

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

FEBRUARY 23, 2015

PRESENT: John Matsen, Sharon Stevens, Tom McCaffrey, Wayne Filus, Dave Roberts, Sharol Lewis, Tom Yager, Arne Olsen, Jonathan E. Drill, Attorney, Andrea Malcolm, Planner and Rebecca D'Alleinne, Administrator.

ABSENT: John Lefkus.

CALL TO ORDER

Mrs. D'Alleinne called the meeting to order at 7:31PM.

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, and Mr. Drill announced that he had sworn the new and reappointed members in prior to the commencement of the meeting:

Appointed to fill a 4-year term:

Sharon Stevens, Regular member, exp. 12/31/18

Appointed to fill a 2-year term:

Tom Yager, Alternate #1, exp. 12/31/16

Arne Olsen, Alternate #2, exp. 12/31/15 (To fill remainder of an unexpired term.)

NOMINATIONS AND ELECTIONS

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

Nomination of Tom McCaffrey was made by John Matsen and seconded by Sharon Stevens. 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 Sharon Stevens and seconded by Wayne Filus. Members were unanimous in favor of Mr. Matsen as Vice Chairman.

Chairman McCaffrey accepted nominations for the position of Vice Chairman Pro Tem.

Nomination of Sharon Stevens was made by John Matsen and seconded by Sharol Lewis. Members were unanimous in favor of Ms. Stevens as Vice Chairman Pro Tem.

APPOINTMENTS

Chairman McCaffrey moved and Sharon Stevens seconded a motion to appoint the following professionals and staff. The Board was unanimous in favor.

Jonathan E. Drill, Attorney
Rebecca D'Alleinne, Secretary
Joanne Sekella, Stenographer
Jay Bohn, Conflict Attorney
Cathleen Marcelli, Larry Plevier, Engineering Expert
Michael Sullivan & Andrea Malcolm, Planning Experts
Joseph Burgis, Affordable Housing & Conflict Planning Expert
Joseph Fischer & Jeff Fischer, Geotechnical Experts
Cathleen Marcelli, Traffic Expert
Jeffrey Keller, Environmental Expert
Brian Bosenberg, & Michael Sullivan, Landscape Architectural Experts
John M. Thomas, Conflict Landscape Architectural Expert
Brian Clemson, Lighting Expert
John Hatch, Michael Hanrahan, Architectural Experts
Matthew Mulhall, Hydrogeology Expert
Charles Hecht, Radio Frequency Expert

Sharon Stevens moved and Wayne Filus seconded a motion to designate the official newspapers: the Hunterdon County Democrat and the Star Ledger. The Board approved unanimously. Sharon Stevens moved and Wayne Filus seconded a motion that the calendar for 2015 as presented be adopted. The Board approved unanimously. Sharon Stevens moved and John Matsen seconded a motion that the Rules and Regulations for 2015 be adopted. The Board concurred unanimously.

The 2014 Annual Report was discussed. Chairman McCaffrey moved and Sharon Stevens seconded the motion that the Annual Report for 2014 be adopted as written.

VOUCHERS

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

MINUTES

Dave Roberts moved and John Matsen seconded a motion to approve the minutes of November 24, 2014, as corrected. The Board concurred unanimously.

John Matsen moved and Wayne Filus seconded a motion to approve the minutes of December 8, 2014 as written. The Board concurred unanimously.

Sharon Stevens moved and Wayne Filus seconded a motion to approve the Executive Session minutes of September 22, 2014, as written. The Board concurred unanimously, with Wayne Filus abstaining.

COMPLETENESS WAIVERS HEARING

PLATYPUS ENTERPRISES, Block 13.01, Lot 3

Chairman McCaffrey noted that Board Engineer Cathy Marcelli had no objections to the request for waivers. Conditions would be imposed if an approval was granted. Dave Roberts moved and Wayne Filus seconded a motion to grant the waivers with the condition that the items be submitted if an approval were to be granted. Members in favor: McCaffrey, Matsen, Stevens, Lewis, Filus, Roberts and Yager. Discussion ensued as to which planner should report, and it was determined that the affordable housing planner should report. The Administrator was asked to add the Historic Commission to the distribution list.

PUBLIC HEARINGS

KULLMAN INDUSTRIES, Block 7, Lot 3

Guliet Hirsch, Esq. introduced herself on behalf of the applicant. She noted that the applicant was requesting a minor site plan approval. She reviewed the history of the case and the prior approval of the “d” variance for outdoor storage. Ms. Hirsch explained that the case was considered to be a minor site plan, because there would be no changes and no new buildings would be involved. She noted that at the November hearing the Board had been concerned about the location of the storage.

Robert Clerico, Engineer, Robby Kullman, Manager, William Chiesi, Operating Manager and Andrea Malcolm, Board Planner were sworn. Robert Clerico offered his credentials, which were accepted by the Board. Exhibit A-1 (Sheet 1), Exhibit A-2 (Color-Rendered Sheet 2, 11/7/14) and Exhibit A-3 (Original Site Plan, 1998) were marked into evidence. He discussed Exhibit A-2, noting that the shaded areas had been used for outdoor storage and indicated that the red areas were storage areas within the building setback. He stated that the applicant would abandon that red area for storage. Mr. Clerico indicated that there were backup storage areas in the original approval. Ms. Hirsch stated that the ordinance in 1998 did allow parking and storage in the setback areas, but that the ordinance had changed since that time, so they would abandon storage in the area marked in purple. Mr. Clerico stated that he had created another site plan Exhibit A-4, (Sheet 2) that identified the area that would be abandoned as a storage area, which was marked into evidence. Exhibit A-5 (Sheet 1) was also marked into evidence. He noted that it showed all of the parking and buildings. He discussed the existing landscaping, noting that the trees were 15-20 feet tall. Mr. Clerico reported that the highest tractor trailer was less than 14 feet. He noted that Exhibit A-4 depicted a retaining wall and stated that an engineered plan had been submitted. He noted that nothing new was being proposed, and stated that documentation had been added to the plans. Mr. Clerico listed the materials that would be stored for the record.

Dave Roberts asked about the military vehicles and what items would not fit in the building. William Chiesi stated that there were Humvees and transport vehicles that would be transported from one location to another, noting that the large items were usually too wide to fit in the building. John Matsen wondered how the storage fit with the “use” that had been granted, which was not warehousing. He expressed the opinion

that storage wasn't an accessory use for manufacturing. Ms. Hirsch stated that there were some items that were moved to the site for short periods of time. Mr. Drill noted that there was a resolution finding that there were limits on the outdoor storage.

Guliet Hirsch listed each storage item and Mr. Chiesi responded to each. AC units: Too large because they were outdoor units. He stated that there were repairs being done on the units. Tom Yager asked for dimensions and Mr. Chiesi responded that they were 20' x 10' x 11'. Building materials: Sometimes outside, because they take up too much space. Building equipment: Sometimes must be repackaged. Military vehicles: Will be inspected and repaired before sending to base. Artwork statues, playground equipment: Are picked up at a museum for shipping. Storage tanks, bricks, concrete blocks, steel. Will be packaged up, assembled for shipping. He indicated that the applicant was ensuring that items that were shipped out were safe for shipping.

Jon Drill pointed out that there were items listed in the resolution that were to be assembled within the building for transport. Mr. Chiesi stated that it would only happen occasionally and that the items would be there only a short period of time. Mr. Drill read from the resolution concerning the services performed at the facility, noting that the applicant had agreed to put the building materials at the Branchburg facility.

Guliet Hirsch commented that originally a very extensive list had been created. Boilers would go inside the building. Gas tanks should be processed in the Branchburg facility. Sharon Stevens asked how long it took to move the items. Mr. Chiesi stated that the reason that items would have to be outside for any period of time was for staging purposes, such as temporary pre-assembly and post-assembly storage. Delivery was sometimes required by the client. Mr. Drill discussed the nature of the work that was being performed at the site and what had been allowed by the resolution. Ms. Hirsch noted that the ordinance did allow outdoor storage in the ROM commercial zone. John Matsen discussed warehousing and Ms. Hirsch responded that that the Board had already determined the issue in the previous interpretation of use application. The next item was pallets. Mr. Chiesi stated that they would build them and stack up while the machinery was being repaired. He discussed steel beams and the applicant agreed to send them to Branchburg. Chairman McCaffrey asked whether there was an ancillary charge for the storage and Mr. Chiesi stated that it was a flat price per job. Oversize customer equipment: The applicant agreed to take off the list. Tom Yager asked about the evening shift, and Mr. Chiesi noted that sometimes drivers would be coming in late. Mr. Clerico stated that there were marked parking areas that would not be expanded. There were no questions from the public.

Mr. Clerico pointed out the magenta areas on Exhibit A-2 that would not have any storage. Andrea Malcolm recommended that sections from the 1998 resolution be incorporated into the current resolution. Discussion ensued concerning outdoor deliveries and the hours of operation. Mr. Clerico referred to Ms. Malcolm's memo concerning the hours of operation, replacement retaining wall, and noise levels. He expressed the opinion that the current operation was much less intense than the original operation. He discussed the statutory noise limitations. Mr. Clerico stated that the operations were a considerable distance from the surrounding properties. Mr. Matsen suggested a noise test and Ms. Hirsch indicated that the proceeding was for a site plan, not a use variance application. Mr. Clerico stated that there was less truck traffic than the previous Kullman operation. Guliet Hirsch expressed the opinion that it was

unreasonable to ask for a noise test. Mr. Clerico discussed the noise at the Branchburg facility and indicated that the Lebanon facility was very far from the residential properties. It was noted that the applicant had a statutory requirement to adhere to the noise limitations of 65 db. John Matsen asked about the website and asked whether the equipment would be moved to the Lebanon site. Mr. Clerico stated that the equipment would be used on the manufacturing site.

Jon Drill stated that the conditions would reflect what was shown on the exhibits and noted that there would be a few new conditions which would be reviewed by Ms. Hirsch when he emailed her a draft of the resolution. Wayne Filus moved and Sharol Lewis seconded a motion to approve the site plan application with the conditions as discussed. Members in favor: McCaffrey, Stevens, Lewis, Filus, Roberts and Yager. Members opposed: Matsen. Chairman McCaffrey called a recess at 9:42PM.

MUERER DEV./VILLAGE GREEN, Block 49, Lot 25

The meeting was called to order at 9:48PM. Tom Yager recused himself from the following hearing and left the meeting.

Todd Murphy, Esq. introduced himself on behalf of the applicant. Rich Meurer, Owner, Wayne Ingram, Applicant's Engineer and Planner, Chris Nusser, Applicant's Engineer, and Andrea Malcolm, Board Planner were sworn. Mr. Meurer stated he had experienced difficulty signing commercial leases and asked the Board to change the approved use in some of the units to residential with the addition of an affordable unit. Sharon Stevens asked if the façade would change and Mr. Meurer stated that the bottom store fronts would be removed. Andrea Malcolm suggested a fence in front of the building to mitigate light and noise. There were no questions from the public.

Wayne Ingram presented his credentials, which were accepted by the Board. He displayed Sheet 2, which was a plan to convert some of the commercial space into nine residential units. Outdoor seating areas and an electrical vehicle charging station would also be installed, but would be restricted to use by the tenants. Whether the tables were fixed was discussed. Jon Drill stated that the board could make the tables optional. Mr. Ingram stated that originally 103 parking stalls were required, 84 would be required under the new proposal and the applicant would provide 83 stalls. He characterized the new proposal as less intensive. Jon Drill discussed accessory storage for both the residential and commercial uses. Mr. Ingram stated that in Building 2, four commercial units would be converted to residential use. In Building 3, four commercial units exist and a total of three would be residential. In Building 4, 2 commercial units would be converted to residential. He indicated that the proposal would create 9 additional residential units, for a total of 26 residential units. He stated that there would be a total of four affordable units and that Building 6 would remain commercial.

Mr. Ingram noted that the applicant was seeking to modify the mixed use and to intensify the residential use, a "d1" variance. He expressed the opinion that the proposal was an appropriate use of the land because it was a transit village and encouraged a positive aesthetic environment. He commented that it would conserve historic sites, and would be an asset to the township. Mr. Ingram stated that the positive aspects of the proposal were that the use was suited to the area, and was a good fit in the residential

area. He expressed the opinion that there would be no negative impact and would promote reuse of the buildings, which was beneficial. He stated that a fence in front of the building would create a dark area and would disconnect the buildings from the transit station.

The architectural renderings were discussed. The Board looked at the changes as indicated by the architect. Mr. Meurer discussed the sizes of the windows. Mr. Ingram stated that the proposed windows would be a residentially-appropriate size window. The three page plan set, dated 11/4/14, was what the applicant wanted to have approved. The architectural renderings were modified and the applicant was asking to have them approved as per the drawings.

Andrea Malcolm asked why they considered a fenced area to be unsafe, Mr. Ingram expressed the opinion that a fence would create a disconnect between the transit area and the residential area. Mr. Meurer commented that the railroad area emptied out after 8:00PM and noted that most people wanted the bottom units. Sharon Stevens stated that she would not like a fence in front of the units right on the street. She asked about the number of parking spaces and Mr. Ingram stated that the figure was 1.5 to 2 per unit. He noted that many people could walk to the transit center. The Clinton Township Sewerage Authority approval for an increase in sewer capacity was noted.

Sharon Stevens moved and John Matsen seconded a motion to grant the “d1” variance and an amended preliminary and final site plan approval. Members in favor: McCaffrey, Matsen, Stevens, Lewis, Filus, Roberts and Olsen. Jon Drill stated that he would draft the resolution and asked the Board whether it wanted the Administrator to contact the zoning officer and building official to treat the resolution as though was memorialized once the draft form was agreed to by the applicant. The Board unanimously indicated in the affirmative.

EXECUTIVE SESSION

Chairman McCaffrey and Vice Chairman Matsen recused themselves from the remainder of the meeting.

Vice Chairman Pro Tempore Sharon Stevens read a resolution into the record authorizing the Board to enter closed session in order to discuss pending litigation, Hensfoot Development Corp. v. Clinton Township Board of Adjustment and Zinn Realty. Dave Roberts moved and Wayne Filus seconded a motion to adopt the resolution as read. Members in favor: Stevens, Lewis, Filus, Roberts and Olsen. The Board entered Executive Session at 10:35PM.

OPEN SESSION

The Board re-entered open public session at 11:12PM. Jon Drill reported that the attorney for Hensfoot Development had filed suit against the Board and the applicant, Zinn Realty. Mr. Drill read a proposed resolution into the record to authorize Mr. Drill to join in any brief submitted by Zinn Realty and/or file a statement in lieu of brief on behalf of the Board. Dave Roberts moved and Sharol Lewis seconded a motion to adopt the resolution. Members in favor: Stevens, Lewis, Filus, Roberts and Olsen.

ADJOURNMENT

Dave Roberts moved and Wayne Filus seconded a motion to adjourn. The Board concurred unanimously and the meeting was adjourned at 11:17PM.

These minutes were approved on April 20, 2015.

Rebecca E. D'Alleinne
Secretary to the Board