

MINUTES OF CLINTON TOWNSHIP BOARD OF ADJUSTMENT

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PUBLIC MEETING

February 25, 2013

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

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

ABSENT: Ira Breines, Sharol Lewis and Amy Switlyk.

CALL TO ORDER

Chairman McCaffrey called the meeting to order at 7:31PM.

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 Wayne Filus seconded a motion to approve the vouchers for payment. The Board concurred unanimously.

MINUTES

John Matsen moved and Sharon Stevens seconded a motion to approve the minutes of January 29, 2013 as corrected. The Board concurred unanimously.

OLD BUSINESS

**WATER'S EDGE, Block 68, Lot 9.04**

Application #2012-15

Chairman McCaffrey announced that the applicant had requested that the Public Hearing be carried to April 22, 2013, without need for further notice.

## RESOLUTIONS

### **BENCH, Block 95, Lot 2**

Resolution #2013-02, Application #2008-12

Jon Drill reported that Draft #1 was under consideration. Sharon Stevens moved and Dave Roberts seconded a motion to adopt the resolution. Members in favor: McCaffrey, Matsen, Stevens, Filus and Roberts.

### **FOX/SEALS AFFORDABLE HOUSING, Block 53, Lot 3**

Resolution #2013-01, Application #2008-11

Jon Drill read the corrections into the record to Draft #2 of the resolution. Dave Roberts moved and Sharon Stevens seconded a motion to adopt the resolution as corrected. Members in favor: McCaffrey, Matsen, Stevens, Filus and Roberts.

## PUBLIC COMMENT

Mr. Mark Peck, Esq. asked to address the Board regarding Woodmont Industries. Chairman McCaffrey noted that his request was not listed on the agenda and expressed concern that the Board could not address the matter as it had not been properly listed. Jon Drill noted that it may violate the Open Public Meeting Act. Chairman McCaffrey asked what he was asking for the Board to do, if not he was not asking for the Board to take action. Mr. Peck stated that it was an unusual situation. Jon Drill explained that the applicant had previously received approval from the Board and that the construction was nearly complete. He noted that Mr. Peck had appeared before the Township Council to ask for a reduction in the bond. Mr. Drill recommended that he appear before the Board to amend the final site plan, advising that procedurally, the Board could not address the matter, as it had not been listed on the agenda. He stated that the applicant could “phase” the application. He commented that the Board had never reduced a bond nor had it ever been asked to reduce a bond. Mr. Peck explained that the Council had been uncomfortable about reducing the bond, without a recommendation from the Board. Mr. Drill suggested that he file an amended final site plan, which did not require notice. The Board determined not to hear the request.

## COMPLETENESS WAIVERS HEARING

### **JEZOREK, Block 16, Lot 64**

Application #2013-02

Walter Wilson, Esq. introduced himself and Engineer Jim Chmielak on behalf of the applicant. He discussed the waiver for Item 3G, as there was a spring, not a well that supplied the water to the residence. He commented on a waiver of Item 3H and noted that Ms. Marcelli had no objection to granting that waiver. He explained that topography had been depicted around the solar array. Mr. Wilson discussed Item 3K, which covered isolated trees with trunks more than 10” in diameter. He indicated that 13 trees had been removed and submitted a hand-drawn map of the trees that had been removed. Mr. Wilson expressed the opinion that many of the trees were “weed” trees. Kendra Lelie

stated that the trees should be field located. Chairman McCaffrey asked the Board to consider whether it had the information it needed to make a decision. Walter Wilson stated that the trees had been harvested in accordance with a stewardship program. Chairman McCaffrey pointed out that the Board could reserve the right to ask for the information at a later date. Dave Roberts commented that granting the waiver was appropriate because the trees were already gone. Jon Drill asked the Board to decide whether they needed the information to make a decision. Sharon Stevens asked how the remaining trees impacted the array and Jim Chmielak stated that the remaining tree line did not affect the solar panels. John Lefkus expressed the opinion that the Board should grant the waiver, as it was irrelevant to the issue. John Lefkus moved and Wayne Filus seconded a motion to grant the waivers as discussed. Members in favor: McCaffrey, Matsen, Stevens, Filus, Lefkus and Roberts.

#### PUBLIC HEARING

#### **JEZOREK, Block 16, Lot 64** Application #2013-02

Walter Wilson, Esq. introduced himself on behalf of the applicant and discussed the report from Board Planner Kendra Lelie. Jim Chmielak, Engineer and Greg Hodson, Energy Consultant, Eric Dornfeld, Solar Design Engineer, Leigh Jezorek, owner and Kendra Lelie, Board Planner were sworn. Mr. Jezorek stated that he had owned the property since 1981 and noted that it was over 37 acres. He discussed forest management practices for his property which had been prepared by the state Forest Service. After 1986, the plan was prepared by a private company. He stated that had been updated approximately every 10 years. Mr. Jezorek stated that reforestation had been hampered by the deer, noting that he planted 100 seedlings yearly. He stated that there had been two possible sites for the solar panels and that the one he had chosen had been the least visible. He stated that there were several of the trees that would have shaded the array. Mr. Jezorek indicated that he had removed 5 that would shade the panels, two of which were coming down anyway, because they could possibly damage the house in a storm. He discussed the fact that he had sawn up the walnut for sale and that the remainder had been cut up for firewood.

Mr. Wilson stated that he was unsure whether the D variance was needed, but noted that they were seeking D relief and a waiver of site plan. Mr. Chmielak referred to Ordinance #165-77, noting that the removal of the 14 trees was approved in the forest management plan, and expressed the opinion that the ordinance restrictions did not therefore apply. Exhibit A-1 (Forest Management Plan Update) and Exhibit A-2 (Hand Drawn Sketch/Jezorek) were marked into evidence. He stated that 12.94 sq. ft. of trees had been removed.

Jim Chmielak, PE, PP offered his credentials, which were accepted by the Board. Exhibit A-3 (Color Rendered Plan, 12/28/12) was marked into evidence. He pointed out the house and shed on the property, indicating where the arrays would be located. He reported that 1520 square feet of solar arrays were being proposed, above the 400 square foot ordinance limit. Mr. Chmielak expressed the opinion that the restriction was too small, and commented that 400 square feet would only serve a 1,000 to 1,500 square foot house. He noted that the roof was on the north side of the house and that the power

generated would not exceed 110% of the household demand. He noted that there wasn't enough room on the south side of the roof to hold the arrays. Kendra Lelie asked whether the electric demand was unique and Mr. Chmielak responded that there would be no unusual usage. He pointed out the distance to the road and the woods in the area of the array and that it was 700 feet to the neighboring dwellings. Mr. Chmielak stated that there would be no grading and shade-tolerant grass would be planted under the panels. He discussed the footings, which would be encased in concrete and expressed the opinion that they would not be difficult to remove. He pointed out the location of the wetlands on the site plan and that there was a 150 foot buffer. Kendra Lelie asked about wildlife habitat, and Mr. Chmielak noted that Round Valley had bald eagles. Sharon Stevens asked about the rock wall and Mr. Chmielak noted that the array was not going to impact the wall. Dave Roberts asked about whether there was an LOI for the wetlands and Mr. Chmielak stated that he had drafted it himself following state requirements.

Mr. Chmielak discussed the D1 variance, noting that solar power was an inherently beneficial use. He expressed the opinion that there would be no negative impact to the neighbors and no detriment to zone plan. He stated that the house had a limited roof area facing south, that there was a significant setback from the road and adjacent residences, so there would be no visual detriment. Mr. Chmielak indicated that the project would promote the visual environment and renewable resources.

Mr. Chmielak discussed the application for a waiver of site plan and listed the criteria under which the proposal applied, stating that it would not affect the circulation, building arrangements or other site plan components (Criteria #3.) He expressed the opinion that there would be no impact to the RC zone, because it would be a small use in a large lot. John Lefkus asked whether there was any evidence that the stream was a C1, and Mr. Chmielak responded that it was seepage from a spring source. Steep slopes were discussed.

A condition was discussed to not allow grading. Jon Drill discussed the Board's standard conditions. John Matsen commented on the ordinance size limit of 400 sq. ft. for the panels.

Dave Roberts moved and Sharon Stevens seconded a motion to grant the approval as discussed. Members in favor: McCaffrey, Matsen, Stevens, Filus, Lefkus and Roberts. Walter Wilson asked if the Administrator would discuss the approval with the Building Official, based on the plans in the file.

## ADJOURNMENT

John Lefkus moved and Wayne Filus seconded a motion to adjourn, and the motion passed unanimously. The meeting was adjourned at 9:24PM.

These minutes were approved on April 22, 2013.

Rebecca E. D'Alleinne, Administrator