

MINUTES OF CLINTON TOWNSHIP PLANNING BOARD

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PUBLIC MEETING

DATE: October 20, 2014

PRESENT: John Higgins, Chris D'Alleinne, Richard Scheick, Sam Mardini, Suzanne Kleinhans, Brian Mullay and John Kilduff.

PROFESSIONALS: Jon Drill, Attorney and Rebecca D'Alleinne, Administrator.

ABSENT: Kevin Cimei.

CALL TO ORDER

Chairman Higgins called the meeting to order at 7:34P.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, and the Star Ledger, no later than the Friday prior to the meeting.

MINUTES

Brian Mullay moved and Suzanne Kleinhans seconded a motion to approve the regular meeting minutes of September 15, 2014, as written. The Board concurred unanimously, and Mr. Kilduff abstained.

Suzanne Kleinhans moved and Brian Mullay seconded a motion to approve the regular meeting minutes of October 6, 2014, as written. The Board concurred unanimously, and Mr. Mullay and Mr. Kilduff abstained.

PUBLIC HEARINGS

CELLCO/VERIZON WIRELESS, Block 30, Lot 30

David Soloway, Esq. introduced himself on the behalf of the applicant. He stated that the application was for an upgrade inside the building, noting that the only exterior equipment would be 4 inches each in length. He referred to the planner's report that referred to it as "accessory communications equipment". Mr. Soloway expressed the opinion that the Board should grant the waiver of site plan approval. Frank Colasurdo,

Architect was sworn and offered his credentials, which were accepted by the Board. Henry Kelch, RF expert, was sworn and offered his credentials, which were accepted by the Board. There were no questions from the public.

Mr. Colasurdo explained that Verizon wished to have an interior building communications system installed, which needed exterior GPS units, noting that it would have no effect on lighting, circulation, drainage, parking or the zone plan. Chairman Higgins asked what the GPS units were for, and Mr. Colasurdo explained that the units allowed all of the equipment to be on the same timing. Mr. Kelch discussed the DAS system and explained how the system worked.

Chairman Higgins stated that the antennas would have very little impact and wouldn't affect site plan consideration. Chris D'Alleinne moved and Brian Mullay seconded a motion to approve a waiver of site plan. Members in favor: Higgins, D'Alleinne, Mardini, Scheick, Mullay, Kleinhans and Kilduff. Mr. Soloway discussed the level of work and whether or not the Board should review a minor site plan such as this in the future, rather than the applicant proceeding to the building department for permits.

COMPLETENESS WAIVERS HEARING

CRC COMMUNITIES/LONGVIEW MANOR, Block 10, Lot 1 & 9.01

Guliet Hirsch, Esq. introduced herself on behalf of the applicant. She stated that the application had a long history, indicating that the application was for an amended preliminary approval. She noted that some surveying and engineering errors had been made in the original application and discussed the completeness checklist waivers that were being considered. She acknowledged the memo Board attorney Jon Drill had prepared offering his legal opinion and she thought that the issues should be discussed with the Board. Jon Drill suggested that the Board could engage in an informal review under N.J.S.A. 40:55D-10.1 so that the applicant and the Board could have a back and forth on the issues and the applicant could learn the Board's opinions on the issues. Mr. Drill stated that an informal review was not binding on either the Board or the applicant. Ms. Hirsch agreed and requested an informal review and the Board also agreed.

Ms. Hirsch discussed the history of the project, noting that the application had been filed originally in 2005, but that in 2006 the zoning changed from an R-1 to a RC zone. She indicated that the application was already in progress. She reported that the application had been withdrawn, and litigation then ensued, which was followed by a settlement agreement. Ms. Hirsch stated that under R-1 zoning, the applicant could have 19 units, while under RC zoning the applicant was only entitled to 9 or 10 lots. The litigation settlement agreement was for a maximum of 15 lots. She commented that Michael Sullivan had designed the layout, which preserved a lot of open space. The application was approved in 2009. She reported that the applicant's environmental expert and engineer had not noticed an off-tract C-1 stream, which would change the site layout. Ms. Hirsch commented that there had been wetlands and survey errors, noting that two of the experts were currently out of business. She stated that the hydrologists had problems digging the test wells and that the Hunterdon County Planning Board wanted grading for a shoulder along Cokesbury Road. She reported that two of the basins had to be shifted. Jon Drill discussed the fact that the Board had required that the applicant attempt to not

construct improvements along Cokesbury Road. Ms. Hirsch expressed the opinion that they had reached an agreement with the HCPB.

Gulie Hirsch asked for a little more time to resolve the issues. She stated that they hoped to come to the Board with a new preliminary subdivision to add to the vesting protection period for the application. Mr. Drill explained that a preliminary approval would be for 3 years plus two discretionary one-year extensions and that a final approval would be for 2 years plus three one-year extensions. Mr. Drill explained that the applicant cannot on the one hand request a new preliminary protection period while on the other hand taking the position that the amended preliminary application is not a new application. He opined that if they were to proceed with the amended preliminary application, the Time of Application Law would apply, and the settlement would be null and void. He expressed the opinion that the site layout was a win-win under the litigation settlement. Ms. Hirsch discussed the wetlands encroachment as it affected the HCPB denial. She expressed the opinion that the HCPB would approve of the current proposal. Chairman Higgins asked what the cutoff was for size. Discussion ensued concerning MLUL regulations for larger parcels. Ms. Hirsch noted that in this situation, the approved plan did not conform to current zoning conditions. Mr. Mardini asked about whether they could file a final subdivision application. Chairman Higgins inquired whether the applicant could request an extension of the preliminary protection period under the larger lot size provisions of the MLUL. Chairman Higgins called a recess at 8:14PM to allow the applicant's attorney to consult with the Board's attorney and for each attorney to consult with their clients. The meeting was called to order at 8:30PM.

Mr. Drill reported that he had discussed the issue with Ms. Hirsch and had given legal advice to less than a quorum of the Board members. Ms. Hirsch discussed the possibility of submitting an application for an additional extension under the larger parcel provisions for a preliminary subdivision. Mr. Drill clarified that N.J.S.A. 40:55D-49d allows for an extension beyond the usual 3 year period with 2 one-year extensions for subdivisions or site plans for an area of 50 acres or more. He discussed whether public notice would be required.

Chairman Higgins discussed when the applicant would return and it was determined that they could be on the November 17, 2014 agenda. Mr. Drill stressed that an application for an extension of the preliminary protection period and an application for final subdivision approval should be submitted prior to the expiration of the preliminary protection period but that the Board does not have to decide the applications prior to the expiration of the protection period.

Mr. Drill commented that as the proceeding was still an informal, nonbinding review, Ms. Hirsch may have more questions of the members or the members may have more questions for Ms. Hirsch. Brian Mullay commented that, in consideration of the problems with the HCPB, he would be willing to grant an extension, but only a year for the preliminary. Sam Mardini agreed. John Kilduff asked what the benefit to the applicant was. Jon Drill explained the rationale for getting preliminary and final approvals together or separately and commented on the extensions of time for the protection periods. Ms. Hirsch discussed the issues with the DEP and expressed the opinion that a one-year extension would be too short. Mr. Drill discussed the conditional approval as per the MLUL regulations, noting that they were asking for now was not an

amended preliminary approval but that the preliminary approval protection period be extended.

Chairman Higgins noted that the applicant also had the Headley Farm development, and commented that the market was not good for that level of homes. He noted that they had asked for 3 years, and expressed the opinion that he was comfortable with that. Ms. Hirsch explained that the basins had gone through a very extensive review and that it would be a fight at DEP. She expressed the opinion that proposed DEP rules were in the works, which would make the basins feasible. She stated that they would ask for a three-year extension of the preliminary and would also submit a final application. Rich Scheick stated that it had been a long haul and was OK with the three years. Mr. Mardini indicated that he would agree to a three-year extension. Chris D'Alleinne commented that one year was not enough and that it would be better to go for three. Suzanne Kleinmans commented that since the situation was uncertain with the HCPB and the DEP, three years was fine.

Ms. Hirsch thanked the Board for its time and advised that she would be submitting an application to extend the preliminary protection period as well as an application for final subdivision approval which she would withdraw if the application to extend the preliminary protection period was granted.

Brian Mullay moved and Chris D'Alleinne seconded a motion to deny the waiver requests sought for the application for amended preliminary subdivision approval relating to completeness checklist items #11, #32 and #51. Members in favor: Higgins, D'Alleinne, Mardini, Scheick, Mullay, Kleinmans and Kilduff.

NEW BUSINESS

1. Approval of Vouchers

Chris D'Alleinne moved and Brian Mullay seconded a motion to approve of the vouchers as presented. The Board concurred unanimously.

REPORTS & ASSIGNMENTS

1. Report from Council: Brian Mullay reported that an objector on Regional Road had stated his concerns about the Council's plan to build COAH housing on the Marookian property. Chairman Higgins also reported that there were disputes concerning an existing barn near a residential property line on Valley Crest Road.
2. Report from Ordinance Committee: There was no report.
3. Report from Open Space: There was no report.
4. Report from Environmental Commission: Chairman Higgins reported that there had been a short discussion concerning a sign on Hackett's Preserve. He also noted that there was not much support among the members of the commission for the proposed Marookian affordable housing plan.

5. Jon Drill reported that the COAH rules had been submitted and noted that the rules had not been adopted.

ADJOURNMENT

Rich Scheick moved and Chris D'Alleinne seconded a motion to adjourn. The motion passed unanimously, and the meeting was adjourned at 9:11PM.

These minutes were approved on November 3, 2014.

Rebecca E. D'Alleinne
Administrator