



## **TOWN OF CLINTON**

INCORPORATED APRIL 5, 1865

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### **Land Use Board Minutes**

Minutes of the Town of Clinton Land Use Board meeting held on April 7, 2015 at 7:30pm in the Municipal Building at 43 Leigh Street Clinton, New Jersey 08809

Chairman Sailer called the meeting to order at 7:00pm and read the "Administrative Statement" and the "Statement of Adequate Notice":

"Adequate notice of this meeting has been provided indicating the time and place of the meeting with the proposed agenda, which notice was posted, made available to the newspapers and filed with the clerk of the Town of Clinton in accordance with Section 3(d) of the Public Laws of 1975".

"Meetings are held on the first Tuesday of each month. Applications must be filed at least 21 days prior to the meeting date. In order to ensure that all applications receive complete and thorough consideration of the board, all meetings will adjourn no later than 10:00pm with all items not concluded to be carried over to next month's agenda".

Attorney William Caldwell, Mr. Clerico, and Mr. Maski were present,

#### **ROLL CALL:**

Present: Sailer, Blanco, Hetzel, Maher, Mellick, Perez, Smith

Absent: Mayor Kovach, Carberry, Feldmann, Schaumburg

#### **Approval of Minutes:**

A Motion was made by Mr. Hetzel, seconded by Mr. Blanco, to approve the February 3, 2015 minutes:

**All Ayes. Motion Carried.**

#### **Site Plan Report:**

No report

#### **Minor Site Plan for H. Craig Stem Block 6 Lot 1/ Use Variance & Site Plan Application 82 West Clinton LLC Block 6 Lots 1,01:**

Attorney John Marmora, K&L Gates, Eileen Welsh, K&L Gates, John Palus, Civil Engineer from Dynamic Engineering, Michael Tobia, Planning consultant, Attorney Dilts, Craig Stem and Heather Holmes, Stenographer were present.

The following items were submitted into evidence:

A49- Dynamic Engineering updated details- February 16, 2015.

Attorney Marmora advised the board the applicant concluded their testimony at the February 3, 2015 meeting and tonight Mr. Tobia will recap with the board the list of Variances being sought.

Mr. Tobia, stated over the many months the proposal has undergone many changes, a series of signs have been removed, the canopy signs have been removed, gooseneck lighting has been added, the trash

enclosure has been relocated into a conforming location, the canopy fascia has been redesigned all the yellow plastic has been replaced with a roofing façade to match the proposed 7-Eleven building, they have added 2 restrooms inside the 7-Eleven, an egress door has been added on the side of the building, plant material has been added to the rear of the 7-Eleven building, directional signs have been added to aid in the flow of traffic, a cross easement in conjunction with the Shammy Shine has been added. Mr. Tobia stated Craig Stem has presented his own case in where he proposes to take the full- service car wash to an express self-serve wash.

Mr. Tobia went over the variances being requested:

- D1- Use Variance to permit more than one principal building and use on one lot on the Shell lot.
- D1- Use Variance to permit a convenience store where a store is not permitted on the shell lot.
- D2- Variance for the expansion of a non-conforming use to include a driveway connection on lot 1.
- C Variance- driveway width dimensions of 50.1 on the Shell Lot and 50 feet on the Shammy Shine lot.
- C Variance- to permit location of the loading space on the Shell lot.
- C Variance- to permit parking setback 1.6 foot on the side of the building on the Shell lot.
- C Variance- for a freestanding sign area of 72.5 sq. ft. on the Shell lot.
- C Variance- for a freestanding sign setback of 1foot from the property line on the Shell lot.
- C Variance- for a freestanding sign setback of 16.5feet from the intersection on the Shell lot.
- C Variance for an internally illuminated ground sign on the Shell lot.
- C Variance for a 6 foot side yard setback for the generator on the Shell lot.
- C Variance for a rear yard setback of 16.11 for the trash enclosure on the Shammy Shine lot.
- C Variance for the loading space to be located in front yard on the Shell lot.
- C Variance for a sidewalk encroachment of 15 feet into the residential buffer on the Shell lot.

Mr. Tobia stated what exists today is an aging service station with a vacant building on site, the applicant is proposing an architectural overhaul. The site location is in a unique area of town and the addition of the 7-Eleven building is perfectly appropriate for this location. The applicant is proposing a substantial evergreen buffer between the commercial and residential use, the new traffic design enables vehicles to make a left hand turn out and will eliminate the unlawful traffic movements. The propane business on the Shammy Shine will be removed so there will be a slight decrease of business on the Shammy Shine lot. The C-3 zone is identified as an intensive zone this is a zone where a lot of activity should take place, it is oriented towards highway traffic and pass by traffic. The signage is oriented to higher levels of moderate-speed traffic. Mr. Tobia concluded that the negative criteria held to the test, the negative criteria was easily met and the proposal will not be a substantial detriment, the overall proposal will be an improvement to the site.

The Board opened up the meeting to the public for cross examination:

Ms. Liz Hedden, 42 Lingert Avenue- inquired if there was signage when coming out of Shammy shine so pedestrians can walk past safely and inquired if the applicant had considered providing a walkway connector behind the buildings, Mr. Tobia stated there will be a stop sign installed when exiting Shammy Shine, and in terms of planning you generally do not plan for sidewalks to be behind commercial buildings, it is safer for pedestrians if the sidewalks are more visible. Ms. Liz Hedden voiced concerns about the 7-Eleven bringing transient traffic into town, Mr. Tobia stated there will be no trail blazer signs on Route 78 that will direct people off the highway, the proposal is not intended to be a rest stop.

Mr. Steven Ackaway, 72-74 West Main Street- inquired about delivery trucks backing into the site, Mr. Tobia stated the deliveries for 7-Eleven will be once a week, the trucks will not back into the site and presently the shell fuel tankers have no problem maneuvering around the site. In addition, only delivery trucks will be allowed onsite the site will have signage prohibiting tractor trailer parking. Mr. Ackaway stated he was concerned with the trash enclosure on the Shammy Shine property in regards to health & safety, Attorney Marmora stated Mr. Stem will address this issue. Mr. Ackaway inquired about the

buffering between the site and his property, Mr. Tobia responded that your property will be the main beneficiary of buffering which will include a fence and evergreen trees.

Mr. John Bohnel, 76 Center Street inquired if any signage would be installed on site to encourage people to use the exit from Shammy Shine, Mr. Tobia responded there will be directional signs on site. Mr. Bohnel inquired about the increase in traffic on site that the 7-Eleven will bring, Mr. Tobia stated that a good amount of people gassing up will be using the 7-eleven so in terms of traffic there will be a good amount of people already on site.

Mr. Francis Gallagher, 31-33 Center Street inquired if there was any monetary benefit for Mr. Stem to allow the cross easement on his site, Mr. Tobia stated he was not aware of any monetary gain.

Mr. Stem who was previously sworn in addressed Mr. Ackaway's concern with the dumpster, he testified that the dumpster was relocated to allow for vehicles to make the turning radius around the sentry arm, that he has never had any health issues with the dumpster and if there was a better space on site for the location of the dumpster he would look into. Mr. Stem stated in response to the cross easement, he was approached by the Chief of Police who suggested the cross easement and there has been no offer of financial consideration for the easement.

The Board opened the meeting to the Public for comments:

Ms. Liz Hedden, 42 Lingert Avenue voiced concerns with traffic, the safety of children walking in the area, with the traffic lights at the intersection, crime and putting local businesses out of business.

Mr. Ackaway, 72 West Main Street, voiced concerned with the setbacks of his property and how it will affect his quality of life, the safety for children and bikers in the area, the volume of cars, vehicles backing up at the intersection, crime, noise and he was concerned it would devalue his property.

Mr. Smith asked Mr. Ackaway to give his opinion on how often his property is blocked by traffic and to what degree, Mr. Ackaway stated that traffic generally backs up during rush hour and holidays.

Mr. Francis Gallagher, 31-33 Center Street inquired if there wasn't another option for this site such as a quick lube business which would lessen the impact of the site. Mr. Gallagher stated the additional use will greatly impact traffic and he does not see this proposal bringing any benefit to the town.

Ms. Sunga, 15 Rupells Road, questioned if anyone has considered the correlation between 7-Elevens and the increase of crime. Mr. Blanco inquired if Ms. Sunga had come across any facts or correlation, Ms. Sunga stated no she was just asking the question.

Mr. Jonathon Wall, 27 Center Street stated he was concerned with the safety of bikers and children and asked the experts to consider the back passage behind the facility.

There being no further comments from the public, the board closed the meeting to the public.

Attorney Marmora stated the applicant has been before the board for over a year Mr. Palus testified in an earlier meeting that there was no evidence of additional crime with the addition of the 7-Eleven, the gas station is a presently a 24-hour operation, with the new addition the site will have more attendants on site and there is no correlation of additional crime.

Attorney Marmora suggested that his client and Mr. Stem will grant an easement to the town if in the future they would like to make a back connection and if the board wishes they will reflect this on the plans as a reserved easement. Attorney Marmora stated the existing conditions right now is one of the three businesses is not in operation, which is the automotive repair service, the 7-Eleven will be a significant enhancement, the Town of Clinton Police Chief comments were that it was his opinion this

proposal was a significant improvement in terms of traffic flow and the reality is 70% of traffic is already at the gas station, there are no plans for a trail blazer sign on Route 78 and we are not trying to pull cars off the highway. Attorney Marmora stated that if there were concerns with crime the Police Chief would have addressed that in his comments to the board.

Attorney Marmora commented in regards to the D Variance to a certain extent we are expanding a conforming use, the gas station is an allowable use and we believe we are only asking for one D Variance. The convenience store and gas station use is far more integrated than an automobile service station and gas station use, the existing facility is an aesthetic detriment, this is an opportunity to bring the facility into the present. Mr. Tobia's proofs on the D Variance were strong and at the end of the day the town will end up with a better situation than what exist today, we respectfully ask the board to approve this application.

Attorney Dilts stated Mr. Stems purpose for being here is he was approached by the Towns Chief of Police who felt sharing an easement would improve the property. Mr. Stem consented to the easement and decided at that time to change his full service car wash to an express car wash, Mr. Stem worked with Shell's professionals to design the site, the changes are relatively minor in nature, the change will result in fewer employees, the propane part of the business will be gone which will reduce two business on site to one.

Mr. Perez inquired if the board should consider Chief Matheis as a traffic expert, Attorney Marmora stated he would consider the Chief of Police a traffic expert.

Mr. Smith stated that he hasn't heard testimony on the record regarding the back up of traffic at the intersection, Attorney Caldwell stated you as board members have knowledge of the town and if you have knowledge of the intersection you need to correlate your observations with testimony. Attorney Caldwell stated at the next meeting the board will deliberate and put the proposal to a vote, he suggested the board act on Shammy Shine first.

The Shammy Shine & Shell applications are carried to May 19, 2015 at 7:00pm.

Mr. Perez and the Board Professionals adjourned the meeting at 9:00pm.

**Sign Variance Application – Block 15 Lot 4- 12 Halstead Street- Clinton United Methodist Church:**

Mr. Henry Hendricksen, member of the Board of Trustees of the Church was present. Mr. Hendricksen reminded the board he was here last June and due to public comments they withdraw the application. Since last year the church has worked with Mr. Morton who is a neighbor and an architect who helped design the new sign. The sign will replace the existing sign, it will be placed perpendicular so the sign can be read from either direction of Halstead Street. The proposed sign will be 8' 2" in length 6' 4" in height, the sign will have a natural stone veneer, the sign will be double side. The sign is proposed to be backlit, the light will be shut off by 10:00pm which is one hour earlier than what the ordinance allows.

Mr. Maher inquired about the existing sign versus the new sign, Mr. Hendricksen stated the existing sign location is 13' feet back from the curb, the proposed sign will be 11 feet, the existing sign is 7 feet in height the proposed sign is 6' 4" in height. The exiting sign was backlit it just doesn't work anymore, the proposed sign will have a sensor the light will go on a dusk and turn off by 10:00pm.

The following residents expressed concerns with the proposed sign in regards to lighting, the disturbance to the character of the neighborhood, traffic and safety concerns with vehicles slowing down to read sign and the overall design of the sign.

Charles & Christine Most, Halstead Street; Thorpe Richardson; Jonathon Wall, Center Street; Isabel Clowes, Halsted Street; John Rudeau, Halstead Street.

Mr. Terry Oliver, President of the Board of trustees stated we have a nonfunctional sign that exists today, the internal sign will no longer support lettering, the existing sign was always lit, the church is not asking for something that is not already existing, the sign is a backlit sign it will not light up the whole street. Mr. Morton has designed two signs of which both had the same supporting structure with the stone the only difference was the backlit, we were under the impression the neighborhood was ok with the signs Mr. Morton designed.

Mr. Hendricksen stated at this time he would like to withdraw the application without prejudice to rework the design.

Reverend Michael Smith stood up and introduced himself as the new pastor to the church and the community and offered an invitation to the audience and the neighbors to work together in redesigning the sign so everyone is in agreement.

**Voucher Approval:**

A Motion was made by Mr. Hetzel, seconded by Mr. Maher to approve the vouchers:

**All Ayes. Motion Carried.**

There being no further business A Motion was made by Mr. Maher, seconded by Mr. Smith to adjourn the meeting at 10:00pm.

Respectfully submitted

Allison Witt  
Land Use Administrator