

TOWNSHIP OF MARLBORO

ZONING BOARD OF ADJUSTMENT

1979 TOWNSHIP DRIVE

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Vice-Chairperson

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Secretary

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Members

Frank Yozzo

Ira Levin

Jennifer Bajar

Ibrahim El-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

July 10, 2012 Special Meeting

ZONING BOARD OF ADJUSTMENT

8:00 p.m.

SALUTE TO FLAG

SUNSHINE LAW READ

PRESENT:

Ira Levin, Stacey Di Grande,
Matthew Weilheimer, Jennifer Bajar,
Alan Zwerin, Ibrahim El Naboulsi

ALSO PRESENT:

Ron Cucchiaro, Esq, Board Attorney
Sarah Paris, Administrative Officer
Elissa C. Commins, P.E.

Q

Mark Kataryniak, Traffic Engineer
Richard Cramer, P.P.

ABSENT:

Michael Shapiro, Frank Yozzo

Public Session: No one signed up.

ZB12-6448 – Perri, John & Helena

Public Hearing for approval to construct an in-ground pool, patio, and fence, and move shed to expand a pre-existing, non-conforming use and having insufficient side and rear yard setbacks for accessory structures located at 10 Orchard Street, Marlboro, NJ, Block 219, Lot 7 in a Light Industrial Zone.

Mrs. Di Grande recused from hearing this application.

The following evidence was entered into the record.

- 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 Plot plan prepared for John Perri, Jr. 10 Orchard Street, Marlboro, By Andrew R. Stockton, PE, Eastern Civil Engineering, LLC, 31 Grand Tour, Highlands, NJ, Dated 6-01/12.
- A – 16 Survey prepared for John Perri, Jr., 10 Orchard Street, Block 219, Lot 7, By Andrew R. Stockton, PE, Eastern Civil Engineering, LLC, 31 Grand Tour, Highlands, NJ, Dated 6-08/12.
- A – 17 Resolution in the matter of Application No. ZB08-6322, for Block 219, Lot 7, Dated 4/15/08.
- A – 18 Report prepared for 10 Orchard Street, Block 219, Lot 7, by Richard S. Cramer, P.P., T&M Associates, Eleven Tindall Road, Middletown, NJ, Date 6/13/12.
- A – 19 Report from Birdsall Engineering, prepared by James Priolo, P.E. dated June 14, 2012.

John and Helena Perri were sworn in. Mrs. Perri testified that they wanted an in-ground pool and also had to move an existing shed. Because they live in a Light Industrial zone, they knew they would need a variance. They had previously obtained a use variance to extend their house. They agreed to stay within the bulk setback requirements for the R-20 zone.

The Board Engineer requested a grading plan be submitted to the construction official. There were no questions from the public.

Applicant submitted a photo (A-20) of their garden which they are trying to save in its beautiful condition and are therefore asking for the Board's consideration. They agreed to submit a new survey and topography to the Zoning Officer and Construction Official. They agreed to place the pool equipment within the same setbacks as the accessory structures. The placement will be on the left side of the pool. The sand filtration system water will backwash to the back left side of the property towards the seepage pit. The new Plan will show where the water will be discharged to.

In workshop some of the Board members expressed concern with approving an application when they did not know the definite location of the structure.

Out of workshop, the applicant agreed to submit to the Board's Engineer, a new plan showing grading and definite location of pool, pool equipment and where the backwash will be directed.

An approval was offered with the following conditions: The bulk requirements of R-20 zone, including a 10' side yard and 20' rear yard setback would be observed, the applicant will also submit a revised plan to Board's Engineer showing the location of the pool, shed and pool equipment, a grading plan and where the backwash will be directed.

Offered: Matthew Weilheimer

Seconded: Ibrahim El Nabousli

Ayes: Ira Levin, Jennifer Bajar, Matthew Weilheimer, Alan Zwerin, Ibrahim El Naboulsi

Nays: 0

Recused: Stacey DiGrande

Absent: Michael Shapiro, Frank Yozzo

ZB12-6438 – FSP– Marlboro, LLC

Public Hearing for approval to construct a three story, eighty-six unit Assisted Living Facility with associated parking where Assisted Living is not a permitted use in the Office Professional Transitional 2 Zone located at 23 Route 520 and 53 Route 520, Marlboro, NJ, Block 176, Lots 38, 39, 40 and 41.

The following evidence was entered into record:

- 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 Marc D. Cohen, Marlboro Township Zoning Board Resolution 83-5202, Executed November 1, 1983.
- A – 16 Sunrise Development, Inc., Zoning Board Resolution 08-6343 Dismissing Application Without Prejudice for Block 176, Lots 38, 39, 40 & 41, Dated January 6, 2009.
- A – 17 Planning & Zoning Analysis, for Block 176, Lots 38, 39, 40 & 41, prepared by Kauker & Kauker, LLC, 356 Franklin Avenue, Wyckoff, NJ, Dated 2/27/12.
- A – 18 Fiscal Impact Analysis, Shelbourne Development for Block 176, Lots 38, 39, 40 & 41, prepared by Kauker & Kauker, LLC, 356 Franklin Avenue, Wyckoff, NJ, Dated 2/27/12.
- A – 19 Use Variance Application for Block 176, Lots 38, 39, 40 & 41, Prepared by Lawrence E. Bozik, Dresner Robin Hanson Engineering Division, 7 Doig Road, Wayne, NJ, Dated 2/22/12.
- A – 20 Report prepared by John W. Borden, Fire Sub-Code Official/Fire Official, Marlboro Township, Dated March 8, 2012.

- A – 21 Report from Birdsall Services Group prepared by James Priolo, P.E., P.P., C.M.E. dated April 9, 2012.
- A – 22 Report from Marlboro Township Environmental Commission dated March 28, 2012
- A – 23 Traffic report from French & Parrello, prepared by Mark Kataryniak, P.E., PTOE, dated April 12, 2012.
- A – 24 Report for Block 176 Lots 38,39,40,41 prepared by Richard S. Cramer, T&M Associates, Eleven Tindall Road, Middletown, NJ, Dated April 16, 2012.
- A – 25 Notice To Adjoining Property Owners
- A – 26 List of Property Owners within 200 feet
- A – 27 Certified White Receipts and Green Cards
- A - 28 Affidavit of Publication
- A – 29 Affidavit of Service
- A – 30 FAR Corrected May 17, 2012, prepared by Richard S. Cramer, PP, T&M Associates, Eleven Tindall Road, Middletown, NJ.
- A – 31 Notice To Adjoining Property Owners
- A – 32 List of Property Owners within 200 feet
- A – 33 Certified White Receipts and Green Cards
- A - 34 Affidavit of Publication
- A – 35 Affidavit of Service
- A – 30 FAR Corrected May 17, 2012, prepared by Richard S. Cramer, PP, T&M Associates, Eleven Tindall Road, Middletown, NJ.
- A – 31 Notice To Adjoining Property Owners
- A – 32 List of Property Owners within 200 feet
- A – 33 Certified White Receipts and Green Cards
- A - 34 Affidavit of Publication
- A – 35 Affidavit of Service

Mark Policastro, Esq. on behalf of applicant. Mr. Liston is no longer representing the objectors. Mark Vincent, Esq. on behalf of 20 objecting families. A list of the families he is representing (marked as O-1) was submitted to the Board. The Board’s attorney stated that nothing that happened at last hearing will be relied upon. They are starting fresh tonight. A new notice was sent. The Board has jurisdiction. Mr. Vincent was asked by Mr. Cucchiaro whether he had any objection to the Board taking jurisdiction and Mr. Vincent answered that he did not.

Larry Bozik, P.E. of Dresdner Robin, 7 Doig Road, Suite 1 Wayne, NJ was sworn and accepted as an expert. Mr. Vincent had no objection. Mr. Bozik described the three (3) checklist waivers that were being requested. Mr. Cucchiaro explained to the Board members and the Public that a waiver does not absolve the applicant from submitting the requirements. It only allows them to go forward with the application and submit the items later on. A motion was made by Mr. Weilheimer to grant the three waivers. It was seconded by Mr. El Naboulsi. Ayes: 5. Nays: 0.

This is a bifurcated application tonight. If the Board acts affirmatively the applicant will have to return to the Board for a full site plan application. Applicant’s Engineer, Mr. Bozik presented Preliminary Site Plan, not fully engineered drawings. (A-36) Colored rendering of Sheet 3 of 4 Preliminary Site Plan. It is a combined area of 6.4 acres in the OPT-2 zone. Proposed is an 86 unit adult assisted living facility. Requesting variances for F.A.R., Bldg height (41’- 46’instead of 35’), and density. Low parking demand allows them to keep the impervious coverage less than ½ of what’s permitted by right.

(A-37) Concept Plan #1 – Office Building Use -Reduced Elevation) and (A-38 Concept Plan #2 Medical Bldg Use). Hoping that the Board and Public will realize these two uses are permitted in the zone but present a much more intense use on the site. The Board Attorney stated that the Board also realized that these are not fully engineered plans and no storm water management was shown. Mr. Bozik stated he would put his storm water under ground.

Mr. Cramer stated that whether a height variance can only be determined if we see architectural. A mansard roof is measured to the deck line. If its 46 feet to the deck line, a “D” variance would be needed.

The service area, delivery area, and location of trash enclosure were discussed with respect to buffering and noise to adjacent residential uses.

Questions from the Public to this witness:

Mark Vincent, Esq. on behalf of objectors – What type of vegetation is on this side? Currently wooded. Our field crew located about 250 trees out of 650 that exist on the site, to be removed. 60% of site would remain wooded and we will be adding trees.

Louis Fiorica of 19 Bluffs Court – Existing setbacks being changed? NO. Asked to see where garbage trucks would enter the site. WEST side of property and go out same entrance. Any discarded drugs or chemicals?

Herbert Green of 15 Bluffs Court expressed concerns about the location of the trees to be removed and any additional ones to be replaced.

Mr. Weilheimer asked about the wetlands delineation and the LOI that they are waiting for. The wetlands on the site is 15 – 20%. Will it be possible for the Architect to present Architectural Plans in advance of the next meeting? We will do it.

Ms. Bajar asked if the applicant would consider relocating the trash receptacles further away from the neighboring residential lots. We could try, but we need to consider storm water management and wetlands concerns.

Mr. El Naboulsi asked what the applicant based the building height of three stories on as opposed to two stories? The 3 story building allows a smaller building footprint and more of a buffer and setback from neighboring properties.

Edward Zglobicki of 51 Route 520 asked if any consideration was given to those single story houses across the street? Do you think that 46’ building height will dwarf the single family houses across the street. No, there is a big distance between them.

Traffic Expert – David Shrobshire, PE, PP and Traffic Engineer accepted as expert witness. No objection from Mr. Vincent. He testified that there would be very little traffic impact from this type of use. 14 trips during morning peak and 20 – 28 vehicles during afternoon peak hour. Typical nursing activity happens outside of peak hour. Shift change between 2:45 and 3:15. As a result of that shift change there are 20 trips generated during that time frame. He compared the proposed use on the site to permitted uses to show how much less traffic would be generated. Permitted uses would be much more intense than what this use will generate. Permitted uses are three times more

intense that what we are presenting. He stated that there would be no detriment to Public good or impairment to the Master Plan based on traffic generated.

They anticipate daytime trash pickups and daytime deliveries and do not expect any noise.

The Board's Traffic Expert, Mark Kataryniak, recommended that the Board require the Traffic Impact Report be submitted during the use portion and not wait for the site plan, as the applicant proposed. Mr. Policastro said that they can meet that request at this time if the Board so requires. Mr. Weilheimer finds it a bit odd that they are hearing testimony about traffic without a site specific traffic study.

Questions from the Public:

Herbert Green of 15 Bluffs court asked what would be the justification made to the county or municipality of the left had turn when the Goddard school and bank only allow right turn exits?

Mr. Fiorica of 19 Bluffs Court asked, from a traffic perspective how would you propose emergency vehicles are accommodated on the site in the site plan. Emergency calls do not really affect traffic in and out of site.

Mr. Zglobicki asked if any traffic studies impact the traffic on route 520 were done.. It will be taken into consideration in the study.

Joseph F. McElwee, Partner with Shelbourne Healthcare was sworn in. He described what assisted living is. Frail, elderly people who need help with bathing, grooming, transportation, etc. They are licensed by NJ Dept of Health. They place their facilities in proximities to churches, houses of worship, housing, shopping, etc., that the residents of the facility are familiar with, so that they feel like they are still part of their community

When asked if they would place a restriction that the residents cannot have cars, Mr. McElwee said yes they would.

We chose three story model as opposed to two story to maintain as much buffer as possible for neighboring lots/. Wanted to preserve 100 side yard setback instead of a 10 foot setback.

Any dementia residents? Yes the third floor is dedicated to dementia patients. One fourteen seat van is used for transportation to shopping.

4 – 8 911 calls per month.

Mark Vincent no questions for this witness.

Public Questions for this witness:

Mr. Green of 15 Bluffs court – I've seen other assisted living homes in isolated areas. Why did you choose this site near hones? We want our residents to feel apart of a residential community not a commercial community.

Mr. Globelike you spoke of inviting groups like the rotary club into the facility. We invite groups to come in and use our community space. Yes we give rooms for meetings.

This Application is being adjourned to August 21, 2012. An extension of time was signed. No further Notice is required.

The Board wanted to be very specific about what they wanted to see for the next meeting:

A traffic Impact Study that also addresses concerns listed in Mr. Kataryniak's report – including trip generation weekdays and weekend peak hour studies and the lease component. Dumpster area location proximity to the kitchen and neighboring properties. Truck/Vehicle circulation plan.

Site specific study including counts and consult with local and county planning offices as to what has been approved on surrounding sites. Data from other traffic studies done for other applications, and minimum of 3 years of traffic accidents from local police.

Send in architectural plans in advance of meeting so the Board's professionals can review.

Motion to adjourn at 11:00 p.m.

Respectfully submitted,

Sarah Paris, Zoning Board Administrator

