

MINUTES OF CLINTON TOWNSHIP BOARD OF ADJUSTMENT

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PUBLIC MEETING

July 28, 2008

PRESENT: Tom McCaffrey, Wayne Filus, Ira Breines, John Matsen and Amy Switlyk.

PROFESSIONALS: Jon Drill, Attorney, Cathleen Marcelli, Engineer, Beth McManus, Planner, and Rebecca D'Alleinne, Administrator.

ABSENT: Dave Roberts, Peter Geiger, Sharon Stevens and John Lefkus.

CALL TO ORDER

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

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 vestibule of 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, the Star Ledger and the North County Branch of the Hunterdon County Library the Friday prior to the meeting.

MINUTES

John Matsen moved and Ira Breines seconded a motion to approve the minutes July 14, 2008 as corrected. The Board concurred unanimously.

RESOLUTIONS

OLD ALLERTON ROAD HOUSING COMPLEX, Block 58, Lots 4, 5, 6, 7 & 10
Resolution #2008-15, Application #2008-13

John Matsen moved and Ira Breines seconded a motion to approve the resolution as written. Members in favor: McCaffrey, Matsen, Breines and Filus.

ROUND VALLEY CREST, Block 13.01, Lot 3
Resolution #2008-16, Application #2008-07

Wayne Filus moved and Ira Breines seconded a motion to approve the resolution as written. Members in favor: McCaffrey, Breines and Filus.

NEW BUSINESS

1. Vouchers

Ira Breines moved and Wayne Filus seconded a motion to approve the vouchers for payment. The Board concurred unanimously.

COMPLETENESS WAIVERS HEARINGS

HENSFOOT/KIMBERLEY, Block 4.03, Lot 29

Application #2008-09

Cathy Marcelli discussed the requested completeness checklist waivers, and recommended that the Board deny numbers # 9, #16, #19, #40, and #41. Ira Breines moved and Amy Switlyk seconded a motion to grant all waiver requests, and to deny those as recommended above. Members in favor: McCaffrey, Matsen, Breines, Filus and Switlyk.

CLINTON WATER TANK, Block 46, Lot 32

Application #2008-10

Jim Knox, Esq. introduced himself and engineer Andrew Holt on behalf of the applicant. Cathy Marcelli commented that there would be a limited amount of soil disturbance, and that the proposal was for the same size water tank as the existing tank. John Matsen moved and Ira Breines seconded a motion to grant the checklist waivers as requested. Members in favor: McCaffrey, Matsen, Breines, Filus and Switlyk. The application was scheduled for September 22, 2008. A conflict planner was discussed.

INDER, Block 69, Lot 9.02

Jon Drill announced that the applicant had asked to be carried to August 25, 2008.

PUBLIC HEARINGS

HERITAGE GROUP, Block 13, Lot 9.10 & 11 (Continued from June 23, 2008)

Walter Wilson, Esq. introduced himself on behalf of the applicant. John Madden, planner, Edmund Klimek, architect, Daniel Disario, traffic engineer, Lou Belfer, real estate, Richard Burrow, engineer, Gregory Schild, asset manager, Nick Tropeano, Board Landscape Architect, Beth McManus, Board Planner and Cathy Marcelli, Board Engineer were previously sworn.

Mr. Wilson discussed a notice from his real estate broker which had been submitted to the board. Donald Farnell, Landscape Architect and John Olivo, Board Landscape Architect were sworn. Lou Belfer discussed his opinions, which were enumerated in the report dated July 11, 2008.

Carl Pasorek, 7 Charlotte Drive, asked about several definitions in the report, to which Mr. Belfer responded. He commented on the loss of warehouse business to adjoining states. Mr. Pasorek expressed concern about the amount of traffic that might be generated.

John Matsen asked about item #8 of the report and the generation of traffic. Mr. Belfer stated that the proposed configuration would allow the trucks to move product out in a more expedited manner. He discussed the internal movement of the products. Walter Wilson stated that the building code would not allow dangerous materials. Mr. Belfer commented on scheduling of truck arrivals. Jeffrey Greenberg, managing member, was sworn. He reported that the township limited the items that could be warehoused. He discussed hazardous substances and stated that the company did not allow them. He commented that trucks did not park loaded trailers on the lot. John Matsen asked about empty trailers, and it was reported that they were allowed and were parked in trailer parking spots. Mr. Belfer discussed obsolete buildings. Mr. Greenberg stated that as the landlord, he would keep the current parking configuration.

Landscape architect Donald Farnell presented his credentials, which were accepted by the Board. He discussed the meetings that had produced an agreement with the township landscape architect. Walter Wilson discussed the July 16, 2008 memo from Brian Bosenberg, stating that the plans had been reviewed. Exhibit A-7 (Color-rendered Landscape Plan South, 7/14/08) A-8 (Color-rendered Landscape Plan North, 7/14/08) were marked into evidence. As they had not been marked with a last revised date, Mr. Olivo reviewed both exhibits and stated that they reflected the agreement that had been reached. Chairman McCaffrey asked about the north side of the lot and whether the planting was on the neighbor's property. Mr. Farnell noted the fact that Brian Bosenberg's office had agreed that there was enough screening. Maintenance of the trees was discussed. Exhibit A-9 (Aerial Photograph) was marked into evidence. Mr. Pasoreck circled his house on the photo. Mr. Farnell stated that there was currently 100 feet of buffering. Mr. Pasoreck stated that much of it consisted of deciduous trees. Chairman McCaffrey noted that there did not seem to be enough room for more plantings. Jon Drill asked Mr. Pasoreck whether he wanted the applicant to remove the deciduous trees and he responded that he wanted the trees to be protected and not chopped down. The applicant agreed to do so. Discussion ensued concerning replacement of malnourished trees and the applicant had no objections.

Traffic engineer Dan Desario, presented his engineering credentials, which were accepted by the Board. He discussed a traffic impact study that he had prepared. He discussed the comments that he had received from Cathy Marcelli, and additional material that she had requested. He displayed Exhibit A-2, and pointed out the north driveway, which has restricted access, noting that there had been no change in the access. The removal of the lower access loop was discussed. He stated that the number of loading doors will not produce a significant increase in the number of trips, and noted that all of the spaces were occupied. He commented that the proposal was basically punching a hole in the wall where the trailers were already parked. He discussed the efficiency of the internal storage. Cathy Marcelli commented on the amount of traffic, and Mr. Desario discussed his methodology. He reported that there would be about 25 additional trips added to the morning commute and that there were currently 700 vehicle trips in both directions on Cokesbury in the morning. Chairman McCaffrey discussed segmenting the parking lot. Amy Switlyk asked whether the traffic could be limited during school hours. Mr. Desario responded that it would be difficult to do so, noting that the study was done during Kay Bee Toys' peak period around Christmas. Chairman McCaffrey called a recess at 8:54PM. The meeting was called to order at 8:58PM.

Ira Breines asked if trucks might stack up. Mr. Belfer noted that it would be easier and quicker to unload if the additional doors were to be approved. He stated that each door would be utilized twice a day. He stated that there would be no perceivable increase in the traffic. Mr. Belfer commented that the proposal would not expand the building, and that the capacity was the same. He reported that the same amount of goods would be going in and out and that the application would be adding doors, not adding trips.

Carl Pasoreck, 7 Charlotte Drive, asked about the restrictions on the north side driveway. Jon Drill discussed the conditions that had been imposed by the Planning Board at the prior approval. Mr. Pasoreck stated that the trucks had been only using the south entrance for the past several years. Mr. Greenberg stated that they would comply with all restrictions in the resolution. Litigation was discussed and whether other conditions had been imposed as a result of settlement of Sgroi vs. Planning Board. Discussion ensued as to whether it was possible to find a copy of the agreement. Chairman McCaffrey called a recess of the application at 9:24PM, to address the Hunterdon Christian Book application. It was determined to continue the Heritage Group Public Hearing at the conclusion of the book store hearing.

HUNTERDON CHRISTIAN BOOKS, Block 27, Lot 4

John Thatcher, Esq. introduced himself on behalf of the applicant, Elke Naumovitz. He described the application and stated that the application would be for a change of use from a furniture store. Elke Naumovitz, managing member, John Madden, planner, Beth McManus, Board Planner and Cathy Marcelli, Board Engineer were sworn. Mrs. Naumovitz discussed her business and reported that she sold books, gifts and jewelry. She stated that the store was a low-intensity use and that the number of patrons, was between 8 to 10 per day. Exhibits A-1 through A-8 were marked into evidence as: Exhibit A-1 (Picture of Store Front), Exhibit A-2 (Interior of Store), Exhibit A-3 (Interior of Bible wall), Exhibit A-4 (Bible wall), Exhibit A-5 (Gift wall), Exhibit A-6 (Front of Allerton Furniture Store), Exhibit A-7 (Close-up Showing Signage) and Exhibit A-8 (Side View of Building). It was reported that there were a total of seven parking spots on site. Mr. Thatcher noted that there was a need for a waiver of site plan, stating that there would be no changes on the site. Ms. Naumovitz stated that the septic system was more than adequate and that the residential tenant would be gone during the day. She noted that her business hours would be the same. Signage was discussed. She reported that she would move the existing sign from her business to the new building. Ms. Naumovitz proposed to keep the size and shape of the two side signs, noting that there would be a reduction from the five current signs to three. The only sign to be lighted would be the largest. Beth McManus discussed landscaping and the historic building district. Ms. Naumovitz stated that her hours would be Monday to Friday, from 9-5, and 10-5 on Saturdays. John Matsen discussed competition from other book stores and Ms. Naumovitz responded that it would be a lower intensity use than regular book stores. Ira Breines expressed concern as to whether the increased traffic to the store would create a problem on Route 31.

Planner John Madden testified that the business did not have much visibility in her current shop. He stated that it was a very low intensity use and that the store was a

good match for the property. He expressed the opinion that the 6 remaining parking spaces would be sufficient for the number of anticipated patrons. He stated that the property was particularly suited for this use and would be compatible with the surrounding neighborhood. Mr. Madden commented that the use would promote the public good and that there would be low parking and traffic demands. He noted that the proposal would retain the historic nature of the building exterior and would have no impact on the surrounding neighborhood.

Mr. Madden discussed the negative criteria, noting that the proposal would not harm the intent and purpose of the zone plan. He expressed the opinion that there would be no detriment to the public good, as the business would operate during normal business hours. He noted that the book store was an appropriate reuse of a nonconforming commercial use. Mr. Madden discussed the amount of signage, which would be reduced. Cathy Marcelli asked about the difference in square footage between the two shops and Ms. Naumovitz stated that the old was 1280 sq. ft and the new would be 2000 sq. ft. The Public Hearing was closed.

John Matsen commented that Mr. Madden had summarized the argument well. Chairman McCaffrey stated that it was good for the township to have a viable business in that location. Ira Breines noted that he had heard the original case for the furniture store and that the book store would be a welcome addition to the community. Wayne Filus stated that the business was a well suited occupant and was glad that an historic building would be preserved. Amy Switlyk agreed that additional landscaping would reduce visibility. John Matsen moved and Ira Breines seconded the motion to approve a D1 variance, a design exception for landscaping and a waiver of site plan review. Members in favor: McCaffrey, Matsen, Breines, Filus and Switlyk.

Chairman McCaffrey called a recess at 10:00PM. The meeting was called to order at 10:04PM.

HERITAGE GROUP, Block 13, Lot 9.10 & 11 (Continued)

John Madden, planner, testified that he had reviewed the plans and discussed the planning issues. He discussed the D2 use variance, which was for the continuation of an existing nonconforming use. He noted that the proposal would have truck loading docks instead of truck parking spots, and reported that there would be 36 loading docks added. Mr. Madden stated that there would be minor remodeling, improved landscaping and that there would be a reduction in impervious coverage. He pointed out that the proposed design would not expand the footprint.

Addressing the positive criteria, Mr. Madden stated that the use was peculiarly suited to the site and that the loading area would not be visible from Interstate 78 due to the landscaping. He expressed the opinion that the change would benefit the community because the amount of jockeying the trailers around would be reduced, resulting in less idling and noise. He discussed the purposes of zoning, commenting that warehouses were permitted in Lebanon Borough, and that the amount of impervious cover would be reduced over the site as a whole. He commented that there was sufficient space on the site for the operation. He stated that the building was functionally obsolete in its current configuration and that the building would be made more attractive to prospective tenants.

Mr. Madden noted that the proposed site plan would allow the building to operate in a more efficient manner.

Mr. Madden discussed the negative criteria, noting that the use had been approved in the past and was not changing substantially. He stated that modernization was a legitimate reason to grant a variance. He expressed the opinion that there were no detriments. The number of trucks on site would be limited by the size of the building and the adjoining neighborhood will not be affected, as the loading bays are on the southern side of the building. Mr. Madden commented that additional landscape improvement would further decrease the visibility of the building as the buffer includes more evergreen trees. He stated that the site would be more efficient and that the signage would cite the DOT regulation concerning engine idling. Ira Breines asked about turnover. Mr. Belfer answered that the size of the trucks would probably not change and discussed the amount of space. John Matsen asked about the fact that the site consisted of five separate parcels, and Mr. Madden responded that merging them into one would be preferable, and that there was no planning argument against it. Jon Drill commented that a deed of consolidation could be filed. Discussion ensued as to whether the Lebanon Borough COAH apartment building had been factored in to the traffic study and Mr. Desario stated that it would not affect the results of his study.

Carl Pasoreck stated that the operation was very efficient and discussed the increase in traffic. He commented that the applicant had made a good presentation on landscaping and traffic. He discussed the entrance and northern gate and asked that it not be used at all. The applicant indicated that it would not agree to do so. Mr. Pasoreck requested that the red and green lights over the door have a timer. Mr. Greenberg stated that they are a standard item on warehouses and was willing discuss the issue with Kay Bee Toys. Additional traffic was discussed. Jon Drill commented that the application was a limited expansion of a preexisting nonconforming use, and a lower threshold had to be satisfied by the applicant. He commented that the Board could impose conditions to make the use better. John Matsen asked about the phasing and Walter Wilson stated that they would build 25 of the doors, all of the site work first and 11 doors later, depending on the tenant. There were no additional questions and the Public Hearing was closed.

Chairman McCaffrey stated that he liked the application, noting that there would be less blacktop. He expressed the opinion that a more efficient use of the property would be good for the public, as there would be less noise and pollution. He also liked the fact that there would be improved landscaping and an increased setback, not that the applicant should limit the length of time that the blinking lights would be on. He expressed the opinion that the north gate shouldn't be closed. John Matsen agreed that the proposal would amount to only a de minimus change in the operation and that the site would be upgraded. He commented that the blinking lights should be off while gate is closed. Ira Breines stated that the applicant's request was reasonable and would make the site more efficient. He expressed the opinion that he wanted to encourage the business community and keep businesses in NJ. Amy Switlyk reported that she was in favor of the application, and was happy with the landscape buffer. She noted that she was glad to know about building codes regulating hazardous materials and that the proposal would reduce the noise level on the site. Wayne Filus discussed the maintenance obligation for the landscape buffering. Wayne Filus moved and Amy Switlyk seconded a motion to

approve the amended site plan, D2 variance, landscape exceptions, and C2 variance.
Members in favor: McCaffrey, Matsen, Filus, Breines and Switlyk.

ADJOURNMENT

Ira Breines moved and John Matsen seconded a motion to adjourn, and the motion passed unanimously. The meeting was adjourned at 11:00PM.

These minutes were approved on August 25, 2008.

Rebecca E. D'Alleinne, Administrator