, Maria Cornelsen, now deceased, had executed a repayment mortgage on or about April 10, 2001, in favor of the Department of Community Affairs which is an agency and an instrumentality of the Township of Marlboro (the "Mortgage"); and

WHEREAS, the Mortgage was subsequently recorded in the Monmouth County Clerk's Office on April 19, 2001, in Mortgage Book MB-8017, at Page 1755 et seq.; and

WHEREAS, the Estate of Maria Cornelsen, now, as the owner of record seeks to have the Mortgage discharged of record since it is encumbering the Property and the Estate has contracted to sell the Property to Edward Wilczek with the closing scheduled to take place during the month of October 2013; and

WHEREAS, the Estate now asks that the Township of Marlboro discharge and release the Mortgage; and

WHEREAS, the Marlboro Township Council finds that there is good cause for the release of the Mortgage and the Agreement for the reasons sets forth herein and because of the impending change in ownership from the Estate to Edward Wilczek;

NOW THEREFORE BE IT RESOLVED that the Honorable Mayor Jonathan L. Hornik is hereby authorized to sign the attached discharge for the Mortgage which hereby releases and discharges the Mortgage;

BE IT FURTHER RESOLVED that subsequent to Mayor Hornik's signature of said discharge of the Mortgage that said discharge will be recorded in the Monmouth County Clerk's Office;

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Township Business Administrator, Jon Capp;
- b. Thomas P. Howley, Municipal Housing Liaison;
- c. Kenneth W. Biedzynski, Affordable Housing Special Counsel.

RESOLUTION # 2013-312

RESOLUTION REQUESTING APPROVAL OF ITEMS OF
REVENUE AND APPROPRIATION (N.J.S.A. 40A:4-87)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

Section 1

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby requests the Director of Local Government Services to approve the insertion of an revenue in the budget of the year 2013 in the sum of \$7,974.71, which items are now available as a revenue from the New Jersey Department of Law and Public Safety as the "Drunk Driving Enforcement Fund".

Section 2

BE IT FURTHER RESOLVED that the amount of \$7,974.71 be hereby appropriated under the caption "Drunk Driving Enforcement Fund".

RESOLUTION # 2013-313

A RESOLUTION AUTHORIZING THE REMOVAL OF HAZARDOUS
OVERGROWN VEGETATION AND THE RECORDING OF A LIEN BY
THE TAX COLLECTOR ON THE PROPERTY LOCATED AT 4 EVAN DRIVE
(BLOCK 180, LOT 45) MORGANVILLE, NEW JERSEY

WHEREAS, the Administration has been advised by the Zoning Officer that a nuisance and hazardous condition in the form of extremely over-grown grass, weeds and brush exists on the property known as 4 Evan Drive (Block 180, Lot 45); and

WHEREAS, attempts to abate and remediate such nuisance and hazardous condition have been unsuccessful; and

WHEREAS, pursuant to Chapter 278 Section 188 of the Code of the Township of Marlboro entitled "Abatement of hazard or nuisance by Township; lien.", the Municipality has the authority to abate a nuisance as authorized under N.J.S.A. 40:48-2.14 and "shall cause the cost as shown thereon to be charged against said lands"; and

WHEREAS, the Township has taken the necessary enforcement action and has abated the nuisance located at 4 Evan Drive (Block 180, Lot 45) at a total cost of \$234.60; and

WHEREAS, it is recommended that the amount of \$ 234.60 incurred by the Municipality to abate the nuisance be recorded as a lien against the property.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro, being the governing body thereof, that the Tax Collector is hereby authorized to record a lien against the property known as 4 Evan Drive (Block 180, Lot 45) in the amount of \$ 234.60 to reflect the costs incurred by the Municipality to abate the nuisance to be added to the taxes next to be assessed and levied, the same to bear interest at the same rate as taxes which shall be collected and enforced by the same officers and in the same manner as taxes.

RESOLUTION # 2013-314

WHEREAS, there are taxes for the year 2013 that remain outstanding on the following property as designated on the Marlboro Township Tax Map: Block 157 Lot 13, located on Route 520,

WHEREAS, the aforementioned property was purchased by County of Monmouth, and the Township Tax Collector has therefore recommended that taxes in the amount of \$5,382.50 be cancelled being County of Monmouth is tax exempt.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to cancel the balance of the 2013 taxes totaling \$5,382.50 as stated above.

RESOLUTION #2013-315

WHEREAS, the attached list in the amount of \$ 68,486.07 known as Schedule "A", is comprised of amounts representing overpayments for 2013 taxes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to refund the above-mentioned overpaid amounts as per the attached Schedule "A",

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>2013 REFUND</u>
184/63		Eisner, Leonard & Melinda Blume 6 Garnet Street Morganville, NJ 07751 Property Location: 6 Garnet Street	974.96
999/1.1		Verizon- New Jersey P.O. Box 152206 Irving, TX 75015 Property Location: Fire District #1	15,976.10
999/1.2		Verizon- New Jersey P.O. Box 152206 Irving, TX 75015 Property Location: Fire District #2	16,077.37
999/1.3		Verizon- New Jersey P.O. Box 152206 Irving, TX 75015 Property Location: Fire District #3	16,092.95
199/28		Cardillo, Robert & Louisa 5 Buttonwood Drive Marlboro, NJ 07746 Property Location: 5 Buttonwood Drive	250.00
415/33.12		Kenningston Gate C/O Community Management 1030 Clifton Ave STE 205 Clifton, NJ 07013 Property Location: Huxley Court	410.27
421.04/1		Kenningston Gate C/O Community Management 1030 Clifton Ave STE 205 Clifton, NJ 07013 Property Location: Coleridge Drive	519.08

