

TOWNSHIP OF MARLBORO

ZONING BOARD OF ADJUSTMENT

1979 TOWNSHIP DRIVE

MARLBORO, NJ 07746-2299

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Glenn Malysz

Vice-Chairperson

Michael Fishman

Secretary

Robert Knight

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Matthew Weilheimer

Adrienne Spota

Lewis Wildman

Michael Mahon

Jennifer Bajar - Alt.#1

Steven Pitchon - Alt.#2

Zoning Board Clerk

Yvonne Cautillo

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

Zoning Officer

Sarah Paris

MINUTES OCTOBER 21, 2008 8:00 P.M.

MINUTES

ZONING BOARD OF ADJUSTMENT

OCTOBER 21, 2008

REGULAR MEETING

SALUTE TO FLAG

SUNSHINE LAW READ

ROLL CALL

PRESENT: Glenn Malysz, Michael Mahon, Adrienne Spota,
Jennifer Bajar, Matthew Weilheimer, Lewis Wildman

ABSENT: Michael Fishman, Robert Knight

ALSO PRESENT: Michael Steib, Esq. Board Attorney
Sarah Paris, Administrative Officer
David Thesing, Engineer

The Board accepted the minutes of October 7, 2008

MINUTES APPROVED:

Offered:	Glenn Malysz	Seconded:	Lewis Wildman
Ayes:	7	Nays:	0
Absent:	2	Abstain:	0

APPOINT SECRETARY:

Motion to appoint Michael Mahon as Acting Secretary.

Offered:	Glenn Malysz	Seconded:	Michael Mahon
Ayes:	7	Nays:	0
Absent:	2	Abstain:	0

ZB 07-6298 – James Ientile

Continuation of Public Hearing for approval to construct a 40 x 60 square foot garage building, attached to an existing garage on site of a pre-existing, non-conforming use at 28 Vanderburg Road, Marlboro, Block 220, Lot 1 and Block 358, Lot 7.01 in the LI – Light Industrial zone.

The following additional exhibits were read into the record:

- A – 34 **Stephen Kutch, P.E., P.P., 35B Cambridge Circle, Manchester, NJ 08759, prepared plans for Maintenance Garage Addition dated April 24, 2008.**
- A – 35 **Gravatt Consulting Group Report prepared by David Thesing, dated June 12, 2008.**
- A – 36 **Report from Township of Marlboro, prepared by John Borden, Fire Sub-Code Official, Dated July 9, 2008.**
- A – 37 **Report from Township of Marlboro, prepared by Chief Robert Holmes, Division of Police, Dated July 9, 2008.**
- A – 38 **Adjacent Property Listing**
- A – 39 **Certified White Receipts and Green Cards (dated 7/2 and 7/3/2008)**
- A – 40 **Affidavit of Service**
- A – 41 **Affidavit of Publication Dated July 6, 2008.**
- A – 42 **Notice To Adjoining Property Owners**
- A – 43 **Reserved**
- A – 44 **Marlboro Township Environmental Commission Report
Date July 28, 2008.**
- A – 45 **Affidavit of Service, August 21, 2008**
- A – 46 **Affidavit of Publication, Asbury Park Press, Dated August 14, 2008.**
- A – 47 **Notice To Adjoining Property Owners**
- A – 48 **Adjacent Property Listing within 200 feet, Dated 7/29/2008.**
- A – 49 **Certified White Receipts and Green Cards Dated 8/14/2008.**
- A – 50 **Report prepared by Thomas Scangarello, PP, Planning Design Collaborative, LLC, 150 Himmelein Road, Medford, NJ dated October 20, 2008.**

Sal Alfieri, Esq., 5 Ravine Drive, Matawan, NJ reviewed the application regarding larger vehicle parking and a Phase I Environmental Report. He also stated that drainage was left up to the Board's description and that the applicant should not be able to provide for a fifty year storm event.

Ms. Natasha Pizzarello of Lavallette, NJ sworn in. She is a 15+ year New Jersey sub-service evaluator and geologist. The Phase I evaluation includes a walk of site conditions and a non-invasive study observing what is in historical records.

Ms. Pizzarello is recommending an above ground storage tank for heating. There should be sampling according to New Jersey standards and results of the sampling will determine if Phase II is required. If they prove to require remediation, they will do a site clean up. The Phase I assessment will take four to six weeks and should be complete in the next couple of weeks.

Discussion continued on the length of time needed to complete. After Phase I, Phase II may be an additional four to six weeks. If there is contamination, it could be six to nine months and could be as long as one year before Phase I & II are complete.

Mr. Alfieri stated that as far as the temporary structure was concerned they need a facility to work in during the winter. Ms. Pizzarello said that if you take down the temporary structure, you can aggravate conditions.

Ms. Pizzarello said there is now a concrete floor with a new floor to cover the existing concrete floor. It was noted that it cannot be approved if it is not on the plan.

Kendra Lelie, Principal Partner, Planning Design Collaborative, LLC, 150 Himmelein Road, Medford, NJ, stated we are talking about an existing condition that is not on the plan; the applicant needs to bring the plans up to date. If coverage is an issue, the concrete changes coverage. The Site Plan is not correct.

Mr. Malysz said we need the actual plans. Mr. Alfieri can hear, or we come back later with updated plans. Ms. Paris said the use is good for one year, and the applicant can come in for an extension. Mr. Alfieri asked if this meant it would be good through 2010.

Mr. Malysz said we can hear and go into workshop. You can decide what to do. Mr. Steib said they will not lose variance approval.

Mr. Ientile stated he made the attempt to comply with everything and cannot keep returning multiple times. There is a catch basin in the middle of the slab. Ms. Bajar asked if it was like a pole barn building, slab first, then the mounted tent. Mr. Ientile stated the steel pilings (footings) supported the building.

Mr. Ientile was asked if he presently had a fine for the hoop building and he said "yes".

Ms. Spota asked is it an environmental or economic issue holding this up. Mr. Malysz said the issue is environmental.

Ms. Lelie does not see impervious surface for larger vehicle report. Mr. Ientile said the crushed concrete surface is outside where they repair. Ms. Pizzarello said this is okay as long as there is no contamination. Ms. Lelie said you really don't know if the oil is being caught. Mr. Ientile stated that if the vehicle does not fit inside, it will be repaired outside. If not environmentally safe, we must take care of. We run a totally clean operation.

Mr. Thesing said some issues were addressed in the stormwater letter. Mr. Thesing said an oil free separator will help. Mr. Ientile stated "we do have an oil separator, a 1500 gallon oil separator". Ms. Bajar stated the separator is not on plan. Mr. Ientile said the entire driveway is crushed concrete.

There were no questions from the public.

Workshop:

Offered By: Glenn Malysz

Second: Lewis Wildman

Mr. Weilheimer agreed that the applicant has continually tried to appease the board and would like to see them take care of the stormwater. The Board agreed with the professional comments saying we need new plans. They expressed their concerns saying they cannot agree because there are still too many questions needing answers.

Mr. Malysz stated regarding the incomplete plans, Mr. Ientile has tried to reduce environmental hazards. There should be management of rain water, etc. Rain water will carry oil, etc. Mr. Thesing was asking for some type of stormwater management plan. This is troubling; it is a small issue but it can have large repercussions. Would not be in favor.

Out of Workshop:

Mr. Alfieri stated he understands that all loose ends should be tied up, keeping in the temporary structure. Mr. Alfieri said sixty days should help; James Ientile was carried to January 6, 2009. Applicant specifically asked for the reorganization date.

Mr. Alfieri signed an extension of time form, carrying this case to January 6, 2009. He will renote.

Let the record show Mr. Malysz left the dais. Mr. Fishman will preside.

Mr. Giunco was recognized from the Board; he would like to reschedule the Schechter Appeal to 12/16/08. Ms. Paris suggested a special meeting or starting earlier. The Board requested starting to see how far they progress and then make a decision.

ZB 08- 6335 – Dijour, Roman & Inna

Continuation of Public Hearing for approval to construct an inground pool and associated concrete walkway on a site with insufficient rear yard setback for accessory structure, which exceeds permitted lot coverage for principal structure and total impervious coverage, and insufficient distance between paved terrace and property line at property known as 54 Crescent Court, Marlboro, Block 148, Lot 10.07, in the R-10AH zone.

Michael Steib read exhibits. A – 19 through A – 27:

- A – 19 September 25, 2008 memo submitted by Roman Dijour to Robert Hilzer, DCA, State of New Jersey. Mr. Hilzer's response is dated September 26, 2008 and also included.
- A – 20 Pool Grading Plan, prepared by Richard Spafford, PE, 210 Cedar Lake Point, Forked River, NJ Revised 7/02/08 (Revised 9/09/08).
- A – 21 Lot Coverage Calculations, prepared by Richard Spafford, PE, 210 Cedar Lake Point, Forked River, NJ, Dated 7/02/08, (Revised 9/25/08).
- A – 22 Soil Erosion Plan, prepared by Richard Spafford, PE, 210 Cedar Lake Point, Forked River, NJ, Dated 7/02/08, (Revised 9/25/08).
- A – 23 Report prepared by David Thesing, P. E., Gravatt Consulting Group, 414 Lacey Road, Forked River, NJ Dated October 6, 2008.
- A – 24 Copy of Correspondence re: Marlboro Township Ordinance, Section 84-36 F. Fencing from Robert S. Hilzer, Office of Regulatory Affairs, State of New Jersey, Department of Community Affairs, 101 South Broad Street, PO Box 81.8, Trenton, NJ Dated October 6, 2006.
- A – 25 Pool Grading Plan, prepared by Richard Spafford, PE, 210 Cedar Lake Point, Forked River, NJ, Dated 7/05/08 (Revised October 10, 2008).
- A – 26 Lot Coverage Calculations, prepared by Richard Spafford, PE, 210 Cedar Lake Point, Forked River, NJ, Dated 7/02/08, (Revised October 10, 2008).
- A – 27 Soil Erosion Plan, prepared by Richard Spafford, PE, 210 Cedar Lake Point, Forked River, NJ, Dated 7/02/08, (Revised October 10, 2008).

Mr. Roman Dijour was sworn in. Mr. Dijour resides at 54 Crescent Court, Morganville, New Jersey.

Mr. Fishman asked the Board Attorney about the State Statute. The State has a UCC code that deal on how things are to be constructed. Zoning codes do not relate to how things are constructed, but to the Planning and Zoning aspect. Mr. Steib referred to Robert Hilzer's letter of October 6, 2006. He is from the Department of Community Affairs and said that in construction, state law supersedes and Zoning does not relate to construction safety. The state UCC says where the issue is safety, and where local ordinance conflicts, the state prevails. The local must comply with the state; conversely the local code is trumped by the state. If there is a zoning issue, other than safety, the state does trump the ordinance.

Mr. Fishman asked for Mr. Dijour to state the changes.

Mr. Dijour stated that he has agreed to the two variances regarding lot coverage, tearing up concrete driveway and to put pavers. Move the pool/walkway to 10 feet. He also offered to move the pool location. The 3rd variance is for the fence. Mr. Dijour stated he feels this is illegal, to have to put the inner fence around pool.

Mr. Giunco stated his client sought a fence permit. The purpose of the fence is to block the view; but, unless the fence is twenty-five feet high, you can still see over it.

Mr. Giunco also stated that all trees were less than nine inches in diameter. The present buffer is now on my client's property. The fence cannot eliminate the neighbor's view.

Adam Schechter, 58 Tennent Rd., Morganville sworn in.

Mr. Schechter stated his mother, Elaine Schechter is the owner and he manages the property.

This site has been licensed as a Junkyard since 1980. A series of licenses was presented as evidence:

A – 19 Series of Junkyard Licenses

A – 20 Township of Marlboro Tax Maps dated December 1987 and June, 2005.

A – 21 Survey of Block 37, Lots 9, 9-A & 30 prepared by Charles w. Thomas, 484 Amherst Drive, Bricktown, NJ

Mr. Giunco asked what operations occurred.

Adam Schechter stated the yard was always used, transferring from one yard to another. The four foot fence around eight acres was installed before he was born.

Mr. Fishman asked how far the fence was from the property. He also said he saw the site when it was wooded and when they were removing the trees.

Adam Schechter said the fence was about three feet from property. He also showed the stormwater discharge, and where driveway is. The trees were about five feet away from fence.

Mr. Fishman asked if the Board has questions.

Mr. Schechter stated that there is eight foot fencing lying on property. He also said that because of elevation of houses, there would be no reason for fence, but if they can use this fence, why purchase new?

The area used for the junkyard was discussed.

Mr. Schechter was also asked if the water condition improved. He replied the sun does dry out. When it rains, you cannot bring machinery out there. Mr. Giunco objected. He said there was no problem, basin adjacent dumps the water.

Jennifer Bajar asked if there was intent to plant trees of any sort. Have you had any contact with developer?

Mr. Fishman asked about problems before trees were removed.

Sarah Paris asked if the bonds were released; Mr. Fishman said the bonds were not released. Mr. Giunco stated the township attorney says it is not an issue in relationship to bonds.

Mr. Adam Schechter stated for the record that removing the trees helped the area.

Mr. Fishman stated council does look at the checklist prior to release and he thinks the bond should be pursued as a remedy.

Mr. Giunco said there was nothing that was bonded that could improve situation.

Sarah Paris stated the permit will not be issued for the fence, unless the Board decides that the entire lot may be used as a junkyard.

Ms. Paris said the issue is whether this is an expansion of a pre-existing non-conforming use. The fence is required to be around the junkyard; all eight acres are not a junkyard. If the entire lot is junkyard, then the entire lot needs to be fenced.

The board discussed how much is used as a junkyard. Mr. Steib stated the determination is what existed at this point in time. The applicant is saying in 1980, Exhibit A-21 shows the house, tree area, and another area for cars held. If there is additional area of growth, there is abandonment. He also stated you cannot tell the extent of use.

Let the record show Mr. Pitchon left the dais at 10:45 p.m.

Sarah Paris stated inspections are conducted annually. At that time, she drives and walks through the property.

Lewis Wildman asked if the size of property is specific. Mr. Giunco said the licenses refer to block and lot within eight acres. The eight acres are junkyard areas.

Mr. Giunco asked if licenses were obtained with intent of using as junkyard. Mr. Schechter responded, "Yes".

Mr. Fishman asked why the trees were removed. Mr. Schechter said the trees were actually growing into the existing fence. Mr. Giunco stated because of the water problems also.

Mr. Giunco said we contend fence was there and within that area was the junkyard.

Jennifer Bajar asked if some years of the licenses were missing. Mr. Giunco said the Board does not have a copy of every license. Sarah Paris said they have them on record.

Mr. Fishman asked Mr. Schechter if he wished to coexist with his neighbors. Mr. Schechter responded that he has no problem making concessions for his neighbors. He also asked if he would be willing to also put buffer. Mr. Schechter said they have already put pine trees along their property.

Questions From the Public:

Paul Schaflin, Stone Henge Way, Morganville, NJ. Paul Schaflin sworn in. He asked if Mr. Schechter was sure they were all small trees.

Mr. Schechter said in the center of property, they were all small trees.

Mr. Schaflin asked if the large root systems indicated they were large trees. Mr. Giunco objected to the question as it was not related to the testimony presented.

Mr. Schaflin stated that cutting down trees that indicates to him that you are expanding.

Mr. Schechter said when the trees were removed, the root system actually lifted out.

Mr. Fishman said we are trying to see if eight acres were used.

Mr. Giunco stated he will make objections. Investigation showed that there were no trees that even qualified for tree removal permits.

Mr. Paul Schaflin believes the trees were older than indicated.

Mr. Schaflin also asked how long the horses are there. Mr. Schechter said his whole life. The house is on plus or minus 2 acres.

Mr. Giunco asked Mr. Schaflin when he moved in. Mr. Schaflin said in the 1990's. Mr. Schaflin said that in the 1990's, the trees were somewhat mature, so he can assume they were there in the 1980's. He said he was aware of the fence in the 1990's.

Paul Benjamin, 30 Ellis Court, Morganville, NJ, sworn in.

Mr. Benjamin stated that for two years from 2006, he did not see any cars.

Mr. Schechter said there have been cars there.

Mr. Giunco asked if he was able to determine if it was a junkyard. Mr. Benjamin said "no".

Mr. Fishman asks if part of a parcel is a junkyard, and you go into another area, isn't this an expansion.

Mr. Steib stated that there are existing non conforming uses. It is incumbent on applicant to say what the non conforming use is.

Mr. Wildman asked Mr. Schechter if he has been there the last ten years. Mr. Schechter said he is there from 2005 until recently.

Regarding the horses, Ms. Paris stated you can have two horses in residential zone, no more. 40,000 square feet per horse is required and space for the house.

Mr. Giunco stated there is a house with barn on site. These are prior uses.

Mr. Daniel Matarese, 485 Texas Road, Morganville, NJ sworn in.

Robert Knight left the dais.

Mr. Matarese stated that a prior meeting the Schechter's did not have NJDEP State mandated licenses during the past ten years.

Ms. Paris said that since that meeting, all three are in compliance with the NJDEP Regulations.

Ms. Paris said she did call NDEP to follow up.

Mr. Adam Schechter said all the vehicles go on paper; if moved, it goes on records. The cars that are still there are classics.

Mr. Matarese asked if he can produce his own pictures; he will purchase pictures from aerials.

Mr. Sant Gursharanjit, 32 Ellis Court, Morganville, NJ, sworn in.

Mr. Gursharanjit questioned, "How do we know your pictures are as you say?" He complained that his children see the junkyard. The horse being rode around the area of his development isn't right.

Mr. Giunco stated he wants to make sure the Board is aware that it was a commercial, preexisting use before houses came.

Extension of Time was signed for December 2, 2008 and until December 16, 2008 without renoting. The witnesses will be heard first.

APPOINT SECRETARY:

Motion to appoint Michael Mahon as Acting Secretary.

Offered:	Glenn Malysz	Seconded:	Michael Mahon
Ayes:	6	Nays:	0
Absent:	3	Abstain:	0

MEMORIALIZATION

ZB 08 – 6337 - Mui, Andrea and William

Memorialization of a resolution granting approval to construct a six foot fence in side/front yard, with single row shrubbery in front of it at 45 Kinglet Avenue, Block 412, Lot 285, in the PAC- II zone.

Offered by:	Michael Fishman	Seconded by:	Michael Mahon
Ayes:	6	Nays:	0
Absent:	3	Abstain:	0

ZB08 – 6339 – Stevenson, Sharon

Memorialization of a resolution granting approval to keep gazebo constructed 4 feet away from side property line and less than 20 feet from house at 431 Boulder Drive, Block 143.09, Lot 12 in the R-60/15 zone.

Offered by:	Michael Fishman	Seconded by:	Michael Mahon
Ayes:	6	Nays:	0
Absent:	3	Abstain:	0

Meeting Adjourned.

Respectfully,

Yvonne M. Cautillo

