

**MINUTES OF CLINTON TOWNSHIP BOARD OF ADJUSTMENT**

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**PUBLIC MEETING**

DATE: September 28, 2015

Chairman McCaffrey called the meeting to order at 7:30pm.

Chairman McCaffrey led the Flag Salute.

Chairman McCaffrey read the 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 and faxed to the Hunterdon County Democrat, the Express Times, the Courier News, the Hunterdon Review, and the Star Ledger, no later than the Friday prior to the meeting.

**BOARD MEMBERS IN ATTENDANCE:**

Lefkus, Matsen, McCaffrey, Olsen, Roberts, Yager

**BOARD MEMBERS ABSENT:**

Filus, Lewis, Stevens

**BOARD PROFESSIONALS IN ATTENDANCE:**

Jon Drill, Board Attorney, Andrea Malcolm, Board Planner, Denise Filardo, Board Secretary

**APPROVAL OF VOUCHERS**

Mr. McCaffrey moved and Mr. Matsen seconded a motion to approve the vouchers for payment. The Board concurred unanimously.

<b><i>Roll Call: Payment of Vouchers</i></b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey	X		X			
Matsen		X	X			
Filus						X
Lefkus			X			
Lewis						X
Roberts			X			
Stevens						X
Yager			X			
Olsen			X			

**RESOLUTIONS FOR MEMORIALIZATION**

**1) McDONALD’S USA, LLC, Block 77, Lot4.01  
185 Center Street**

**Resolution No. 2015-07**, Application No. 2011-11

Modification of Condition #9 to Extend the Time within which the Applicant Must Obtain Construction Permits.

*Eligible Members: Filus, Lefkus, Lewis, Matsen, McCaffrey, Roberts, Olsen*

Mr. Matsen moved and Mr. Lefkus seconded memorialize Resolution No. 2015-07. The vote record follows.

<b>Roll Call: McDonald’s Resolution No. 2015-07</b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey			X			
Matsen	X		X			
Filus						X
Lefkus		X	X			
Lewis						X
Roberts			X			
Stevens						X
Yager					Not eligible	
Olsen			X			

**2) LBP CLINTON, LLC**

**HIDDEN MEADOWS MAJOR SUBDIVISION, Block 90, Lot 2**

**Resolution No. 2015-08**, Application No. 2013-07

Amended “D(1)” Use Variance and Preliminary and Final Major Subdivision Approval to Amend the Landscaping Plan

*Eligible Members: Filus, Lefkus, Lewis, Matsen, Roberts, Olsen, McCaffrey*

Mr. Olsen moved and Mr. Matsen seconded memorialize Resolution No. 2015-08. The vote record follows.

<b>Roll Call: LBP Clinton, LLC, Resolution No. 2015-08</b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey			X			
Matsen		X	X			
Filus						X
Lefkus			X			
Lewis						X
Roberts			X			
Stevens						X
Yager					Not eligible	
Olsen	X		X			

**3) PLATYPUS ENTERPRISES, Block 13.01, Lot 3  
1460 Route 22 West**

**Resolution No. 2015-09**, Application No. 2014-01

Bifurcated “D(1)” Variances to allow a change in use of the property from a prohibited bus depot allowed by a prior “D(1)” Variance to multiple new prohibited uses, namely: addition to and conversion of a building into a washing, maintenance and repair garage for a construction/excavation business; limited outdoor storage related to the business; use of an above ground storage fuel tank related to the business; conversion of a building into two affordable rental housing units; and two unrelated principal buildings on the property.

Eligible Members: *Filus, Matsen, McCaffrey, Roberts, Olsen*

Mr. Matsen moved and Mr. Roberts seconded memorialize Resolution No. 2015-09. The vote record follows.

<b>Roll Call: Platypus Resolution No. 2015-09</b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey			X			
Matsen	X		X			
Filus						X
Lefkus					Not eligible	
Lewis						X
Roberts		X	X			
Stevens						X
Yager					Not eligible	
Olsen			X			

**COMPLETENESS HEARINGS**

**1) CELLCO D/B/A VERIZON WIRELESS, Block 4.03, Lot 36.0**  
Application # 2015-15

Kevin Jones, Esq., attorney for Cellco/VZ Wireless described the application.

Cellco Partnership d/b/a Verizon Wireless has applied to the Clinton Township Board of Adjustment for a “D(3)” conditional use variance, a “D(6)” height variance, and a waiver of site plan approval to collocate a wireless communications facility on property designated on the Township of Clinton property Block 4.03, Lot 36.01. The wireless communications facility consists of extending the height of an existing 140 foot tall monopole located within an existing fenced equipment compound to 153 feet above ground elevation, attaching wireless communications antennas to the monopole, and installing an equipment shelter and diesel fueled emergency generator within the compound. The property has a street address of 1130 Route 22 West and is situated in the C-2 commercial zone.

Discussion ensued regarding a recent FCC order 14-153 “Acceleration of Broadband Deployment ” expanding the reach and reducing the cost of broadband deployment by improving policies regarding public rights of way and wireless facilities siting

*Attorney Drill stated that technically they are here because they need completeness waivers and to have a conversation as to whether they require “D” variances. After reviewing the FCC facts and comparing to the application details, if this was prior to FCC-14-153 they would need “D(3)” & “D(6)” variances because they exceed maximum allowed height by 10%.*

Upon completion of discussion the board proceeded with the following:

1) GRANT OF COMPLETENESS WAIVERS

• **Checklist No. 4 items:**

8, 9, 18, 22, 23, 24, 29 and 31

Note: The Board did Not grant the following Waiver Requests:

14, 21, 26, 33, 38 and 39

• **Minor Site Plan and D Variance Checklist Items:**

8, 14, 16, 18, 29, 31, 33, 39, 40, 42, 43, 44, 45a, 45b, 45c, 49, 50, 51 and 54

Note: The Board did Not grant the following Waiver Requests:

9, 24, 32 and 38

2) BOARD FINDINGS

The applicant has requested waiver requests from certain checklist items required for completeness of the application. The applicant also has also applied for “D” variances which bring the entire application, including the waiver requests, within the exclusive subject matter jurisdiction of the Zoning Board of Adjustment. After acting on the waiver requests, the Board found that, under federal law, no “D” variances will be required if the proposed development constitutes an “eligible facilities” request. With No “D” variances required, this board no longer has jurisdiction over this application. As such the Board determined to transfer the application to the Clinton Township Planning Board for administrative review of the application to determine whether it is an “eligible facilities” request.

3) EXTENSION OF TIME FOR PLANNING BOARD TO ACT ON APPLICATION

The applicant agreed on the record during this meeting to submit the remaining information and documentation required for completeness and also granted an extension of the time within which the reviewing board has to act on the application for 60 days from the date the application is deemed to be complete, which shall be for purposes of commencement of the 60 day period the date of the submission of all of the remaining information and documentation.

Mr. Yager moved and Mr. Roberts seconded a motion to Grant & Deny Completeness Waivers, Transfer to the application to the Planning Board and an Extension of Time for Planning Board to decide the application. The vote record follows.

<b>Roll Call: Cellco d/b/a Verizon Wireless, Blk 4.03, Lot 36.01 - Grant and Denial of Completeness Waivers, Transfer to Planning Board and Extension of Time for Planning Board to decide the application</b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey			X			
Matsen			X			
Filus						X
Lefkus			X			
Lewis						X
Roberts		X	X			
Stevens						X
Yager	X		X			
Olsen			X			

**2) PLATYPUS ENTERPRISES, Block 13.01, Lot 3**

1460 Route 22 West

Application No. 2015-09

Preliminary & Final Major Site Plan

The applicant is proposing to modify an existing garage building by adding a 40' x 60' addition for the maintenance, repair and washing facility for the applicant's construction/excavation vehicles. The property is located in the C-2 Commercial Zone and is in the Route 22 Corridor District.

The applicant received approval for a bifurcated "D(1)" Variance for the change in use of the property from a prohibited bus depot to the proposed use from this board at a public hearing on April 20, 2015, memorialized in Resolution No. 2015-09. Other proposed site improvements which were the subject of Resolution No. 2015-09 included:

- An above ground fuel storage tank
- Outdoor storage of 5 trailers belonging to the applicant's construction/excavation business
- The conversion of the existing office building to two (2) moderate income affordable housing rental units
- To permit two (2) principal buildings on the property.

The applicant has applied for Preliminary and Final Major Site Plan approval of other onsite improvements including:

- Modifications to the parking and driveway areas
- Installation of a ground mounted sign
- Fencing
- Landscaping

Township Engineer's report indicated no objections in the board waiving the requested checklist items.

**GRANT OF COMPLETENESS WAIVERS**

From Checklist Item Numbers: 12, 17, 18, 29, 43, 44, 45a, 45b, 45c, 46, 50, 52, 54, 58 and 65

Mr. Roberts moved and Mr. Matsen seconded a motion to grant the requested Completeness waivers. The vote record follows.

<b><i>Roll Call: Platypus – Completeness Waivers</i></b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey			X			
Matsen		X	X			
Filus						X
Lefkus					Not Eligible	
Lewis						X
Roberts	X		X			
Stevens						X
Yager					Not Eligible	
Olsen			X			

**PUBLIC HEARINGS**

**1) CLINTON/US FUEL, Block 69, Lot 3**

Application # 2015-03

Applicant seeks an Amended Site Plan

The applicant’s attorney, Robert Boak, Esq. reviewed the application:

- a) To convert the unused 3-bay repair garage portion of the building to a principally permitted convenience store
- b) To add a prohibited propane tank filling station to the site to be located in the southeast corner of the property, technically in the front yard, but not in the front yard setback area, adjacent to Route 31
- c) To install a prohibited second freestanding sign at the Halstead Street entrance to the property which is well into the required 15ft sign setback area.

Attorney Boak and Mr. Ingram discussed National Fire Protection Association (NFPA) requirements.

- NFPA 58 is the industry benchmark for safe LP-Gas storage, handling, transportation, and use, mitigates risks and ensures safe installations, to prevent failures, leaks, and tampering that could lead to fires and explosions. Topics encompass design construction, installation, and operation of LP-Gas systems including piping, equipment, containers, venting, and highway transportation of LP-Gas.
- Clinton Township Ordinance No. 165-108 - Storage of Flammable and Combustible Liquids incorporates NFPA 30 & NFPA 30A

NFPA 30 - Enforceable under OSHA and many state and local regulations, provides safeguards to reduce the hazards associated with the storage, handling, and use of flammable and combustible liquids. Topics covered include fire and explosion prevention and risk control, storage of liquids in containers, storage of liquids in tanks, piping systems, processing facilities, bulk loading and unloading, and wharves.

NFPA 30A - This code helps mitigate fire and explosion dangers by providing safeguards for dispensing liquid and gaseous motor fuels into the fuel tanks of automotive vehicles and marine craft. (Note that NFPA 30A addresses gaseous motor fuels only where dispensed at the same facility as liquid motor fuels.)

The following individuals were sworn and testified:

- 1) Nishant Tyagi (Applicant's managing member)
- 2) Wayne Ingram, PE, PP (Applicant's engineering and planning expert)
- 3) Cathleen Marcelli, PE, CME (Board's engineering expert)
- 4) Andrea Malcolm, PP, AICP (Board's planning expert)
- 5) Brian Bosenberg, LLA (Board's landscape architectural expert)

#### EXHIBITS

Note: The following exhibits were all prepared by Wayne Ingram of Engineering and Land Planning Associates, Inc.

- A-1 Color rendered site plan dated April 29, 2015, consisting of the existing building, Dunkin Donuts, repair garage, gas pumps, overhead cover and
- A-2 One sheet alternate sign plan titled, Proposed Base Mounted Pricing Sign on Halsted Street, dated August 12, 2015

Attorney Drill reviewed the notice.

Mr. Ingram reviewed the variances requested:

1. Maximum impervious coverage, 40% permitted and 49.5% proposed.
2. Number of Signs – One (1) freestanding sign permitted and two (2) proposed.
3. Maximum Freestanding Sign Height – 8ft permitted and 12ft are proposed.
4. Side Yard Setback – 50ft required and 42ft is proposed for the concrete pad for the propane gas tank filling station.
5. Side Yard Setback – 50ft required and 23ft proposed to an existing parking space.

There was discussion regarding the following:

- Parking & ITE Standards
- Parking space comparisons to other gas stations within the Township
- The propane tank proposes a service not currently available on the Route 31 corridor within the Township.

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- Possibility of moving the tank back
- Onsite Dunkin Donuts does not have seats, patrons are in and out quickly
- Propane Tank fill takes 2-3 minutes, these customers will be serviced by gas station attendants, not the convenience store.
- Applicant prefers the 12ft sign on Halstead St. for better visibility – Neighboring TD Bank sign height averages 6 to 6.5ft
- Landscaping

McCaffrey suggested a straw poll regarding the sign. Board members discussed the negatives of the sign and only two (2) of the six (6) board members in attendance would vote in favor of the reduced size sign.

Mr. Ingram agreed to the following:

- to increase landscaping on the south and east sides of the propane enclosure
- to shift tank in a south westerly direction approximately 6ft
- to go down to approximately 44ft in side yard buffer
- to reduce the Halstead sign height by removing the Dunkin Donuts portion of the proposed sign.

It was noted that another variance is required for the chain link fence around the Propane Filling Station.

Attorney Drill asked if this is Mr. Ingram's argument regarding the propane filling station...Due to existing conditions on site, the site is suited adding an accessory use of the propane filling station to the gas station and it provides a convenience? Mr. Ingram agreed.

Mr. Ingram stated would like to come back and provide more info about sign, the proposed distances, how far from the nearest residence including noting the elevation change.

Ms. Marcelli requested that when the applicant comes back, to show all conditions discussed tonight. The applicant will do an exhibit (on 1 sheet) and submit it 10 days prior to the next hearing showing the new proposed location of the propane tank. Mr. Bosenberg said if the applicant calls me, we can review the landscaping.

No interested parties or other members of the public appeared at the hearing regarding this application.

This application will be continued to 10/26/15 with no need for further notice. Out of an abundance of caution, the time will be extended to 12/31/15 just in case of a snowstorm.

Chairman McCaffrey announced a ten-minute break at 9:50pm.  
The meeting resumed at 10:00pm



**2) PLUMERI, Block 16, Lot 51.08**

Application # 2015-05

5 Country Place

Applicant seeks a variance for height to construct a new residential accessory structure (garage).

The following individual was sworn and testified:

- John Plumeri, property owner of 5 Country Place, (the applicant)

EXHIBITS

- A-1 Google aerial map of the property and neighborhood
- A-2 Map of property showing future proposed accessory structures (which structures are not being proposed as part of the application),
- A-3 “Plot plan & Septic System Design” prepared by Robert J. Clerico, PE (of Van Cleef Engineering Associates) dated November 4, 1986, showing the topographic conditions on the property and location of the septic and well
- A-4 Four (4) pages of color photos of the property
- A-5 Reduced version of the detached garage elevations
- A-6 Color drawing of the detached garage

BOARD FINDINGS

- After discussion, the applicant agreed that there was no “hardship” involved so he withdrew the request for a “C(1)” variance and then proceeded solely with the request for the “C(2)” variance, therefore the Board found that a “C(1)” Variance is not warranted.
- Granting a “C(2)” variance to allow the height deviation will advance the aesthetics, promoting a desirable visual environment for the neighborhood. The aesthetic zoning benefits will substantially outweigh any detriments provided the imposed conditions are complied with.

RELIEF GRANTED

“C(2)” Height Variance is granted (with conditions), to allow the height of the detached garage to be 26 feet.

Mr. Roberts moved and Mr. Lefkus seconded a motion to grant the “C(2)” Height Variance with conditions. The vote record follows.

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<b>Roll Call: Plumeri - Height Variance, Block 16, Lot 51.08</b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey			X			
Matsen			X			
Filus						X
Lefkus		X	X			
Lewis						X
Roberts	X		X			
Stevens						X
Yager			X			
Olsen			X			

**ADJOURNMENT**

A motion was made by Mr. Roberts and seconded by Mr. Olsen to adjourn. The vote record follows and the meeting was adjourned at 11:08pm.

<b>Roll Call: Adjourn</b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
McCaffrey			X			
Matsen			X			
Filus						X
Lefkus			X			
Lewis						X
Roberts	X		X			
Stevens						X
Yager			X			
Olsen		X	X			

Respectfully submitted,

*Denise Filardo*  
 Planning and Zoning Board Secretary

These minutes were approved on April 24, 2017.