

**MINUTES OF CLINTON TOWNSHIP BOARD OF ADJUSTMENT**

[www.clintontwpnj.com](http://www.clintontwpnj.com)

**PUBLIC MEETING**

**October 26, 2015**

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:**

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

**BOARD MEMBERS ABSENT:**

Filus

**BOARD PROFESSIONALS AND STAFF IN ATTENDANCE:**

Jon Drill, Esq., Board Attorney, Trishka Cecil, Esq., Township Attorney, Cathy Marcelli, PE, Board Engineer, Andrea Malcolm, PP, AICP, Board Planner, Brian Bosenberg, CLA, Board Landscape Architect and Denise Filardo, Board Secretary, Michael Wright, Township Construction Code Official, and Tom Silvia, Township Zoning Officer

**APPROVAL OF VOUCHERS**

Mr. McCaffrey moved and Mr. Matsen seconded a motion to approve the vouchers for payment. The vote record follows.

<b><i>Roll Call: Payment of Vouchers</i></b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey	X		X			
Matsen		X	X			
Filus						X
Lefkus			X			
Lewis			X			
Roberts			X			
Stevens			X			
Yager (Alt 1)			X			
Olsen (Alt 2)					Not Eligible	

**RESOLUTION MEMORIALIZATION**

**1. CELLCO PARTNERSHIP D/B/A VERIZON, Block 4.03, Lot 36.01**

Application No. 2015-15, Resolution No. 2015-10

Grant and denial of Completeness Waivers for Application for an upgrade of a wireless communication facility, Transfer the Application to the Planning Board and Extension of the Time within which the Planning Board has to decide the Application

*Eligible Members: Lefkus, Matsen, McCaffrey, Olsen, Roberts, Yager*

Mr. Matsen moved and Mr. Yager seconded a motion to adopt Cellco/Verizon Wireless Resolution No. 2015-10. The vote record follows.

<b>Roll Call: Adopt Resolution No. 2015-10 Cellco/Verizon Wireless, Block 4.03, Lot 36.01</b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey			X			
Matsen	X		X			
Filus						X
Lefkus			X			
Lewis					Not Eligible	
Roberts			X			
Stevens					Not Eligible	
Yager (Alt 1)		X	X			
Olsen (Alt 2)			X			

**INTERPRETATION**

**1. TOWNSHIP OF CLINTON, INTERPRETATION REQUEST**

**Subject Property, Serrani, Block 16, Lot 70**

Application # 2015-13

The Zoning Officer seeks an interpretation of the regulations applicable to the RC Zoning district to determine whether Round Valley Ranch/Round Valley Trail Rides is a prohibited commercial use requiring a use variance, or whether it is a permitted agricultural use.

Alternate Board member, Mr. Yager recused himself.

Attorney Drill described the application and explained the dispute between the two (2) neighbors, Joseph Serrani and Marilyn Herr.

Tom Silvia, Township Zoning Officer submitted an application interpretation to the Board (the seeking an interpretation of whether Joseph Serrani can conduct a horseback trail ride operation in accordance with the applicable provisions of the Clinton Township zoning ordinance. The property is located in the Rural Conservation zoning district. Marilyn Herr, a neighbor of Mr. Serrani, owns abutting Block 16, Lot 73. Ms. Herr submitted an application

to the Board seeking to appeal from the failure of the Zoning Officer to act on issues related to the operation of horseback trail rides by members of the public on the property.

The following letters, attached herewith, were reviewed and discussed:

- 1) Letter dated 9/28/15 from Anthony Sposaro, Esq., (attorney representing Mr. Serrani) to Zoning Officer.
- 2) Letter dated from Steven Goodell, Esq., (attorney representing Ms. Herr)
- 3) Letter from Attorney Sposaro dated 10/22/15 to the HCADB including submission of the applications:
  - a) Commercial farm certification and request for Site to Site Specific Agricultural Management Practice application for hearing
  - b) 2015 and 2016 applications for farmland assessment for the Readington Township property
  - c) 2015 and 2016 applications for farmland assessment for the Clinton Township property
- 4) Letter from Mr. Sposaro dated 10/22/15 to Ms. Filardo, CT BOA Secretary requesting that the Interpretation application be tabled until the CADB has the opportunity to review Mr. Serrani's application.
- 5) Letter from Attorney Goodell dated 10/22/15
- 6) Letter from Attorney Sposaro dated 10/26/15 to Chairman McCaffrey regarding request for Board to wait to hear this application until the HCADB considers Mr. Serrani's application and because Attorney Sposaro is not able to attend tonight's meeting and Mr. Serrani should be afforded the opportunity to be represented by counsel.
- 7) Letter from Attorney Sposaro dated 10/26/15 to Ms. Filardo re: inability to make adjournment request in person.

Attorney Goodell, representing Ms. Herr introduced himself. He stated the following:

- This began back in July when I sent letter to Mr. Silvia to look into this. We believe the use of this horseback trail ride business is improper and we certainly cannot have the Board wait to make a decision.
- Mr. Steffy stated in his 10/23/15 email that the earliest the CADB will get to the SSAMP hearing is January 14, 2016.

Discussion ensued as to whether the Board should hear the application tonight.

Mr. Chairman asked Attorney Drill if the Board can delay the hearing by law, and Attorney Drill advised yes, if the Board so desires.

The Board decided to schedule a special meeting and postpone the hearing November 10, 2015. Should Attorney Sposaro not be available to attend on November 10, 2015, the hearing will be scheduled for another special meeting on November 30, 2015.

It was noted that the hearing of this interpretation does not require notice

Secretary Filardo was advised by the Board to send a letter to Attorney Sposaro tomorrow regarding the new hearing date. The Board also advised Secretary Filardo to cancel the November 23, 2015 meeting.

**PUBLIC HEARINGS**

**1. PLATYPUS, Block 13.01, Lot 3**

1460 Route 22 West

Application No. 2015-09

Applicant seeks approval for a Preliminary and Final Site Plan.

Neil Yoskin, Esq., the applicant's attorney introduced himself along with two witnesses, Mr. Glen Likus, and Mr. Stephen Parker.

The following individuals were sworn:

- 1) Glen Likus (applicant's managing member),
- 2) Stephen E. Parker, PE, PP (applicant's engineering and planning expert)
- 3) Andrea Malcolm, PP, AICP (Board's planning expert)
- 4) Cathleen Marcelli, PE, CME (Board's engineering expert)
- 5) Brian Bosenberg, LLA (Board's landscape architectural expert)

Attorney Yoskin explained the project and reviewed the variances previously approved by the Board.

This property located C-2 commercial zoning district obtained from the BOA bifurcated "D(1)" variances memorialized in Board Resolution No. 2015-09 adopted on September 28, 2015, to allow the applicant to change the use of the property from a prohibited bus depot to two other prohibited uses and two unrelated principal buildings, as follows:

- construct an addition to the existing garage building and convert it to a washing, maintenance and repair garage for use by the applicant's construction /excavation business.
- use of an above ground storage fuel tank related to the construction/excavation business
- conversion of a former residential building that was previously used as an office into two moderate income rental apartments

**EXHIBIT:**

- A-1 Sheet 3 of 8 of the site plans marked in green with changes to the parking stall location and tank location;

Mr. Parker offered his qualifications which were accepted by the Board.

Mr. Parker's testimony included a discussion of the application, revisions to the plans and a detailed explanation of the relief requested:

- Bifurcated preliminary and final site plan approval
- "C(1)" variance(s) to allow the existing septic system to remain in its current location, which location is entirely within the westerly side yard setback area
- Exceptions from certain site plan ordinance landscape buffer requirements

BOARD FINDINGS:

The “C(1)” Variance

- The long length of time the septic system has existed constitutes an extraordinary and exceptional situation uniquely affecting the property. As such strict enforcement of the side setback would result in exceptional and undue hardship as the applicant would be required to remove the existing system just to comply with the setback. The septic system is not even visible from anywhere on the site or from any neighboring properties. In the event that the septic system is found deficient so that it needs to be repaired, expanded or replaced, the hardship will no longer exist. As a result, the Board finds that a “C(1)” variance is warranted on a temporary basis only to alleviate the hardship for as long as the existing septic system remains in as-is condition. This temporary variance shall expire and become null and void in the event that the septic system needs to be repaired, expanded or replaced.
- The Board finds that the “C(1)” variance can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the master plan and zoning ordinance if it is granted on a temporary basis only.

Site Plan Ordinance Landscape Exceptions

- The applicant has submitted a detailed landscape plan which satisfies the majority of the site plan ordinance landscape requirements but requires exceptions from certain site plan ordinance landscape requirements.
- The Board finds that it is reasonable to grant exceptions from landscape buffer requirements A, B, C, D, E, F,G, H and I, provided that the imposed conditions are complied with, granting the exceptions will be consistent with the intent and purpose of the provisions for site plan review.
- The Board finds that the exceptions from the site plan ordinance landscape requirements listed above can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the master plan and zoning ordinance

Preliminary & Final Site Plan

- Except for the relief discussed above, the Board finds that the proposed development will comply with all other applicable Township ordinance provisions as long as the imposed conditions (which require revisions to the site plans and other documents) are complied with.
- The Board further finds that preliminary and final site plan approval can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the master plan provided the imposed conditions are complied with.

Recess was taken at 9:02pm. The Public Hearing resumed at 9:12pm.

RELIEF GRANTED

- Temporary “C(1)” Variances from Zoning Ordinance Side Yard Setback Regulations for Existing Septic System subject to conditions
- Exceptions from Site Plan Ordinance Landscape Requirements subject to conditions
- Preliminary and Final Site Plan Approval subject to conditions is granted to allow construction of the proposed development.

Mr. Roberts moved and Ms. Stevens seconded a motion to grant temporary “C(1)” Variances, Exceptions and Preliminary & Final Site Plan approval. The vote record follows.

<b>Roll Call: Platypus, Blk 13.01, Lot 1, Preliminary &amp; Final Site Plan</b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey			X			
Matsen			X			
Filus						X
Lefkus			X			
Lewis			X			
Roberts	X		X			
Stevens		X	X			
Yager (Alt 1)			X			
Olsen (Alt 2)					Not Eligible	

**2. US FUEL/CLINTON FUEL, Block 69, Lot 3**

Application No. 2015-03

Applicant seeks approval for Preliminary and Final Site Plan approval with “C” and “D” Variances.

This hearing is continued from September 28, 2015.

The applicant seeks the following:

- a) To convert the unused 3-bay repair garage portion of the building to a principally permitted convenience store
- b) To add a prohibited propane tank filling station to the site to be located in the southeast corner of the property, technically in the front yard, but not in the front yard setback area, adjacent to Route 31
- c) To install a prohibited second freestanding sign at the Halstead Street entrance to the property which is well into the required 15 foot sign setback area.

The following individuals were sworn and testified on September 28, 2015 and still remain under oath:

- 1) Nishant Tyagi (Applicant’s managing member)
- 2) Wayne Ingram, PE, PP (Applicant’s engineering and planning expert)
- 3) Cathleen Marcelli, PE, CME (Board’s engineering expert)

- 4) Andrea Malcolm, PP, AICP (Board’s planning expert)
- 5) Brian Bosenberg, LLA (Board’s landscape architectural expert)

**EXHIBITS**

Note: The following exhibits were all prepared by Wayne Ingram of Engineering and Land Planning Associates, Inc.

- A-1 Color rendered site plan dated April 29, 2015
- A-2 One sheet alternate sign plan titled, Proposed Base Mounted Pricing Sign on Halsted Street, dated August 12, 2015
- A-3 Amended Preliminary and Final Major Site Plan, which is amended sheet 4 of 6 of the Site Plan, last revised October 8, 2015
- A-4 Freestanding Price Sign Exhibit, dated October 8, 2015

**RELIEF GRANTED:**

Note: All relief granted is subject to compliance of imposed conditions.

- Three “D(1)” Use Variances:
  - a. To allow the proposed propane filling station as a prohibited accessory use to the prohibited gas station use
  - b. To allow to the prohibited gas station allowed by prior “D(1)” Variance to expand to include the proposed propane filling station
  - c. To allow use of the above ground propane tank for retail sale of propane
- Four “C(2)” Variances:
  - a. Fence Variance
  - b. Sign Variances
  - c. Impervious Coverage Variance
  - d. Parking Variance
- Exceptions from Site Plan Ordinance Landscape Buffer Requirements
- Preliminary and Final Site Plan Approval

Mr. Matsen moved and Mr. Olsen seconded a motion to grant Three “D(1)” Variances. The vote record follows.

<b><i>Roll Call: US Clinton Fuel, Blk 69, Lot 3 – Three “D(1)” Variances</i></b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey			X			
Matsen	X		X			
Filus						X
Lefkus			X			
Lewis					Not Eligible	
Roberts			X			
Stevens					Not Eligible	
Yager (Alt 1)			X			
Olsen (Alt 2)		X	X			

Mr. Roberts moved and Mr. Lefkus seconded a motion to grant Three “C(2)” Variances (excluding the Signage variance). The vote record follows.

<b>Roll Call: US Clinton Fuel, Blk 69, Lot 3 – Three “C(2)” Variances (excluding the “C(2)” signage variance)</b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey			X			
Matsen			X			
Filus						X
Lefkus		X	X			
Lewis					Not Eligible	
Roberts	X		X			
Stevens					Not Eligible	
Yager (Alt 1)			X			
Olsen (Alt 2)			X			

Mr. Yager moved and Mr. Olsen seconded a motion to grant the “C(2)” Signage Variance. The vote record follows.

<b>Roll Call: US Clinton Fuel, Blk 69, Lot 3 - “C2” Signage Variance</b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey				X	Opposed	
Matsen				X	Opposed	
Filus						X
Lefkus			X			
Lewis					Not Eligible	
Roberts			X			
Stevens					Not Eligible	
Yager (Alt 1)	X		X			
Olsen (Alt 2)		X	X			

Mr. Yager moved and Mr. Roberts seconded a motion to grant Preliminary & Final Site Plan and Exceptions. The vote record follows.

<b>Roll Call: US Clinton Fuel, Blk 69, Lot 3 – Preliminary &amp; Final Site Plan Approval and Exceptions</b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey			X			
Matsen			X			
Filus						X
Lefkus			X			
Lewis					Not Eligible	
Roberts		X	X			
Stevens					Not Eligible	
Yager (Alt 1)	X		X			
Olsen (Alt 2)			X			



**ADJOURNMENT**

Mr. Lefkus moved and Mr. Yager seconded a motion to adjourn and the meeting concluded at 10:40pm. The vote record follows.

<b><i>Roll Call: Adjournment</i></b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey			X			
Matsen			X			
Filus						X
Lefkus	X		X			
Lewis			X			
Roberts			X			
Stevens			X			
Yager (Alt 1)		X	X			
Olsen (Alt 2)					Not Eligible	

Respectfully Submitted,

Denise Filardo, Board Secretary

These Minutes were approved on February 27, 2017