



TOWN OF CLINTON

INCORPORATED APRIL 5, 1865

43 Leigh St., P.O. Box 5194

Clinton, N.J. 08809-5194

(908) 735-8616 FAX (908) 735-8082

Land Use Board Minutes

Minutes of the Town of Clinton Land Use Board meeting held on July 7, 2015 at 7:00pm 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. Robert Clerico were present.

ROLL CALL:

Present: Sailer, Mayor Kovach, Carberry, Feldmann, Hetzel, Maher, Mellick, Schaumburg, Smith

Absent: Blanco, Perez

Approval of Minutes:

A Motion was made by Mr. Hetzel, seconded by Mr. Smith, to approve the June 2, 2015 minutes:

All Ayes. Motion Carried
Abstain: Mayor Kovach, Carberry

Sign Variance for Block 22 Lot 17- Amitoz Anand (Jerzees Clinton LLC):

Mr. Anand stated he was here tonight to seek approval to install a 3 x 8 internally illuminated sign on the building. Mr. Anand stated he originally intended to use the prior sign however due to damage it cannot be used and he would like to install the new sign to match the other signs on the building. Mayor Kovach commented the purpose of the new sign ordinance was to eliminate internally lit signs and as signs were replaced they would fall into line with the new ordinance, granting a variance would delay the town in reaching that objective. Mr. Anand suggested that if the board agreed to allow him to install the sign now he would remove it when the other signs on the building were replaced. Mr. Maher stated the town is trying to eliminate internally lit signs, the board agreed the proposal was not in keeping with the intent of the sign ordinance.

A Motion was made by Mr. Carberry, seconded by Mr. Maher to approve the sign variance:

Ayes:

Nays: Sailer, Mayor Kovach, Carberry, Feldmann, Hetzel, Maher, Mellick, Schaumburg, Smith

0-9 Motion Failed

Consideration of reassignment of Parking Spaces for Block 22 Lot 17- Mr. Won Yun

Mr. Yun & Mr. Anand were present. Mr. Yun explained to the board that when Mr. Anand came before the board to open up his restaurant there was a misunderstanding and Mr. Yun did not realize that agreeing to give Mr. Anand a total of seven spaces only left his vacant space with one parking space

which he cannot rent at this time. Mr. Anand explained to the board that he misunderstood and he thought he needed 4 spaces plus three for employees, however based on the ordinance he is only required to have 4 spaces total (1 space per 50 SF of patron use) and would like to give Mr. Yun three spaces back so his vacant space will have 4 spaces total. The board looked at the parking layout and it was determined if the vacant space was to remain retail it and only utilize 720 SF than 4 spaces would be sufficient. Mr. Yun agreed to limit the retail merchandising space to 720 SF.

A Motion was made by Mr. Carberry, seconded by Mr. Smith, to approve the reconfiguration of parking space for Block 22 Lot 17 to allow Jerzees 4 Spaces; Vacant Space (hardware store) 4 spaces; Bobo's Kitchen 3 spaces; Neo Sushi 9 spaces for a total of 20 regular spaces and 1 handicap space.

All Ayes. Motion Passed.

Mayor Kovach & Mr. Carberry were unable to participate in the rest of the meeting and recused themselves from the meeting.

Preliminary & Final Site Plan Approval for Eastern Hill LLC- Block 16 Lot 22.02

Attorney Howard Apgar, Mr. Craig Stires, Civil Engineer, and Mr. Kenneth Pizzo, Jr. were present.

The following items were marked into evidence

- A14 Preliminary Site Plan Stires & Assoc. dated 9/11/2012 revision dates 6/19/2014 & 6/26/2015.
- A15 Craig Stires letter dated June 26, 2015.
- B5 NJ Water Supply Authority letter dated June 5, 2015.
- B6 J. Daniels email dated June 22, 2015
- B7 NJ Water Supply Authority Agreement dated June 24, 2015.

Attorney Apgar advised the board since the last meeting the applicants professionals met with Mr. Clerico, Mr. Maski, Mr. Daniels and Mr. Marc Brooks from the NJ Water Authority to go over concerns and many issues were resolved. Attorney Apgar advised the board there was not enough time to update the plans and tonight Mr. Stires will go over the agreed upon changes with the board.

Mr. Stires advised the board his letter dated June 26, 2015 outlines all the agreed upon items in regard to Mr. Daniels and the Fire Chief's concerns the applicant has agreed to:

1. A fully sprinkled building with a NFPA 13 System.
2. The FDC has been added to the plan and is located to the northeast of the proposed building and is across from the revised fire hydrant location which is across the drive further to the northeast.
3. Agreed to install an emergency access on the adjacent drive of the New Jersey Water Supply Authority property to allow fire access to the rear of the building. The plan also indicates this area as a dedicated fire lane.
4. The fire hydrant has been relocated to the northeast corner of the proposed parking lot.
5. A fire hydrant detail has been added to the plans and indicates a 5" connection.
6. The plan has been revised to indicate a 6" fire service line and 3" domestic line.
7. The sprinkler room will be part of the mechanical room located in the northern portion of the building.
8. A Knox box will be provided near the entrance of the building.
9. The annunciator panel will be in the foyer of the building.

10. The entrance has been opened from a 15' to 20' radius to allow for better access for the fire trucks which will reduce the 70 spaces to 68 parking spaces, the number of parking spaces will still meet the parking ordinance.

Mr. Marc Brooks from The NJ Water Authority main area of concern is behind the building and he wanted to ensure the tenants did not expand into the NJ Water Supply Authority property. The applicant has agreed to install an aluminum decorative fence along the rear and sides of the property and an access gate will be installed, the dumpster issue has been resolved, the self- enclosed dumpster has been relocated. Mr. Stires added that one tree will be removed to accommodate the emergency access and the applicant has agreed to replace the tree to wherever the Authority would like it.

Mr. Stires stated they removed the direct access to the library and per the boards' concerns have provided a connection point from the main entrance directly onto Halstead Street which will be ADA compliant. Mr. Stires advised the board the sewer lateral was previously installed in 2008, the applicant has worked with the water company and due to the pending Halstead Street resurfacing they have already installed the water connection into the property. Mr. Stires stated the lighting detail has been reduced to 15 foot poles and they have switched to LED lighting, which will be updated on the plan details.

Mr. Clerico stated that many of the bulk changes have been incorporated into the plan but a lot of little details needs to be added to the plan and suggested if approval is granted the plans should be subject to a detailed review by his office to make sure all the agreed upon items were incorporated into the plan.

Mr. Mellick inquired if any thought was given to reduce the size of the building, Mr. Stires stated they are giving the board the option to have a compliant height building of 40 feet or an alternate plan of a non-compliant height of 44 feet. Mr. Stires stated he believes the non-compliant height building is more aesthetically pleasing. Attorney Agar stated they will await input from the board but he believes the building looks nicer with the peaked roof.

Mr. Schaumburg inquired if the Geotechnical Engineer had a chance to look into the concerns that were expressed at the last meeting and if any additional information has been provided, Mr. Stires responded no further information has been provided only what was testified to at the last meeting, Mr. Schaumburg stated as part of this application the applicant proposes to use the existing footings and he would prefer to see the information and details on whether the existing footings were adequate. Mr. Pizzo stated if the footings are not adequate he has no problem ripping out the existing footing. Mr. Clerico commented if the footings cannot be used and have to be ripped out then that opens up the question to whether the placement of the building is suitable, and the applicant should confirm whether the footings are useable. Mr. Stires stated he will provide the concerns to the Geotechnical Engineer and get back to the board.

Mr. Hetzel questioned if a sidewalk could be provided on the south end of the parking lot, Mr. Stires stated that a sidewalk in this location would conflict with the landscaping and a sidewalk has been provided out of the front entrance directly onto Halstead Street.

Mr. Stires stated Mr. Maski's report dated April 28, 2015 (exhibit B1) outlines the bulk variances requested. The Use Variance and the FAR Variance was previously approved, the resolution that was adopted indicated the developer would set aside eight units as affordable housing, the number was originally based on thirty-seven units. Attorney Apgar stated he felt the intent of the board was to set aside 20% and since the number of units now proposed is thirty-five the applicant is designating seven units as COAH units. Mr. Maher inquired if the number eight was a significant number when the Board of Adjustment acted on the Use Variance application, Mr. Pizzo added the number was based on 20% at the time, Attorney Apgar stated it is inequitable to ask the applicant to provide more than 20% of affordable units to be set aside Attorney Apgar stated he has the transcripts and would like to review whether it was the intention of the board to set aside 20% or eight units as the total. Mr. Schaumburg stated he would like to know if eight units are now critical to the town, Mr. Clerico added the plan that was filed with the state and the courts specifically stated eight units and it is important that the board

clarify this number. Mr. Pizzo stated losing a unit to COAH will cost him a considerable amount of money, he felt it was not fair that he should be the only developer in NJ to offer more than his fair share of 20% and felt if the board insists on eight units he will consider pulling the application. Mr. Pizzo stated this has to be economically viable to move forward. Attorney Apgar & Mr. Clerico stated they will have to look into the impact of lowering the number and get back to the board.

The Board opened the meeting to the public:

Mr. Marc Brooks, Chief Engineer for the NJ Water Authority recapped the agreement between the developer and the Water Authority, they have agreed to fencing and a 20 foot gate; agree to install pavers and maintain the pavers and will provide snow removal on the pavers; no parking signs will be added, the tree will be replaced. Mr. Brooks added there is a signed agreement (exhibit B7) which should be part of the record.

Mr. Sean Rogan, Halstead Street, inquired about the average rental rate, Mr. Pizzo stated the average rent for a two bedroom will start at \$2,200 and go up from there. Mr. Rogan commented that since this location is a gateway into town if there was any way the building could be made more historically accurate.

Mr. McGuire, Center Street inquired about the water allocation, Mr. Clerico stated the applicant should have received confirmation from the Town, Mr. Pizzo responded yes we have a "Will Serve" letter provided by the Town Water Department.

Mr. Brad Cohen, Rachel Court, inquired about school age children, Attorney Apgar stated when the studies were originally provided based on the Bluestein report the statistics indicated 1.7 children would result from 10 units, Mr. Pizzo added the Bluestein report is no longer as accurate the new numbers are more like 2 children per 10 units and to be safe 6 would be a more accurate number.

Attorney Apgar asked the board to carry the meeting to September 1, 2015 in order to research the number of Affordable units this project needs to provide.

A Motion was made by Mr. Maher, seconded by Mr. Smith, to carry the meeting to September 1, 2015:

All Ayes. Motion Carried.

Mr. Feldmann & Mr. Schaumburg were unable to participate in the following agenda items and recused themselves from the meeting.

Informal Discussion – 82 West Clinton LLC – Block 6 Lot 1.01:

Attorney Marmora advised the board his applicant has spent a lot of time and money on the 7-Eleven application which was denied, his client has expressed interest in partnering with a Dunkin Donuts in conjunction with the gas station. The proposal would provide a smaller building and all the prior proposed site improvements would still be part of the new application. Attorney Marmora stated before the applicant spends a lot of time and money whether the board would be open to the new proposal, the board expressed concerns that the new proposal would not alleviate the traffic concerns that were expressed with the 7-Eleven application. Attorney Marmora thanked the board for their time.

Preliminary & Final Site Plan Application- H. Craig Stem- Block 6 Lot 1:

Attorney Dilts, Mr. John Pallus, Dynamic Engineering and Mr. Craig Stem, applicant were present. Attorney Dilts advised the board they were in receipt of Mr. Clerico's review letter dated July 5, 2015 and clarified with the board the revised site plan application. Attorney Dilts stated the applicant is not intending to change the front they are leaving it exactly as it exists now. Originally the proposed changes were tied in with the Shell/ 7-Eleven application but since that was denied the changes in the front are no longer needed. Attorney Dilts stated at this time we are not sure if Shell will come back but if they do we will offer them the Cross Easement and amend our plan in the future. Tonight Mr. Stem would like to move forward with converting his car wash from a full service wash to an express wash, leave the front exactly as is now, install the sentry arms, and vacuum stations in the rear, remove the propane dispensers and so no variance is needed they will relocate the dumpster.

Mr. John Pallus, Dynamic Engineering was previously sworn in, he presented exhibit A5 a colored rendering of the site plan dated June 12, 2015. Mr. Pallus stated the 2 yard dumpster is located on the west side of the property close to the residential area and we propose to relocate the dumpster to the north side of the building, east of the driveway and out of view, the dumpster will be entirely enclosed and will be rolled out by the employee when serviced, this will eliminate the need for the variance. Mr. Pallus stated the access from Route 173 will remain the same and the improvements on the southwest corner are no longer a consideration. The vacuum stations will be located in the rear, the lighting on the plan was part of the prior application since the activity of the car wash is during daytime hours the proposed lighting on the plan will be eliminated and the existing lighting to remain. The car wash hours of operation will be 7am-7:00pm and the vacuum stations will only be open when the car wash is open. Mr. Pallus stated the ordinance for parking requirements for a car wash operation is not clear, if we base it on retail requirements than the site would require 14.3 spaces, the site operates now with 8 spaces now and the proposed modifications will operate with 8 spaces, this is a pre-existing non-conforming condition, Mr. Pallus stated in his opinion there is adequate parking. Mr. Pallus stated the existing vegetation adjacent to the garage will remain, a six foot PVC fence with a solid screen

will be installed along the Northside property line to the east of the building and along the easterly rear property line, the landscaping by the prior proposed area of the dumpster will remain.

Attorney Dilts stated the plan will be updated to reflect the proposed modifications, the existing lighting and the new location of the dumpster will be added. Attorney Dilts asked the board to approve what is being presented tonight

There were no public comments.

A Motion was made by Mr. Smith, seconded by Mr. Hetzel, to approve the Site Plan as presented tonight:

Roll Call Vote:

Ayes: Sailer, Hetzel, Maher, Mellick, Smith

Nays:

5-0 Motion Passed.

Voucher Approval:

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

Board Discussion:

Mr. Clerico advised the board Mr. Maski is no longer with Van Cleef, for the purpose of continuity this year he holds a planner license and he will act as Van Cleef's Planner alongside Mr. Jim Kyle who has expertise with COAH.

Board Secretary advised the board that a few members have expressed concerns about being able to commit time for the meeting, the board agreed if the members cannot commit to at least 75% of the meeting than perhaps they should consider resigning to open the space to someone who can attend.

There being no further discussion, a Motion was made by Mr. Maher, seconded by Mr. Smith, to adjourn the meeting at 9:40pm.

Respectfully submitted,

Allison Witt
Land Use Administrator.