

Township of Marlboro

Chairperson
Glenn Malysz

Vice-Chairperson
Michael Fishman

Secretary
Robert Knight

Michael Mahon
Adrienne Spota
Lewis Wildman
Matthew Weilheimer

Joseph Sparacio Alt #1
Steven Pitchon Alt #2

Zoning Board Billing Clerk
Angela Cipoletti

MINUTES
ZONING BOARD OF ADJUSTMENT
MARCH 4, 2008
REGULAR MEETING
SALUTE TO FLAG
SUNSHINE LAW READ

ROLL CALL

PRESENT: Michael Fishman, Robert Knight, Michael Mahon, Glenn Malysz, Steven Pitchon, Joseph Sparacio, Adrienne Spota, Matthew Weilheimer, Lewis Wildman

ALSO PRESENT: Michael Steib, Esq. Board Attorney
Sarah Paris, Administrative Officer
Kendra A. Lelie, Board Planner

ABSENT:

Attorney
Michael Steib, Esq.

Engineer
Gravatt Consulting Group
David Thesing., P.E., P.P.

Planner
Thomas J. Scangarello, P.P.
Planning Design Collaborative, LLC

Administrative Officer
Sarah Paris

Zoning Officer
Sarah Paris

The Board accepted the minutes of February 5, 2008.

Offered: Glenn Malysz
Ayes: 7
Absent: 0

Second: Robert Knight
Nays: 0
Abstain: 0

Public Comment

Patricia Korabiak, Crine Road, Morganville.

Ms. Korabiak presented a course to the Board Members that was available to educate Board Members and Council Members on land use law. She stated that it was a 3 hour course available for \$220 for the entire group. She also stated that she felt that each member should be a member of ANJAC.

Mr. Malysz requested that she provide the information to them and they will look at the documentation and decide whether it is right for them.

ZB 08-6321-Vitale, Vincent

Public Hearing for Approval to construct a fence in a front yard, more than twenty feet from the property line at 2 Livingston Court, Block 360, Lot 25.22 in the R-20 AH1 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 Owners Affidavit of Authorization and Consent
- A - 13 Conflict & Contribution Disclosure Statements
- A - 14 Affirmation of Local Pay To Play Ordinance dated 2/8/08
- A - 15 Grading Plan by R.C. Burdick, P.E. dated 11/29/07, revised on 2/19/08
- A - 16 Survey by Najarian Associates dated 10/20/04, last revised 6/9/05
- A - 17 Lot Coverage Calculations by Robert Burdick, received 2/21/08
- A - 18 Report from Dean Staknys, Assistant Township Engineer dated 2/26/08.

Vincent Vitale, 2 Livingston Court, sworn.

Mr. Vitale stated that he is planning to install a pool. Rather than fence in the entire lot, he would like to put a fence around the pool only. He stated that he felt it would be safer for the children.

Mr. Vitale stated that he lives on a corner lot, and he was told that the Township requires that a fence in the back yard would have to be on the 20 foot line. Mr. Staknys stated that the proposed fence has a 20 foot minimum except on the corner near Timber Lane and Rutledge, where it is between 16 and 17 feet.

Mr. Staknys stated that there are no other bulk variances required. The lot coverage is under the maximum, and other than the fence, it is legal.

Mr. Vitale stated that he would probably install a Jareth fence, but he will comply with the requirements including the size and height. He also stated that he spoke with Sarah before he planted trees in the back yard, and they already conform with the ordinance.

Workshop

Offered by: Glenn Malysz

Seconded by: Michael Mahon

The Board members agreed that they would be in favor of the application.

Out of Workshop

Offered by: Glenn Malysz

Seconded by: Robert Knight

Motion to grant application, and allow flexibility of 2 feet for the fence from the drawing provided.

Offered by: Glenn Malysz

Seconded by: Robert Knight

Ayes: 7

Nays: 0

Absent: 0

Abstain: 0

Motion granted.

ZB 08-6315 – Marlboro Auto Wreckers

Request for an interpretation of the Junkyard Ordinance relating to the recycling of scrap metal at 153 Tennent Road, Block 170, Lot 3, in the LC zone.

ZB 08-6316 – Morganville Auto Wreckers

Request for an interpretation of the Junkyard Ordinance relating to the recycling of scrap metal at 249 Spring Valley Road, Block 172, Lot 13 in the LC Zone.

ZB 08-6317 – Schechter Enterprises

Request for an interpretation of the Junkyard Ordinance relating to the recycling of scrap metal at 158 Tennent Road, Block 147, Lot 34, in the C-2 Zone.

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

ZB 08-6315 – Marlboro Auto Wreckers

- A – 1 Letter from John Giunco requesting an interpretation of the Junkyard ordinance dated November 12, 2007
- A – 2 Indemnification and Hold Harmless Agreement
- A – 3 Owners Affidavit of Authorization and Consent
- A – 4 W 9
- A – 5 Tax Collector's Certification
- A – 6 Notice to Adjoining Property Owners
- A – 7 Adjacent Property Listing
- A – 8 Certified White Receipts and Green Cards
- A – 9 Affidavit of Service
- A – 10 Affidavit of Publication
- A – 11 Affirmation of Local Pay to Play Ordinance
- A – 12 Conflict & Contribution Disclosure Statements
- A – 13 Exhibit list with supporting documents
- A – 14 Planners Report Prepared by Thomas J. Scangarello, P. P., Planning Design Collaborative, LLC, dated February 19, 2008
- A – 15 A-F Tax Map Copies, and copies of licenses issued

ZB 08-6316 – Morganville Auto Wreckers

- A – 1 Letter from John Giunco requesting an interpretation of the Junkyard ordinance dated November 12, 2007
- A – 2 Indemnification and Hold Harmless Agreement

- A – 3 Owners Affidavit of Authorization and Consent
- A – 4 W 9
- A – 5 Tax Collector's Certification
- A – 6 Notice to Adjoining Property Owners
- A – 7 Adjacent Property Listing
- A – 8 Certified White Receipts and Green Cards
- A – 9 Affidavit of Service
- A – 10 Affidavit of Publication
- A – 11 Affirmation of Local Pay to Play Ordinance
- A - 12 Conflict & Contribution Disclosure Statements
- A - 13 Exhibit list with supporting documents
- A – 14 Planners Report Prepared by Thomas J. Scangarello, P. P., Planning Design Collaborative, LLC, dated February 19, 2008
- A – 15 A-F Tax Map Copies, and copies of licenses issued

ZB 08-6317 – Schechter Enterprises

- A – 1 Letter from John Giunco requesting an interpretation of the Junkyard ordinance dated November 12, 2007
- A – 2 Indemnification and Hold Harmless Agreement
- A – 3 Owners Affidavit of Authorization and Consent
- A – 4 W 9
- A – 5 Tax Collector's Certification
- A – 6 Notice To Adjoining Property Owners
- A – 7 Adjacent Property Listing
- A – 8 Certified White Receipts and Green Cards
- A – 9 Affidavit of Service
- A – 10 Affidavit of Publication
- A – 11 Affirmation of Local Pay to Play Ordinance
- A - 12 Conflict & Contribution Disclosure Statements
- A - 13 Exhibit list with supporting documents
- A – 14 Planners Report Prepared by Thomas J. Scangarello, P. P., Planning Design Collaborative, LLC, dated February 19, 2008
- A – 15 A-F Tax Map Copies, and copies of licenses issued

All Applications

- A – 16 Board mounted photo of Marlboro Auto Wreckers on 1955-1956
- A – 17 A&B 2 sided Board with photos from 2002 and 2007 of Marlboro Auto Wreckers
- A – 18 Board mounted reverse view of 2007 photo of Marlboro Auto Wreckers
- A – 19 A&B 2 sided board with photos from 2007 of Schechter Enterprises
- A – 20 A&B 2 sided board with 6 photos from Marlboro Auto Wreckers and Schechter Enterprises

John Giunco, Esq., on behalf of the applicant.

Mr. Giunco stated that the three applications have common ownership, and there is a commonality of use between the three sites. The applicant has decided to present the applications as a whole.

Mr. Giunco stated that the applicant has been operating since 1955.

Mr. Giunco stated that there was a court order in 1983 regarding the junkyard ordinance which excluded activities other than junkyards. He stated that these properties should be considered as a pre-existing, non-conforming use. He stated that prior to 1983, the business included scrap metal, and it is still part of their business today. He stated that they have receipts of sales of scrap metal that date back to 1991 and Mrs. Schechter has copies of licenses that indicate scrap metal as part of their business.

Elaine Schechter, 158 Tennent Road, Morganville, sworn.

Mrs. Schechter stated that her husband founded the company. Since 1955, she has worked in all aspects of the business. She stated that her husband originally had a yard in South Plainfield, and he sold it and bought a yard in Morganville in 1962. She stated that they both worked 7 days a week. In 1980 they purchased the Schechter Enterprises property.

Mrs. Schechter stated that they have 6 employees, who float from location to location.

Mrs. Schechter stated that they were not originally heavy into scrap. She stated that people would leave items outside their gate. She and her husband would also drive around during the bulk pickup season and pick up items. She stated that they had containers, and they would also put items into the cars. They would stockpile items until the rates went up. She stated that they do scrap collection on all 3 sites.

Mrs. Schechter stated that they currently have a crusher for the vehicles. They would like to get a bailer and ship the metal out themselves. She explained that the machine would crunch and separate metal and put it into cubes. Mr. Giunco reminded the Board that the applicant is not asking for permission for the machine. They are only asking whether there is a pre-existing, non-conforming prior to the existing ordinance.

Mr. Giunco read examples from licenses prior to 1983 which state that purpose of business included "scraping", or "scrap iron and metal". After 1984, all of the licenses indicate only "junkyard".

Mr. Steib discussed the ordinance relating to junkyards. He stated that there were two articles. Article one referred to motor vehicle junkyards, and article two refers to two types of junk dealers- retail, and wholesale. He also stated that the use is not permitted in any zone in town, and it is a non-conforming site. He stated that the question the Board needs to determine is what type of non-conforming use were they?

Mr. Sparacio stated that he would like to see a signed copy of the settlement agreement.

Mr. Giunco stated that there was no distinction in the application process between Articles I and II. He stated that his interpretation is that the operation is pre-existing and so it continues. He stated that the license only says junkyard, not motor vehicle junkyard.

Public Comment

Patricia Korabiak, Crine Road, Morganville

Ms. Korabiak spoke in reference to the letter from Edward Savoy. She stated that Mr. Savoy was the Building Inspector, not the Zoning Officer and had no right to send the letter.

Mrs. Richardson, 148 Greenwood Road, Morganville

Mrs. Richardson was concerned with children playing outside near the site.

Linda Abedrabbo, 134 Greenwood Road, Morganville

Ms. Abedrabbo's concerns will be brought up at a later meeting.

Dawn Reynolds, 138 Greenwood Road, Morganville

Ms. Reynolds questioned how the scrapping activities continued when the ordinance states that it is not permitted.

Dan Matarese, 485 Texas Road

Mr. Matarese questioned Ms. Schechter as to whether she testified that they transferred material from one site to the other. He stated that the Spring Valley Road yard was closed for years and there is nothing there, but they are holding the license. He also stated that the ordinance states that they are not supposed to move items from one location to another.

Ms. Lelie questioned whether the applicant had any copies of applications prior to 1982 and if they were willing to provide them. She stated that she wanted to compare the applications to the licenses.

Mrs. Schechter stated that she was not involved in the judgment and her husband handled it.

Andrew Janiw, P.P., Beacon Planning, 41 Highway 34 South, Colts Neck

Mr. Janiw discussed the photos in A-16 through A-20. He stated that scrap metal has always been a part of the business.

Mr. Malysz stated to the public that in order to maintain order during the hearings, the Board will need to follow certain protocol. He told them that they would have an opportunity at the end of the hearings to come up and make their statements.

This hearing will be carried to May 6, 2008 with no further notice. Applicant signed an extension of time form.

MEMORIALIZATIONS

ZB 07-6313 – Seidel, Bonnie

Memorialization of a Resolution granting approval to construct a 6' high vinyl fence in second front yard, coming off the side of the house instead of the rear of the house, located at 17 Weathervane Way, Block 371, Lot 72 in the R30-20 zone.

Offered by: Glenn Malysz

Seconded by: Lewis Wildman

Ayes: 7

Nays: 0

Absent: 0

Abstain: 0

Meeting adjourned.

Respectfully,

Denise K. Fluck