

# TOWNSHIP OF MARLBORO

## ZONING BOARD OF ADJUSTMENT

1979 TOWNSHIP DRIVE

MARLBORO, NJ 07746-2299

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### Chairperson

Michael Shapiro

### Vice-Chairperson

Matthew Weilheimer

### Secretary

Alan Zwerin

### Members

Frank Yozzo

Ira Levin

Jennifer Bajar

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

AUGUST 2, 2011

8:00 P.M.

### SALUTE TO FLAG

### SUNSHINE LAW READ

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

The minutes of the July 19<sup>th</sup>, 2011 meeting were approved:

Offered: Michael Shapiro

Seconded: Alan Zwerin

Ayes: 4

Nays: 0

Absent: 5

There was no Public Session

Public hearing for approval to add a 14' x 30' extension with insufficient side yard setback for principal structure and to keep existing gravel driveway exceeding permitted building and total lot coverage at 404 Tennent Road, Morganville, NJ, Block 299, Lot 173, located in a R-80 Zone.

The Board took jurisdiction. The following evidence was entered:

- A - 1 Petition on Appeal
- A - 2 Letter of 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 List of Property Owners within 200 feet
- A - 9 Certified White Receipts and Green Cards
- A - 10 Affidavit of Publication
- A - 11 Affirmation of Local Pay to Play Ordinance
- A - 12 Affidavit of Service
- A - 13 Owners Affidavit of Authorization and Consent
- A - 14 Application Affidavit of Completeness
- A - 15 Variance Plan for Block 299, Lot 173, prepared by Chester DiLorenzo, PE, LS, PP, 82 Walnut Hill Lane, Freehold, NJ 07728, Dated 6/8/11.
- A - 16 Soil Boring & Geological Engineering Report for 404 Tennent Road, Morganville, NJ, Block 299, Lot 173, prepared by Road Simon, PE, Simon Engineering, LLC, 16 Middlesex Road, Matawan, NJ, Dated 12/10/11.
- A - 17 Architecturals prepared for 404 Tennent Road, Morganville, NJ, prepared by James T. Daley, 273 First Street, Keyport, NJ, Dated 11/16/10.
- A - 18 Survey prepared by James B. Goddard, 620 Wardell Street, PO Box 4183, Long Branch, NJ, Dated 5/17/10.
- A - 19 Report prepared by James A. Priolo, Zoning Board of Adjustment, Birdsall Services Group, Inc., 611 Industrial Way West, Eatontown, NJ, Dated July 27, 2011.

Ira Levin recused himself.

Mrs. Jenifer Ventacucci, who resides at 404 Tennent Road, Morganville was sworn in. Due to her family expanding, she will also need to expand for a second bathroom and laundry closet.

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

Mr. DiLorenzo stated front and side yard setbacks are required; the existing 2,000 square foot dwelling has insufficient setbacks. There are plans to install a drywell for the water to go back to the ground. The existing block patio may be razed and it is well below the impervious coverage allowed.

There were no questions from the Board or public.

Workshop

Offered: Michael Shapiro

Seconded: Alan Zwerin

Stacey DeGrande and Adrienne Spota each stated setbacks are required. They have no problem with the application.

Messrs. Zwerin and Shapiro also have no problem. Mr. Shapiro stated the question of drainage must be satisfied.



spoke with Sarah and they are willing to sign an affidavit and if necessary will rearrange the apartment back to their own living space. They will not rent the apartment.

The Terrizzi's are asking for a bedroom, living room, kitchen and full bath. The addition will be off the back of the garage with a bathroom in back of the garage.

Mrs. Terrizzi stated Sarah had suggested a door; the door is only for safety reasons. There will be one electric and one gas bill with one mailbox.

Ms. Paris, Marlboro Township Zoning Officer, was sworn in. She stated that when she met with Mrs. Terrizzi, she also checked with Mr. LaBruzza. He said a sliding glass door is not considered separately; sometimes the doors are hard to open. Mr. LaBruzza suggested a separate door opening into house.

Mr. Richard Cramer, Board Planner, T&M Associates, 11 Tindall Road, Middletown, NJ, answered the door situation has not entered into the separate dwelling question. These are immediate family members.

There were no questions from the Board.

#### Public Questions:

Louis and Michele Dottrina, 71 Guest Drive, Morganville, each sworn in. They stated they oppose the structure on their side of the house as they entertain on their deck. Mr. Dottorina, said another family has an addition on the other side and the size will affect the sale of our house. We will be affected negatively. They inquired if this was a separate apartment.

Ms. Paris stated that the previous Zoning Officer did say no to additional kitchens but, the ordinance does address this now.

Mrs. Dottorina stated that she is requesting they remain within the building code. Mr. Levin stated they are asking for only 2% of lot coverage and it is not a huge impact.

Mr. Shapiro stated it is so small you cannot fit a bicycle there.

Mr. Cucchiaro stated that you do not want to cause any detriment to the neighbors. Testimony shows they will need to provide that proof.

Mrs. Dottorina inquired as to what happens if there are new owners. Mr. Cucchiaro stated that the variance usually runs with the land; a use variance applies to the property. He stated that there can be a deed restriction.

Mrs. Constance Arizzo, 78 Guest Drive, Morganville inquired if the zoning of the neighborhood will change. Mr. Cucchiaro stated this does not change the zoning, they are requesting for relief of the zoning.

Richard and Joann Szczesny, 75 Guest Drive, Morganville. He wanted to state that their view will be blocked and they not trust an affidavit.

Mr. Cucchiaro requested a break.

**Motion to return to Terrizzi Application**

**Offered By: Michael Shapiro**

**Seconded By: Alan Zwerin**

Mr. Gary Reinhardt, resides at 11 Markham Drive, Morganville, located in back of and one lot over. He knows from the neighborhood that there are ways to go up and not impact the neighborhood. He also stated given the size and scope of the house he would not be happy with the addition next to his house.

Mrs. Terrizzi answered that part of the addition is for their living space. They did consider building up, but this would be stairs for my parents. We do understand the privacy of our neighbors and will gladly put up shrubs and trees. Mr. Shapiro inquired if there was anything else Mrs. Terrizzi wanted to add.

Mrs. Dottorina, 71 Guest Drive, Morganville, stated again that they do not want a two family house; they just want them to stay within the building code.

**Workshop Offered**

**Offered: Michael Shapiro**

**Seconded By: Ira Levin**

Mr. Cucchiaro stated that if a variance is granted, it is to the property. If you grant relief, it must be appropriate for the lot no matter who resides there. All positive criteria must be satisfied.

Mr. Levin stated maximum lot coverage is 28%; they are still only 16% of lot coverage. You do not want to create a situation where people are unhappy in their homes; I am inclined to think this building can be reconfigured.

Mr. Zwerin agreed with Mr. Levin. He believes the use and land are okay; but, we also want to make the neighbors happy. It may not stick out any more than neighbors and Mr. Zwerin would also be in favor of a new configuration.

Ms. Spota stated the coverage is certainly diminimous and the senior housing is a good situation. She would like to go back to the drawing board and reduce it to make it look more like the existing structure. Ms. DiGrande commented that what they are looking for is almost non existent on the outside.

Mr. Cucchiaro offered that a restricted deed as a senior unit is something that can also be done.

Mr. Shapiro stated they discussed taking more of the garage. Ms. Commins also recommended flipping the layout; there is some play in the garage.

Mr. Shapiro stated the Board is in favor of working with both sides.

**Out of Workshop**

**Offered: Michael Shapiro**

**Seconded By: Adrienne Spota**

Shapiro stated there are some good ideas that included reducing the size.

Ms. Commins stated the east bay is functional. Due to the fireplace, they may be able to bump it out on west side.

Mr. Cuccchiaro suggested Mr. and Mrs. Terrizzini speak with the Zoning Board Engineer and Planner. They will be given an opportunity to look at this again.

An extension of time was signed for September 6, 2011. This should be enough time for drawings, etc. The plan should be in the Zoning office one week prior to the meeting.

Motion to adjourn:

Offered: Michael Shapiro

Seconded By: Alan Zwerin

The Zoning Board Meeting adjourned at 9:22 pm.

Respectfully submitted,





Offered:	Michael Shapiro	Seconded:	Alan Zwerin
Ayes:	7	Nays:	0
Absent:	2	Abstain:	0

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. Weilheimer 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. Jenkins will confirm to go forward with his people because there are only six Board Members present. He stated they prefer a full board for the vote. Mr. Jenkins does have a couple of questions for his witnesses.

**Mr. John Moricz, The Lucien Group, 4 Hall Drive, Clark, NJ has a consulting company. He works with T-Mobile and oversees looking for the best possible areas for them. He remains under oath and will answer any question regarding the site.**

There were no questions from public.

**Mr. Joseph Menio, PierCon Solutions, 63 Beaver Brook Road, Suite 201, Lincoln Park, NJ, is the RF Engineer. He was also previously sworn and accepted as a professional witness.**

Mr. Jenkins asked if Mr. Menio looked at the situation again regarding the height. He did say he looked at lowering the site to 100 feet. It was established a total of two 100 foot sites would be needed with an additional possibly at Route 18 and Route 520.

**The Planner, Timothy M. Kronk, TKDesign Associates, 23 Wood Road, Morris Township, NJ was previously sworn in. He answered as to the number of towers in the United States. He went back to the website with reference to towers and did come up with a May 18, 2005 USA Today article referencing 176,000 towers as per this article.**

This article was submitted for evidence.  
A - 63 USA Today, May 18, 2005 Article.

Mr. Shapiro questioned any research on any other possible failures. Mr. Kronk stated that there was nothing additional.

No Public questions.

Mr. Cucchiaro questioned the Petrucelli correspondence, dated July 8, 2011:

A – 61 Petrucelli Letter in which he expressed a desire to appear at the meeting.

A – 62 Petrucelli Letter in which he stated he would not consider moving the sight.

Mr. Cucchiaro asked if he had spoken with anyone in between the two letters. Mr. Jenkins said nobody spoke with Mr. Petrucelli and that this was Mr. Petrucelli's statement.

Mr. Priolo asked regarding his November 11, 2011. There are a number of issues that are not in compliance. There are also encroachments into the wetlands.

Mr. Jenkins stated he was not prepared to answer and has stated that this falls within the powers of the Township. T-Mobile has taken stance that it is not ours to say regarding the owner.

Mr. Jenkins stated we placed objections on record that these are the zoning questions regarding a portion of the property. T-Mobile did go to the landlord regarding the issues. They cannot force the landlord to do anything.

Mr. Cucchiaro asked if Mr. Petrucelli stated he wanted to come, will he attend the next meeting? Mr. Jenkins stated he cannot answer for him; we will bring up this concern.

He also asked the applicant looked into the DEP issues. Mr. Jenkins stated he does not believe they have been resolved. Mr. Jenkins stated that they would like to come back to address questions.

#### Public Questions:

Mr. Angelo Molozzi, 70 Forest Drive, Springfield, NJ. He is the owner of the adjacent property at 142 Amboy Road.

Would like to ask the property be located to the southern portion of property. Where it is located now, it negatively affects my property. A fall down would go past Amboy Road. If an entrance were closest to my property, a fallen tower would go across my property. He inquired if it can go to another area.

Mr. Jenkins could not say. I cannot answer as Mr. Petruzelli is not here. I am asking the Board to consider all of the negatives. Part of the application is the fall zone, setback, and all of the negative aspects that I am asking the Board to vote negatively.

Mr. Molozzi stated he is the owner of the LLC which is about 33 acres. Mr. Molozzi stated that he has contacted an engineer to make six residential lots; but this is in the future. Mr. Cramer stated that Mr. Molozzi's property is a residential use.

Mr. Cramer stated there is a minimum lot size of five acres. The tallest tower permitted in town would be a 150 foot tower. You would have to have to be a distance of 225 feet away from the tower.

Mr. Yozzo arrived at 9:15 pm.

The applicant indicated that two other carriers may be interested.

Mr. Cucchiaro stated it would be up to the Board to provide for additional carriers. Mr. Jenkins stated that carriers are looking for places to put their antennas. You are getting a tower that will have more than one carrier.

Mr. Yozzo inquired if you can limit the number? Mr. Cucchiaro stated this would not be a reasonable condition. You cannot tell them they must get additional carriers.

Mr. Jenkins stated that the intention of a tower is to have other co-locators. This is the benefit, but the height is necessary for this application.

No questions from Board or Public.

Motion to Workshop:

Offered: Michael Shapiro

Seconded: Andriane Spota

Mr. ElNaboulsi stated that he does not see towers falling, even though possible. I am in favor.

Ms. Spota stated the setbacks are severely off. The Engineering has not been updated. Applicant is requesting expansion of a non-conforming use. It is difficult to determine what the expansion is, without having exactly what is on the property. The fall zone would interfere with other properties. Testimony given does not lead me to believe this is our decision to make. I am not in favor.

Mr. Zwerin questioned the fall zone; Mr. Yozzo believes the fall zone is important. Not in favor as of this point.

Ms. DiGrande had no comments.

Ms. Bajar stated she understands the monopole with fall south. The Article presented goes back to 2005. The number that has failed is relatively small. There is a question of the fall zone. I am in favor of this application.

Mr. Shapiro was concerned about safety with the fall zone. He would like to ask Mr. Petrucelli about moving to a different area. The DEP has also expired. Mr. Shapiro would like these satisfied.

Motion Out of Workshop:

Offered: Michael Shapiro

Seconded: Alan Zwerin

An Extension of Time was signed for September 20, 2011; no further notice required.

ZB09-6376A – Land Baron, LLC

Public Hearing for site plan approval for landscape supply yard at 308 and 312 Tennent Road, Morganville, NJ, Block 172, Lots 42 and 43, located in an IOR Residential Zone.

Ms. Bajar and Mr. Yozzo recused themselves.

Mr. Cucchiaro stated since there was not a full Board; they are eligible to back out.

Pasqual Menna, Esq., Menna, Supko & Nelson, LLC, 830 Broad Street, Shrewsbury, NJ representing the applicant, stated that he was presenting revisions made addressing the Engineer's concerns.

- A – 30 Sheet Two of Revised Site Plan prepared by Richard K Heuser, PC, 307 Main Street, Matawan, NJ, Revised July 14, 2011, showing handicap, employees only and 28 foot buffer.
- A – 31 April 21, 2011, Freshwater Wetland Letter of Interpretation received from Department of Environmental Protection, PO Box 420, Trenton, NJ.
- A – 32 Monmouth County Construction/Use Driveway Permit for Land Baron, LLC, Dated to be completed by December 28, 2010 Pavement and Driveway
- A – 33 Dimensions of pole barn prepared by Shrik Pole Buildings, 111 East Black Creek East Earl, PA.
- A – 34 Reduced copies of Grading Plan, Revised July 14, 2011. Utility Plan for property immediately adjacent to property

The Board's approval was for a use variance March 16, 2010. Part of the use variance is demolishing of the structure, renovating the existing structure as office, and the pole barn. The testimony is continuing without deviation. The plan calls for five employees, 7 am to 5 pm, with Saturdays, 7am to 2 pm. to provide various trade people as he has been doing.

Mr. Richard Heuser, 307 Main Street, Matawan, NJ, prepared the site plan and also original part of use. He stated that are now trying to go forward. He is accepted as a professional.

Mr. Heuser states property is sloping from our site to the adjoining property. There are wetlands; staying away from buffer area. Mr. Priolo's report indicates certain bulk variances. Five acres are required, front and side yard setbacks, parking lot.

They are proposing new setbacks. A chain link fence is proposed. There will be a landscape plan with berm, the top of the berm would be twelve feet wide.

There will be four spaces with gravel for employee parking.

Surface runoff will be to rear of property. There will be a soil log for maintenance. The pole barn is 30 feet not necessitating variance. There will be a retaining wall per Mr. Priolo's request.

Per Mr. Priolo's letter, recent revisions have been corrected.

Mr. Kataryniak, PE, French & Parrello, 1800 Route 34, Wall, NJ, prepared a traffic report which has been complied with.

Mr. Heuser stated they believe they have complied with environmental constraints. They have increased front setbacks for parking.

Mr. Kataryniak asked if they would prefer a letter from the fire official.

On April 21, 2011, Freshwater Wetland Letter of Interpretation received a copy from Department of Environmental Protection, PO Box 420, Trenton, NJ. Mr. Kataryniak stated they are subject to county and planning board approval.

Mr. Shapiro stated they need time to digest the additional evidence.

There were Questions from Board:

Mr. Weilheimer inquired about Tennent Road if it was county jurisdiction.

Mr. Kataryniak said they may need a turnaround. Mr. Menna stated they can accommodate this concern.

Mr. Weilheimer asked what type of gate was there. Mr. Heuser stated there is about 50 feet of chain link fence. This is what the applicant wanted.

There will be landscaping, with a wall keeping drainage from going on to the adjacent property.

There were no public questions.

An Extension of Time was signed for August 16, 2011 with no further Notice. There will be no movement going forward until final approval by Board.

Motion to Adjourn at 10:30 pm.

Offered: Michael Shapiro

Ayes:

Seconded:

Nays: 0

Respectfully,

Yvonne Cautillo