



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 October 6, 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 was present.

ROLL CALL:

Present: Sailer, Mayor Kovach, Carberry, Feldmann, Hetzel, Maher, Mellick, Smith, Schaumburg (could not participate in the sign discussion and arrived 7:20pm)

Absent: Blanco

Approval of Minutes:

A Motion was made by Mr. Carberry, seconded by Mr. Hetzel, to approve the September 1, 2015 minutes:

All Ayes.	Motion Carried
Abstain:	Mayor Kovach, Carberry

Sign Erection definition- Block 15 Lot 4- Clinton United Methodist Church:

The board reviewed the Town of Clinton's sign erection definition and determined the repair of the sign lighting and the different colored insert into the existing structure did not constitute a new sign, no further action required.

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

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

Attorney Howard Apgar was present.

The board was in receipt of a letter from Attorney Apgar and Attorney Caldwell regarding the question of whether the amount of affordable units in the resolution was a condition of the granting of the Use Variance and only needed the majority of votes to change the number of affordable units from 8 to 7 or whether it was part of the Use Variance that was granted and needed five affirmative votes. At the September meeting the vote on the reduction of the COAH units resulted in a four to one in favor vote. Attorney Caldwell advised the board after researching he did not find any previous cases that supported either decision, the applicant has taken the position that the number was a condition of the approval and it is up to the board to decide what interpretation you want to abide by.

Mr. Smith stated in the January 28, 2013 minutes part of the motion stated *“the approval to include up to 37 units which includes 8 affordable units ”* which suggests to me the board was voting according to the ratio plan and at the same meeting comments in the transcript made by Attorney Caldwell were: *“ we are talking about not more than 37 units and a low and moderate housing ratio of eight.* Mr. Smith stated the problem is the resolution states not less than 8 units however, the resolution does not reflect the Motion.

Mr. Maher stated that it leads him to believe the modification is a condition and the 4-1 vote in favor should stand. Mr. Smith agreed.

Mr. Hetzel stated he listened to the Use Variance Tapes and in Beth McManus’ testimony she spoke about the number of COAH units in ratios and COAH has determined that 20% is the maximum percentage.

Mr. Feldmann questioned if the resolution is the item the board should stand on, Attorney Caldwell stated the Resolution is the official adoption of the action taken, when you look at the history of a prior decision and you feel the resolution is inaccurate then it would not be unacceptable to consider the background. Mr. Feldmann stated based on his recollection the ratio is what we were aiming at.

Attorney Caldwell stated the board has an option to determine if the four to one vote was a condition or a Use Variance.

A Motion was made by Mr. Smith, seconded by Mr. Maher, that the number of COAH units to be dedicated was a condition of the Use Variance approval and that a 20% assignment reflects the intent of then the Board of Adjustment, and as such the four to one vote approving 7 COAH units stands.

Roll Call Vote:

Ayes: : Sailer, Feldmann, Hetzel, Maher, Mellick, Smith,

Nays:

All Ayes.

Motion Passed.

Use Variance Application- Block 22 Lot 18.02- D. Tomaro:

Applicant requested the application be carried to the November 3, 2015 applicant will be advised to re-notice.

Voucher Approval:

A Motion was made by Mr. Hetzel, seconded by Mr. Maher, the approve the attached voucher list:

All Ayes.

Motion Passed.

Board Discussion:

Mr. Maher advised the board that they are starting the preliminary work on interviewing 2016 planners, tonight the Mayor Kovach, Councilman Carberry, Councilman Smith and himself all met with Jim Kyle he will keep the board informed on future interviews.

Adjournment:

There being no further business a Motion was made by Mr. Smith, seconded by Mr. Maher to adjourn the meeting at 7:25pm.

Respectfully submitted,

Allison Witt
Land Use Administrator.