

MARLBORO TOWNSHIP ZONING BOARD

April 4, 2017

THE MEETING OF THE MARLBORO TOWNSHIP ZONING BOARD WAS CALLED TO ORDER BY THE TEMPORARY CHAIRMAN MR. RONALD D. CUCCHIARO, ESQ. AT THE MARLBORO TOWNSHIP OFFICES, 1979 TOWNSHIP DRIVE, MARLBORO AT 7:30P.M.

CHAIRMAN SHAPIRO READ THE MEETING NOTICE, ADEQUATE NOTICE PURSUANT TO THE OPEN PUBLIC MEETING ACT OF 1977 HAS BEEN GIVEN OF THIS MEETING BY PUBLICATION IN THE ASBURY PARK PRESS, AND BY POSTING IN THE MUNICIPAL BUILDING IN THE TOWNSHIP OF MARLBORO, FILED IN THE TOWNSHIP CLERK'S OFFICE AND PLACED ON THE TOWNSHIP WEBSITE AND CHANNEL 77.

ROLL CALL

PRESENT ... {6} MR. ZWERIN, MR. WEILHEIMER, CHAIRMAN SHAPIRO, MS. DI GRANDE, DR. ADLER, and MR. POWERS

ABSENT... {2} MR. SOLON, and MR. VERDI

PROFESSIONALS PRESENT... MS. NEUMANN, P.E., MR. CUCCHIARO ESQ., and MR. ANGELASTRO, P.E.

SALUTE THE FLAG

APPROVAL OF THE MARCH 28, 2017 ZONING BOARD OF ADJUSTMENT MINUTES

PUBLIC SESSION – *No one from the public signed up to speak.*

Z.B. 17-6612 Best Friends Pet Care, Inc. –Public Hearing for a Use Variance to add 3,439 sq. ft. to existing nonconforming 4,631 sq. ft. Dog day care, retail sales and kennel, and to enlarge outdoor play areas to 40'x93' and surround them with 8' high white vinyl fence, located at 234 Boundary Road, Block 360, Lot 5 in the LI zone.

Jennifer Krimko, Esq. was sworn in and gave testimony. Ms. Krimko stated that use variance relief had previously been granted for the subject property permitting the operation of a dog day care use known as: “Dog Ease Day Care, Inc.” (Application ZB01-5991). Ms. Krimko explained that the current application was also for a dog day care operation at the same location.

David Boesch, LLA. Applicant’s landscape architect, was sworn in and gave testimony. Mr. Boesch described the subject site as containing approximately 23 ½ acres on the west side of Boundary Road. Mr. Boesch described the site as a four building complex with the proposed use being located in the central building. Mr. Boesch testified that the Applicant was seeking interior renovations as well as permission to remove the existing chain link fence which would be replaced with an eight foot high solid vinyl fence. The northeast corner of the building would also provide for a lawn play area. Mr. Boesch also stated that a 3,439 square foot expansion was proposed within the existing building for a total of 8,070 square feet. Mr. Boesch also testified that there would be an upgrade in lighting on the site. Mr. Boesch agreed that the Applicant would provide a point by point lighting plan for the review and approval of the Board engineer.

The Board further questioned Mr. Boesch concerning the structural integrity of the vinyl fence in high wind situations. Mr. Boesch agreed that the Applicant could also utilize solid wood board on board fencing. It was also agreed that the dog runs would be repaired subject to review and approval of the Board Engineer.

Alexander Desmarais, Applicant was sworn in and gave testimony. Mr. Desmarais stated that he has owned the business for approximately two years and was in the process of making “Best Friends Pet Care, Inc.” into a national chain. Mr. Desmarais testified that it was his goal to improve the level of service at the existing facility through this application. Mr. Desmarais specifically explained that new windows and large screen televisions were being added. Mr. Desmarais further noted that the dog pens were being divided into wards. It was his opinion that the new internal layout would reduce the noise on the subject property as large groups of dogs would have far less visual interaction with each other. Mr. Desmarais further testified that there would be no more than one hundred dogs on the site at any given time. This is inclusive of both those dogs who are boarding as well as those who are there for only the day. Mr. Desmarais further agreed that no more than thirty dogs would be permitted in each individual pen. The dogs would also not be permitted outside after closing time.

Christine Cofone, PP, AICP was sworn in and gave testimony. Ms. Cofone stated that the Applicant was seeking use variance relief pursuant to N.J.S.A. 40:55D-70d(1). Ms. Cofone explained that the Board had previously granted use variance relief for a slightly smaller dog day

care facility. Ms. Cofone pointed out that the Board had already found that the subject site was particularly suitable for the use at that time. Ms. Cofone opined that the upgrades and enlargement to the facility did nothing to alter the Board's original findings and conclusions. The only difference would be that the site would be more aesthetically pleasing and would operate in a more efficient manner. Ms. Cofone also testified that the negative criteria continued to be satisfied. Ms. Cofone once again testified that the Board had already found the negative criteria to be satisfied for the existing dog day care. This application would also result in less noise as the dogs would have less opportunity to visually engage with each other. The changes in the layout would create an environment where the dogs would have adequate space to play and would also not see neighbors due to the fencing. Ms. Cofone therefore concluded that there was no detriment to the zone plan and the zoning ordinance. She also noted that the enhanced criteria also remained unchanged. The exact reasons why the use satisfied the enhanced criteria in the first application still remained true.

PUBLIC - Alexi and Olga Kretov of 11 Rutledge Road expressed their concern regarding noise from the dogs. The Applicant once again explained that noise should be decreased as a result of the new site layout.

A motion in the affirmative

Offered: Chairman Shapiro

Ayes: 6 (Mr. Zwerin, Mr. Weilheimer,
Chairman Shapiro, Ms. DiGrande,
Dr. Adler, & Mr. Powers)

Second: Mr. Zwerin

Nays: 0
Absent: 2 (Mr. Solon, & Mr. Viridi)

Abstain: 0

Z.B. 16-6597 Gary & Debra Riker – Continued Public Hearing for a Use Variance for Expansion of a non-conforming use, and a Minor Subdivision with Insufficient lot frontage, width and front yard setback, located at 157 Ticetown Road, Block 119, Lots 11, 11QFARM & 5 in the LC zone

Salvatore Alfieri, Esq. introduced the application to the board and gave testimony. Mr. Alfieri stated that use variance relief had previously been granted by the Board permitting the use of the existing garage as a residential structure. Mr. Alfieri explained that the Applicants were now seeking to subdivide Lot 11 as well as merge Lot 5 so that two new lots are created. Each Lot would have a single family structure.

Gary Riker, Applicant was sworn in and gave testimony. Mr. Riker testified that he has owned Lot 11 since 1995 and that it has been operated as an agricultural use since that time. Mr. Riker explained that he has required approvals from the State to operate a lumber use on the site. Mr. Riker further testified that it was his intent to retain the agricultural use on the remainder of Lot 11 after the subdivision. Mr. Riker also noted that he would merge lot 5 with the newly created lot in order to reduce any non-conformities. Mr. Riker explained that he and his wife were seeking to subdivide the property as a way to augment their retirement and that he planned on farming the larger lot as long as he could. Mr. Riker thought that the merger of Lot 5 would help bring the proposed lots into greater conformity. Mr. Riker also testified that each lot would have its own driveway. The first thirty feet of each driveway would also be paved.

Walter Hopkin, PE, PP. was sworn in and gave testimony. Mr. Hopkin stated that the Applicants were seeking to subdivide Lot 11 and to merge Lot 5 with the new six acre lot for a total of +/- 6.39 acres. Mr. Hopkin further advised that the addition of Lot 5 would bring the lot frontage for proposed Lot 1 into greater conformance with ordinance requirements.

Mr. Hopkin identified the following existing conditions which fail to comply with ordinance requirements: Section 220-140E(2)(c) – Sheds shall not be larger than 200 square feet and not taller than 11 feet in height on lots greater than 40,000 square feet; the accessory shed structure to remain on New Lot 1 is approximately 325 square feet in area. Section 220-165C – Each Lot must front upon an approved public street at least 50 feet in width; portions of Ticetown Road provide a 33 foot wide right-of-way and variable width right-of-way less than 50 feet wide along the site frontage. Mr. Hopkin then identified the following new deviations from ordinance requirements: Section 220-47C (Table 1) – The minimum required lot frontage is 400 feet; 146.5 feet is proposed for New Lot 1 and 369.4 feet is indicated as proposed for New Lot 2. The Applicant must verify the indicated frontage for New Lot 2 which appears to include the lot frontage of Lot 5, Block 119 which, while apparently owned by the Applicants, does not appear to be included within the subject Minor Subdivision. Section 220-47C (Table 1) - The minimum required lot width is 400 feet; 71.8 feet is indicated as proposed for New Lot 1 and 111.7 feet is indicated as proposed for New Lot 2. The Applicant must verify the calculation of proposed lot widths for each new lot as per the definition of same provided per Ordinance Section 220-4. Section 220-47C (Table 1) - The minimum side yard

setback required is 75 feet; 39.0 feet is provided on New Lot 1 from the existing dwelling to the proposed subdivision line and 14.6 feet is provided on New Lot 2 from the garage/ residential building to the proposed subdivision line. We note that 37.2 feet is also provided on New Lot 2 from the garage/residential building to the westerly side property line as an existing condition. Section 220-35D(9) – Detached accessory buildings, if located within a side yard, shall conform to side yard requirements of such zone, whereby 75 feet is required; the accessory shed structure to remain on New Lot 1 would provide an approximate 5 feet setback to the proposed subdivision line.

We note that the existing in-ground swimming pool also to remain on New Lot 1 would provide an approximate 37 foot setback to the proposed subdivision line which would also require variance per Ordinance Section 220-42G(3). Mr. Hopkin then identified the following necessary design waiver relief: Section 220-169A(2) – Driveway shall be paved with a uniform two-course overlay throughout their length and width, provided that any driveway over 75 feet in length within an LC and/or R-80 Zone District, shall only be required to be paved within the first 40 feet from the street or public right-of-way; the existing gravel driveway is apparently to remain as exists providing access to the garage/residential building on New Lot 2. We note that said driveway does not appear to provide direct access from Ticetown Road but rather from the existing paved drive serving New Lot 1.

Mr. Hopkin also identified the existence of gores on the property. He indicated that the Applicants would not need to resolve the gores since all land area calculations exclude the gores. He also opined that the proposed plan advanced the goals of planning as it resulted in the two single family structures being located on individual lots. This would mitigate the intensity of variance relief previously granted.

PUBLIC - *There were no members of the public expressing an interest in this application.*

A motion in the affirmative

Offered: Chairman Shapiro

Ayes: 6 (Mr. Zwerin, Mr. Weilheimer,
Chairman Shapiro, Ms. DiGrande,
Dr. Adler, & Mr. Powers

Second: Dr. Adler

Nays: 0

Absent: 2 (Mr. Solon, & Mr. Viridi)

Abstain: 0

A motion to adjourn was offered by Chairman Shapiro, seconded by Mr. Powers.

Respectfully submitted

Jennifer Bajar