

MINUTES OF CLINTON TOWNSHIP BOARD OF ADJUSTMENT

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PUBLIC MEETING

DATE: August 28, 2017

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

Vice Chairman Matsen led the Flag Salute.

Vice Chairman Matsen 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

Lefkus, Lewis, Matsen, McCaffrey, Olsen, Yager

MEMBER ABSENT

Filus
Roberts
Stevens (excused absence due to recusal)

PROFESSIONALS/STAFF IN ATTENDANCE:

- 1) Jonathan Drill, Esq., Board Attorney
- 2) Cathleen Marcelli, PE, CME, Board Engineer
- 3) Brian Bosenberg, CLA, Board Landscape Architect
- 4) Andrea Malcolm, PP, Board Planner
- 5) Denise Filardo, Board Secretary

VOUCHERS

A motion was made by Mr. 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
Filus						X
Lefkus			X			
Lewis			X			
Matsen		X	X			
McCaffrey	X		X			
Olsen (Alt. 2)			X			
Roberts						X
Stevens						X
Yager (Alt. 1)			X			

MINUTES

1) MEETING MINUTES OF DECEMBER 14, 2015

A motion was made by Mr. Matsen and seconded by Mr. Yager to adopt the Meeting Minutes of December 14, 2015 with minor typo corrections. The vote record follows.

Roll Call: December 14, 2015 Meeting Minutes						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Filus						X
Lefkus			X			
Lewis			X			
Matsen	X		X			
McCaffrey			X			
Olsen (Alt. 2)			X			
Roberts						X
Stevens						X
Yager (Alt. 1)		X	X			

2) MEETING MINUTES OF DECEMBER 12, 2016

A motion was made by Mr. Olsen and seconded by Mr. Matsen to adopt the Meeting Minutes of December 12, 2016 with minor typo corrections. The vote record follows.

Roll Call: December 12, 2016 Meeting Minutes						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Filus						X
Lefkus			X			
Lewis					X	
Matsen		X	X			
McCaffrey						

Olsen (Alt. 2)	X		X			
Roberts						X
Stevens					X	X
Yager (Alt. 1)			X			

- 3) MEETING MINUTES OF JANUARY 30, 2017
 These Minutes held until the next meeting.

- 4) MEETING MINUTES OF FEBRUARY 27, 2017

A motion was made by Mr. Olsen and seconded by Mr. Matsen to adopt the Meeting Minutes of February 27, 2017 with minor typo corrections. The vote record follows.

Roll Call: February 27, 2017 Meeting Minutes						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Filus					X	X
Lefkus			X			
Lewis			X			
Matsen	X		X			
McCaffrey			X			
Olsen (Alt. 2)		X	X			
Roberts						X
Stevens					X	X
Yager (Alt. 1)			X			

- 5) MEETING MINUTES OF APRIL 24, 2017

A motion was made by Mr. Olsen and seconded by Mr. Matsen to adopt the Meeting Minutes of April 24, 2017 with minor typo corrections. The vote record follows.

Roll Call: April 24, 2017 Meeting Minutes						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Filus						X
Lefkus		X	X			
Lewis			X			
Matsen	X		X			
McCaffrey			X			
Olsen (Alt. 2)			X			
Roberts					X	X
Stevens					X	X
Yager (Alt. 1)					X	

RESOLUTIONS

- 1) JOSEPH SMELTZER, BLOCK 16, LOT 52
 Application No. BOA-2014-01
 RESOLUTION NO. 2017-02
 Modification of Condition #8.c of Resolution No. 2014-03 to extend the time within which the applicant must obtain construction permits.

A motion was made by Mr. Matsen and seconded by Mr. Lefkus to adopt Resolution No. 2017-02. The vote record follows.

Roll Call: Resolution No. 2017-02, Smeltzer, Blk 16, Lot 52						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Filus						X
Lefkus		X	X			
Lewis			X			
Matsen	X		X			
McCaffrey			X			
Olsen (Alt. 2)			X			
Roberts					X	X
Stevens					X	X
Yager (Alt. 1)					X	

PUBLIC HEARING

- 1) BOURBON STREET LAND CO., LLC (Rutland Shopping Plaza)
 1708 Route 31 North
 Block 70, Lots 2 & 3
 Application No. 2016-09
 Applicant is seeking an Amended Site Plan to construct a cross access roadway to provide a direct means of ingress and egress between Rutland Plaza/Bourbon Street and Arrow Mill Plaza/Ocean State Job Lot.

Mr. Michael Wade, Esq., the applicant’s managing member introduced himself and gave a brief overview of the application.

The proposed development is the construction of a cross access driveway to provide a means of direct ingress and egress between the two existing shopping centers on the property so that patrons of one shopping center do not need to drive on SR 31 to access the other shopping center. In connection with the construction of the cross access driveway, the applicant seeks to install the following:

- Site Lighting on Lot 2
- A steel guiderail along the outside of the parking row at the rear of the building and along the south side of the proposed access driveway connection on Lot 2 guiderail on Lot 3

- A trash enclosure on Lot 2
- Freestanding Signage on Lot 3 advertising the Bourbon Spirits location on Lot 2
- landscaping and parking modifications, consisting of the removal of four (4) large pine trees located on Block 3 adjacent to lot 2, and the elimination of four (4) parking spaces located on Lot 2.

The application is for Amended Preliminary and Final Site Plan Approval and incidental “C” Variances and Exceptions to allow construction of the proposed development.

The following individuals were sworn and testified under oath during the hearing:

1. Michael Wade (managing member of the applicant)
2. Kevin Smith, PE, applicant’s Engineering and Planning expert
3. Cathy Marcelli, PE, Board Engineer
4. Andrea Malcolm, PP, Board Planner
5. Brian Bosenberg, CLA, Board Landscape Architect

The following Exhibit was entered into evidence during the hearing:

- A-1 Aerial view of Lot 2 and a portion of Lot 3 dated May 22, 2017
(Bing image)

Mr. Kevin Smith, PE, the applicant’s Engineering and Planning Expert provided testimony in support of the application relating to the requested Variances, Exceptions and ultimately Amended Final Site Plan approval.

During the hearing, the applicant withdrew their request for the proposed advertising Signage for Bourbon Street Spirits.

BOARD FINDINGS AND CONCLUSIONS

- Granting “C(2)” variances to allow the proposed impervious coverage deviations will result in improved zoning and planning that will benefit the community as the proposed cross access driveway will enable patrons of both shopping centers to shop at each center without having to drive on State Route 31, saving not only unnecessary vehicular trips and fuel but resulting in less carbon footprint and more convenience to residents. The zoning benefits resulting from the grant of the “C(2)” variances will substantially outweigh any resulting detriment.
- Although increasing the impervious coverage deviations on both Lots 2 and 3, the proposed development will not significantly worsen the impervious coverage on either Lot, and the design of the proposed development will not result in an overdevelopment of the site. The Board finds that the applicant’s agreement to improve the landscaping will break up the impervious areas and sufficiently enhance and maintain the aesthetics on the property and prevent any resulting impact to neighbors. Issues such as drainage and Stormwater runoff for the property were adequately addressed such that the minimal additional impervious coverage will not negatively impact the property or the surrounding areas from a public welfare, safety or quality of life perspective. Finally, the Board finds that the impervious coverage

Variations will not impair the intent or purpose of the master plan and zoning ordinance. In fact, the Board finds and notes that the shared access driveway complies with the Site Plan Ordinance requirement, that the applicant provide vehicular access to adjoining developed lots at coordinated locations.

- The installation and inclusion of the proposed site lighting structures will add to the safety and overall efficacy of the commercial development on Lot 2, providing a benefit to customers utilizing the cross-access driveway and customers and employees utilizing the parking area. The Board finds that the zoning benefits resulting from the grant of the “C(2)” Variance will substantially outweigh any resulting detriment.
- The proposed location of the two lighting structures does not result in any impact to neighboring properties, since the light structures are located internally within the property as a whole, are properly shielded, and are set at an appropriate height. Second, since there are existing lighting stanchions and other accessory structures on the property already, the Board finds that the addition of two more structures will not negatively impact the overall aesthetics of the property or create any visual, operational or other detriments. The Board further finds that the location of the accessory uses will not impair the intent or purpose of the master plan and zoning ordinance because it will allow for the continued, efficient and safe operation of the commercial development of the property.
- The removal of four (4) parking spaces will allow for construction of the cross-access driveway which cannot be constructed without ordinance deviation. The Board finds that the proposed cross access driveway will enable patrons of both shopping centers to shop at each center without having to drive on State Route 31, saving not only unnecessary vehicular trips and fuel but resulting in less carbon footprint and more convenience to residents. The Board finds that these community wide benefits advance the following purposes of the MLUL.
- The Board finds that because of the resulting safety and efficiency enhancements, the parking and circulation deviations will not impair the intent or purpose of the Master Plan and Zoning Ordinance because the deviations will allow for vehicular circulation between the two abutting lots, consistent with the requirement in site plan ordinance.
- The proposed development will cause additional disturbance to slopes exceeding 25% on both Lots 2 and 3 to allow construction of the cross-access driveway. Granting the “C(2)” Variance to allow the steep slope deviation will result in improved zoning and planning that will benefit the community.
- The proposed additional steep slope disturbance will not create any negative impacts relating to Stormwater runoff, soil erosion, or aesthetics. Since the construction of the driveway will enable the shopping centers to operate more efficiently without negative impact, the Board finds granting the Steep Slope Variance as proposed will not negatively impair the master plan and zoning ordinance.
- Site Plan Ordinance requires that vehicular and pedestrian access be provided to adjoining properties. In the absence of any other feasible location for a pedestrian connection, the Board finds that it is reasonable and within the purpose and intent of the provisions of the Site Plan Ordinance to grant the exception at issue, since requiring such access would be impracticable and a vehicular cross access driveway is being proposed.
- The Board finds that requiring compliance with the buffer requirement would be impractical because it would prevent the construction of the cross-access driveway.

The Board also finds that granting the requested buffering exception is reasonable and within the general intent and purpose of the Site Plan Ordinance.

- Site Plan Ordinance requires that large trees shall be replaced by a tree of similar caliper or may be replaced with multiple smaller-caliper trees at a 2:1 ratio. The ordinance also provides that no tree planted as a replacement shall be less than two inches caliper. The applicant seeks an exception from the strict application of the ordinance. The Board finds that granting such an exception is not reasonable nor is it within the general purpose or intent of the site plan ordinance at issue. The Board finds and notes that the 2:1 ratio replacement provisions of the ordinance are environmentally significant in addition to providing aesthetic benefits.
- Provided that the Variances and Exceptions requested in the application are granted (except for the Tree Replacement Exception which is Denied) and provided that the imposed conditions are complied with the Board found that the application and amended site plans will comply with all remaining applicable zoning ordinance regulations and the remaining applicable Site Plan Ordinance requirements, the Board concludes that Amended Preliminary and Final Site Plan approval can and should be granted.

RELIEF GRANTED

- 1) “C(2)” Variances from the 40% maximum permitted impervious coverage regulation applicable to C-1 zoned lots pursuant to Schedule of Zoning Requirements to allow 60.5% coverage for Lot 2 and 74.9% coverage for Lot 3 as proposed on the amended site plans.
- 2) “C(2)” Variances to allow the proposed accessory lighting structures and the proposed accessory guiderail to be located within the side yard setback as proposed on the amended site plans.
- 3) “C(2)” Variance to allow a reduction in the number of parking spaces on Lot 2 from 78 to 74 spaces as proposed on the amended site plans.
- 4) “C(2)” Variance to allow for a zero setback to the property line of Lot 2 and Lot 3 for the driveway as proposed on the amended site plans.
- 5) “C(2)” Variance from the prohibition on disturbing slopes greater than 25% to allow a disturbance within the area of slopes greater than 25% on Lot 2 and Lot 3 to allow construction of the shared access driveway as proposed on the amended site plans.
- 6) Exception to allow a deviation from the buffer requirements to allow an encroachment within the 25-foot buffer of the shared access driveway along the northern property line of Lot 2 and the southern property line of Lot 3 as proposed on the amended site plans.
- 7) Exception to allow for no pedestrian access between Lot 2 and Lot 3 as reflected on the amended site plans.

- 8) Amended Preliminary and Final Site Plan Approval to allow construction of the proposed development as proposed on the amended site plans.

All of the relief granted in items 1 through 8 above, is subject to the applicant’s compliance with the Board imposed conditions.

RELIEF DENIED

The Board denied the requested Exception from the Tree Replacement requirements.

There were no members of the public in attendance with interest in this application.

A motion was made by Mr. Lefkus and seconded by Mr. Yager to grant Amended Site Plan Approval. The vote record follows.

Roll Call: Bourbon Street, Blk 70, Lots 2 & 3 Amended Site Plan Approval						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Filus						X
Lefkus	X		X			
Lewis			X			
Matsen			X			
McCaffrey			X			
Olsen (Alt. 2)			X			
Roberts						X
Stevens					Recused	X
Yager (Alt. 1)		X	X			

ADJOURNMENT

A motion was made by Mr. Lefkus and seconded by Mr. Matsen to adjourn. The Board concurred unanimously and the meeting was adjourned at 9:58pm.

Respectfully Submitted,

Denise Filardo
 Planning and Zoning Board Secretary

These minutes were approved on March 26, 2018.