

MINUTES OF CLINTON TOWNSHIP BOARD OF ADJUSTMENT

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PUBLIC MEETING

DATE: October 23, 2017

Chairman McCaffrey called the meeting to order at 7:31pm.

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.

MEMBERS IN ATTENDANCE

Lefkus, Matsen, McCaffrey, Olsen, Stevens

MEMBER ABSENT

Filus, Lewis, Roberts, Yager

PROFESSIONALS/STAFF IN ATTENDANCE:

- 1) Jonathan Drill, Esq., of Stickel, Koenig, Sullivan and Drill, Board Attorney
- 2) Denise Filardo, Board Secretary

VOUCHERS

A motion was made by Mr. McCaffrey and seconded by Mr. Matsen to approve the vouchers for payment. The vote record follows.

Roll Call: Payment of Vouchers						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Filus						X
Lefkus			X			
Lewis						X
Matsen		X	X			
McCaffrey	X		X			
Olsen (Alt. 2)			X			

Roberts						X
Stevens			X			
Yager (Alt. 1)						X

MINUTES

1) MEETING MINUTES OF NOVEMBER 28, 2016

A motion was made by Mr. Matsen and seconded by Mr. Olsen to adopt the Meeting Minutes of November 28, 2016. The vote record follows.

Roll Call: November 28, 2016 Meeting Minutes						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Filus						X
Lefkus					X	
Lewis						X
Matsen	X		X			
McCaffrey			X			
Olsen (Alt. 2)		X	X			
Roberts					X	X
Stevens			X			
Yager (Alt. 1)						X

1) MEETING MINUTES OF SEPTEMBER 25, 2017

A motion was made by Ms. Stevens and seconded by Mr. Olsen to adopt the Meeting Minutes of September 25, 2017. The vote record follows.

Roll Call: September 25, 2017 Meeting Minutes						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Filus						X
Lefkus					X	
Lewis						X
Matsen			X			
McCaffrey			X			
Olsen (Alt. 2)		X	X			
Roberts					X	X
Stevens	X		X			
Yager (Alt. 1)					X	X

RESOLUTIONS

None.

REQUESTS FOR EXTENSIONS OF TIME

1) BAPTIST CHURCH AND CONFERENCE CENTER

Block 3, Lot 13 and Block 4, Lot 21

Application No. 2016-01

Resolution No. 2016-04

Applicant requests an Extension of Time within which to comply with condition C.9 of Resolution No. 2016-04 pertaining to Obtaining Construction Permits, Commencement and Completion of Construction, and Obtaining Certificate of Occupancy.

A motion was made by Ms. Stevens and seconded by Mr. Matsen to grant the Extension of Time. The vote record follows.

Roll Call: Baptist Church - Extension of Time						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Filus						X
Lefkus			X			
Lewis						X
Matsen		X	X			
McCaffrey			X			
Olsen (Alt. 2)			X			
Roberts						X
Stevens	X		X			
Yager (Alt. 1)						X

2) ZINN REALTY

Block 74, Lot 19

Application No. 2012-07

Applicant requests an Extension of Time within which to comply with conditions D.10 and D.19 of Resolution No. 2913-16C pertaining to Obtaining Construction Permits, Commencement and Completion of Construction, Obtaining Certificate of Occupancy and Final Approval Protection Period.

Chairman McCaffrey recused himself from this application.

Attorney Drill provided a brief history of the application and the previous litigation which led to delay in the commencement of this development. He then read the redlined changes to Resolution No. CTBOA-2017-04 into the record.

Vice Chairman Matsen requested a motion, noting that the date for signing of the plans was not addressed.

A motion was made by Ms. Stevens and seconded by Mr. Olsen to adopt Resolution No. CTBOA-2017-04 granting the Extension of Time. The vote record follows.

Roll Call: Zinn Realty Resolution No. CTBOA-2017-04 Extension of Time						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Filus						X
Lefkus			X			
Lewis						X
Matsen			X			
McCaffrey					Recused	
Olsen (Alt. 2)		X	X			
Roberts						X
Stevens	X		X			
Yager (Alt. 1)						X

PUBLIC HEARING

JEANNINE PODESTA

Block 82.13, Lot 62

Application No. 2017-05

The applicant is requesting a modification of Condition No. D.3. Electric Only in Garage Addition of Resolution No. 2016-10 which memorialized the granting of “C(1)” Variances to allow construction of a drive-thru garage addition within the rear yard setback area.

Jeannine Podesta, applicant was sworn and testified on her own behalf.

Ms. Podesta’s testimony included the following regarding the request for additional utilities in the garage addition:

- Installation of an oil connection to allow relocation of the existing 250 gallon oil tank, currently located in the basement of the house to the inside wall of the garage addition. The oil will be used to heat the house only, not the garage.
- Water connection to connect slab heating in the garage as well as a hose bib connection outside the garage. There will be no sink and no kitchen.
- Currently there is no gas or sewer available on this street.

Attorney Drill read Condition #3 of Resolution No. 2016-10 into the record:

Electric Only in Garage Addition. The only utilities allowed in the garage addition shall be electric. There shall be no water, sewer, gas or oil utilities in the garage addition.

The applicant requested by letter dated September 7, 2017 that the Board modify condition #3 of Resolution No. 2016-10 to allow the following utilities in the garage addition: (1) electric, water, sewer, gas and oil.

BOARD FINDINGS AND CONCLUSIONS

- The Board intended by imposition of condition #3 to ensure that the garage would not be used as a second dwelling unit.

- If the Board modifies condition #3 as indicated above, its intent and purpose in imposing the condition as written in the first instance will be retained.
- Good cause exists to warrant modification of condition #3 as set forth above in the factual findings and subject to the Board imposed conditions are complied with.
- Condition #3 can be modified without substantial detriment to the public good and without substantially impairing the intent and purpose of the master plan and zoning ordinance provided the imposed conditions are the condition set forth are complied with.
- The Board concludes that it can and should modify condition #3 of Resolution No. 2016-10 subject to the applicant’s compliance of the imposed conditions.

RELIEF GRANTED

Modification of Condition #3 of Resolution No. 2016-10. Subject to the Board imposed conditions, condition #3 of Resolution No. is modified to allow certain utilities in addition to electric to be brought to and in the garage addition.

A motion was made by Mr. Matsen and seconded by Mr. Olsen to grant the Variance modification with conditions. The vote record follows.

<i>Roll Call: Podesta – Variance Modification, Blk 82.13, Lot 62</i>						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Filus						X
Lefkus			X			
Lewis	X		X			X
Matsen		X	X			
McCaffrey			X			
Olsen (Alt. 2)			X			
Roberts						X
Stevens						
Yager (Alt. 1)						X

APPEAL OF BOARD DESIGNATED COMPLETENESS AND WAIVER DETERMINATION COMMITTEE’S DECISION

MARILY RHYNE HERR

Block 16, Lot 73

182 Stanton Mountain Road

Application No. 2017-04

The applicant has applied for a “D(1)” Use Variance to permit use of the improved garage apartment as a secondary dwelling unit. The Board’s designated Completeness and Waiver Determination Committee has deemed the application Incomplete and is not in support of granting all of the requested waivers. The applicant is appealing the decision of the Completeness and Waiver Determination Committee.

Nicole Voigt, Esq., applicant’s attorney introduced herself, Judge Herr and Julia Herr Smith, Esq.

The following individuals were sworn and testified:

- 1) Judge, Marilyn Herr, Applicant
- 2) Julia Herr Smith, Esq., Applicant’s daughter
- 3) Cathleen Marcelli, PE, Board Engineer

Attorney Voigt explained that Mr. Joe Kachinsky, a retired US Air Force Veteran provides agricultural labor on Judge Herr’s property. Labor is exchanged for occupancy in the space he has been residing in above the garage. The stove has recently been removed from this space.

EXHIBITS

A-1 through A-6 11 x 17 Color Aerial photos of the property

Discussion ensued regarding authentication of the photo exhibits.

Attorney Voigt stated that the cost of a survey for this vast property would be disproportionate to the relief sought.

Mr. Marcelli said that if the source of the photos can be authenticated, she will accept as they do provide a general layout of the parcel. However she feels that she does not have jurisdiction to waive the submission of a survey.

The Board decided they will accept the photos for completeness purposes, however they would like the photos to be authenticated when the applicant returns for the Public Hearing.

The application was deemed complete by a bare majority of four (4) votes.

A motion was made by Mr. Lefkus and seconded by Mr. Matsen to grant completeness and Waiver Requests. The vote record follows.

<i>Roll Call: Herr Completeness Waiver Determination - Blk 16, Lot 73</i>						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Filus						X
Lefkus	X		X			
Lewis						X
Matsen		X	X			
McCaffrey			X			
Olsen (Alt. 2)			X			
Roberts						X
Stevens					Recused	
Yager (Alt. 1)						X

ADJOURNMENT

A motion was made by Mr. Lefkus and seconded by Mr. Olsen to adjourn. The Board concurred unanimously and the meeting was adjourned at 8:58pm.

Respectfully Submitted,

Denise Filardo

Planning and Zoning Board Secretary

These minutes were approved on December 18, 2017.