

MINUTES OF CLINTON TOWNSHIP BOARD OF ADJUSTMENT

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PUBLIC MEETING

DATE: February 22, 2016

Chairman McCaffrey called the meeting to order at 7:32pm.

Chairman McCaffrey led the Flag Salute.

Chairman McCaffrey read the Public Notice.

This is a public meeting of the Zoning Board of the Township of Clinton, County of Hunterdon and State of New Jersey. Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act in that an Annual Notice was published in the Hunterdon County Democrat and the notice of and agenda for this meeting was posted on the bulletin boards in the Municipal Building and outside the Planning and Zoning Office and faxed to the Hunterdon County Democrat, the Express Times, the Courier News, the Hunterdon Review, and the Star Ledger, no later than the Friday prior to the meeting.

BOARD MEMBERS IN ATTENDANCE:

Filus, Lefkus, Lewis, Matsen, McCaffrey, Roberts, Yager, Olsen

BOARD MEMBERS ABSENT:

Stevens

BOARD PROFESSIONALS IN ATTENDANCE:

Jon Drill, Cathy Marcelli via telephone, Denise Filardo, Board Administrator

APPROVAL OF VOUCHERS

Mr. McCaffrey moved and Mr. Matsen seconded a motion to approve the vouchers for payment. The Board concurred unanimously.

Roll Call: Payment of Vouchers						
Member	Motion	2nd	Yes	No	Abstain	Absent
McCaffrey	X		X			
Matsen		X	X			
Filus			X			
Lefkus			X			
Lewis			X			
Roberts			X			
Stevens						X
Yager			X			
Olsen			X			

RESOLUTIONS FOR MEMORIALIZATION

1. US FUEL, LLC, Block 69, Lot 3

Application No. BOA-2015-03, Resolution No. BOA-2015-14
Grant Of “D(1)” Use Variances, “C(2)” Variances, Site Plan Ordinance Exceptions, And Preliminary And Final Site Plan Approval

Eligible Members: Lefkus, Olsen, Roberts, Yager

Mr. Lefkus moved and Mr. Yager seconded a motion to adopt Resolution No. BOA-2015-14. The motion passed by a majority with Mr. McCaffrey, Mr. Matsen, Mr. Filus and Dr. Lewis abstaining.

Roll Call: Resolution No. BOA-2015-14						
Member	Motion	2nd	Yes	No	Abstain	Absent
McCaffrey					X	
Matsen					X	
Filus					X	
Lefkus	X		X			
Lewis					X	
Roberts			X			
Stevens						X
Yager		X	X			
Olsen			X			

2. PLATYPUS, Block 13.01, Lot 3

Application No. BOA-2015-09, Resolution No. BOA-2015-15
Bifurcated Preliminary And Final Site Plan Approval With Temporary “C(1)” Variances For Existing Septic System And Exceptions From Certain Site Plan Ordinance Landscape Buffer Requirements.

Eligible Members: Lefkus, Lewis, Matsen, McCaffrey, Roberts, Stevens, Yager

Mr. Matsen moved and Mr. Lefkus seconded a motion to adopt Resolution No. BOA-2015-15. The motion passed by a majority with Mr. Filus and Mr. Olsen abstaining.

Roll Call: Resolution No. BOA-2015-15						
Member	Motion	2nd	Yes	No	Abstain	Absent
McCaffrey			X			
Matsen	X		X			
Filus					X	
Lefkus		X	X			
Lewis			X			
Roberts			X			
Stevens						X
Yager			X			
Olsen					X	

RESOLUTION MODIFICATION REQUESTS

1. HALE, Block 29, Lot 31

Application No. 2015-12, Resolution No. BOA-2015-13

Applicant seeks modification of Condition No. 5a. of Resolution No. 2015-13, regarding posting of Performance Guaranty

Attorney John Thatcher representing the applicant, introduced himself. Attorney Thatcher asked that the applicant be relieved of the Performance Guaranty and it be passed on to the ultimate developer of the lots.

Attorney Drill read paragraph 5.a. of said resolution:

5. Performance and Maintenance Guarantees.

a. **Performance Guarantee.** Prior to signing of the subdivision plans by the Board Chairman and Secretary, and prior to issuance of any construction permit, a performance guarantee in a form and amount acceptable to the Township attorney and Township engineer shall be posted in accordance with N.J.S.A. 40:55D-53. Said performance guarantee shall cover all improvements reflected on the signed subdivision plans, including but not limited to grading, streets, pavement, gutters, curbs, sidewalks, street lighting, landscaping, surveyor’s monuments as reflected on the subdivision plans and required by the Map Filing Law, water mains, culverts, storm sewers, sanitary sewers or other means of sewerage disposal, drainage structures and storm water management facilities, erosion control and sedimentation control devices, and public improvements of open space.”

Attorney Drill asked “What distinguishes these applicants from other subdivision applicants?”

A discussion ensued regarding the need for a Performance Guaranty and if this condition were to be removed, what entity or person in the Township would be responsible for identifying and inspecting this. Attorney Drill stated that what we are ultimately talking about is a bond to cover the Stormwater Facility and the landscaping.

In conclusion, the Board determined that unless a reasonable mechanism is established and presented to the Board, this condition will remain in effect.

A motion was made by Chairman McCaffrey and seconded by Mr. Matsen to Deny the request without prejudice. The motion passed by a majority with Mr. Filus, Mr. Lefkus, Mr. Yager and Mr. Olsen abstaining.

Roll Call: Deny without Prejudice Resolution Modification Request No. BOA-2015-13						
Member	Motion	2nd	Yes	No	Abstain	Absent
McCaffrey			X			

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Matsen	X		X			
Filus			X			
Lefkus					X	
Lewis			X			
Roberts		X	X			
Stevens						X
Yager					X	
Olsen					X	

The modification request was denied by the Board without prejudice.

Attorney Drill stated that there is no need for a Resolution on this, it will be a motion in the minutes.

2. HIDDEN MEADOWS, Block 90, Lot 2

Applicant seeks to discuss Condition No. 1 of Resolution No. BOA-2015-08, regarding landscaping.

Attorney Drill stated that he spoke with Attorney George Dilts on the phone and this will be carried. I am not so sure he needs this modified. It might be moot because there is a contradiction in the resolution regarding signing the map in Condition 1.a. and 1.b

Let's extend the time for the map to be signed until April 26, 2016 and then have the Board secretary contact Mr. Dilts to see if the applicant requires condition No. 1. a. to be modified.

<i>Roll Call: Extend the time for the map to be signed until 4/26/16 Resolution No. 2015-08</i>						
Member	Motion	2nd	Yes	No	Abstain	Absent
McCaffrey			X			
Matsen	X		X			
Filus		X	X			
Lefkus			X			
Lewis			X			
Roberts			X			
Stevens						X
Yager			X			
Olsen					X	

TIME EXTENSION REQUEST

1. FOX MEADOW PROPERTIES, LLC Block 95, Lot 2

Applicant is seeking an extension of time of Condition No. 12 of Resolution No. 2014-01 to obtain building permits by February 28, 2016.

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Attorney John Gallina, representing the applicant introduced himself to ask for an additional extension of time to obtain building permits for a period of two years. Due to economic conditions they have not been able to apply for permits.

Chairman McCaffrey asked Attorney Drill to explain dates with regard to granting extensions of time.

Attorney Drill explained as follows: The MLUL dates are primarily the statutory protection period against zoning changes. For those they attach to a Preliminary Site Plan or Subdivision Approval, which this is not. Then there are Board Rule dates, and the case law says that the Board also has the authority to also impose a condition, if you don't get final approval within X time period, then this Board can say your approval terminates. The Supreme Court also says if the Board grants a variance, which is this case, the Board can impose a time limit as to when you can get construction permits and complete the construction and occupy. That is not an MLUL Time Protection Period. The purpose of the Board Rule dates is to avoid sleeping variances.

The Board found that this case was an excellent one for granting extensions because it is not a Use Variance, not an undersized lot, it's an oversized lot, no yard variances, it only has to do with the technicality that it does not have road frontage because it is not on a public street. It was a section 36 Variance under the MLUL because the property didn't front a fully improved street and a "C"1 variance from the zoning requirement that it have a minimum of 150 feet of frontage. The frontage issue is directly related to the fact that it is located on a right of way, not related to a street.

Chairman McCaffrey asked if Mr. Gallina is aware of anything that has changed significantly in the neighborhood. Mr. Gallina stated he believes everything is the same.

Mr. Roberts moved and Mr. Lefkus seconded a motion to grant a Two Year Time extension to Resolution No. 2014-01. The motion passed by a majority with Mr. Filus and Mr. Olsen abstaining.

Roll Call: 2 Year Time Extension Resolution No. 2014-01 until 2/28/18						
Member	Motion	2nd	Yes	No	Abstain	Absent
McCaffrey			X			
Matsen		X	X			
Filus			X			
Lefkus			X			
Lewis			X			
Roberts	X		X			
Stevens						X
Yager			X			
Olsen					X	

COMPLETENESS HEARING

1. HEATHER AND MICHAEL SEGAL, Block 3.01, Lot 20
Application # 2015-15

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Applicant is seeking a variance to construct an attached garage to their pre-existing nonconforming home.

Michael Segal, homeowner 51 Deerhill Road, Lebanon, NJ, described the project proposing to build an attached garage with breezeway to their home which is a pre-existing non-conforming 1906 Carriage House.

A motion was made by Mr. Matsen and seconded by Mr. Filus to waive checklist item 3J regarding topography and deem the application complete. The motion passed by a majority with Mr. Olsen abstaining.

Roll Call: Completeness Hearing - Segal						
Member	Motion	2nd	Yes	No	Abstain	Absent
McCaffrey			X			
Matsen	X		X			
Filus		X	X			
Lefkus			X			
Lewis			X			
Roberts			X			
Stevens						X
Yager			X			
Olsen					X	

Attorney Drill stated there will be no resolution for Completeness it will be rolled into one with the Public Hearing.

PUBLIC HEARING

1. HEATHER AND MICHAEL SEGAL, Block 3.01, Lot 20
Application # 2015-15

Applicant is seeking a variance to construct an attached garage to their pre-existing nonconforming home.

Applicant published notice in the newspaper, notified the 200 foot list but forgot to notify the utilities.

It was noted that there is no one here in the public tonight.

Attorney Drill stated that this hearing will be carried to the March 28, 2016 Board of Adjustment meeting without the need to notice to the 200 footers, without the need to notice to the newspapers, but With the need to notice to the utilities.

ADJOURNMENT

A motion was made by Chairman McCaffrey and seconded by Mr. Yager to adjourn. The motion passed unanimously and the meeting was adjourned at 8:34pm.

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Roll Call: Adjourn						
Member	Motion	2nd	Yes	No	Abstain	Absent
McCaffrey	X		X			
Matsen			X			
Filus			X			
Lefkus			X			
Lewis			X			
Roberts			X			
Stevens						X
Yager		X	X			
Olsen			X			

These minutes were approved on July 26, 2016.

Respectfully submitted,

Denise Filardo

Planning and Zoning Board Administrator