

**MINUTES OF CLINTON TOWNSHIP BOARD OF ADJUSTMENT  
ANNUAL REORGANIZATION MEETING**

JANUARY 24, 2010

PRESENT: John Matsen, Sharon Stevens, Tom McCaffrey, Wayne Filus, Peter Geiger, Dave Roberts, John Lefkus Jonathan E. Drill, Attorney; and Rebecca D'Alleinne, Secretary.

ABSENT: Ira Breines and Amy Switlyk.

***CALL TO ORDER***

Mrs. D'Alleinne called the meeting to order at 8:00PM.

***PUBLIC NOTICE***

Mrs. D'Alleinne reported that the meeting was held in conformance with the Open Public Meeting Act.

***APPOINTMENTS***

Mrs. D'Alleinne announced the following appointments had been made by the Mayor:

Appointed to fill a 4-year term:

Sharon Stevens, Regular member (Class 4) exp. 12/31/14

Peter Geiger, Regular member (Class 4) exp. 12/31/14

Appointed to fill a 2-year term:

John Lefkus, Alternate Member 2, exp. 12/31/12

***NOMINATIONS AND ELECTIONS***

Mrs. D'Alleinne accepted nominations for the position of chairman.

Nomination of Tom McCaffrey for chairman was made by John Matsen and seconded by Dave Roberts. Members were unanimous in favor of Mr. McCaffrey as chairman.

Mrs. D'Alleinne presented the gavel to the chairman.

Chairman McCaffrey accepted nominations for the position of vice chairman.

Nomination of John Matsen as vice chairman was made by Dave Roberts and seconded by Wayne Filus. Members were unanimous in favor of Mr. Matsen as vice chairman.

***APPOINTMENTS***

Peter Geiger moved and Dave Roberts seconded a motion to approve the following professional appointments:

**Jonathan E. Drill, Attorney**  
**Jay Bohn, Conflict Attorney**  
**Cathleen Marcelli, Larry Plevier, Engineering Expert**  
**Elizabeth McManus, Michael Sullivan, Brent Krasner, Planners**  
**Rebecca D'Alleinne, Secretary**  
**Joseph Fischer & Jeff Fischer, Geotechnology Experts**  
**Cathleen Marcelli, Traffic Expert**  
**Jeffrey Keller, Environmental Expert**  
**Brian Bosenberg, Landscape Architect**  
**John M. Thomas, Conflict Landscape Architect**  
**Gary Garofalo and John Sarkioglu, Lighting Experts**  
**John Harch, Michael Hanrahan, Architectural Experts**  
**Matthew Mulhall, Hydrogeology Expert**  
**Joanne Sekella, Certified Shorthand Reporter**  
**Ron Graiff, Wireless Communications Expert**

The members concurred unanimously on all appointments.

Dave Roberts moved and Sharon Stevens seconded a motion to approve the official newspapers: the Hunterdon County Democrat and the Star Ledger. The Board approved unanimously. Sharon Stevens moved and Dave Roberts seconded a motion that the calendar for 2011 as presented be adopted. The Board approved unanimously. John Matsen moved and Peter Geiger seconded a motion that the Rules and Regulations for 2011 be adopted. The Board concurred unanimously.

The Annual Report was discussed. Peter Geiger moved and John Lefkus seconded the motion that the Annual Report for 2010 be adopted as written.

### ***VOUCHERS***

Chairman McCaffrey moved and Sharon Stevens seconded a motion to approve the vouchers. The Board concurred unanimously.

### ***RESOLUTIONS***

#### **CLINTON TOWNSHIP BOARD OF EDUCATION, Block 60, Lot 56**

Resolution #2010-18, Application #2010-09

Walter Wilson, Esq. introduced himself on behalf of the applicant and discussed his letter that had been forwarded to the members. Jon Drill discussed item #6, concerning Resolution Condition #2, which addressed parking for the Vought House. Mr. Drill noted that a deed restriction shall be recorded before the subdivision could be finalized. Sharon Stevens recused herself from the hearing. Discussion ensued as to when the sidewalk would be built and who would be the responsible party for building it. Conditions were discussed. Mr. Drill commented that it shouldn't be the Board's concern who pays for the sidewalk, only that it gets done. Mr. Drill noted that the deed

restrictions could be on both lots. An obligation to build the sidewalk or supplying a bond was discussed. Jon Drill stated that the obligation must be related to the land and not the individual. John Matsen commented that the Board wanted to address the problem in general, and was in favor of Mr. Wilson's compromise proposal. Mr. Wilson repeated Mr. Lefkus' view that stating that the sidewalk was the BOE's ultimate obligation to build, but that the obligation could be permitted to be transferred with the property. Jon Drill read proposed changes into the record. John Lefkus wanted to be certain that no possible commercial use could be approved without a site plan review. Cathy Marcelli and Beth McManus agreed. All members agreed with the proposed changes. John Lefkus moved and Wayne Filus seconded a motion to approve the resolution as amended. Members in favor: McCaffrey, Matsen, Filus, Roberts and Lefkus.

Sharon Stevens returned to the meeting.

**CLINTON UNITED METHODIST CHURCH, Block 29, Lot 4**

Resolution #2010-19, Application #2007-06

Jon Drill noted that Draft #2 was under consideration. Sharon Stevens moved and Wayne Filus seconded a motion to approve Draft #2 as written. Members in favor: McCaffrey, Matsen, Stevens, Filus and Lefkus.

**THEODORE & EUNICE BENCH, Block 95, Lot 2**

Resolution #2010-20, Application #2008-12

Jon Drill stated that there were some blanks in the resolution that he had asked the applicant's attorney to fill and noted that he had not done so. It was determined to hold the resolution until the next meeting.

***PUBLIC COMMENT***

Harmen Vos introduced himself and apologized to the Board for some language in his letter to the editor. He stated that the Board had served the township well. He expressed the opinion that some of the township ordinances were overbearing and mentioned outdoor storage restrictions. Mr. Vos stated that he had come in peace, but expressed the opinion that the ordinances were overbearing.

Chairman McCaffrey thanked him for the apology, and suggested that he that get a copy of the Board of Adjustment Annual Report and pointed out that 85% of the requests had been granted. Jon Drill commented that the Planning Board had sent changes to the ordinance subcommittee concerning outdoor storage. Vice Chairman Matsen told him that those who sit on boards learn not to take things personally, and thanked him for coming.

## ***COMPLETENESS WAIVERS HEARING***

### **ROUND VALLEY ANIMAL HOSPITAL, Block 3.03, Lot 2**

Walter Wilson, Esq. introduced himself on behalf of the applicant. He discussed the waivers that Cathy Marcelli had listed in her January 11, 2011 memo. Mr. Wilson agreed with her recommendations. John Matsen moved and Sharon Stevens seconded a motion to grant waivers for checklist items # 28, 33 and 36 and deny #40. Members in favor: McCaffrey, Matsen, Stevens, Filus, Geiger, Roberts and Lefkus. The Public Hearing was scheduled for February 28, 2011.

## ***PUBLIC HEARING***

### **NINE MAIN STREET, Block 47, Lots 18 & 19**

William Caldwell, Esq. introduced himself on behalf of the applicant. He discussed the location of the proposed project. He noted that the solar array would be an accessory use to the buildings on a separate lot, which would be connected through a conduit under the street. He stated that solar was considered a beneficial use. Chairman McCaffrey expressed his understanding that the hearing was for a use variance application only. Mr. Caldwell expressed the opinion that they would be eligible for a site plan waiver. Jon Drill discussed the crib sheets that he had created for the BOA. Chairman McCaffrey called a recess at 8:55PM. The meeting was called to order at 8:58PM.

Mr. Caldwell stated that he had read the sheet and that it was well put. Jon Drill commented that the MLUL had added a definition of inherently beneficial use, which included solar energy generation. He noted that the positive criteria were satisfied. Chairman McCaffrey explained to the public how the decision would be made, noting that the Board would be addressing only the negative criteria. He further stated that the applicant wanted a pass on the site plan review. Jon Drill read from a Supreme Court determination, concerning detriments and whether the detriments could be reduced to balance the positive and negative impact. Mr. Caldwell stated that private use of solar was not prohibited in the zone and that the applicant would not be selling power. Jon Drill disagreed that the array was not a public utility.

Robert Fuller, Green Power Energy, James Hill, Engineer and Planner, Cathy Marcelli, Board Engineer and Beth McManus, Board Planner were sworn. Mr. Hill presented his credentials, which were accepted by the Board. Mr. Fuller presented his solar design and installation credentials, which were accepted by the Board.

Mr. Fuller explained that they had designed the system to have the least impact on the neighborhood. He described the south-facing layout, and the optimal angle of tilt. He explained that there would be no penetration into the ground, and no footings. Exhibit A-1 (Packet of Information) was marked into evidence. Mr. Fuller stated that the system would sit on top of the ground and the weight of the concrete footings held it in place. He discussed the orientation of the panels, noting that they were within the confines of the setbacks. He pointed out where the train station parking, the railroad tracks and other surrounding buildings were located. Mr. Fuller pointed out where trees and an existing

fence were located. John Matsen discussed whether there was any law to keep a property owner to the south from planting or erecting a taller building and wondered whether the applicant might need an easement from the property to the south. Mr. Fuller stated that the applicant wished to build right away and wanted a waiver of site plan under 165-36.1. Jon Drill noted that there were three rationales for granting a waiver. William Caldwell discussed the cases and Mr. Drill agreed that southerly owners could not be restricted.

William Caldwell referred to Beth McManus' report, which contained an aerial photo. He commented on the access easement and pointed out adjoining buildings. Mr. Fuller explained net metering, stating that when the array produces energy, it goes on to the grid, and when it does not, the buildings would take power from the grid. He stated that the panels had a 30-year warranty and produced DC power, which would be converted to AC power by a micro-converter system. He indicated that there would be no fans, humming or noise. Mr. Fuller reported that the panels would be anti-glare glass and would be tilted at a 20 degree angle. He further noted that there would be 1400 modules, which could be disconnected and would operate independently. He noted that the units were not combustible.

Peter Geiger discussed protection against a power surge. Chairman McCaffrey talked about whether the applicant could sell the net power. John Matsen commented that the applicant wanted to build and sell the power until the other site was approved. It was designed to power the existing buildings. John Lefkus commented that the array would offset costs, not replace the power. He discussed whether ballasted structures were allowed by ordinance and Jon Drill wondered whether it was permitted under the UCC. Mr. Caldwell stated that the ballasts were a proven technology, and were not a violation. He expressed the opinion that it was a positive benefit, as the ground would not be disturbed. He listed the buildings that would be served, which were all on one lot. Mr. Fuller explained that the power would go through a conduit under the street to the other lot. He noted that the panels were wind-rated at 120 m.p.h. and that all wires would be underground.

Cathy Marcelli commented that the converters were valuable, and expressed the opinion that they might need protection. Wayne Filus asked whether there would be any preparation of the soil necessary. Mr. Fuller reported that the current condition was graveled and compacted. Peter Geiger asked about whether the ground could shift due to freezing and thawing and affect the angle of the panels. Mr. Fuller responded that it wouldn't affect generation of electricity. He commented that the modules were self cleaning and that there were no moving parts. The panels will be 39 by 65 inches in sections of eight. He discussed the dimensions and weight of the ballast systems. The electrical wires were discussed. Sharon Stevens asked how strong the glass was, and Mr. Fuller replied that the glass was impact-resistant, and that if it were to break, it would shut itself down. Vandalism was discussed. Individual panels would shut down if broken and notify the system operator. He stated that the installation would create no noise at all.

The hearing was opened to the public.

Ken Nerger, 136 Allerton Road, stated that he worked in the environmental field and was a former member of the Historic Commission. He indicated that he was in favor of the application because it was "green" and that the site was currently blighted. He discussed the layout of the existing buildings, noting that not much would be torn down.

Darrin Vogel, 15 Cobblestone Lane, stated that he had solar at his office and asked what the state inspection would entail. Mr. Fuller responded that the state would inspect prior to the township inspection. Mr. Vogel stated that he was a proponent of solar power, and hoped that the Board would grant approval.

John Lefkus asked about snow loading and drifting. Mr. Fuller stated that each module operated separately, and would only affect those with snow on them. Cathy Marcelli asked that the security fencing be shown on the plan.

The application was continued to the March 28, 2011 meeting without the need for further notice.

#### EXECUTIVE SESSION

Jon Drill read the resolution into the record. Dave Roberts moved and Sharon Stevens seconded a motion to enter closed session. The Board concurred unanimously and entered executive session at 10:46PM.

#### OPEN SESSION

The Board returned to Open Session at 11:12PM. John Matsen moved and Sharon Stevens seconded a motion authorizing Jon Drill to formally represent it before the Hunterdon County Agriculture Development Board, subject to the Township Administrator approving funding for the effort.

#### ADJOURNMENT

Dave Roberts moved and Sharon Stevens seconded a motion to adjourn. The Board concurred unanimously and the meeting was adjourned at 11:14PM.

These minutes were approved on February 28, 2011.

Rebecca E. D'Alleinne  
Secretary to the Board