

TOWNSHIP OF MARLBORO

ZONING BOARD OF ADJUSTMENT

1979 TOWNSHIP DRIVE

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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

Medina Consultants

Mark Kataryniak, PE, PTOE

MINUTES

ZONING BOARD OF ADJUSTMENT

JANUARY 19, 2010

SALUTE TO FLAG

SUNSHINE LAW READ

ROLL CALL

PRESENT:

**Mark Ellenberg, Alan Zwerin,
Frank Yozzo, Michael Shapiro,
Michael Mahon, Ira Levin,
Matthew Weilheimer**

ALSO PRESENT:

**Ronald Cucchiaro, Esq. Board Attorney
Al Hilla, P.E., Board Engineer
Richard Cramer, P.P., Board Planner
Sarah Paris, Administrative Officer**

ABSENT:

Jennifer Bajar, Paul Schlaflin

No one signed in for public record.

Awards of appreciation were presented to Glenn Malysz, Robert Knight, and Lewis Wildman.

Frank Yozzo joined the dais about 8:10 pm.

The Board accepted the minutes of January 12, 2010.

Minutes Approved:

Offered:	Michael Shapiro	Second:	Ira Levin
Ayes:	5	Nays:	0
Absent:	2	Abstain:	1

Motion Granted.

ZB 05-6198A – Marlboro Grande aka Royal Pines at Marlboro

Continuation of a Public Hearing for permission to modify approved site plan to remove from same an offsite sidewalk area extending northerly from the site at 362 Route 9 North, Marlboro, NJ, Block 299, Lot 3, located in the C-3 Zone.

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

- A – 1 Petition on Appeal
- A – 2 Indemnification and Hold Harmless Agreement
- A – 3 Disclosure Statement
- 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 Owners Affidavit of Authorization and Consent
- A – 13 Resolution of Preliminary and Final Site Plan Approval Marlboro Grande, LLC (Formerly, Brownstone Commons ZB05-6198) dated December 22, 2004.
- A – 14 Application Affidavit of Completeness
- A – 15 Marlboro Grande Grading & Utility Plan, Panel B, prepared by Lorali E. Totten, Crest Engineering Associates, Inc., 100 Rike Drive, Millstone Township, Englishtown, NJ, Dated February 14, 2005.
- A – 16 Marlboro Grande Proposed Force Main Plan, prepared by Lorali E. Totten, Crest Engineering Associates, Inc., 100 Rike Drive, Millstone Township, Englishtown, NJ, Dated February 10, 2005.
- A – 17 Sketch of Proposed Sidewalk, prepared by Lorali E. Totten, Crest Engineering Associates, Inc., 100 Rike Drive, Millstone Township, Englishtown, NJ, Dated August 11, 2009.
- A – 18 Sketch of Route 9 Right of Way, prepared by Lorali E. Totten, Crest Engineering Associates, Inc., 100 Rike Drive, Millstone Township, Englishtown, NJ, Dated July 21, 2009.
- A – 19 Report prepared by Bruce A. Jacobs, PE, Gravatt Consulting Group, Inc., 414 Lacey Road, Forked, NJ Dated November 11, 2009.
- A – 20 Requested Affidavit from Exclusive Plaza LLC regarding Notice of Public Hearing, and waiving Notice of Hearing requirement dated December 1, 2009.
- A – 21 Green/White Certified Mail Receipt to forward Notice addressed to Exclusive Plaza, LLC, dated December 15, 2009.
- A – 22 Report prepared by Alan P. Hilla, Jr., PE, Birdsall Engineering, Inc., 611 Industrial Way West, Eatontown, NJ, dated January 18, 2010.
- A – 23 Report prepared by Mark W. Kataryniak, PE, Medina Consultants, 550 Broad Street, Suite 1100, Newark, NJ 07102.
- A – 24 Correspondence from Vincent P. Manning, Esq., Manning, Caliendo & Thomson, 36 West Main Street, Freehold, NJ, dated January 18, 2010.

A – 25 Drawing of where this walk will stop drawn on A – 18 by the Developer, Edward Kay.

Mr. Edward Kay, Developer, 165 Amboy Road, Building D, Unit 404, Morganville, NJ, sworn in.

Vincent P. Manning, Esq, Manning, Caliendo & Thomson, 36 West Main Street, Freehold, NJ is representing the applicant.

Ira Levin recused himself from the dais.

The engineering drawings indicate there is a gap between sidewalks. Mr. Hilla raised the question if it is not feasible to construct as proposed. If they don't build any sidewalk at all, it will relieve any problems. They believe there is a safety issue.

Mr. Kay stated they would like to take sidewalk in front of Jiffy Lube into DOT Right of Way, and stop at ingress to Exclusive Plaza property. They would like to take as far as they can. Mr. Shapiro asked if they are able to put a sidewalk with the power lines and signs. Mr. Kay stated based on the drawing they will be able to and would like the condition lifted.

Thomas E Primavera, Esq, 3663 Route 9 North, Suite 202, representing Exclusive Plaza of Old Bridge, stated his client believes the sidewalk poses a danger to Exclusive Plaza. They do not want the sidewalk and do not want to inherit the responsibility.

Mr. Kay stated he is willing to stop at Jiffy Lube if Exclusive is concerned.

Mark Kataryniak stated the DOT would not permit terminating a sidewalk into driveway. You would have to go to the other side of the driveway. He would like to carry across the driveway to the other side. There is a lot of pedestrian activity and there are accidents there; he would be in favor of a multiple route.

Mike Mahon asked what the liability is. Ron Cucciarello, Esq. stated if there is a safety reason attached, that must be considered.

Mark Kataryniak would like to see it not in the right of way; would like it to be to rear or easterly portion of the property. Mr. Kay stated if it were in the rear, his residents would not use. A temporary certificate of occupancy will not be released until the sidewalk issue is resolved.

Mr. Primavera, asked if the applicant would give an engineer's proper drawing (to scale, with boundary line).

The DOT permit requires specific details. If you have the permit, it will be more specific.

Mark Kataryniak would like to see it stop at the property line.

**Workshop
Offered by:**

Michael Shapiro

Seconded by:

Michael Mahon

Discussion followed from not building the sidewalk at all to placing heavy consideration on the pedestrian's safety with a sidewalk. It appears incomplete to stop at the Jiffy Lube. The Board agreed they must rely on the professionals. Mr. Shapiro stated after going to the site, it is his opinion they do not want to go to the Exclusive property.

Al Hilla, the Board's Engineer, stated you cannot build sidewalk to nowhere. 184 feet would be safer than what is there now. It is either all or none.

Frank Yozzo stated the handicap curb must be taken out.

Mark Kataryniak asked how the sidewalk originally became on the site plan. You cannot put people into a path of danger; he would like to see the State become involved.

Ron Cucchiaro, Esq. state if the DOT wants to do something in the right of way, they can.

Out of Workshop:

Offered: Michael Shapiro Seconded by: Michael Mahon

Mr. Kay stated Mr. Chilemi did give his approval. Crest Engineering did err and we did not catch it until we went to build the sidewalk. This is why we are here today. We can build, put money into fund. We agree sidewalk should be there, unfortunately we cannot put there.

Workshop

Offered: Michael Shapiro Seconded by: Michael Mahon

Matthew Weilheimer questioned if the DOT would include the sidewalk. Mr. Kataryniak stated their plan would be specific.

Michael Shapiro stated the key to the application is the permit and the DOT plans. Everyone agreed they would like to postpone until they here from the DOT.

A – 25 Drawing of where this walk will stop drawn on A – 18 by the Developer, Edward Kay.

It was questioned if the amount of \$24,920 should be escrowed now to the Sidewalk Fund. Mr. Cucchiaro stated this was up to the Township of Marlboro.

Applicant will be heard on February 2, 2010 upon receipt of the requested DOT permit.

The Board went into Executive Session, where Mr. Al Hilla, P.E. presided.

Meeting adjourned at 9:50 pm.

Respectfully submitted,