

TOWNSHIP OF MARLBORO

ZONING BOARD OF ADJUSTMENT

1979 TOWNSHIP DRIVE

MARLBORO, NJ 07746-2299

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Michael Shapiro

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Adrienne Spota

Ibrahim Naboulsi - Alt #1

Stacey DiGrande- Alt # 2

Zoning Board Clerk

Yvonne Cautillo

Attorney

Weiner Lesniak

Ronald D. Cucchiaro, Esq.

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

JUNE 7, 2011

8:00 p.m.

SALUTE TO FLAG

SUNSHINE LAW READ

PRESENT: Frank Yozzo, Michael Shapiro, Ira Levin
Alan Zwerin, Matthew Weilheimer,
Jennifer Bajar, Adrienne Spota,
Ibrahim El-Nabousi, Stacey DiGrande

ALSO PRESENT: Ronald Cucchiaro, Esq. Board Attorney
Sarah Paris, Administrative Officer
James Priolo, P.E., Birdsall Engineering
Richard Cramer, P.P., T&M Associates

ABSENT:

The minutes of the May 17, 2011 meeting were approved:

Offered:	Matthew Weilheimer	Ayes:	6
Seconded:	Michael Shapiro	Nays:	0
		Abstain:	3

No Public Session

ZB10-6419 – David & Karen Capell

Public hearing for approval to construct a 945 sq. ft. sports court on a lot of less than 60,000 square feet, which exceeds permitted lot coverage and has insufficient side yard setback at 19 Pueblo Court, Morganville, NJ, Block 193.09, Lot 8, in the PAC zone.

Frank Yozzo and Ira Levin recused themselves.

David and Karen Capell, who reside at 19 Pueblo Court, Morganville, were sworn in. Mr. Capell stated they are very sports oriented and there are no options for them to play close by. They would like to have the children home to play.

Mr. Chester DiLorenzo, PE, Midstate Engineering, Inc., 82 Walnut Hill Lane, Freehold, was sworn in. He stated that the lot is flat and they would like to reduce coverage, giving up patio coverage with pavers around the pool. They would like to reduce to 35' X 22'; being just 300' over.

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 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 Block 193.09, Lot 8, prepared by Daniel P Hundley, Crest Engineering Associates, Inc., Crest Professional Plaza, PO Box 1210, State Hwy. 33, Hightstown, NJ 08520, Dated 10/26/98.
- A – 16 Pool Grading and Coverage Plan, for Block 193.09, Lot 8, prepared by Chester DiLorenzo, Midstate Engineering Inc., 82 Walnut Hill Lane, Freehold, NJ 07728, Dated 4/11/11.
- A – 17 Report prepared by James A Priolo, Birdsall Services Group, Inc., 611 Industrial Way West, Eatontown, NJ, Dated 6/03/11.

Ms. Bajar inquired if it was brought down to 300', what is the percentage. Mr. DiLorenzo stated it would be 29%.

Ms. Spota inquired how the trench system would be affected. Mr. Priolo stated he was also concerned about soil conditions. Mr. DiLorenzo stated soils were sent to the lab and came back acceptable. Mr. Priolo suggested some yard drains; Mr. DiLorenzo has no objection.

Workshop

Offered: Michael Shapiro

Seconded: Adrienne Spota

Ms. Bajar stated the applicant has done their homework. She is comfortable with the application, as is Messrs. Zwerin, and El-Naboulsi. Ms. DiGrande and Ms. Spota agree since the runoff is being handled. Mr. Shapiro is also in favor of the application.

Out of workshop

Offered: Michael Shapiro

Seconded: Alan Zwerin

There were no questions from the Public.

Mr. Zwerin inquired about lighting and Mr. Capell answered there were no plans for lighting. There will be lighting around the pool which the Building Department would approve.

Motion to approve with Mr. Cucchiaro stating the patio will be reduced by three feet.

Motion To Approve:

Offered: Michael Shapiro

Seconded: Adrienne Spota

ZB10-6420 – Denise & Luigi Zucharo

Public hearing for approval to construct an inground pool with insufficient side yard setback at 706 Montana Drive, Morganville, NJ, block 155, Lot 20.11, in the GCRC zone.

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 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 Pool Grading Plan prepared for Block 155, Lot 20.11, by Chester DiLorenzo, Midstate Engineering Inc., 82 Walnut Hill Lane, Freehold, NJ 07728, Dated 4/11/11.
- A – 16 Report prepared by James A. Priolo, P.E., P.P., C.M.E. Birdsall Services Group, 611 Industrial Way West, Eatontown, NJ 07724, Dated 6/3/11.

Frank Yozzo and Ira Levin were recused.

Mr. Chester DiLorenzo, PE, Midstate Engineering, Inc., 82 Walnut Hill Lane, Freehold, was sworn in and accepted as a professional.

Mr. Luigi Zucharo the owner of 706 Montana Drive, Morganville, NJ, was sworn in. He purchased the property four years ago, after moving from Brooklyn. When Mr. Zucharo went for the approval, realized he wanted the pool setback ten feet from property line. Because of wetlands, I need to put the pool further back. Mr. Zucharo stated he has three children and is asking the Board to understand his situation.

Mr. Zucharo also wants to put in a retaining wall. The whole application will be done below grade and Mr. Zucharo wants to have the wetlands buffer reduced to twenty five feet.

Mr. Cucchiaro said that you do not require approval from the DEP.

Mr. Weilheimer asked if the construction is in the wetland buffer. Ms. Bajar inquired if there should be fencing. Mr. DiLorenzo answered that some type of snow fencing can be done. Draining will go towards the wetlands corridor.

When asked about a filtration system to cleanse the water Mr. DiLorenzo said he believes this will be a sand filter, sending cleaner water back into property.

Mr. Priolo inquired as to the three foot concrete strip. Mr. DiLorenzo said it will all be impervious circles.

Ms. Bajar stated the filtration system will be laden with chlorine, etc. This system should be nearly drinkable.

Mr. DiLorenzo said the wall will be about five feet; you may want to move the slide.

Ms. Paris inquired as to the height of the retaining wall.

The fence will be fifty-four inches on the wall; the slide will be about one-half foot above the fence. It was agreed the slide will be moved around the other side.

Workshop

Offered: Michael Shapiro

Seconded: Jennifer Bajar

Ms. Bajar stated the size of the pool needs to be adjusted. It may be adjusted five feet on the shallow end; it will be much more comfortable. Mr. Zwerin also agreed a couple of feet smaller in width and length would help. Mr. ElNaboulsi was in agreement.

Ms. DiGrande, Ms. Spota and Mr. Weilheimer each said that due to the hardship, they understand the setback. Mr. Shapiro was also in agreement.

Out of Workshop

Offered: Michael Shapiro

Seconded: Matthew Weilheimer

They are in favor of the pool, move slide and shrink about five feet, to protect the wetland a little more.

Mr. DiLorenzo stated that they do not need DEP approval. Mr. Zucharo also stated that they will not be that close to the buffer line.

There were no questions from the Zoning Board or from the Public.

Mr. Shapiro motioned to grant approval with the sideyard setback at sixteen feet, with engineer's approval and slide to be moved to north end in the deep area.

Motion To Approve:

Offered: Michael Shapiro

Seconded: Matthew Weilheimer

Motion Approved.

ZB10-6394 – T-Mobile Northeast LLC

Continuation of a Public Hearing for approval to construct a wireless communications facility, requiring use and bulk variances for an undersized lot and having insufficient fall zone on property located at 112 Amboy Road, Morganville, NJ, Block 172, Lot 34, in an IOR Zone.

Mr. Wilheimer recused himself.

Reginald Jenkins, Esq., represents the applicant for Price Meese, Shulman & D'Arminio, Mack-Cali Corporate Center, 50 Tice Boulevard, Woodcliff Lake, NJ 07677. Summarized on T-Mobile's investigation of the water tower regarding a recently approved tower by the Planning Board. There are three professionals to provide testimony.

Mr. Joseph Menio, PierCon Solutions, 63 Beaver Brook Road, Suite 201, Lincoln Park, NJ, is the RF Engineer and accepted as a professional witness. Mr. Menio stated that T-Mobile is currently looking for another location.

Mr. John Moricz, The Lucien Group, 4 Hall Drive, Clark, NJ 07066 has a consulting company. Mr. Moricz, is accepted has a professional witness. He is working with T-Mobile and oversees looking for the best possible areas for them.

Mr. Moricz stated that he reached out to the Township and Mr. Fiorini of the MUA back to 2009. In a February 21, 2010 Email he was advised the Township will be releasing bids. A number of calls were made. On September 21, 2010 they expressed interest for proposing a monopole and on September 29, 2010 Mr. Capp said he would put me on the bid list. October 26, 2010 a letter was sent to Mr. Capp, stating that if we did not hear we will assume that township property is not available.

Mr. Jenkins was asked that if Mr. Capp responded yes, would this satisfy your problem. If the tower were there, this would be a viable location. Mr. Jenkins responded that at present time this is not available for telecommunication.

There were additional emails on December 15, December 23, 2010 and on February 11, 2011; certified letters were sent.

Mr. Moricz stated that on January 20, 2011 he did speak with an attorney and there is an issue with a neighboring property. There is an issue with solar panels on this property.

Ronald Cucchiaro, Esq., Board Attorney, marked the additional emails as evidence:

- A – 50 Letter from John Moricz, Project Manager, T-Mobile USA, Inc. regarding a location for their wireless installation dated October 26, 2010 and February 11, 2011 to Jonathan Capp, Business Administrator, Marlboro Township.**
- A – 51 E-mails from September 29, 2010, October 21, 2010, December 2, 2010 and February 21, 2011 between J. Capp, Marlboro Township and JMoricz, The Lucien Group.**
- A – 52 Four page submission with certified mail receipts of letters sent to Ronald Gordon, Esq., Township Attorney, Louise Ranone, Esq., Township Attorney, and Jonathan Capp, Business Administrator, dated 2/11/11.**
- A – 53 Two page certified mail receipts of letters sent to Jonathan Capp, dated 10/26/10**
- A – 54 Email 12/10/10 email to Capp**
- A – 55 Email submitted at 6/7/11 dated 12/15/10 to JCapp**
- A – 56 12/23/10 JCapp email**

- A – 57 Email from JCapp to JMoricz dated 2/21/10 (incorrect email address).
- A – 58 Email from JMoricz to JCapp (submitted at 6/7/11 Meeting), dated 9/21/10.
- A – 59 Email sent 9/29/11 from JCapp to JMoricz (submitted at 6/7/11 Meeting).
- A – 60 Additional Emails submitted at 6/7/11 meeting from JMoricz to JCapp, dated October 21, 2010, September 21, 1010.

The Planner, Timothy M. Kronk, TKDesign Associates, 23 Wood Road, Morris Township, NJ was sworn in. He is accepted as a professional witness with many years of land use experience. He reviewed the application, the Marlboro code and maps.

Mr. Kronk gave a description of 112 Amboy Road and its non conforming use.

Additional evidence was presented:

A-61 Surtrain NJE554, Marlboro, NJ; the Zoning Map is not modified.

When an area is centrally located, there is a range given when a realtor goes out.

Mr. Kronk pointed out that there are two deviations: the deficiency being less than five acres and the single carrier pole up to 100 feet. There must be three or more to construct up to 150 feet. A lower height would open future gaps.

Mr. Cucchiaro asked what the intent of the ordinance is; the lot size is not encouraging. Mr. Kronk stated there is 2.14 acres where 5 acres is required.

TMobil did make an effort to relocate. Mr. Jenkins stated it was found not to be as viable per the owner of property. There is actually more visibility when we moved further south. It is unlikely use in south would ever expand to the north. There are bulk deviations in the tower setback; it should be located 500 feet from a residential zone.

Additional Evidence:

A - 61 Depicting to the north an LC zone. This permits residential zone.

A – 62 Color Aerial - Mr. Kronk referred to the DEP showing the wetlands area.

The larger portion is encumbered with wetlands; there is no development potential in southern end.

Mr. Cucchiaro stated the Board’s Engineer has not had and opportunity to review yet.

Discussion followed on the fall zone. The tower height would be 220 feet and 9 feet to the east.

Mr. Cucchiaro asked if Mr. Kronk was saying that any fall zone is not an issue. Would the fall zone requirement be appropriate with other properties. Mr. Kronk stated the fall zone is usually not as great as the height of the tower.

Mr. Cramer commented on a fall that was related to winds and to a fire in Massachusetts. He also stated that he believed the applicant has given reasonable standards.

Mr. Cramer asked Mr. Kronk if he provided any input. He stated that he did perform a plan analysis. The actual choosing of location was with the radio frequency engineer, T-Mobile.

Mr. Cramer asked what made you look further to the south and Mr. Kronk, stated the location to the south provides greater setbacks.

Mr. Cramer asked if there are any fixed buildings impeding. Mr. Kronk said no and no actual plans were drawn up.

Mr. Kronk stated the facility would be visited every four to six weeks by a diagnostic technician to perform tests. The site would be in compliance with all FCC standards; photo simulations were presented previously to Board.

Ms. Bajar inquired if the two towers actually fell farther out; Mr. Kronk answered the bottom was actually in place.

Mr. Levin said that is two out of about of 20,000. Mr. Levin also inquired if Mr. Capp actually ever responded and reached out to you and Mr. Moricz stated that on September 29, 2010, Mr. Capp said they are still seeking bids. Mr. Levin inquired if they ever submitted a bid for the water tower. Mr. Jenkins stated interest has been expressed to go forward.

Mr. Cucchiaro inquired prior to being under the Township, did the utility company ever go out to bid.

Mr. Yozzo stated he was concerned about the tower falling. Mr. Moricz stated the base had actually stayed in tact.

Mr. Cucchiaro questioned the tower height. If you comply with lessening the tower to 100 feet, you will reduce the fall zone. Mr. Kronk stated there will be gaps such as the frequency tests.

Mr. Cucchiaro asked if the asphalt crushing on site was observed as he walked. Ms. Paris stated that after this happens, the pile will grow a month later, and he will be in violation again.

Mr. El-Naboulsi inquired if T-Mobile has safety records; Mr. Kronk state that he cannot answer for TMobile.

There was no further testimony. An Extension of Time was signed for July 19, 2011.

M O R I A L I Z A T I O N S

ZB 10-6395–Vladimir DeLevi

Memorialization of a resolution granting approval of bulk variances to construct a single family dwelling having insufficient lot area, depth, front and rear yard setback for principal structure at 17 Hawkins Corner Road, Marlboro, NJ, Block 282, Lot 6, located in the R - 60 Residential Zone.

ZB 11-6414– Champagne, Richard and Carol

Memorialization of a resolution granting preliminary and final site plan approval for medical office at 480 Route 79, Morganville, NJ, Block 126, Lot 332, located in the R-30/20 Residential Zone.

ZB11-6416 – Tamburrino, Frank & Heidi

Memorialization of a resolution granting approval to construct an in-ground pool, hot tub and paver patio exceeding permitted lot coverage and having insufficient rear yard setback for an accessory structure at 6 Yorktown Road, Morganville, NJ, Block 159, Lot 10.05, located in an R-80/R-60/30/LC Zone.

Meeting Adjourned 11:00 p.m.

Respectfully,

**Yvonne Cautillo
Zoning Board Clerk**