

MINUTES OF CLINTON TOWNSHIP BOARD OF ADJUSTMENT

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PUBLIC MEETING

DATE: September 26, 2016

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.

MEMBERS IN ATTENDANCE

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

MEMBERS ABSENT

Lefkus

PROFESSIONALS/STAFF IN ATTENDANCE:

- 1) Jonathan Drill, Esq., of Stickel, Koenig, Sullivan and Drill, Board Attorney
- 2) Andrea Macolm, PP, AICP, Clarke, Caton, Hintz, Board Planner
(for the Darrow application only)
- 3) Joanne Sekella, Board Stenographer (for the Darrow application only)
- 4) Denise Filardo, Board Secretary

VOUCHERS

A motion was made by Chairman McCaffrey and seconded by Mr. Matsen to approve the vouchers for payment. The vote record follows.

Roll Call: Payment of Vouchers						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
McCaffrey	X		X			
Matsen		X	X			
Filus			X			
Lefkus						X
Lewis			X			

Roberts			X			
Stevens			X			
Yager			X			
Olsen					X	

MINUTES

- 1) Meeting Minutes of July 25, 2016
Carried to next meeting.
- 2) Meeting Minutes of August 1, 2016 (*Special Meeting*)

A motion was made by Mr. Olsen and seconded by Mr. McCaffrey to approve the Minutes of 8/1/16. The vote record follows.

Roll Call: Meeting Minutes 8/1/16						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
McCaffrey		X	X			
Matsen			X			
Filus					X	
Lefkus						X
Lewis					X	
Roberts					X	
Stevens			X			
Yager					X	
Olsen	X		X			

- 3) Meeting Minutes of June 15, 2015

A motion was made by Mr. Matsen and seconded by Ms. Stevens to approve the Minutes of 6/15/15. The vote record follows.

Roll Call: Meeting Minutes 6/15/15						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
McCaffrey			X			
Matsen	X		X			
Filus					X	
Lefkus						X
Lewis			X			
Roberts			X			
Stevens		X	X			
Yager					X	
Olsen			X			

A. REQUEST FOR EXTENSION OF TIME

1) PLATYPUS ENTERPRISES, LLC

Application No. BOA-2015-01

Block 13.01, Lot 3

1460 Route 22 West

Applicant seeks a One (1) Year Extension of Time to comply with Condition D-2 of Resolution No. 2015-15, which pertains to the Time within which to Revise the Plans and other Documents and Obtain Signatures on the Plans.

Attorney for the applicant Neil Yoskin, Esq. submitted a letter dated August 15, 2016 requesting an extension of time without an appearance by the applicant. Mr. Yoskin’s letter stated that should the Board want to have the applicant present, he requests an adjournment in advance so that the applicant may appear.

The applicant has been working with NJDOT

A motion was made by Mr. Matsen and seconded by Mr. Roberts to grant a One (1) year extension of time until August 15, 2017. The vote record follows.

Roll Call: Platypus Blk 13.01, Lot 3 – One (1) Year Extension of Time until August 15, 2017						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
McCaffrey			X			
Matsen	X		X			
Filus			X			
Lefkus						X
Lewis			X			
Roberts		X	X			
Stevens			X			
Yager			X			
Olsen					X	

B. PUBLIC HEARING

1) DOMINICA DARROW AND DENNIS DARROW

Block 13, Lot 13.07

61 Haytown Road

Applicant seeks “C(1)” and “C(2)” Variances to construct new residential dwelling.

The applicant’s attorney William Gianos, Esq. stated the applicant has revised the plans as requested at the last hearing and that Mr. Page will be addressing the changes as well as the height issue.

Attorney Drill noted that the applicant re-noticed, he reviewed the notice and the notice is sufficient. Attorney Drill also noted that the “catch-all” provision in the notice is acceptable as it is intended for a situation such as this.

Attorney Drill verified that the full Board was in attendance on July 25, 2016, therefore making all Board members present this evening eligible to vote on this application.

The following individuals testified during the hearing:

- 1) Kevin J. Page, Engineering and Planning Expert was sworn at the July 25, 2016 hearing and remains under oath.
- 2) Andrea Malcolm, Clarke, Caton, Hintz, Board Planner was sworn during this hearing.

Mr. Page referred to the Variance Plan for Block 13, Lot 30.07 which he prepared on February 24, 2016, revised on April 6, 2016, May 4 2016 and last revised on August 4, 2016. Mr. Page reviewed the changes made since July 25th hearing which include additional variances for the septic system and dry wells, showed fence required for the approved modified buffer, added additional dimensions for the side-loaded garage. He then discussed the height variance.

REQUESTED VARIANCES

- “C(1)” variance to allow the proposed dwelling to be constructed on the 5-acre property where the minimum lot size in the RC zone is 9-acres.
- “C(1)” variance to allow the proposed dwelling to be constructed where the resulting density will be 0.2 units per acre where the maximum density allowed in the RC zone is 0.11 units per acres.
- “C(1)” variance to allow the proposed dwelling to be setback 63-feet from the easterly side property line where the required minimum side yard setback in the RC zone is 100-feet.
- “C(2)” variance to allow the proposed dwelling to be setback 124-feet from the front property line along Haytown Road where the required minimum front yard setback in the RC zone is 180-feet.
- “C(2)” variance to allow the proposed dwelling to be 38.15-feet high where the maximum permitted height of a dwelling in the RC zone is 35-feet.

BOARD FINDINGS AND CONCLUSIONS

- The property is a 5-acre lot located at 61 Haytown Road at the southeasterly corner of the intersection of Haytown Road and Corral Circle. The property is situated in the RC zone. Single-family dwellings are principal permitted uses in the RC zone. There currently exists on the property a principally permitted single family detached dwelling.
- The Board found and noted that the property has significant environmental constraints, including a pond with a surrounding 50-foot wide riparian zone, two areas of wetlands, and related wetlands buffer areas.
- The property was created by subdivision approval granted by the Planning Board in 1995 and a final plat filed in 1996 – at a time when the zoning regulations in existence required 5-acre minimum lots, not 9-acre minimum lots – the property is a lawfully created pre-existing nonconforming lot which is permitted to remain.

- The property is a corner lot so it has two front yards and two side yards.
- Any addition to the existing dwelling would encroach into the reduced front yard setback area so cannot be constructed.

The applicant requested two (2) years to obtain permits and two (2) years to construct.

RELIEF GRANTED

The following relief was granted subject to conditions:

- “C(1)” Lot Size and Density Variances to Allow Construction of the Proposed Dwelling on the Property, allowing the proposed dwelling to be constructed on the 5-acre undersized property and at a density of 0.2 units per acre.
- “C(2)” Front Yard Setback Variance to Allow Construction of the Proposed Dwelling in the Front Yard Setback Area, allowing the proposed dwelling to be constructed 124-feet from the front property line along Haytown Road.
- “C(1)” Side Yard Setback Variances to Allow Construction of the Proposed Dwelling, Stormwater Improvements and Septic System Facilities in the Side Yard Setback Area, allowing construction of the proposed dwelling, stormwater improvements and septic system facilities in the side yard setback.
- “C(2)” Side Yard Setback Variances allowing the retaining walls to the rear of the proposed dwelling to be constructed in the side yard setback area as close as 80-feet to the easterly side property line.
- “C(2)” Height Variances for the Proposed Dwelling allowing the proposed dwelling to be 38.15-feet high.

A motion was made by Mr. Roberts and seconded by Ms. Stevens to grant the requested “C(1)” and “C(2)” Variances with conditions. The vote record follows.

Roll Call: Darrow Blk 13, Lot 13.07						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
McCaffrey			X			
Matsen			X			
Filus			X			
Lefkus						X
Lewis			X			
Roberts	X		X			
Stevens		X	X			
Yager			X			
Olsen					X	

HODKINSON COMPLETENESS HEARING

MARK & JESSICA HODKINSON
 Application No. BOA-2016-03
 Block 87.04, Lot 11
 2 Cheryle Way

The following individuals testified during the hearing and were subject to cross examination, which testimony is part of the record in this matter:

1. Jessica Hodkinson, co-applicant
2. Eric Trepkau, AIA, applicant’s architectural expert

Mr. Trepkau’s qualifications were accepted by the Board.

Attorney Drill noted that there was no one in the public present for this application.

Applicant seeks Waiver relief of the following four (4) checklist items:

- 3.H, 3.I, 3.J and 3.K

The Board Engineer has no objections to the Board granting the requested waivers.

A motion was made by Ms. Stevens and seconded by Mr. Filus deem the application complete and grant the requested waivers. The vote record follows.

Roll Call: Completeness & Waivers - Hodkinson Blk 87.04, Lot 11						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
McCaffrey			X			
Matsen			X			
Filus		X	X			
Lefkus						X
Lewis			X			
Roberts			X			
Stevens	X		X			
Yager			X			
Olsen					X	

HODKINSON PUBLIC HEARING

MARK & JESSICA HODKINSON

Application No. BOA-2016-03

Block 87.04, Lot 11

2 Cheryle Way

Applicant seeks “C” Variances to construct a front porch.

Mr. Trepkau described the application and the property.

The property is an approximately 1.04-acre (approximately 45,300 square foot) corner lot situated in the RR-4 rural residential zoning district (the “**RR-4 zone**”) located at 2 Cheryle Way, with approximately 295-feet of frontage on the northerly side of Cheryle Way and 157-feet of frontage on the westerly side of Lilac Drive.

The applicant proposes to construct a covered (roofed) 42’-9” long by 10’ deep or wide front porch onto the front of the dwelling.

There was extensive discussion around the proposed depth of the porch. Board members were polled regarding a 10'foot wide/deep porch versus a, 8' foot wide/porch.

BOARD FINDINGS AND CONCLUSIONS

- Board found that the proposed front porch is a large front porch, especially the 10-foot width or depth. The Board noted that the proposed front porch is one of the largest, if not the largest, front porch it has dealt with in a variance application.
- The Board agreed with the applicant that the location of the dwelling on the lot does not provide sufficient area to construct a useable front porch outside of the front yard setback area.
- The Board did not find this situation to be extraordinary or exceptional and therefore cannot find that grounds exist to warrant a “C(1)” or so-called “hardship” variance.
- The Board did find that there are “C(2)” variance grounds to warrant a variance.
- the Board found that adding a front porch to the dwelling will without doubt improve the aesthetic appearance of the dwelling, which will advance the aesthetic purposes of the MLUL.
- The Board found that the aesthetic benefit from granting the “C(2)” variance will be for the public, not just for the benefit of the applicant, because the addition of the front porch will not only improve the aesthetics of the dwelling for the applicant’s benefit but also for the benefit of neighbors and the community.
- The Board found that because this property is one of just a few in the neighborhood that does not have a front porch, the addition of a front porch will improve the aesthetics of this particular dwelling on this particular property.
- The Board found that the aesthetic benefits that will result from granting a “C(2)” variance to allow the addition of the front porch will substantially outweigh the resulting detriments.
- The Board was concerned with the detriment and impact that granting a variance to allow a front porch 10-feet wide or deep could potentially create a domino effect and/or open the flood gates to similar types of applications being submitted for similar sized front porches in the neighborhood.
- The Board could not find that a 10-foot wide or deep porch was necessary to be usable.
- The front porch passes the “C(2)” balancing test at 8-feet wide or deep but not at 10-feet wide or deep.

The Board suggested to the applicant during the hearing that the application be amended to seek a “C(2)” variance and the applicant agreed by making that amendment during the hearing. The applicant also amended the application during the hearing to decrease to the width or depth of the front porch from 10-feet to 8-feet.

RELIEF GRANTED

Subject to compliance with the imposed conditions, the Board granted a “C(2)” Variance to allow construction of Front Porch No Wider or Deeper Than 8-Feet encroaching into the Front Yard Setback Area.

A motion was made by Ms. Stevens and seconded by Mr. Yager to grant a “C(2)” Variance to allow construction of an eight (8)ft wide/deep front porch subject to imposed conditions. The vote record follows.

Roll Call: Grant of “C(2)”Variance - Hodkinson Blk 87.04, Lot 11						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
McCaffrey			X			
Matsen			X			
Filus			X			
Lefkus						X
Lewis			X			
Roberts			X			
Stevens	X		X			
Yager		X	X			
Olsen					X	

DENNE COMPLETENESS HEARING

EDWARD & GAYLE DENNE
 Application No. BOA-2016-04
 Block 30, Lot 4
 22 Valley Crest Road

Applicant seeks Waiver relief of the following four (4) checklist items:
 3.H, 3.I, 3.J and 3.K

The Board Engineer has no objections to the Board granting the requested waivers.

The following individuals testified during the hearing:

1. Edward Denne, co-applicant
2. Gayle Denne, co-applicant
3. Robert Zederbaum, PE, applicant’s engineering expert

A motion was made by Mr. McCaffrey and seconded by Ms. Stevens deem the application complete and grant the requested waivers. The vote record follows.

Roll Call: Completeness & Waivers - Denne Blk 30, Lot 4						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
McCaffrey	X		X			
Matsen			X			
Filus			X			
Lefkus						X
Lewis			X			
Roberts			X			
Stevens		X	X			

Yager			X			
Olsen					X	

DENNE PUBLIC HEARING

EDWARD & GAYLE DENNE

Application No. BOA-2016-04

Block 30, Lot 4

22 Valley Crest Road

Applicant seeks “C” Variance to construct a 2nd floor addition over the existing attached garage.

Robert Zederbaum’s (PE) credentials were accepted by the Board.

Chairman McCaffrey noted that there is no one in the public.

Mr. Zederbaum described the application and the property.

The property is an approximately 1-acre lot located at 22 Valley Crest Road and situated in the RC zone. The dwelling is a principally permitted single family detached residential use. The dwelling was transferred to the property in or after 1960 from the area in the Township then known as the “Valley” which was vacated in order to construct the Round Valley reservoir. In 1986, an addition to the dwelling consisting of the attached garage was constructed. The garage is part and parcel of the dwelling.

Because the attached garage portion of the dwelling was constructed in 1986, at a time when the zoning regulations in existence were all satisfied by the property’s size and the setback dimensions of the dwelling, the property is a lawfully created pre-existing nonconforming lot, and the dwelling is a lawfully created pre-existing nonconforming dwelling, all of which are entitled to remain in existence.

The application was deemed by the Board to seek a “C(1)” and/or “C(2)” side yard setback variance to allow the proposed bedroom addition to be constructed over the existing garage portion of the dwelling as close as 20.28-feet to the westerly side yard property line, encroaching into the 30-foot side yard setback area. The Board chose to consider the application as a “C(2)” variance situation.

BOARD FINDINGS AND CONCLUSIONS

- Board found that granting a “C(2)” variance to allow the proposed bedroom addition to be constructed above the garage will improve the aesthetic appearance of the dwelling, which will advance the aesthetic purposes of the Municipal Land Use Law
- the Board found that the aesthetic benefit flowing from the grant of the “C(2)” variance will be for the public, not just for the benefit of the applicant, because the addition of the proposed bedroom addition will not only improve the aesthetics of the dwelling for the applicant’s benefit but also for the benefit of neighbors and the community.
- Provided that the imposed conditions are complied with, the Board found that the aesthetic benefits that will result from granting a “C(2)” variance to allow the proposed bedroom addition will substantially outweigh the resulting detriments.

- Provided that the imposed conditions are complied with, the Board found that a “C(2)” variance can be granted to allow construction of the proposed bedroom addition without substantial detriment to the public good and without substantial impairment of the intent and purpose of the master plan and zoning ordinance.

RELIEF GRANTED

Provided that all imposed conditions are complied with, the Board granted a “C(2)” Side Yard Setback Variance to allow construction of the proposed bedroom addition in the Side Yard Setback Area.

A motion was made by Ms. Stevens and seconded by Mr. Filus to grant a “C(2)” Side Yard Variance with conditions. The vote record follows.

Roll Call: Darrow – “C(2)” Variance Blk 13, Lot 13.07						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
McCaffrey			X			
Matsen			X			
Filus		X	X			
Lefkus						X
Lewis			X			
Roberts			X			
Stevens	X		X			
Yager			X			
Olsen					X	

ADJOURNMENT

A motion was made by Mr. Roberts and seconded by Mr. Filus to adjourn. The Board concurred unanimously and the meeting was adjourned at 9:34pm.

Respectfully Submitted,

Denise Filardo

Planning and Zoning Board Secretary

These minutes were approved on August 28, 2017.