

**MINUTES OF CLINTON TOWNSHIP BOARD OF ADJUSTMENT  
ANNUAL REORGANIZATION MEETING**

JANUARY 29, 2013

PRESENT: John Matsen, Sharon Stevens, Tom McCaffrey, Wayne Filus, Dave Roberts, John Lefkus, Ira Breines and Amy Switlyk. Jonathan E. Drill, Attorney; and Rebecca D'Alleinne, Administrator.

ABSENT: Sharol Lewis.

***CALL TO ORDER***

Mrs. D'Alleinne called the meeting to order at 8:00PM.

***PUBLIC NOTICE***

Mrs. D'Alleinne reported that the meeting was held in conformance with the Open Public Meeting Act.

***APPOINTMENTS***

Mrs. D'Alleinne announced the following appointments had been made by the Mayor:

Appointed to fill a 4-year term:

John Matsen, Regular member (Class 4) exp. 12/31/16

Appointed to fill a 2-year term:

Amy Switlyk, Alternate Member 1, exp. 12/31/14

***NOMINATIONS AND ELECTIONS***

Mrs. D'Alleinne accepted nominations for the position of chairman.

Nomination of Tom McCaffrey for chairman was made by Ira Breines and seconded by Wayne Filus. Members were unanimous in favor of Mr. McCaffrey as chairman.

Mrs. D'Alleinne presented the gavel to the chairman.

Chairman McCaffrey accepted nominations for the position of vice chairman.

Nomination of John Matsen as vice chairman was made by Dave Roberts and seconded by Sharon Stevens. Members were unanimous in favor of Mr. Matsen as vice chairman.

***APPOINTMENTS***

John Matsen moved and Sharon Stevens seconded a motion to approve the following professional appointments:

**Jonathan E. Drill, Attorney**

**Jay Bohn, Conflict Attorney**  
**Cathleen Marcelli, Larry Plevier, Engineering Expert**  
**Michael Sullivan, Kendra Lelie, Planners**  
**Rebecca D'Alleinne, Secretary**  
**Joseph Fischer & Jeff Fischer, Geo-technology Experts**  
**Cathleen Marcelli, Traffic Expert**  
**Jeffrey Keller, Environmental Expert**  
**Brian Bosenberg, Michael Sullivan, & Kendra Lelie, Landscape Architects**  
**John M. Thomas, Conflict Landscape Architect**  
**Brian Clemson, Lighting Expert**  
**John Harch, Michael Hanrahan, Architectural Experts**  
**Matthew Mulhall, Hydrogeology Expert**  
**Joanne Sekella, Certified Shorthand Reporter**  
**Ron Graiff, Wireless Communications Expert**

The members concurred unanimously on all appointments.

Ira Breines moved and Sharon Stevens seconded a motion to approve the official newspapers: the Hunterdon County Democrat and the Star Ledger. The Board approved unanimously. Sharon Stevens moved and Dave Roberts seconded a motion that the calendar for 2013 as presented be adopted. The Board approved unanimously. Dave Roberts moved and John Matsen seconded a motion that the Rules and Regulations for 2013 be adopted. The Board concurred unanimously.

The 2012 Annual Report was discussed. Tom McCaffrey moved and Ira Breines seconded the motion that the Annual Report for 2012 be adopted as written.

### ***VOUCHERS***

Chairman McCaffrey moved and Sharon Stevens seconded a motion to approve the vouchers. The Board concurred unanimously.

### ***MINUTES***

John Lefkus moved and Wayne Filus seconded a motion to approve the minutes of December 10, 2012 as written. Chairman McCaffrey abstained. The Board concurred unanimously.

### ***RESOLUTIONS***

**ZINN REALTY, Block 74, Lot 16, 18 & 19**  
Resolution #2012-12, Application #2012-07

Sharon Stevens moved and Dave Roberts seconded a motion to approve the resolution as written. Members in favor: Stevens, Filus, Lefkus and Roberts.

### ***EXTENSIONS OF TIME***

**BENCH, Block 95, Lot 2**

Resolution #2010-20, Application #2008-12

John Gallina, Esq. introduced himself on behalf of the applicant. He discussed the reasons that had held up the application and asked for an extension of time of Resolution Condition 12. He asked for a one-year extension to obtain construction permits. Ira Breines moved and John Matsen seconded a motion to grant the extension to February 28, 2014. Members in favor: McCaffrey, Matsen, Stevens, Breines, Filus, Lefkus and Roberts.

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

Resolution #2010-08, Application #2008-11

Jon Drill reported that Township Administrator Marvin Joss had sent a letter requesting an extension of time within which to obtain signatures. He summarized the contents of the letter, explaining the Permit Extension Act. Mr. Drill noted that Mr. Joss had asked for an extension until 12/ 31/ 2014. Chairman McCaffrey noted that the Board had previously granted a preliminary site plan approval with D and C variances. Dave Roberts moved and John Matsen seconded a motion to modify the resolution condition as discussed. Members in favor: McCaffrey, Matsen, Stevens, Breines, Filus, Lefkus and Roberts.

***PUBLIC HEARINGS***

**WATER'S EDGE HOMEOWNERS' ASS'N., Block 68, Lot 9.04**

Application #2012-13

Chairman McCaffrey stated that the application would be carried to the February 25, 2013 meeting without the need for further notice.

**GILL PETROLEUM, Block 88, Lot 9**

Application #2013-01

Chris Erd, Esq. introduced himself on behalf of the applicant. He noted that the application had previously been before the Planning Board for a waiver of site plan approval, which had been granted. He explained that the applicant had placed a kiosk under the existing gas station canopy, which was denied by the building official, necessitating a variance from the BOA. The waivers were discussed and Chairman McCaffrey noted that Cathy Marcelli had no concern with temporary waivers for checklist items #18, #22, #23, #28, #30, #32, #35, #36, and #37. He further indicated that she had no objections to waiving checklist items #14, #38, #39, #40, #41, #42, #56 and #59. Jon Drill clarified that the waivers were not temporary, but that the waivers would be granted subject to a condition that the information be submitted at a later date. Sharon Stevens moved and Dave Roberts seconded a motion to approve the waiver requests as discussed. Members in favor: McCaffrey, Matsen, Stevens, Breines, Filus, Lefkus and Roberts. The application was deemed complete.

Kashmir Gill, Principal, Brian Shortino, Engineer, Roger DeNiscia, Planner, Kendra Lelie, Board Planner were Sworn. Mr. Shortino offered his credentials, which were accepted by the Board. He offered Exhibit A-1 (Landscape and Kiosk Plan) and compared it to the plan that had been included in the packet materials. He indicated that he had incorporated the comments from Cathy Marcelli, which had been noted as temporary waivers in her report. He submitted a CD with the revisions on it. Mr. Erd discussed the items that had been requested as waivers and subsequently had been submitted.

John Lefkus discussed structures and asked that if the kiosk was under the structure, whether it changed the setback. Jon Drill commented that it added to the intensity of the site. Kendra Lelie stated that the kiosk needed a setback variance. Mr. Lefkus discussed the setback of the canopy and asked why the kiosk needed another setback. Jon Drill explained that one structure does not subsume another unless it was part of the building. Mr. Lefkus did not agree but noted that he understood the intensity argument.

Jon Drill discussed a prior gas station case. Mr. Erd explained that the case that the applicant had brought before the Planning Board was for a waiver of site plan for the renovation of the convenience store, landscaping, and parking lot striping. No expansion was requested. Mr. Shortino pointed out the location of the kiosk on the island. He gave the dimensions and explained the heated area was for attendants to wait. Dave Roberts asked whether there were construction permits and electrical permits involved. Mr. Shortino explained that there were bollards on the corners of the kiosk and Mr. Gill stated that the kiosk came with its own electrical. Mr. Erd noted that it was a prefabricated unit with the heating and electrical included. Shop drawings were discussed. There was no one in the public with any questions.

Roger DeNiscia offered his credentials, which were accepted by the Board. He submitted Exhibit A-2 (Five Photos with Site Plan), which was marked into evidence. He pointed out the convenience store and the canopy. Mr. DeNiscia noted that the attendants needed a place to stay between sales, rather than going back into the building after each dispensing of fuel. He called it an "island shelter building" and noted that they were very common. He expressed the opinion that the shelter would enhance the efficiency of the site. Mr. DeNiscia stated that the site was in a C1 zone, which did not permit service stations, noting that if a site was nonconforming, any alteration would require a D use variance. He stated that there should only be one principal use building on the property and that there were two principal uses, requiring a gas canopy and convenience store. He expressed the opinion that the third building was necessary for the site.

Chairman McCaffrey asked why the kiosk should be considered a principal structure, not an accessory structure. Kendra Lelie stated that it was another structure to be used for shelter. Jon Drill commented that if the kiosk was an accessory structure, the applicant would only need a D variance for the expansion of principal use. Ms. Lelie read the definition of accessory building from the ordinance. John Lefkus expressed the opinion that the kiosk was not a principal structure, as it was accessory to the gas station use. The Board discussed the matter and determined that it was a accessory structure. Jon Drill noted that the applicant only had a need for a D2 expansion of a nonconforming use. Mr. DeNiscia indicated that any alteration required a use variance. He stated that it

was an existing service station with separate activities, and the most common way to accommodate the attendants was to have an island shelter building. He expressed the opinion that the proposal would not have any impact on the zone plan and would not add to the site's impervious cover. Mr. DeNiscia stated that the proposal would not impair the intent and purpose of the zone plan. He expressed the opinion that the site was currently a deficient situation because it was inefficient, noting that with the kiosk it would function better and customers would be served in a timelier manner. Mr. Gill explained that there was no cash register in the kiosk. He noted that cleanliness was important and that the attendants did have gas on their hands and uniforms.

Chairman McCaffrey asked for a motion to grant a waiver of site plan and a D2 expansion of a preexisting nonconforming use. Sharon Stevens moved and Dave Roberts seconded the motion. Members in favor: McCaffrey, Matsen, Stevens, Breines, Filus, Lefkus and Roberts.

Mr. Erd thanked the Board and asked for the administrator to ask the building official to issue the approvals. Conditions #32 and #35 were discussed.

### ***ADJOURNMENT***

Amy Switlyk moved and Dave Roberts seconded a motion to adjourn. The Board concurred unanimously and the meeting was adjourned at 9:35PM.

These minutes were approved on February 25, 2013.

Rebecca E. D'Alleinne  
Secretary to the Board