

MINUTES

CLINTON TOWNSHIP PLANNING BOARD

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October 19, 2015

7:32PM

PUBLIC SAFETY BUILDING

1370 Route 31N

Annandale, NJ 08801

DATE: October 19, 2015

Chairman Cimei called the meeting to order at 7:31pm.

Chairman Cimei led the Flag Salute.

Chairman Cimei read the Public Notice.

This is the October 19, 2015 public meeting of the Planning 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 faxed to the Hunterdon County Democrat, the Express Times, and the Star Ledger no later than the Friday prior to the meeting.

Secretary Filardo called the roll.

MEMBERS PRESENT

Cimei, Higgins, Kleinhans, Mullay, and Scheick

Mr. D'Alleinne arrived at 7:36pm

MEMBERS ABSENT

Butcher, Kilduff

BOARD PROFESSIONALS/STAFF IN ATTENDANCE

Jonathan Drill, Esq., Board Attorney, Andrea Malcolm, PP, AICP, Board Planner, and Denise Filardo, Board Secretary

RESOLUTION MEMORIALIZATION

BEAVER BROOK MASTER ASSOCIATION, Block 79.01, Lot 1

Resolution No. 2015-14, Application No. 2015-05

Waiver of Site Plan, Repair & Maintenance of Tennis Courts

Mr. Mardini moved and Mr. Mullay seconded a motion to approve Resolution No. 2015-14 2015-14. The vote record follows.

Roll Call: Beaver Brook Master Assn. Blk. 79.01, Lot 1						
Reso. No. 2015-14						
Member	Motion	2nd	Yes	No	Abstain	Absent
Butcher (Alt 2)						X
D'Alleinne						X
Higgins		X	X			
Kilduff (Alt 1)						X
Kleinhans			X			
Mardini					Not Eligible	
Mullay	X		X			
Scheick					Not Eligible	
Cimei			X			

REQUEST FOR EXTENSION OF TIME

HANNA MEMORIAL CANCER CLINIC, Block 47.02, Lot 1
 Application No. 2014-04

Applicant is requesting an additional extension of the time in condition #2 of the Resolution No. 2014-09 of final approval to have the final plans signed.

William Gianos, Esq. applicant’s attorney explained the reason for the requested extension of time. All of the revisions to the site plans have been made, however the site plans have not yet been signed because there has been a delay working on the required bonds that must be posted.

BOARD FINDINGS

The Board finds that good cause exists to further extend the time within which the applicant has to obtain signatures on the preliminary site plans for approximately 3 additional months, from October 6, 2015 to December 31, 2015, on the basis that, while all of the revisions to the site plans have been made, the site plans have not yet been signed because there has been a delay working on the required bonds that must be posted. The Board believes that the final approval should not be voided where the applicant has indicated its intent to proceed with the proposed development and has only the bonds to post in order to obtain signatures on the site plans.

RELIEF GRANTED

Modification of Condition #2 of Resolution No. 2014-09 to extend the time within which the site plans must be signed from April 6, 2015 to December 31, 2015.

Mr. D'Alleinne moved and Ms. Kleinhans seconded a motion to grant the requested extension of time. The vote record follows.

Roll Call: Hanna Memorial Cancer Clinic Blk 47.02, Lot 1 Extension of Time of Resolution No. 2014-09						
Member	Motion	2nd	Yes	No	Abstain	Absent
Butcher (Alt 2)						X
D'Alleinne	X		X			
Higgins			X			
Kilduff (Alt 1)						X
Kleinhans		X	X			
Mardini			X			
Mullay					Recused	
Scheick			X			
Cimei			X			

RESOLUTION MEMORIALIZATION

HANNA MEMORIAL CANCER CLINIC, Block 47.02, Lot 1

Resolution No. 2015-14, Application No. 2014-04

Modification of condition #2 of Resolution No. 2014-09 to extend the time within which the site plans must be signed.

Mr. D'Alleinne moved and Mr. Scheick seconded a motion to grant the requested extension of time. The vote record follows.

Roll Call: Hanna Memorial Cancer Clinic, Blk 47.02, Lot 1 Reso. No. 2015-14						
Member	Motion	2nd	Yes	No	Abstain	Absent
Butcher (Alt 2)						X
D'Alleinne	X		X			
Higgins			X			
Kilduff (Alt 1)						X
Kleinhans			X			
Mardini			X			
Mullay					Recused	
Scheick		X	X			
Cimei			X			

Mr. Mullay re-joined the meeting at 7:44pm.

RESOLUTION MODIFICATION REQUEST

SJN PROPERTIES, LLC, Block 90, Lot 2.01

Applicant's attorney is requesting a modification to paragraph 7 of Resolution No. 2013-23

Applicant's attorney, George Dilts, Esq. requested an adjournment until Nov. 16th.

REQUESTS FOR EXTENSION OF TIME

COUNTRY GRIDDLE - CLINTON POINT, LLC, Block 76, Lot 2

Application No. 2008-05

Applicant is requesting a second modification of Condition 1 or Resolution No. 2017-07 requesting an additional extension of time within which to obtain signatures on the Site Plan.

William P. Robertson, Esq., the applicant's attorney explained the applicant's delays.

This second extension request seeks to modify condition #1 of Resolution No. 2014-07 to further extend the time within which the applicant must revise the site plan and obtain signatures on the site plan by an additional 45 days, from September 15, 2015 to October 31, 2015. The basis of the applicant's second extension request is that it could not revise the site plans until the Township determined whether to approve the partial vacation of the Center Street right-of-way to allow an increase in the number parking spaces from 33 to either 39 or 42, depending upon whether or not the Township vacates the portion of the right of way. The Township did not adopt an ordinance partially vacating the right-of-way until August 12, 2015. Shortly thereafter, the applicant's engineer completed the plan revisions and submitted same to the Township Engineer for review and approval but, by that time, it was beyond the September 15, 2015 date so the Township Engineer could not sign the plans. The second extension request requests sufficient additional time for the Township Engineer to sign her approval of the plan revisions and to allow the Board Chair and Secretary to also sign the revised plans.

Based on the above, the Board found that the extension of time is both warranted and appropriate. As such the Board agreed to grant the modification of condition #1 of Resolution No. 2014-07 to further extend the time within which the applicant must revise the site plan and obtain signatures on the site plan by an additional 45 days, from September 15, 2015 to October 31, 2015.

Mr. Mardini moved and Mr. Scheick seconded a motion to grant the requested extension of time. The vote record follows.

<i>Roll Call: Country Griddle, Blk 76, Lot 2 - Grant of Extension of Time</i>						
Member	Motion	2nd	Yes	No	Abstain	Absent
Butcher (Alt 2)						X
D'Alleinne			X			
Higgins			X			
Kilduff (Alt 1)						X
Kleinhans			X			

Mardini	X		X			
Mullay			X			
Scheick		X	X			
Cimei			X			

CLINBAR, INC., Block 29, Lot 34

Application No. 2006-07

Applicant is requesting an additional extension of time within which to comply with conditions 10 & 12 of Resolution No. 2007-13 relating to obtaining signed plans & completing construction improvements. The entirety of Resolution No. 2007-13 is incorporated in Resolution No. 2015-09

As explained in a September 25, 2015 letter from the applicant’s attorney S. M. Christopher Franzblau, the issue causing further delay is the fact that the applicant must repair the on-site septic system which was found to have failed. Because the septic system handles over 2,000 gallons per day of sewerage, the repair could not be approved locally by the Hunterdon County Division of Public Health but, rather, had to be reviewed and approved by the NJDEP which took additional time that was not anticipated at the time of the second extension. Further, as part of the repair process, a substantial amount of soil must be moved which required the applicant to apply for and obtain soil disturbance and grading plan approval. During that process, it was revealed that there would be a proposed soil stockpile area and that the grading would require the removal of a number of trees for which amended site plan approval would be required. While the applicant indicated to the Township Engineer that it could re-design the stockpile area so that fewer trees would have to be removed, the fact is that the stockpile could not be designed so that no trees would be removed by the required grading. The applicant will be required under Township ordinance section 165-77.D to plant replacement trees. Due to the removal of trees and the addition of replacement trees, the applicant would have to submit an application to the Board for either amended preliminary site plan approval (which would require notice) or amended final site plan approval (which would not require notice), depending on the extent of the tree removal and replacement. The fact that an amended application of one sort or the other will be required will delay the completion of the improvements because the applicant wants to construct / install all improvements at the same time, including the septic repair. The applicant does not want to bifurcate or phase the construction. As such, the applicant requires and has submitted the third extension request.

BOARD FINDINGS

- The Board’s desire and goal is to incentivize the applicant to complete the required site plan revisions and the required improvements and to create an environment that will result in another restaurant opening and operating on the property. Good cause exists to warrant modification of the conditions at issue to further extend the time.
- an extension through March 1, 2016 is the appropriate amount of time because that should give the applicant enough time to submit application for and obtain amended site plan approval and to complete all of the improvements.

- the proposed modifications of the conditions at issue to extend the time within which the required actions must be completed to March 1, 2015 are not only appropriate but, more significantly, the Board finds that, in the event that the time limitations contained in the conditions at issue are not extended, the appropriate purposes behind the conditions will be frustrated.
- without an extension of the time, the applicant will have to apply to the Board to re-grant the 2007 approvals and the Board will have to re-hear such application, which the Board finds will be a waste of time and resources in the event that it can extend the time limitations at issue to save the approval without that result being inconsistent with its intent in imposing the conditions in the first instance.
- there have been no changes in the zoning ordinance regulations affecting the property (with the one exception being signage which can be dealt with through the imposition of a condition), and there have been no changes in the development of lots located in the area surrounding the property. As such, the Board finds and concludes that it is likely that the Board would re-grant the 2007 approvals, so extending the time periods at issue will ultimately save time which can be devoted by the Board to more productive use.

BOARD CONCLUSION

The Board concludes that it can and should modify conditions #10 and #12 of Resolution No. 2007-13 to further extend the time within which the applicant has to revise and obtain signatures on the plan and complete the construction of the improvements through March 1, 2016.

RELIEF GRANTED

The Board granted a further extension of the time within which the applicant has to revise and obtain signatures on the plan and complete the construction of the improvements through March 1, 2016.

Mr. Mullay moved and Mr. D'Alleinne seconded a motion to grant the requested extension of time. The vote record follows.

<i>Roll Call: Clinbar Blk 29, Lot 34 – Grant extension of time until March 1st, 2016</i>						
Member	Motion	2nd	Yes	No	Abstain	Absent
Butcher (Alt 2)						X
D'Alleinne		X	X			
Higgins			X			
Kilduff (Alt 1)						X
Kleinhans			X			
Mardini			X			
Mullay	X		X			
Scheick			X			
Cimei			X			

PUBLIC HEARING

OAK KNOLL VILLAGE, Block 82.13, Lot 64

Application # 2015-10

Applicant seeks Waiver of Site Plan Approval, for normal repair and maintenance of street lights, replacement of lamps.

Cameron MacLeod, Esq., applicant's attorney explained the application.

Oak Knoll Village is a residential condominium community development. There are 75 existing light poles with lamps. The applicant is seeking a Waiver of Site Plan to replace the existing 150 watt lamps with 26 watt LED luminaires. The proposed fixtures are of similar output to the existing fixtures and should not negatively impact the existing lighting levels.

The following individual was sworn and testified:

- Anthony Maglio, owner of Maglio Electric
Mr Maglio has been retained by Oak Knoll Village Association to replace the lighting fixtures. Mr. Maglio explained the progression of lighting technology over the years. The life expectancy on LED lights is 40-50 years

There was discussion between Board members and Mr. Maglio regarding the color, brightness and efficiency of the proposed lighting versus the existing lighting. The lumen output seems brighter due to the color. The LED lighting is much more efficient.

Chairman Cimei asked for a brief recess at 8:14pm. The meeting resumed on the record at 8:17pm.

Waiver of Site Plan Review Standards:

- 1) The approving authority may waive the requirement of site plan review, in part or in its entirety, if the Board finds that the proposed development:
 - (a) Secured previous Site Plan approval under the terms of this title and the proposed development will have insignificant impact on the previously approved site plan; **or**
 - (b) Involves normal repair, maintenance or replacement; **or**
 - (c) Will not affect existing circulation, parking, drainage, building arrangements, landscaping, buffering, lighting and other considerations of site plan review.
- 2) An applicant requesting such a waiver shall provide to the approving authority:
 - (a) An approved site plan, if one exists, along with the resolution of approval for said plan.
 - (b) A written description of proposed operation and use.
 - (c) A written description of, and grounds for, waiver request.

BOARD FINDINGS

Of the three (3) Waiver of Site Plan standards the applicant presented, the Board agreed that this application is functionally equivalent to normal repair, maintenance and replacement and therefore the second standard will be applied.

BOARD CONCLUSIONS

Based on the documents submitted and the testimony provided during this hearing the Board concludes that that this application is functionally equivalent to normal repair, maintenance and replacement and therefore the Board can and should grant Waiver of Site Plan.

RELIEF GRANTED

Board hereby grants a waiver of site plan review and approval in accordance with ordinance section 165-36.1.A(3) to allow the proposed lighting to the existing 150 watt lamps with 26 watt LED luminaires in accordance with the plans referenced above.

Attorney MacLeod asked that the Zoning & Construction permits be issued prior to resolution. The Board agreed to ask the Zoning Officer and Construction Code Official to and asked the Ms. Filardo to proceed as if the resolution was adopted.

Mr. Mullay moved and Mr. D'Alleinne seconded a motion to grant the requested extension of time. The vote record follows.

<i>Roll Call: Oak Knoll Village, Blk 82.13, Lot 64 - Waiver of Site Plan</i>						
Member	Motion	2nd	Yes	No	Abstain	Absent
Butcher (Alt 2)						X
D'Alleinne		X	X			
Higgins			X			
Kilduff (Alt 1)						X
Kleinhans			X			
Mardini			X			
Mullay	X		X			
Scheick			X			
Cimei			X			

PROPOSED ORDINANCE AMENDMENTS

SUMMARY / RATIONALE

Andrea Malcolm, Board Planner reviewed her memo, attached here within, containing the proposed ordinance amendments.

Discussion ensued between Ms. Malcolm, Board members and Attorney Drill. Upon completion of discussion, the Board advised Ms. Filardo to draft a letter to the Governing Body to convey that the Planning Board recommends these changes to the Ordinance.

NEW BUSINESS

Approval of Vouchers

Mr. D’Alleine moved and Mr. Higgins seconded a motion to approve payment of the vouchers. The vote record follows.

<i>Roll Call: Vouchers</i>						
Member	Motion	2nd	Yes	No	Abstain	Absent
Butcher (Alt 2)						X
D’Alleinne	X		X			
Higgins		X	X			
Kilduff (Alt 1)						X
Kleinhans			X			
Mardini			X			
Mullay			X			
Scheick			X			
Cimei			X			

REPORTS

1. Report from Council - Mr. Higgins discussed determining if The Beaver Brook Homestead property in an area of need of re-development. The developer is taking responsibility of the notices.
2. Report from Ordinance Subcommittee – Reviewed this evening, see above.
3. Report from Open Space – No meeting, nothing to report.
4. ReExam Committee -
5. Report from Environmental Commission – Mr Mullay gave brief update from last meeting.

EXECUTIVE SESSION

Closed Executive Session for attorney (Jon Drill), client privileged advice regarding Mount Laurel Declaratory Judgment litigation and the 2015 HPE&FSP.

Mr. D’Alleine moved and Mr. Scheick seconded a motion to enter into Closed Executive Session. The vote record follows.

<i>Roll Call: Enter Closed Executive Session</i>						
Member	Motion	2nd	Yes	No	Abstain	Absent
Butcher (Alt 2)						X
D’Alleinne	X		X			
Higgins			X			
Kilduff (Alt 1)						X
Kleinhans			X			
Mardini			X			

Mullay			X			
Scheick		X	X			
Cimei			X			

The Board entered closed session at 8:55pm and completed at 9:57pm

ADJOURNMENT

Ms. Kleinhans moved and Mr. Scheick seconded a motion to adjourn. The vote record follows and the meeting was adjourned at 9:58pm

<i>Roll Call: Adjournment</i>						
Member	Motion	2nd	Yes	No	Abstain	Absent
Butcher (Alt 2)						X
D'Alleinne			X			
Higgins			X			
Kilduff (Alt 1)						X
Kleinhans	X		X			
Mardini			X			
Mullay			X			
Scheick		X	X			
Cimei			X			

Respectfully Submitted,
Denise Filardo
 Planning Board Secretary

These minutes approved on April 17, 2017