

MINUTES OF CLINTON TOWNSHIP BOARD OF ADJUSTMENT

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SPECIAL PUBLIC MEETING

October 7, 2013

PRESENT: Tom McCaffrey, Dave Roberts, John Lefkus, John Matsen and Wayne Filus.

PROFESSIONALS: Cathy Marcelli, Engineer, Kendra Lelie, Planner, Jon Drill, Attorney and Rebecca D'Alleinne, Administrator.

ABSENT: Ira Breines, Sharon Stevens, Sharol Lewis and Amy Switlyk.

CALL TO ORDER

Chairman McCaffrey called the meeting to order at 8:00PM.

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 on the 1st Floor of the building and faxed to the Hunterdon County Democrat, the Express Times, the Courier News, the Hunterdon Review, the Star Ledger and the North County Branch of the Hunterdon County Library, no later than the Friday prior to the meeting.

NEW BUSINESS

Vouchers

Chairman McCaffrey moved and Dave Roberts seconded a motion to approve the vouchers for payment. The Board concurred unanimously.

MINUTES

John Matsen moved and Wayne Filus seconded a motion to approve the minutes of September 23, 2013 as written. The Board concurred unanimously and Mr. Lefkus abstained.

## RESOLUTIONS

### **ZINN REALTY, Block 74, Lot 16, 17 & 18**

Resolution #2013-16, Application #2012-07

Chairman McCaffrey stated that the resolution would be considered at the next regularly scheduled meeting.

## PUBLIC HEARINGS

### **VILLAGE GREEN/MEURER DEVELOPMENT, Block 49, Lot 25**

Application #2011-07

Walter Wilson, Esq. introduced himself on behalf of the applicant and thanked the Board for holding a special meeting. He characterized the proposal as a modification of previously approved plans. John Bohnel, Construction Manager, Jim Chmielak, Engineer, Eric Trepkau, Architect, Rich Meurer, Principal, Cathy Marcelli, Board Engineer and Kendra Lelie, Board Planner were sworn. Chairman McCaffrey noted that there were no members of the public at the hearing. Exhibit A-1 (Colorized Sheet 1, 9/25/13) was marked into evidence. Mr. Wilson pointed out which buildings required modification, explaining that the northern doors needed to become windows and they were proposing to add landscape buffering. He also indicated that the applicant desired to add a pizzeria to the project, but not add parking spaces.

Mr. Drill questioned whether the public notice was sufficient. He stated that the resolution number for the prior approval was #2012-07 and the condition under discussion was #9A., which lists the uses allowed on the property. Mr. Drill noted that they would need an additional parking variance because the pizzeria had a higher parking requirement. Mr. Wilson stated that the applicant was seeking to modify the conditions of the resolution. Mr. Drill expressed the opinion that the applicant would need an additional C2 parking variance because the deviation had increased. Mr. Wilson indicated that they did not propose to increase the number of spaces on the site and thought that the catchall phrase in the notice was sufficient. Mr. Drill expressed the opinion that the applicant was at risk and that the catch-all phrase in the Public Notice might not be sufficient in the case of objectors. He suggested that the Board not defend that case if there was a problem with the notice and that it would be at the applicant's risk if they chose to proceed.

Chairman McCaffrey asked if the applicant was willing to proceed, and Mr. Wilson responded that they were. John Lefkus expressed the opinion that there wasn't enough information in the planner's report. He asked the professionals whether there was additional info needed, and Ms. Marcelli stated that she had looked at the parking deviation issue. Kendra Lelie stated that she had no information on the size of the restaurant. Cathy Marcelli commented that the submitted application had contained no information on size of the proposed restaurant, and that she had asked their engineer directly for the data. Chairman McCaffrey proposed that the application proceed and go as far as the Board felt comfortable. He reiterated that the applicant was seeking a

modified site plan, a change of a condition and an additional C2 variance. Mr. Wilson agreed with that assessment.

James Chmielak displayed Exhibit A-1, and pointed out that the northern site boundary with NJ Transit was complete. He reported that the finished parking lot had a galvanized steel guide rail and noted that NJ Transit's as-built elevation was different than their original plans had shown. He stated that the applicant was proposing to add landscape buffering along the northern border in response. Mr. Chmielak noted that the northerly rear auxiliary entrances were now proposed to be windows instead of doors because they were now below grade. Exhibit A-2(Photo Facing South toward Building 2) and Exhibit A-3 (Photo Facing North-easterly toward Building 2) were marked into evidence. He noted that there was only a 10 foot space in which to put the buffering. Six trees had originally been proposed, and he stated that the applicant would put in only five because they had to be spaced around the existing NJ Transit light poles.

Chairman McCaffrey noted that Board Landscape Architect Brian Bosenberg's report did not agree with that proposal. Jon Drill noted that Mr. Bosenberg was not in attendance because he was under the impression that the applicant agreed with his recommendations. Chairman McCaffrey noted that the Board could call him to testify. Rich Meurer stated that he didn't think that seven trees would fit properly around the poles. Chairman McCaffrey noted that when things are rushed, problems arise that should have been worked out beforehand. Mr. Chmielak stated that the applicant didn't agree with Mr. Bosenberg's recommendation and that he expected to present the matter to the Board for a decision. Walter Wilson stated that it was acceptable to plant seven trees. Kendra Lelie expressed the opinion that the applicant could fit in seven trees if they were a columnar-type of tree, such as a red maple. She thought that there was plenty of room between the light fixtures.

Dave Roberts asked about whether the trees would block the light and compromise the safety factor of the NJ Transit light fixtures. Ms. Lelie expressed the opinion that they would not block the light and that seven columnar trees makes more sense. Mr. Chmielak stated that the applicant wanted to rely on some of the lighting from the NJ Transit lights to illuminate the five-foot walkway and supply supplemental lighting. He indicated that originally there were 10 bollard lights. Cathy Marcelli asked for a lighting plan prior to conducting a night test. Mr. Meurer expressed the opinion that the doors looked ridiculous now that they were below grade. Mr. Chmielak stated that the original plan was to have pedestrian access on the north side from the NJ Transit lot.

Chairman McCaffrey commented that the Board did not request the doors, but that they were considered valuable at the time to achieve a "village feel". He noted that the new design considerations of eliminating the doors would outweigh the benefit that might have been achieved. Dave Roberts stated that he had seen that the lot was at a higher elevation than he expected. Mr. Chmielak noted that NJ Transit had agreed to match their grading, but now that the development would need to match the NJ Transit level. John Matsen asked about fire code issues. Mr. Trepkau stated that units were small and only required one door. Mr. Drill asked whether the NJ Transit light poles were on the property line. Mr. Chmielak responded that one was on the applicant's property. John Bohnel discussed the steps and stated that more water drainage was going into the applicant's property now that the transit lot was finished. He expressed the opinion that eliminating doors would reduce chance of moisture damage.

Mr. Chmielak commented that the applicant would need to move the bike rack in front of Building 4. He stated that he and Mr. Bosenberg had agreed about the ground cover and hedge. He stated that they would eliminate the proposed electric charging station and that there would be no change in trees on East Street.

Cathy Marcelli discussed her report and asked about putting both of the bike racks in one location. Mr. Wilson stated that they were also intended for the neighbors to use. Discussion ensued as to whether to put the racks in the interior area. Board professionals suggested putting both racks in front of Building 4. Kendra Lelie discussed the signs over the doors and suggested having directional tenant signs. John Lefkus indicated that he liked the stacked signs because people might think they could get in there. Discussion ensued about visibility. Mr. Drill suggested that they remove the signs and let the applicant have a note on the plan specifying that they may put compliant signs where they desire.

Mr. Chmielak stated that the curb would reduce drainage runoff and that there would be stone under the guide rail. He noted that there would be a minimum of 5 feet of sidewalk area. Mr. Lefkus asked about the stairs. Exhibit A-4 (Colorized Site Plan 2013-07, 10/15/12) Exhibit A-5 (Elevation Drawings, 9/25/12, last revised 9/25/13) were marked into evidence. Mr. Trepkau indicated that the exit access was limited to 100 feet, the length of the second floor walkway. He stated that Construction Official Michael Wright had approved the drawings.

Jim Chmielak stated that the application included a proposed restaurant consisting of 1435 square feet with 6 tables, primarily take out. He indicated that the pizzeria was proposed for the two westerly spaces in Building 2. Kendra Lelie read from the ordinance concerning what a C1 variance allowed and expressed the concern that the pizzeria was not permitted as a principal use. John Matsen commented that the critical issue was tables, and expressed the opinion that it would fit the fast food ordinance definition. Chairman McCaffrey called a recess at 9:37PM to determine whether the pizzeria was conditionally permitted or principally permitted. The meeting was called to order at 9:47PM.

Jon Drill reported that it had been determined that the pizzeria was a fast food restaurant and was a conditionally permitted use. He expressed the opinion that the applicant would need a D variance and would need to re-notice for restaurant approval. Mr. Drill stated that he would contact Mike Wright about the resolution and getting permits for construction. Chairman McCaffrey commented that he was uncomfortable with the previously approved reduction in the number of parking places and then adding a pizzeria. Dave Roberts and John Matsen agreed with the parking issue. Mr. Matsen observed that after the project had been built and operating for several years, the applicant may have grounds to prove that the parking was sufficient.

Chairman McCaffrey stated that the applicant was seeking an amended preliminary and final site plan approval for exterior changes, landscaping and sidewalks. Dave Roberts noted that the lighting issues would be delegated to Cathy Marcelli. Mr. Drill read the conditions into the record. John Lefkus moved and Dave Roberts seconded a motion to approve the application as discussed. Members in favor: McCaffrey, Matsen, Filus, Roberts and Lefkus.

ADJOURNMENT

John Matsen moved and Dave Roberts seconded a motion to adjourn, and the motion passed unanimously. The meeting was adjourned at 9:59PM.

These minutes were approved on October 28, 2013.

Rebecca E. D'Alleinne, Administrator