

MINUTES OF CLINTON TOWNSHIP BOARD OF ADJUSTMENT

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PUBLIC MEETING

December 14, 2015

Chairman McCaffrey called the meeting to order at 7:30pm.

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, Olsen, Roberts, Stevens, Yager

BOARD MEMBERS ABSENT:

None.

BOARD PROFESSIONALS IN ATTENDANCE:

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

APPROVAL OF VOUCHERS

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

Roll Call: Payment of Vouchers						
Member	Motion	2nd	Yes	No	Abstain	Absent
McCaffrey	X		X			
Matsen			X			
Filus			X			
Lefkus		X	X			
Lewis			X			
Roberts			X			
Stevens			X			
Yager (Alt 1)					X	
Olsen (Alt 2)					X	

COMPLETENESS

SCOTT AND DAWN HALE, Block 29, Lot 31

1310 Route 31 North and Allerton Road

Application # 2015-12

Applicant seeks Preliminary and Final Major Subdivision approval with “C” and “D” Variances

In accordance with Cathy Marcelli’s Completeness memo comments having no objections to the Board waiving any of the requested checklist item waivers, the Board agrees that said waivers should be granted.

Ms. Stevens moved and Mr. Matsen seconded a motion to grant completeness waivers. The vote record follows.

Roll Call: Completeness Hale Subdivision - Block 29, Lot 31						
Member	Motion	2nd	Yes	No	Abstain	Absent
McCaffrey			X			
Matsen		X	X			
Filus			X			
Lefkus			X			
Lewis			X			
Roberts			X			
Stevens	X		X			
Yager (Alt 1)					X	
Olsen (Alt 2)					X	

PUBLIC HEARING

SCOTT AND DAWN HALE, Block 29, Lot 31

1310 Route 31 North and Allerton Road

Application # 2015-12

Applicant seeks Preliminary and Final Major Subdivision approval with “C” and “D” Variances

John W. Thatcher, Esq., representing the applicant, gave prior history of the application. The site was the subject of a prior Board of Adjustment approval memorialized in Resolution No. 2001-17. The applicant did not perfect the subdivision and file the required subdivision documents within the time prescribed within the Resolution, therefore the Preliminary and Final Subdivision approval became null and void.

SWORN WITNESSES

The following individuals testified during the hearing:

1. Dawn Hale (co-applicant)
Ms. Hale discussed her intent to create a subdivision that will be aesthetically pleasing and in the best interest of the neighborhood.
2. Christopher Nusser, PE (applicant's engineering expert)
4. Wayne Ingram, PP (applicant's planning expert)
5. Andrea Malcolm, PP, AICP (Board's planning expert)

Mr. Nusser's qualifications were accepted by the Board. Mr. Nusser's testimony addressed the proposed subdivision plan, including the "C(1)" and "C(2)" Variances with respect to lot averaging and lot layouts, areas of disturbance, perimeter buffer exception, steep slope exception stormwater management as outlined below.

EXHIBIT

- A-1 Sheet 1 of the subdivision plans with hand drawn lines indicating the property's existing lot lines (in pink), proposed lot lines (in orange), and proposed conservation easement lines (in green)

The owner/applicant is seeking Preliminary and Final Major Subdivision Approval for the subdivision of Block 29, Lot 31 into three (3) residential lots. The property has frontage on Route 31 North and Allerton Road. Current existing improvements which are proposed to remain on proposed Lot 31 include the following:

- A One (1) story stone cottage
- A two (2) story stone frame dwelling
- A stone smokehouse
- A springhouse
- Two (2) greenhouses
- One (1) 20' x 50' shed
- A trailer
- An asphalt driveway
- A pond and wetlands

Access to the existing structures is from Route 31 Northbound. Access to proposed Lot 31.01 and 31.02 will be from Allerton Road. The existing Lot 31 consists of 26.99 acres. The proposed subdivision is as follows:

- Proposed Lot 31.01 – 2.44 acres
- Proposed Lot 31.02 – 2.74 acres
- Proposed Lot 31 – 21.82 acres

The following interested parties appeared at the hearing and cross examined witnesses, but none of these interested parties testified and/or otherwise submitted evidence during the hearing:

1. Patricia Balodis (owner of adjoining Lot 30 in Block 29)

- Ms. Balodis had questions for the Mr. Nusser regarding perimeter buffer and stormwater management.
2. Tom Giovanucci (owner of adjoining Lot 40.01 in Block 29)
Mr. Giavanucci had questions for Mr. Nusser regarding the perimeter buffer.
 3. Charles Balboa (owner of neighboring Lot 12.01 in Block 28.01)
Mr. Balboa had questions for Mr. Nusser regarding stormwater crossing the road and asked if it would be possible to relocate the proposed driveway.
 4. Doug Pecota (owner of neighboring Lot 29 in Block 29)
Mr. Pecota discussed drainage due to stormwater. He felt that if the Township better maintained the stormwater drain it would resolve this drainage issue.

Mr. Ingram’s qualifications were accepted by the Board. Mr. Ingram’s testimony provided justification for the “D(2)” Variance for Expansion of Pre-existing Nonconforming principal building and the “D(5)” Density Variance.

There were no comments from the public.

Mr. Roberts moved and Mr. Stevens seconded a motion to close the Public Hearing. The vote record follows.

<i>Roll Call: Hale - Block 29, Lot 31 – Close Public Hearing</i>						
Member	Motion	2nd	Yes	No	Abstain	Absent
McCaffrey			X			
Matsen			X			
Filus			X			
Lefkus			X			
Lewis			X			
Roberts	X		X			
Stevens		X	X			
Yager (Alt 1)					X	
Olsen (Alt 2)					X	

BOARD FINDINGS & CONCLUSIONS

- 1) The property is an approximately 27-acre oddly shaped lot with frontage on both Route 31 North and Allerton Road. The property was zoned R-1 residential for many years. The R-1 zone required a minimum lot size of 100,000 square feet (2.3 acres) and permitted a maximum density of one (1) residential unit per five (5) acres. A report entitled “Evaluation of Groundwater Resources of Clinton Township, Hunterdon County” detailing the groundwater resources in the Township, was issued

- to the Planning Board in 2003. The Planning Board adopted the 2005 Reexamination Report dated November 21, 2005 which recommended, among other things, that the maximum density for the R-1 zone (the zone in which the property was located at that time) be revised from one (1) unit per five (5) acres to one (1) unit per nine (9) acres in accordance with the recommendations in the Groundwater Evaluation. In 2006, the Planning Board adopted the 2006 Land Use Plan Element of the Master Plan which recommended, among other things, the creation of the RC zone district throughout much of the Township, including the property. The Planning Board recommended that the RC zone have a maximum density of one (1) unit per nine (9) acres and the RC zone was intended to be created as an alternative to changing the minimum required lot size and density of the R-1 zone. The RC Zone, created in 2006 requires a minimum lot size of 100,000 square feet (2.3 acres) but the maximum permitted density is one (1) residential unit per nine (9) acres of land.
- 2) The property is bounded to the north by Route 31 and, on both sides of the “stub out” to Route 31, by C-1 commercially zoned lots, to the north by Block 29, Lot 34 containing 3-acres and the location of the former Ol’ West BBQ restaurant, and to the south by Block 29, Lot 33 containing 2.9-acres and the Mendham Garden Center. From Route 31, the property is hidden behind the former Ol’ West BBQ restaurant and the Mendham Garden Center. The property is bounded to the west by Allerton Road and there are two 1.2 acre RC zoned lots containing residences and a 24.9-acre RC zoned lot containing The Patrick McGaheeran School located directly across the street on the western side of Allerton Road. The property is bounded to the south by a 1-acre lot fronting on Allerton Road (Block 29, Lot 30) and the rear lot lines of seven of the 17 lots in the SR zoned Skyview Gardens Road major subdivision. These seven lots range in size from 0.5 to 2.4 acres and the average size of lots in the Sky View Gardens Road major subdivision is 0.8-acres. The property is bounded to the east by the rear lot lines of five of the 15 lots in the RC zoned Dogwood Drive major subdivision. These five lots range in size from 2.1 to 2.9 acres and the average size of the lots in the Dogwood Drive major subdivision is 2.8 acres. Excluding the 24.9-acre lot located across Allerton Road from the property and containing a school, the average size of the aforementioned lots is approximately 1.7-acres. Including the 24.9-acre lot in the calculation would result in an average lot size for the surrounding area of a little under 3-acres.
 - 3) Historic and Environmentally Sensitive Nature of the Property. The property is located within the Allerton Historic District, a locally designated district, and is known as the former “Goldsmith Estate” and also referred to as “Watercress Farm,” which contained the following gardens: an “English” garden of spring flowers, “Primrose Lane,” separate gardens of azaleas, lilacs and roses, a “Williamsburg” garden, a “Waterfall” garden, and an arboretum. While technically not included on the New Jersey register of historical places, the Board finds the property and the 2-story stone dwelling and the 1-story stone cottage to be historically significant. A large portion of the property is also of an environmentally sensitive nature, containing a pond and areas of wetlands and steep slopes.
 - 4) Lot Averaging

The lot averaging regulations of the ordinance are found in ordinance section 165-138.B and consist of four (4) standards. The proposed subdivision complies with the following three (3) standards:

- a) 165-138.B.(1)
- b) 165-138.B.(2)
- c) 165-138.B.(3)

A “C” lot averaging Variance (*which has been applied for*) is required from ordinance 165-138.B.(4)

5) Required & Requested Relief

- a) “D(2)” Variance for expansion of pre-existing nonconforming principal building and “D(5)” Density Variance - The Board finds that the nonconforming three (3) lot proposed subdivision, which requires both a “d(2)” variance to allow both historic dwellings to remain on remainder Lot 31 and a “d(5)” variance to allow the creation of two proposed new lots rather than just one (1) new lot, is a superior zoning alternative for the property and surrounding area than a conforming two (2) lot plan by preserving the stone dwelling and making it more likely than not that the stone cottage will also be preserved, which promotes the general welfare.
- b) “C(1)” Lot width Variance - the Board found that, due to this pre-existing exceptional shape and physical feature uniquely affecting the property, the strict application of the lot width requirement would result in peculiar and exceptional practical difficulties and exceptional and undue hardship as the applicant will be unable to subdivide the property even to create a two lot conforming plan. The Board also found that a “C(1)” variance for lot width can be granted to alleviate the hardship without substantial detriment to the public good and without substantially impairing the intent and purpose of the master plan and zoning ordinance provided that the imposed conditions are complied with.
- c) “C(2)” Lot averaging Variance - the Board found that a variance can be granted to allow the applicant to use the lot averaging standards of the ordinance without substantial detriment to the public good and without substantially impairing the intent and purpose of the master plan and zoning ordinance provided that the imposed conditions are complied with.
- d) Perimeter Buffer Exception - the Board found that the exception can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the intent and purpose of the master plan and zoning ordinance provided that the imposed conditions are complied with.
- e) Steep Slope Exception - the Board found that this exception can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the intent and purpose of the master plan and zoning ordinance provided that the imposed conditions are complied with.
- f) Preliminary and Final Subdivision - the Board found that the proposed subdivision will comply with all applicable Township ordinance requirements

except for the variance and exception relief that has been sought. The Board found that preliminary and final subdivision approval 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 provided that the conditions set forth below are imposed and complied with. As such, the Board concludes that Preliminary and Final Subdivision approval can and should be granted subject to conditions.

RELIEF GRANTED

The following relief is granted subject to conditions:

- “D(2)” Variance for Expansion of Pre-existing Nonconforming Principal Structure – the Stone Cottage
- “D(5)” Density Variance
- “C(1)” Lot Width Variance
- “C(2)” Lot Averaging Variance
- Exception from Subdivision Ordinance Perimeter Buffer Requirement
- Exception from Subdivision Ordinance Steep Slope Requirement
- Preliminary and Final Subdivision Approval

Ms. Stevens moved and Mr. Matsen seconded a motion to grant Preliminary and Final Subdivision with two (2) Ordinance Exceptions, two (2) “C” Variances and two (2) “D” Variances. The vote record follows.

<i>Roll Call: Hale – P&F Subdivision, Exceptions, C & D Variances - Block 29, Lot 31</i>						
Member	Motion	2nd	Yes	No	Abstain	Absent
McCaffrey			X			
Matsen			X			
Filus			X			
Lefkus			X			
Lewis			X			
Roberts		X	X			
Stevens	X		X			
Yager (Alt 1)					X	
Olsen (Alt 2)					X	

ADJOURNMENT

Ms. Stevens moved and Mr. Matsen seconded a motion to adjourn. The vote record follows. The meeting was adjourned at 9:23pm.

Minutes of the Board of Adjustment
December 14, 2015

Roll Call: Adjournment						
Member	Motion	2nd	Yes	No	Abstain	Absent
McCaffrey			X			
Matsen		X	X			
Filus			X			
Lefkus			X			
Lewis			X			
Roberts			X			
Stevens	X		X			
Yager (Alt 1)			X			
Olsen (Alt 2)			X			

Respectfully Submitted,

Denise Filardo, Board Secretary

These Minutes were approved on May 22, 2017

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December 14, 2015