

MINUTES

CLINTON TOWNSHIP PLANNING BOARD

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December 7, 2015

7:30PM

PUBLIC SAFETY BUILDING

1370 Route 31N

Annandale, NJ 08801

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

Chairman Cimei led the Flag Salute.

Chairman Cimei read the Public Notice.

This is the December 7, 2015 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 faxed to the Hunterdon County Democrat, the Express Times, and the Star Ledger no later than the Friday prior to the meeting.

Ms. Charters called the roll.

MEMBERS PRESENT

Butcher, Cimei, D'Alleinne, Higgins, Kilduff, Kleinhans, Mardini, Mullay, and Scheick

MEMBERS ABSENT

None.

BOARD PROFESSIONALS/STAFF IN ATTENDANCE

Jonathan Drill, Esq., Board Attorney, Cathleen Marcelli, PE, CME, Board Engineer, Andrea Malcolm, PP, AICP, Board Planner, and Brian W. Bosenberg, LLA, Board Landscape Architect, and Erica Charters substituting for Denise Filardo, Board Secretary

RESOLUTIONS

1. MASTER PLAN REEXAMINATION REPORT

Adoption of the Township Master Plan Reexamination Report

The Planning Board directed its planning expert Andrea Malcolm, PP, AICP, to prepare a draft Reexamination Report, which was discussed by the Planning Board at a work session meeting held on November 2, 2015. The draft report was then revised and put into final

form as the proposed 2015 Reexamination Report. A noticed public hearing was then scheduled for November 16, 2015 on the adoption of the proposed 2015 Reexamination Report. The Board voted and adopted the 2015 Reexamination Report bearing a date of November 16, 2015, constituting an amendment to the Master Plan.

Mr. Mullay moved and Mr. Mardini seconded a motion to adopt Resolution No. 2015-0L adopting the Master Plan Reexamination Report. The vote record follows.

Roll Call: Resolution No. 2015-0L adopting the Master Plan Reexamination Report						
Member	Motion	2nd	Yes	No	Abstain	Absent
Butcher (Alt 2)					Not Eligible	
D'Alleinne			X			
Higgins			X			
Kilduff (Alt 1)					Not Eligible	
Kleinhans			X			
Mardini		X	X			
Mullay	X		X			
Scheick			X			
Cimei			X			

RESOLUTION MODIFICATION REQUEST

1. SJN PROPERTIES, LLC, Block 90, Lot 2.01

Applicant’s attorney is requesting a modification to paragraph 7 of Resolution No. 2013-23

This was carried over to the next meeting at the request of the applicant’s attorney, George Dilts, Esq.

PUBLIC HEARINGS

1. CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, Block 4.03, Lot 36.01

1130 Route 22 West

Application # 2015-15

Applicant seeks waiver of site plan review and approval pursuant to ordinance section 165-36.A.(1) to allow the collocation of additional antennae on an existing monopole and the installation of associated ground based support facilities in order to improve 4G LTE service in the area.

The applicant was represented by Kevin R. Jones, Esq.

The applicant proposes to collocate a Verizon Wireless communications facility on the property to:

- 1) increase the height of the monopole from 140 feet to 153 feet,

- 2) attach twelve (12) Verizon wireless communications antennas to the monopole with their centerlines at 150 feet above ground elevation and their tops at 153 feet above ground elevation,
- 3) install a 4-foot high lightning rod on top of the monopole with the top of the lightning rod at 157 feet above ground elevation,
- 4) install Verizon wireless communication equipment in a proposed equipment shelter to be located within the compound,
- 5) install a diesel fueled emergency generator within a 598 square foot expansion of the compound which will be surrounded by an 8-foot wood fence to match the existing compound enclosure fence

This application was initially routed to the Board of Adjustment as it appeared to require “d(3)” conditional use and “d(6)” height variances due to the proposed increase in height of the monopole exceeding the height limitation established in the ordinance governing wireless communication facilities and the height limitation for the C-2 zone. The Board of Adjustment then transferred the application to the Planning Board on September 28, 2015, as memorialized in Board of Adjustment Resolution No. 2015-10 adopted on October 26, 2015, because, under federal law (section 6409 of the “Middle Class Tax Relief and Job Creation Act of 2012” as clarified by FCC Order 14-153), a “d(3)” conditional use variance and a “d(6)” height variance do not appear to be required to allow the increased height of the monopole where the proposed development constitutes an “eligible facilities request.” The Board of Adjustment made the determination to transfer the application to the Board for administrative review of the application to determine whether it is an “eligible facilities request” as the Board of Adjustment made a preliminary determination that the proposed development appeared to qualify as an “eligible facilities request,” thereby not requiring any “d” type variances, and the Board of Adjustment loses jurisdiction over the application in the absence of a “d” type variance. While the application was pending before the Planning Board it was amended to also include requests for “c” variances to allow deviations from the maximum impervious coverage allowed on the property and from the maximum size compound allowed on the property.

The Planning Board determined that it does in fact have jurisdiction over the application as the monopole and the antennas are conditionally permitted uses on the property and continue to satisfy all of the conditions of conditional use ordinance and “d(3)” and “d(6)” variances are not required. The deviations from the impervious coverage regulations and the compound size regulation are “c” type variances which are within the exclusive jurisdiction of the Planning Board.

The following individuals were sworn and testified during the hearing:

1. Thomas Molnar, PE, Applicant’s Engineer
2. David Karlebach, PP, Applicant’s Planner
3. Andrea Malcolm, PP, AICP, Board’s Planner

BOARD FINDINGS AND CONCLUSIONS:

- The existing nonconforming automobile sales and service establishment currently operated on the property is entitled to continue on the property as a “grandfathered” use because it is a continuation of a lawfully created pre-existing nonconforming automobile use.
- The existing conditionally permitted 140-foot tall monopole, principally permitted wireless antennas attached to the monopole, and wireless communications equipment located within a fenced equipment compound were originally approved by the Board to T-Mobile’s predecessor, Omnipoint Communications. T-Mobile. T-Mobile has nine (9) 4.5-foot high antennas with their centerlines at 140-feet above ground elevation and their tops at 142.25-feet above ground elevation;
- The Board also approved colocation of Sprint Communications and AT&T Wireless antennae and equipment. Sprint has six (6) 4.5-foot high antennae with their centerlines at 126-feet above ground elevation and their tops at 128.25-feet above ground level. AT&T Wireless has twelve (12) 4-foot high antennae with their centerlines at 110-feet above ground elevation and their tops at 112.4-feet above ground elevation.
- The Board concludes the following provided imposed conditions are complied with:
 1. The proposed development will not result in a substantial change in the physical dimensions of the monopole since the new antennae will not increase the height of the monopole by more than ten percent or increase the height of the monopole by the height of one additional antenna array with separation from the nearest antenna not exceeding twenty (20) feet, and all other conditions set forth in the Spectrum Act are met.
 2. Site Plan Approval can and should be waived to allow the proposed development
 3. Granting the requested “c(2)” variances to allow the proposed deviations would advance various purposes of the MLUL. The Board found that all such zoning benefits are community-wide zoning benefits.
 4. The zoning benefits resulting from the deviations would substantially outweigh any resulting detriments.
 5. The “c(2)” variances could be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the master plan and zoning ordinance

RELIEF GRANTED:

1. Waiver of Site Plan Approval subject to conditions.
2. “C(2)” Variances to allow the following deviations from the following zoning ordinance regulations:
 - a. Increase in the impervious coverage on the property from existing 42.9% to 43.1% where the Schedule of Zoning Requirements limits impervious coverage in the C-2 zone to 40%.

- b. Increase the size of the compound by 598 square feet, from its existing 1,125 sf to 1,723 square feet where the zoning ordinance limits wireless telecommunications equipment compounds to 1,500 square feet.

Mr. Mullay moved and Mr.Kleinhans seconded a motion to grant Waiver of Site Plan and “C”(2) Variances with conditions. The vote record follows.

Roll Call: Cellco/VZ Wireless Blk 4.03, Lot 36.01 - SP Waiver & “C”(2) Variances						
Member	Motion	2nd	Yes	No	Abstain	Absent
Butcher (Alt 2)					Not Eligible	
D’Alleinne			X			
Higgins			X			
Kilduff (Alt 1)					Not Eligible	
Kleinhans		X	X			
Mardini			X			
Mullay	X		X			
Scheick			X			
Cimei			X			

2. CLINBAR, LLC, Block 29, Lot 34 (Former OL’ West BBQ-LMG Clinton, LLC)

Application No. 2006-07

Applicant is seeking an Amended Final Site Plan approval to repair/replace a failed septic system and to memorialize plan revisions required as conditions of previous approvals.

APPLICATION HISTORY:

LMG Clinton, LLC operated a restaurant known as “Ol’ West BBQ” on the subject property which is owned by Clinbar, Inc. LMG applied to and obtained from the Clinton Township Planning Board an after the fact approval to use a rear concrete deck for seasonal dining and a rear yard shed for storage which were constructed by a predecessor operator of the prior restaurant without approval from the board.

During the course of the hearing on the initial application, it became apparent to the Board that the restaurant building had also been expanded without approval from the Board.

The Board then decided to amend the application to include the following relief:

- after the fact approval for the building expansion
- any and all variances and/or exceptions necessary to permit the applicant to operate the restaurant free and clear of zoning and/or site plan ordinance violations

The Board then granted Amended Preliminary and Final Site Plan approval (with conditions), along with a number of “c” variances and exceptions from various site plan ordinance requirements which approved after the fact all prior building expansions, the rear concrete deck and the rear storage shed, which approvals are memorialized in Board Resolution No. 2007-13. Two (2) of the conditions which are relevant at this time are as follows:

- Time Within Which to Revise and Obtain Signed Plan.
- Time Within Which to Commence and Complete Construction and Obtain Certificates of Occupancy or Completion (to install the lighting, landscaping and fire lane improvements).

LMG did not comply with these conditions, and applied to the board for an extension of time which the board granted. LMG still did not comply and later closed the restaurant. Clinbar LLC., the applicant and owner of the property, is now in the process of selling the property and to do that, must clear up the outstanding zoning and site plan violations.

The applicant is now applying for Amended Final Site Plan approval to accommodate the replacement of its existing on-site septic system. To complete the replacement process, in accordance with NJDEP requirements, a substantial amount of soil must be moved which required the applicant to apply for and obtain soil disturbance and grading plan approval.

The Board conditionally granted waivers from completeness checklist requirements: #18, #54 and #65 and then deemed the application to be complete.

The applicant was represented by Martin L. Fenik, Esq.

The following individuals were sworn and testified during the hearing:

1. James A. Hill, PE, Applicant's Engineer
2. Cathleen Marcelli, PE, CME, Board Engineer
3. Andrea Malcolm, PP, AICP, Board Planner
4. Brian W. Bosenberg, LLA, Board Landscape Architect

EXHIBITS:

The following exhibits were submitted into evidence during the hearing:

- A-1 "Exhibit Sheet" dated December 4, 2015,
- A-2 Three (3) page document containing the following provisions from the New Jersey Administrative Code: N.J.A.C. 7:9A-4.8, N.J.A.C. 7:9A-12.6, and Appendix E to N.J.A.C. 7:9A-12.6
- A-3 Sheet 9 of 10 of the site plans (drawing C-8) dated October 19, 2015

BOARD FINDINGS AND CONCLUSIONS:

- Once revisions are made to the site plans referenced above, they will comply with all other applicable zoning ordinance regulations and site plan ordinance requirements.
- Amended final site plan approval is warranted provided that the imposed conditions are complied with.

RELIEF GRANTED:

Subject to conditions which include revisions to the site plans, amended final site plan approval is granted.

Mr. Higgins moved and Mr. D’Alleinne seconded a motion to grant Amended Final Site Plan with conditions. The vote record follows.

Roll Call: Clinbar, LLC, Blk 29, Lot 34 - Amended Site Plan						
Member	Motion	2nd	Yes	No	Abstain	Absent
Butcher (Alt 2)					Not Eligible	
D’Alleinne		X	X			
Higgins	X		X			
Kilduff (Alt 1)					Not Eligible	
Kleinhans			X			
Mardini			X			
Mullay			X			
Scheick			X			
Cimei			X			

INFORMAL CONCEPT REVIEW

VALLEY CREST FARM & PRESERVE, Block 29.01, Lot 1

Jug handle lot at northeasterly quadrant of Route 31 and Allerton Road
 Request for Second Amendment to the Mini-Farm and Farm Market currently approved Site Plan.

Valley Crest is applying to the CTPB for a second amendment to the August 9, 2011 agreement to remove two sheds (a 13 x 10’ shed and a 6’ x 12’ shed) comprising the farm market area and replace those two sheds with one new larger shed (24’ x 30’ with a 4’ overhang for a total of 28’ x 30’) in the same general area of the property, to the north of the northwesterly corner of the existing parking lot. Valley Crest’s application also include relocating one of the two smaller sheds – the 6’ x 12’ shed – to the north of the northeasterly corner of the existing parking lot.

The Planning Board requested that the agreement for this second amendment be reduced to a writing of a letter (by Board Attorney Drill) which would be submitted to the HCADB for recognition of the second amendment by a resolution of or letter from the HCADB. Attached herewith is a copy of said letter.

Mr. Mardini moved and Mr. D’Alleinne seconded a motion directing Attorney Drill to write letter of agreement to the HCADB for their recognition. The vote record follows.

Roll Call: Valley Crest Farm & Preserve, Blk 29.01, Lot 1						
Member	Motion	2nd	Yes	No	Abstain	Absent
Butcher (Alt 2)					Not Eligible	
D’Alleinne			X			

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Higgins			X			
Kilduff (Alt 1)					Not Eligible	
Kleinhans			X			
Mardini			X			
Mullay	X		X			
Scheick		X	X			
Cimei			X			

REPORTS

1. Report from Council – None.
2. Report from Ordinance Subcommittee – None.
3. Report from Open Space – None.
4. Report from Environmental Commission – None.

ADJOURNMENT

Mr. Scheick moved and Mr. D’Alleinne seconded a motion to adjourn. All were in favor and the meeting was adjourned at 10:00pm.

Respectfully Submitted,
Denise Filardo
 Planning Board Secretary

These minutes approved on June 5, 2017