

**Clinton Township Board of Adjustment  
2010 Annual Report**

**Summary of Board Activity**

The Board of Adjustment met 11 times in 2010. Activity level during the year was roughly equal to 2009 levels. The board adopted 20 resolutions in 2010 versus 20 in 2009 and 29 in 2008. A summary of the numbered resolutions follows:

Category	Residential	Commercial	COAH	Non-Profit/ Church/ Gvmt	Total
- <b>Completeness Waivers</b>	1	2		2	5
- <b>Extension of Time</b>			1	2	3
- <b>Substantive resolutions including 'c' and 'd' variances, site plan approvals, etc</b>	5	3			8
- <b>Interpretations</b>		3			3
- <b>Administrative</b>		1			1
<b>Total</b>	<b>6</b>	<b>9</b>	<b>1</b>	<b>4</b>	<b>20</b>

**Approval Rate**

Of the 20 resolutions adopted during 2010, in 17 of them (85%) the applicant was essentially granted the zoning relief or administrative relief they sought. The three cases in which the applicant did not receive the relief they sought are described in the abstracts on the following pages.

- #3 - Daubs
- #4 - Lo Fatt Chow
- #13 - Zinn Realty

In one other case (#12 Valero Gas) the applicant withdrew their application possibly because it appeared that the Board decision was not likely to be favorable, and the time and cost of further arguing the case was not worth while.

**Recurring Issues**

The most frequent issues heard by the Board during the year were as follows:

**> Building setbacks**

- Case #2 - Tagliareni (residential), #3 - Daubs, #5 - Goepfert (residential), #6 - Misiak (residential)

**> Non-Permitted uses**

- #3 - Daubs, #13 - Zinn Realty, #17 - 9 Main Street

**> Signs**

- #3 - Daubs, #4 - Lo Fatt Chow, #12 - Valero Gas, #16 - Hunterdon Wellness Center

**Issues warranting further attention**

The following issues warrant further attention by the Planning Board and Township Council.

1. The question of whether medical offices and/or doctors' offices are permitted in the OB-2 zone should be addressed. Township ordinance section 165.174 lists permitted uses within the zone. However for the purpose of determining permitted use, it is not clear whether a doctor's office is a professional office or a medical clinic. Also it is not clear whether the omission of medical clinics from the OB2 zone was deliberate or an oversight. See Board Resolution 2010-13 on Zinn Realty (case #13 below) for a full discussion of the issue.

2. The second issue worthy of further investigation is the cost and complexity of seeking a variance. There are some instances where an applicant may have a reasonable case for a variance on a relatively minor issue, but the expense and complexity of getting a variance is prohibitively high. See Lo Fatt Chow (case #4 below) and Valero Gas (#13) as two possible examples. Both of these cases involved signs on the property.

**Abstract of memorialized resolutions for 2010****1. James and Pamela Tagliareni**

- Resolution 2010-01
- Block 91.01, Lot 13.02
- Application no. 2009-07
- Title: Grant of completeness waivers for "c" variances with application remaining incomplete pending submission of documentation
- Applicant sought and was granted completeness waivers for their application to construct a deck on the rear of their existing dwelling which will encroach into the rear yard setback area. This resolution did not include the actual hearing of the merits of the case; just the completeness of the application.

**2. James and Pamela Tagliareni**

- Resolution no. 2010-02
- Block 91.01, lot 13.02
- Application no. 2009-07
- Title: "c(2)" variance for construction of deck entirely within the rear yard setback area
- Applicant sought and was granted permission to construct a deck on the rear of their existing dwelling which will encroach into the rear yard setback area.

**3. Daub's Garden Center and Nursery**

- Resolution no. 2010-03
- Title: Review upon referral by the Hunterdon County Agricultural Development (CADB) of an application filed with the CADB by Scotty Pine, Inc. D/B/A Daub's Garden Center and Nursery for a site specific agricultural management practice determination that the applicant's business operations on block 14, lots 6 and 7 constitute an agricultural management practice
- This was an unusual case. Daub's Garden Center and Nursery applied to the Hunterdon County Agricultural Development Board (CADB) seeking a finding that the business constituted an agricultural management practice and so should be exempt from certain Township Zoning Ordinances. The CADB indirectly referred the case to the CTBOA to conduct a proceeding to review the application with the applicant and to indicate in writing why the municipality is not issuing the permit or approval requested. This resolution, 2010-03, captures the substance of that proceeding including the Board's findings and recommendations.

**4. Lo-Fatt-Chow, LLC**

- Resolution no. 2010-04
- Block 89, lot 8
- Application No. Boa 2010-01
- Title: Reversal of zoning officer's issuance of a violation and a summons as to window signage but interpretation that window signage is prohibited

- The applicant is the proprietor of Chinese restaurant Lo Fatt Chow. The applicant installed signage in the store front windows which the zoning officer interpreted as violating the township’s sign ordinance. The applicant sought to have the zoning officer’s summons reversed and have the sign deemed acceptable. The board did reverse the zoning officer’s violation and summons but determined that the signage was not compliant with township ordinances and so would require a variance. The public hearing on the merits of a variance were not part of this particular case.
- 5. Joseph And Bernadine Goepfert**
- Resolution no. 2010-05
  - Block 4.01, lot 16
  - Application no. 2010-03
  - Title: “c(1)” variance to permit addition over garage which will encroach into the front yard setback area
  - Applicant sought and was granted permission to construct living space above their garage.
- 6. Christopher Misiak**
- Resolution no. 2010-06
  - Block 46, lot 20
  - Application no. 2010-02
  - Title: “c(1)” variance to permit a dwelling to be constructed on an undersized and under width lot
  - Applicant sought and was granted permission to construct a new residence to replace an existing, rundown residence on an undersized lot.
- 7. Town Of Clinton - Leased Portion Of Block 46, Lot 32 (Water Tank Site)**
- Resolution no. 2010-07
  - Application no. 2008-10
  - Title: Amended site plan approval for phases 1 and 2 of the water tank development, modification of certain conditions set forth in resolution no. 2009-06, and extension of time within which to revise the preliminary site plan for phase 1 and 2 of the water tank development and the final construction plan for phase 1 of the water tank development
  - Applicant sought and was granted minor modifications and extension of time to a previous resolution related to the construction of a second 2.5 million gallon water tank off Petticoat Lane.
- 8. Township Of Clinton, Applicant**
- Resolution no. 2010-08
  - Title: “Fox - Seals” affordable housing apartments (former Annandale municipal building and Historic former Fox and Seals General Store)
  - Block 53, lot 3
  - Application no. 2008-11
  - Applicant sought and was granted an extension of time within which to revise plans and obtain signatures on the preliminary plans.
- 9. Zinn Realty, LLC**
- Resolution no. 2010-09
  - Block 74, lots 16, 18 and 19
  - Application no. 2009-03
  - Title: Completeness waivers for bifurcated “d(1)” use variance application
  - Applicant sought and was granted completeness waivers to their application seeking to establish a medical office in a zone where such a use was not permitted. This resolution did not include the actual hearing of the merits of the case; just the completeness of the application.
- 10. Clinton Township Board Of Education - Vought House Subdivision**
- Resolution no. 2010-10
  - Block 60, lot 56
  - Title: Completeness waivers for “d(1)” use variance and minor subdivision application.
  - Applicant sought and was granted completeness waivers to their application to split off the historic Vought house into a separate lot from the existing lot which also contains the Clinton township middle

school. This resolution did not include the actual hearing of the merits of the case; just the completeness of the application.

#### **11. Keith And Rita Buchanan**

- Resolution no. 2010-11
- Block 34, lot 16.03
- Application no. 2010-12
- Title: “c(2)” variances to permit over height open fencing
- Applicant sought and was granted permission to keep an existing fence around their residence that exceeded the height restrictions.

#### **12. APM Management (NJ), Inc. - Valero Gas**

- Resolution no. 2010-12
- Block 68, lot 11
- Application no. 2008-02
- Title: Dismissal of sign variance application
- Dismissal, at the applicant’s request, of a previously submitted application to relocate a sign at their gas station on Rt. 31 southbound.

#### **13. Zinn Realty, LLC**

- Resolution no. 2010-13
- Block 74, lots 16, 18 and 19
- Application no. BOA 2009-03
- Title: Interpretation that medical offices are prohibited in the OB-2 zone
- Applicant sought an interpretation of the zoning ordinances that medical offices were a permitted use in the OB-2 zone. The board did not agree.

#### **14. Zinn Realty, LLC**

- Resolution no. 2010-14
- Block 74, lots 16, 18 and 19
- Application no. BOA 2010-07
- Title: Bifurcated “d(1)” use variance to permit medical offices on property located in the OB-2 zone
- This was a second application related to Zinn realty (see case #13 above). The applicant sought, and was granted permission to operate a medical office in the OB-2 zone.

#### **15. H. Craig Stem - Shammy Shine Car Wash**

- Resolution no. 2010-15
- Block 77, lot 4
- Center street
- Application no. 2010-11
- Title: Waiver of site plan review pursuant to ordinance section 165-36.1.a.(1) to permit installation of auto sentries
- Applicant sought and was granted permission to modify the Shammy Shine car wash to install self service kiosks without submitting a new site plan.

#### **16. Hunterdon Medical Center, Inc.**

- Resolution no. 2010-16
- Wellness Center and Medical Office building development
- Block 70, lot 13
- Application no. 2008-14
- Title: Amended preliminary and final site plan approval to permit change in freestanding signage on the property
- Applicant sought and was granted permission to make changes to the sign at the entrance to their facility.

#### **17. 9 Main Street, Llc**

- Resolution no. 2010-17

- Block 47, lots 18 & 19 and block 49, lot 25
- Application no. 2010-13
- Title: Completeness waivers for bifurcated “d(1)” use variance application
- Applicant sought and was granted completeness waivers for an application submitted to the BOA. This resolution did not include the actual hearing of the merits of the case; just the completeness of the application.

#### **18. Clinton Township Board Of Education**

- Resolution no. 2010-18
- Vought house subdivision
- Block 60, lot 56
- Application no. 2010-09
- Title: “d(1)” use variance to permit museum use and minor subdivision approval to create Vought house lot with “c(2)” variances to permit the Vought house lot to deviate from the required minimum lot size, maximum depth of measurement and maximum building coverage.
- The applicant sought and was granted permission to split off a lot containing the historic Vought house from the rest of the property which contains the Clinton Township Middle School. Note, this case generated some discussion in the press because the BOA imposed the condition that a sidewalk be installed between the newly created lot and parking areas on the school property that would serve that lot.

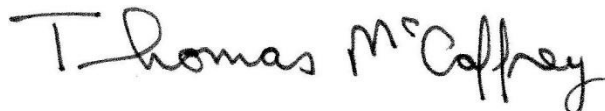
#### **19. Clinton United Methodist Church**

- Resolution no. 2010-19
- Block 29, lot 4
- Application no. 2007-06
- Title: Extension of bifurcated “d(3)” conditional use variance and “d(6)” height variance for a conditionally permitted church with an over height 121-foot tall steeple
- Applicant sought and was granted an extension of time within which to secure preliminary site plan, final site plan, building permits and certificate of occupancy.

#### **20. Theodore and Eunice Bench**

- Resolution no. 2010-20
- Block 95, lot 2
- Application no. 2008-12
- Title: “section 36” variance from the requirement that a lot abut a street and “c(1)” variance from the requirement that a lot have a minimum of 150-feet of frontage on a street to permit construction of a dwelling and a barn on property that does not abut a street
- Applicant sought and was granted permission to build a residence on a tract of land that had no frontage on any public road, and could only be accessed by crossing a working railroad track.

Respectfully Submitted,



Thomas McCaffrey  
Chairman - Clinton Township Board of Adjustment