

STATE OF MICHIGAN
WASHTENAW COUNTY CIRCUIT COURT

BRIDGEWATER TOWNSHIP,
Plaintiff,

Case No. 07-324 CE

v

Hon. Timothy P. Connors

AARON ENZER and JENNIFER ENZER,
Defendants.

LUCAS LAW, PC
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DIPIETRO & DAY, P.C.
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CONSENT JUDGMENT

MAY 21 2009

Hon. Timothy P. Connors

This matter comes before the Court upon plaintiff, Bridgewater Township's (hereafter referred to as "Bridgewater") complaint and petition alleging zoning and building code violations; and

The defendants, Aaron Enzer and Jennifer Enzer, formally known as Jennifer Kush, deny each and every allegation of zoning and building code violations; and

The parties agree that it is in the best interest of the parties and the general

public of Bridgewater to resolve this matter by entry of this Consent Judgment and resolve all disputes and avoid additional expense and future litigation;

The parties agree to the Court's entry this Consent Judgment:

IT IS ORDERED AND ADJUDGED AS FOLLOWS:

1. Defendants, Aaron Enzer and Jennifer Enzer and the limited liability corporation formed them, Ace Pyro, L.L.C. and any other entity, whether now in existence or hereafter created, which is owned or controlled by defendants (hereafter collectively referred to as "Enzer") shall cease all fireworks sales, storage, manufacture and distribution activity at the property commonly known as 13001 Austin Road, Bridgewater Township (hereafter referred to as the "Austin Road Property"), except as otherwise provided for in this agreement.

2. Sixty (60) days from the date of this Judgment, Enzer shall remove all fireworks from the Austin Road Property and Bridgewater shall have the right to enter onto the property to insure compliance with this provision.

3. Within sixty (60) days of the date of this Judgment, Enzer shall remove all fireworks located at the Austin Road Property, to a parcel of land located at 9840 Burmeister, Saline, MI 48176 (hereafter referred to as the "Burmeister Road Property") and more specifically identified on EXHIBIT A attached hereto.

4. Within thirty (30) days of the entry of this consent judgment, Enzer shall apply for a Limited Business special use permit as provided for in the Bridgewater Township Zoning Ordinance 26 , for his business consulting and management company located at the Austin Road Property. The Bridgewater Planning Commission shall act to approve or deny Enzer's application within 180 days of the date of receipt of

the application. While Bridgewater is considering the application no enforcement action shall be taken against Enzer based upon any claim that the existing business consulting and management company violates the Township zoning ordinance.

5. Enzer will maintain all buildings and structures located at Austin Road Property in conformity with Bridgewater Township Building and Zoning Codes.

a. The prefabricated Quonset style building located at the Austin Road Property may be used to store the materials listed in attached Exhibit B for a period of 24 months from the date of the entry of this consent judgment. After the 24 month period expires all materials related to the storage, display or manufacture of fireworks shall be removed and the shade structure shall be used primarily for agricultural purposes and shall be permitted as such by Bridgewater.

b. The lab building located at the Austin Road Property may, for a period of 24 months following the entry of this Consent Judgment, be used for research and development of fireworks products. In any case no more than 200 lbs of explosive materials may remain at the Austin Road Property during this 24 month period and while there it shall be kept in an ATF approved container. A complete list of all materials permitted to remain on the Austin Road Property is set forth in attached Exhibit B. Further, Enzer's right to use the lab building for this limited purpose is subject to the building meeting all code requirements for a commercial structure.

6. Bridgewater shall be enjoined from interfering with Enzer's use of the Burmeister Road Property for the sale, storage, manufacture and distribution of fireworks (hereinafter referred to as "facility") so long it used in conformity with the

provisions of this consent judgment.

7. Any new buildings at the Burmeister Road Property shall be comply with all applicable Bridgewater Township Building Codes for commercial structures.

8. Bridgewater's zoning regulations preventing more than two agricultural structures on a parcel of land shall not apply to the Burmeister Road Property, however, Enzer shall be allowed no more than 50,000 square feet of enclosed area, excluding the storage magazines, if the Township, in the future, allows a greater amount of square footage to be built or utilized, nothing herein shall prevent Enzer from taking advantgae of any such amendments to the zoning regulations.

9. For any buildings built on the Burmeister Road Property, Enzer shall not be required to pay any fees for review of the plans by a licensed engineer or architect, condition of Enzer submitted building plans bearing the seal of a licensed engineer or architect.

10. The attached site plan for the Burmeister Road Property (Exhibit C) shall be the permitted uses and layout for the purpose of insuring compliance with this Judgment. The buildings, structures and use of the Burmeister Road Property by the Defendants shall not be used to limit, or define the permitted uses, buildings or structures allowed on the Burmeister Road Property by the existing owners.

11. During the normal business hours of the defendant, Bridgewater and its regularly authorized inspectors shall be granted the right to inspect the Burmeister Road Property to insure compliance with the provisions of this Consent Judgment. The authorized inspectors shall include any member of any fire department, the building official and the zoning administrator. A member of Bridgewater's Board or its attorney is

permitted to accompany the authorized inspector during any such inspection. Inspectors must be escorted by management personnel during the inspection. If upon arrival at the Burmeister Road Property management personnel is not present, Enzer will, within 24 hours of receiving notice, make arrangements for the inspection to occur and for management personnel to be present on site. This right of inspection shall not be deemed as consent to inspect or search the buildings, structures or property located on the Burmeister Road Property used by the existing owners.

12. All activities on the Burmeister Road Property shall conform to the provisions of the Bridgewater Hazardous Materials Ordinance and all other local, state and federal regulations, except as modified by this Consent Judgment.

13. The Defendants shall be permitted to locate magazines within Four Hundred (400) Feet of the rear lot Line of the Burmeister Road Property as a variance from the provisions of the Hazardous Materials Ordinance in order to make use of the natural landscape and topography for the purpose of screening and to allow an increased distance from inhabited buildings at the Burmeister Road Property.

14. Bridgewater shall approve and issue a FM -48 Permit For Possession of Fireworks By Resident Dealer or Jobber to Aaron Enzer and/or ACE Pyro LLC for weights as permitted by the Alcohol Tobacco and Firearms and as consistent with this order at the Burmeister Road Property effective upon entry of this order.

15. Enzer shall purchase and maintain liability insurance for the fireworks facility, naming Bridgewater as an additional insured and providing BRIDGWATER with proof of insurance.

16. The rights and privileges and obligations conferred upon Enzer by virtue

of this Consent Judgment are not assignable to any other person or party nor are they transferrable to another location.

17. If for any reason, Enzer shall no longer have control of the Burmeister Road Property this Consent Judgment shall be void.

18. Enzer shall reimburse Bridgewater \$15,000 for attorney fees incurred in prosecuting this litigation. This amount shall be payable in three annual installments of \$5,000 due and payable by no later than September 15th, the first payment being due on September 15, 2009.

19. Except as otherwise provided for in this Consent Judgment, each party shall pay its own costs and expenses, including attorney fees, in connection with this litigation as a public question is at issue.

20. This judgment shall be deemed final and all other orders issued by this Court in this matter are hereby dissolved.

21. If there is any default by Enzer in any of the terms of this Consent Judgment, Enzer shall have 30 days, from the date of the mailing, by certified mail, the default notice to Enzer, to cure the default. The notice shall be sent from the office of the Township attorney. Failure to cure the default within the 30 days shall result in liquidated damages of \$250 per day, retroactive to the day of the mailing of the notice of default. The 30 days to cure the default shall be tolled in the event compliance cannot be achieved within that time period for reason beyond Enzer's control, so long as Enzer diligently pursued remedying the default.

22. In addition to the above liquidated damages provision, Enzer's failure to cure the default within the time permitted shall result in this Consent Judgment being

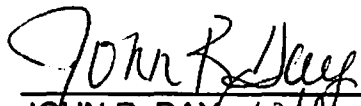
null and void and Enzer forfeiting any rights granted herein.

23. If court action is instituted by the Township to either enforce the Consent Judgment or to collect liquidated damages, the prevailing party shall be entitled to actual attorney fees and costs.

/S/ TIMOTHY P. CONNORS

TIMOTHY P. CONNORS
Circuit Judge

PREPARED BY:




JOHN R. DAY (William Day)
Attorney for Defendant

APPROVED AS TO FORM
AND SUBSTANCE



FREDERICK LUCAS
Attorney for Plaintiff

BRIDGEWATER TOWNSHIP



By: Jolea Mull
Its: Supervisor



By: Cynthia J. Carver
Its: Clerk

EXHIBIT A

EXHIBIT A

Township of Bridgewater County of Washtenaw and State of Michigan, to-wit: The East part of the Southeast quarter of Section Number ten, Town Four South, Range Four East, excepting and reserving therefrom the following:

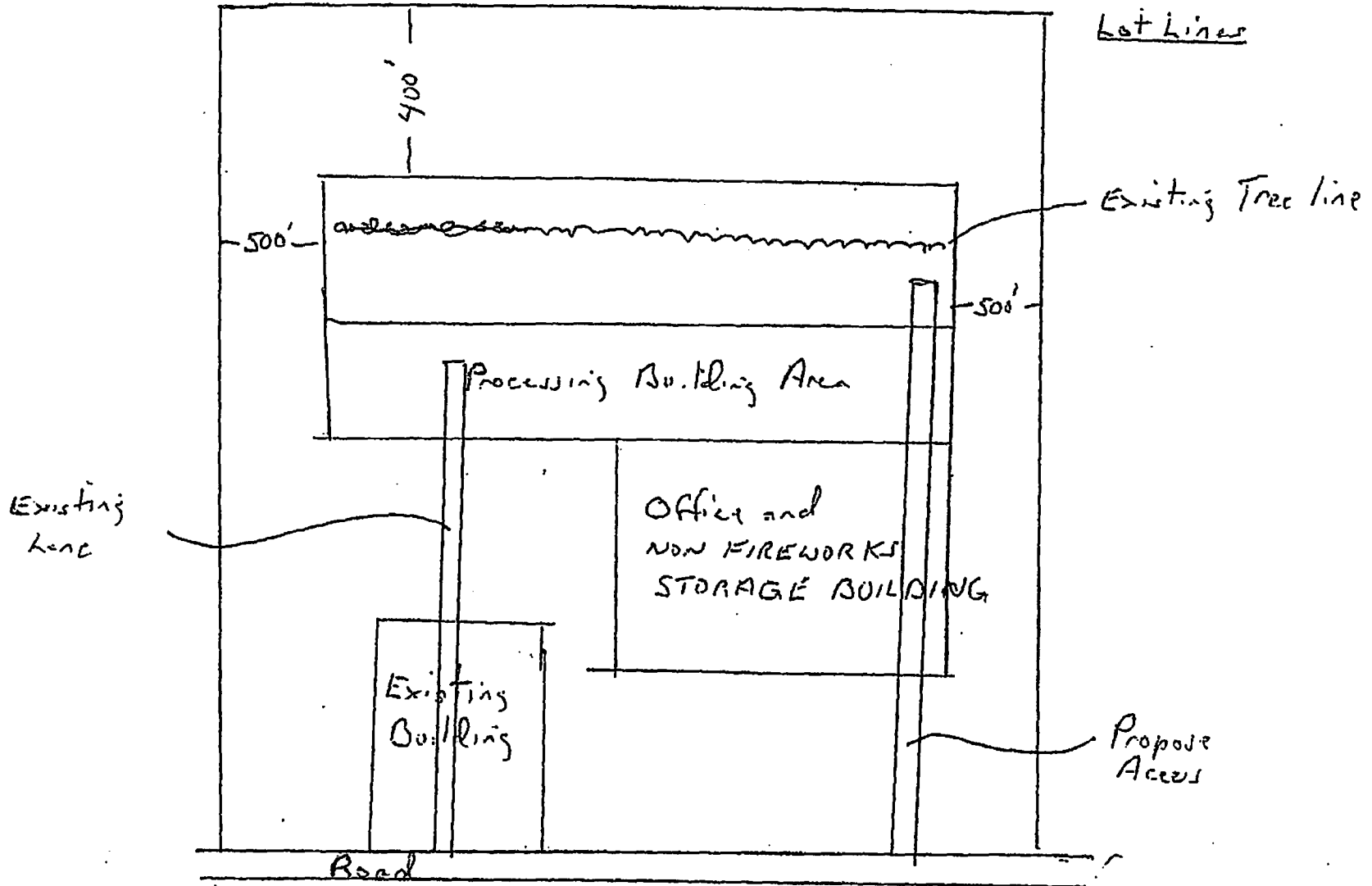
Land conveyed to Ellen Van Gieson by Warranty Deed dated September 29, 1835 and recorded October 10, 1835 in Liber "F" of Deeds, page 539; also land conveyed to Jacob Reiser by Warranty Deed dated August 15, 1874 and recorded May 25 J 1876 in Liber 84 of Deeds, page 627, all being in the Township of Bridgewater, County of Washtenaw and State of Michigan. Subject to the rights of the public in existing highways and subject to easements and restrictions of records.

The South three-fourths of the West three-fourths of the Southeast quarter of Section eleven; also the West one-fourth of the East one-fourth of the Southeast quarter of said section eleven; all in the town four South, range four East, Bridgewater Township, Washtenaw, County, Michigan, subject to easements and restrictions of record.

EXHIBIT B

1. **Wooden Launch Racks**
2. **Fireworks Tubes**

EXHIBIT C



Setbacks shall adjust
to meet Min. ATF and
State of Mich. Standards
Twp not to increase?