

MINUTES OF CLINTON TOWNSHIP PLANNING BOARD

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PUBLIC MEETING

DATE: September 16, 2013

PRESENT: John Higgins, Chris D'Alleinne, Kevin Cimei, Michael Brady, Richard Scheick, Brian Mullay, Sam Mardini and Suzanne Kleinhans.

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

ABSENT: Peter Marra.

CALL TO ORDER

Chairman Higgins called the meeting to order at 7:32P.M.

PUBLIC NOTICE

This is a public meeting of the Planning 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.

MINUTES

Brian Mullay moved and Chris D'Alleinne seconded a motion to approve the minutes of August 19, 2013 as written. The Board concurred unanimously. Rich Scheick and Sam Mardini abstained.

RESOLUTION

CLINTON AGRICULTURAL ASSOCIATES, Block 7, Lot 3

Resolution #2013-15, Application #2013-06

Jon Drill stated that Version #2 was under consideration and the applicant's attorney, Walter Wilson, Esq., had submitted a letter requesting additional revisions but had advised him that he would not be appearing this evening. Mr. Drill advised the Board that he would go through the revisions page by page, indicating which corrections had been offered by Board members and which had been suggested by Mr. Wilson. Mr.

Drill stated that for some of the corrections, he would not advise the Board to make the change and that during a telephone conversation earlier in the day, that Mr. Wilson had noted that he was fine with those revisions not being made. Mr. Drill suggested that the Board not change the term “farm market” to “farm stand”, not change the number of stories of the ranch house to 1½ stories and the house to 2 ½ stories, not change the applicant’s rationale for granting the agricultural subdivision, and not change a footnote concerning grading. Mr. Drill advised that Mr. Wilson indicated to him that the grading was ongoing and that the applicant would provide an as-built plan. Cathy Marcelli noted that grading was a part of stormwater management and did not suggest a change, as it would not keep them from future grading.

The Board determined that the applicant should add the note that they may grade as per the approved HC Soils District plan. Brian Mullay commented that the site plan was to record current conditions and the Board determined to leave the wording as proposed. Michael Brady moved and Brian Mullay seconded a motion to approve the resolution as corrected. Members in favor: Higgins, D’Alleinne, Brady, Cimei, Mullay and Kleinhans. Jon Drill marked up the letter from Mr. Wilson and gave it to the administrator for the file.

HUNTERDON COUNTY AGRICULTURAL DEVELOPMENT BOARD

Chairman Higgins reported that he had attended a Hunterdon County Agricultural Development Board meeting for an application by Clinton Agricultural Development Associates to construct a greenhouse and to certify the farm. He indicated that he had presented the Planning Board’s position and expressed concerns about the C-1 stream, traffic, and lighting. He stated that the Ag Board tabled the motion and advised the applicant to come back to the Planning Board for a site plan review. He thought that the Board should self-limit their review to items such as stormwater management, building placement, parking and lighting. Chairman Higgins also discussed approaching the Council to consider the reduction of the fees for the application. He asked for the Board to authorize him to approach the Council for the fee relief. Brian Mullay so moved, Chris D’Alleinne seconded and the members concurred unanimously. He noted that the applicant would voluntarily come to the Planning Board for the site plan approval.

COMPLETENESS WAIVERS HEARING

PAYNE FARMS, Block 90, Lot 2.01

Jon Drill noted that the applicant’s attorney, George Dilts, Esq. had written a letter to address the incomplete items with reasons for the requests. Cathy Marcelli had no objections to Mr. Dilt’s requests. Mr. Drill suggested that he not write a separate resolution and the administrator should send a completeness notice. Chairman Higgins moved and Michael Brady seconded a motion to grant the requested waivers. The Board concurred unanimously.

Brian Mullay recused himself from the following hearing.

WAIVER OF SITE PLAN HEARING

AMERICAN TOWER, Block 89, Lot 5.02

Richard Lemanowicz, Esq. introduced himself on behalf of the applicant. He stated that the application was for the addition of a generator to be installed within the existing telecommunications fenced compound on the site. Brian Seidel, the applicant's Planner and Landscape architect, presented his credentials and was sworn. Board Planner Kendra Lelie, the Board's Planner and Landscape architect, was also sworn.

Mr. Seidel indicated that he had reviewed the code and listed the requirements for the application. He noted that the applicant had provided an existing features plan and prior resolutions of approval. He stated that the proposal was for the installation of a ground-mounted shared generator that would be available for all the carriers on the tower. Mr. Seidel stated that the generator would provide backup power to all of the carriers in the event of a power outage and that there would be no change to the operation of the facility, and no impact on traffic, drainage, buffering or lighting.

Chairman Higgins asked how large the generator would be, and Mr. Seidel reported that it was an 80kw diesel engine. Michael Brady discussed secondary containment, and Mr. Seidel indicated that it would be in the fuel container itself. Chairman Higgins asked about the frequency of testing exercises, and Mr. Seidel replied that it would take place once a month during daylight hours. Jon Drill commented that the noise code exempts them from restrictions during actual emergencies but they would have to comply with the NJDEP Noise Code during testing. Mr. Seidel indicated that there was noise attenuation built into the generator, and he would agree to testing during normal business hours and to an initial noise test after installation to be monitored by a Township official. The test would be conducted and must be passed with no more than 65 dB at any property line in order to receive a certificate of approval. He stated that the generator was on top of the fuel tank and would be 8 ½ feet high. Mr. Lemanowicz stated that they were applying for the waiver of site plan under Condition #3. There were no questions from the public.

Sam Mardini moved and Chris D'Alleinne seconded a motion to grant a waiver of site plan hearing subject to conditions. Members in favor: Higgins, D'Alleinne, Brady, Scheick, Cimei, Kleinhans and Mardini.

Mr. Mullay returned to the meeting,

NEW BUSINESS

1. Approval of Vouchers: Chris D'Alleinne moved and Brian Mullay seconded a motion to allow the vouchers.
2. The Board discussed receiving copies of the professional's vouchers and there was general agreement to continue the distribution.

PUBLIC HEARINGS

HIONIS FARMS, Block 4, Lot 20

Application #2012-12

Gaetano DeSapio, Esq. introduced himself on behalf of the applicant. Kevin Cimei recused himself and left the meeting. John Lanza, Esq. introduced himself on behalf of the objectors.

Jon Drill stated that in April, the applicant had received preliminary and final site plan approval and he had drafted a proposed memorializing resolution which had gone through a number of drafts, and the current draft under consideration was #4. He explained that he could not make some of the revisions that had been requested by Mr. DeSapio for the following reasons: (1) the Board in some instances had specifically stated the conditions, which in some instances had been suggested by an objector; and/or (2) the requested revision was contrary to what was presented by the applicant during the underlying hearing. For these reasons, Mr. Drill had advised Mr. DeSapio that he would have to request that the hearing be re-opened on notice if the applicant wished to make the revisions to the resolution at issue.

The Board Secretary confirmed that proper notice was sent and the Public Hearing was re-opened.

Mr. Drill noted that the objectors' attorney had contacted him, questioning whether the greenhouse use was permitted in the zone and Mr. Drill expressed the opinion that the question was a jurisdictional matter. He stated that he did not feel that planning testimony was necessary for the Board to decide the jurisdictional question because it was a legal matter and Mr. Lanza and Mr. DeSapio agreed. Board Planner Kendra Lelie left the meeting. The applicant's planner's report was marked as Exhibit O-1 (Bogan Planner's Report 9/4/13) for the purpose of getting its contents before the Board.

Mr. Lanza expressed the opinion that a commercial greenhouse was not permitted in the zone. He quoted from the 1999 Township Master Plan concerning whether greenhouses should be permitted, noting that the recommendations had not been followed. Jon Drill read from the draft resolution concerning the permissibility of a greenhouse as a part of an agricultural use. Mr. Lanza stated that the property was in two different zones and expressed the opinion that the matter should be addressed by the BOA. He discussed the impact of a commercial greenhouse on the neighboring residential properties. Jon Drill read the inconsistency section of the draft resolution that discussed the difference between a stand-alone greenhouse versus an accessory structure to a permitted principal agricultural use. Mr. Lanza made the argument that a commercial greenhouse was not a permitted use, and had been eliminated in the 1999 Master Plan. The ordinance definition of commercial greenhouse was discussed. Brian Mullay read the definition of a farm from the ordinance. Mr. Lanza discussed the residential uses section of the ordinance and stated that a greenhouse was not a permitted use. He opined that the ordinance language specifically excluded them and expressed the opinion that it was for the BOA to decide the matter. Jon Drill expressed the opinion that the PB had jurisdiction.

Mr. DeSapio restated Mr. Lanza's position that the BOA had jurisdiction, and expressed the opinion that the CADB actually had jurisdiction and that the application had been sent by the CADB to the Planning Board for review. He opined that the referral pre-supposes that it was a permitted use determined under the Right to Farm legislation. Mr. DeSapio stated that, in due deference to the community, the application was referred to the Planning Board and that the CADB had determined the jurisdiction. Jon Drill referred to the county resolution dated 8/9/12, noting that all of the attorneys were rendering opinions and read the resolution section into the record which did not specify which Board had jurisdiction.

Mr. Lanza noted that the CADB had not designated which board, and that the Planning Board should decline jurisdiction. Mr. DeSapio stated that the use had been determined by the CADB, and that the application should not be sent to the BOA, expressing the opinion that starting over would be unfortunate.

Chairman Higgins stated that he was the individual that had appeared before the CADB, pointing out that the Township attorney had determined that the greenhouse was a permitted use. He commented that everyone in attendance at the CADB meeting were under the impression that the Planning Board had jurisdiction over the site plan application that the CADB had referred to the Township. He reviewed the opinions of the objector's attorney and saw no reason to change his mind. Sam Mardini and Chris D'Alleinne agreed with the chairman. Brian Mullay discussed the Master Plan and stated that it was a permitted use. Suzanne Kleinhans noted that there was ambiguity in the ordinance, but agreed with Chairman Higgins, as did Rich Scheick. The Board determined to retain jurisdiction.

Mr. Drill stated that the issue had been raised by Mr. DeSapio concerning the hoop houses as a part of site plan approval and read the revisions into the record. Mr. Lanza referred to the hoop houses as related improvements. He discussed the zoning officer and a zoning permit for the hoop houses. Mr. Drill referred to the resolution conditions and the revisions that Mr. DeSapio had requested, noting that Ms. Marcelli still wanted a site plan as a "snapshot in time" to designate where the grading would be located. He read the condition concerning tractor trailers and the placement of the gate.

Robert Templin, applicant's engineer displayed Exhibit A-5 (Colorized Sheet Two, dated 7/27/12, rev. 6/13/13), which was marked into evidence. He pointed out the area that would be used for truck parking and noted that the 53 foot truck would block some driveways inside the property. He asked that the requirement be reduced from 53 feet to 40 feet. He indicated that a tractor trailer-sized truck only came several times a year. Cathy Marcelli made some suggestions and discussed the turning radius. Peter Hionis stated that the 53' truck parking area was causing an issue and asked if they were to eliminate the gate, whether the problem would go away. Chairman Higgins discussed security and expressed the opinion that a gate was needed. Peter Hionis stated that they would like to have a gate and that they were asking that the parking area be 13 feet shorter. Chairman Higgins called a recess at 9:38PM. The meeting was called to order at 9:45PM.

Mr. DeSapio expressed the opinion that a 40' truck parking area was practical, and that would leave the area open. Mr. Lanza expressed the opinion that the larger size was only inconvenient for them and that the 53' would be the best solution. Chairman Higgins noted that it was not the Planning Board's right to insist on a gate, but to

negotiate the most satisfactory solution. Brian Mullay commented that a gate was a good idea and suggested that they could have two gates. Cathy Marcelli discussed the suggestion and indicated that it was possible. Mr. Templin also indicated that it could be done with two gates. Chairman Higgins called a recess at 9:57PM. The meeting was called to order at 10:00PM.

Mr. Templin reported that the two-gate solution that Ms. Marcelli proposed could be done. Michael Brady believed that a gate was needed, but didn't think it needed to be 53 feet. Suzanne Kleinhans and Chris D'Alleinne agreed. Sam Mardini agreed that a gate should be installed and Board engineer's recommendation should be followed for 2 gates. Rich Scheick expressed the opinion that a gate was important and that the area could be manipulated for two gates. Chairman Higgins commented that having a gate was important and that 40 feet would be acceptable. John Lanza stated that the tractor trailers were not occasional visitors to the site. Jon Drill read his revised condition into the record.

Mr. DeSapio stated that the porta-johns could be moved around the site and suggested that they should be no less than 150 feet from the property line. All agreed.

Garbage disposal was discussed. Cathy Marcelli discussed using enclosed dumpsters so trash wouldn't blow around the fields. Tim Hionis, co-owner, was sworn. He stated that when the dumpsters were full, the haulers were called. Chairman Higgins explained that there was concern over sheeting and pots blowing around. Mr. DeSapio proposed that when the dumpster was not in use, it would be covered with a tarp. Mr. Drill read the revised language into the record.

Jon Drill discussed the surface treatment of the driveway. Mr. Templin reported that they wanted to cap the driveway with an asphalt emulsion, as per DEP regulations. Cathy Marcelli agreed with the new language. All of the Board members and the attorneys also agreed.

Landscaping and the berm were discussed. Tim Hionis stated that he would like to be able choose what to plant. Chairman Higgins commented that there had never been an issue in the past and was confident that the applicant could work something out with the neighbor and Cathy Marcelli, who stated that she would like to see the layout for the trees. Mr. DeSapio agreed.

Jon Drill noted that the resolution approval dates would have to be changed. He discussed Board standard conditions and it was determined that construction permits must be pulled within two years and that the applicant would have two additional years to complete the construction work. Landscaping, performance and maintenance guarantees were discussed. Chairman Higgins called a recess at 10:35PM. The meeting was called to order at 10:47PM.

Jon Drill read the conditions for the performance guarantees. Mr. DeSapio stated that all of the farm vehicles would not be parked on the parking lot. Mr. Drill read revised language. Mr. DeSapio noted that the applicant was asking that the farm vehicles not be included so it was determined to limit the parking condition to the greenhouse. Jon Drill explained that the condition came from one of the Board's standard rules. Mr. Lanza was concerned about trailers or vehicles parked on the property. Chairman Higgins differentiated between farm implements and keeping box trucks and cars by the greenhouses. Mr. DeSapio discussed enforcement of parking, or idling on the surrounding roads. Both Mr. Lanza agreed and Cathy Marcelli agreed with the revision.

Peter Hionis asked why the DEP violations had to be listed in the resolution and Mr. Drill noted that they were part of the history of the application.

Chairman Higgins moved and Chris D'Alleinne seconded a motion to re-approve the site plan as discussed, with revisions and conditions as discussed. Members in favor: Higgins, D'Alleinne, Brady, Scheick, Mullay and Kleinhans.

RESOLUTIONS

HIONIS FARMS, Block 4, Lot 20

Resolution #2013-10, Application #2012-12

Chris D'Alleinne moved and Michael Brady seconded a motion to approve Draft #4 of the resolution with the revisions as discussed. Members in favor: Higgins, D'Alleinne, Brady, Scheick, Mullay and Kleinhans.

ADJOURNMENT

Rich Scheick moved and Chris D'Alleinne seconded a motion to adjourn. The motion passed unanimously, the meeting was adjourned at 11:11PM.

These minutes were approved on October 21, 2013.

Rebecca E. D'Alleinne
Administrator