

MINUTES OF CLINTON TOWNSHIP BOARD OF ADJUSTMENT

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PUBLIC MEETING

July 30, 2001

PRESENT: John Matsen, Frank Senske, Ira Breines, Joe Arancio, Antje Doyle
Professionals: Melanie Reese, Engineer; David Banisch, Planner; Jon Drill, Attorney;
Alice Oldford, Secretary.

ABSENT: William Honachefsky, Jr., Mark Ciarlariello, Virginia Monsul-Barnes, Sharon
Stevens

CALL TO ORDER

Mr. Matsen called the meeting to order at 7:30 p.m.

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 on January 11, 2001, 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 2nd 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

Minutes from the meeting of June 25 were approved.

PUBLIC HEARINGS

1. **LANES, Robert & Shari**, Block 87.04, Lot 8.8 Cheryle Way (R-1)

Applicant seeks a "c" variance to construct a 15' x 20' deck on the rear of the existing home within 12.5' of the rear yard setback, whereas a 30' rear yard setback is required.

Having paid the requisite application and escrow fees, Mr. Lanes was called and sworn. Board professionals, David Banisch and Melanie Reese, were sworn.

Mr. Lanes testified that he and his wife were seeking a variance to construct a 15' x 20' deck. The location of the home on the property precludes addition of a deck, which would conform to the setbacks.

Mr. Lanes contended that there would be no detriment to the zone plan.

Asked about a gate for access to the septic, Mr. Lanes testified that access is gained via the driveway since the trucks are heavy and there is a significant slope.

There is a solid fence surrounding the yard, and the deck would face the neighbor's driveway and garage. Asked about the elevation, Mr. Lanes said he estimated that the deck would be approximately 3' higher than the neighbor's yard. He noted that there is existing vegetation, which would offer some privacy. Mr. Lanes said he had discussed construction of the deck with his neighbor, and the neighbor had no objection. Further, he testified that he believed the deck would be comparable to the decks in the neighborhood.

Asked about the feasibility of a smaller deck, Mr. Lanes said there would be an encroachment regardless. Asked about the proximity to the septic, Mr. Lanes indicated that the deck had been located so as not to interfere with the septic system.

David Banisch posed some questions as to the location of the deck. As to the elevation, Mr. Lanes said he estimated the height to be approximately 3'. He contended the deck is an enhancement to the neighborhood, and access to the rear yard is facilitated.

No one appearing to speak in favor or against the application, the public hearing was closed. The Board agreed that the applicant's request was reasonable.

Motion to grant was made by Ira Brienes and seconded by Frank Senske.
Members in favor: Frank Senske, Ira Breines, Joe Arancio, Antje Doyle, John Matsen

Jon Drill, Esq., read a resolution, No. 2001-05 into the record for adoption.

Motion for adoption was made by Ira Breines and seconded by Antje Doyle.
Members in favor: Frank Senske, Ira Breines, Joe Arancio, Antje Doyle, John Matsen

2. **LAILAW TRANSIT**, Block 13.01, Lot 3, Rt. 22W

Applicant seeks preliminary and final site plan approval for installation of a 10,000-gallon aboveground fuel tank. In addition, applicant is proposing certain additions/improvements to its previously approved site plan, which requires a "d(2)" expansion of non-conforming use variance as the bus garage usage of the site is no longer permitted.

Having paid the requisite application and escrow fees, Donald W. Morrow, Esq., introduced himself on behalf of the applicant.

Witnesses, Michael Cannon, P.E., applicant's engineer; Mark Herington, District Manager, for Laidlaw; Carolyn Neighbor, Planner; Brook Crossan, P.E., applicant's environmental consultant; Board professionals, Peter Fernandez, David Banisch and Melanie Reese were sworn.

Michael Cannon P.E. was presented as an expert and credentials accepted by the Board. Mr. Cannon testified that the application is for preliminary and final site plan approval. The property consists of approximately 6.98 acres. The property exists as a bus depot. Mr. Cannon said there would be improvements to the property. He noted that applicant also seeks approval for use of a 10,000 gallon diesel fuel storage tank.

Mr. Cannon said this represents an expansion of the approval granted in 1982. Mr. Cannon reviewed the features noted on the site plan. Applicant is relocating the entrance from Route 22 thirty feet to the west. He contended NJDOT has granted approval for the access. Mr. Cannon described the grading and drainage plans. He said lighting is proposed throughout the parking lot. Landscaping and buffering together with an 8' board on board fence is proposed.

Bulk variances are sought for maximum depth, width of the lot at the setback and width of the lot at the building. Mr. Cannon confirmed that these variances were granted at the time of the 1982 approval.

Design waivers are requested:

- (1) Mr. Cannon proposed no curbing in order to promote sheet flow of water.
- (2) Request is made for a 25' buffer whereas 50' is required. At the time of the 1982 approval, 10' buffer was provided.
- (3) Mr. Cannon said the light coverage does not meet the ordinance, i.e., there is less lighting than is required.
- (4) Waiver is requested for tree replacement. Trees must be removed to relocate the driveway, which would be a substantial improvement. Mr. Cannon contended replacement as provided by ordinance would be extraordinary.

Asked whether wheel stops are proposed, Mr. Cannon said no. As to the lighting, the Board requested confirmation that the lighting would shine downward. The Board noted that shoebox lighting is typically required.

There was discussion as to the RCBA report. Ms. Reese noted that she had received subsequent submissions to address the concerns she raised.

As to the issues raised by Peter Fernandez, Board landscape architect, Mr. Cannon noted that the applicant is willing to work with him. Tree replacement needs to be

quantified, and PF confirmed that applicant would not need to replace all the trees. He said there is no impact from the road. Applicant agreed with the recommendations in the report of Mr. Fernandez of Carter Van Dyke Associates.

As to the recommendations of Annandale Hose Co., Mr. Cannon said he agreed except that applicant is not in a position to provide the recommended turning radius for fire equipment at the dead end areas.

Neighbor, Mary Emilut asked about the height of the berm. Mr. Cannon testified that the berm would be reshaped and would be 4' high with an 8' high board-on-board fence. Asked about paving to keep down the dust, Mr. Cannon confirmed that the parking area would be paved. Asked about the number of buses, Mr. Cannon said there would be 59 buses and 18 vans. Sixty-nine spaces are provided for employee vehicles. Mrs. Emilut noted she had counted 120 buses on the site.

Mr. Herington said currently there are 98 revenue-producing vehicles on the property. He noted that they would be downsizing to comply with the approvals. Further, Mr. Herington conceded that there is no room for growth at this site

Sanford Kingsley, adjoining property owner, asked about environmental concerns related to oil leakage and landscape buffering. Applicant noted that it would plant 8 – 10' high evergreens. He asked about a description of the 10,000-gallon fuel tank. Mr. Cannon noted that the tank is double walled, and the tank has spillage controls.

Documentation as to the safety of the tank, SCAT—secondarily contained above-ground tanks was marked A-1. Mr. Morrow said he would provide a copy to the neighbors.

Mike Tatka asked whether the berm would be continued along his property. Applicant said it would not be continued because of existing vegetation although the fence would be installed in this area. Mr. Tatka said he would prefer removal of the vegetation to place the berm, and applicant agreed.

Mary Emilut asked about the height of the lights. Mr. Cannon confirmed that the lights on the building would be modified and the height of the light poles would not exceed 16' as allowed by ordinance.

As to the tank, Mr. Herington explained that there is monitoring by the State to confirm the safety of the tank. Further, there is a computer, which monitors for leakage. Should a leak be detected, an alarm would sound. Ms. Reese confirmed that the tank would be registered with the State, and any leak must be reported and remediated.

Carolyn Neighbor, Planner, was called, and the Board accepted her credentials. Mrs. Neighbor reviewed the variance requests. She said this is a D2 use variance based on the current ordinance. Mrs. Neighbor emphasized that the applicant's proposals

represent improvements to the property. Mrs. Neighbor noted that a 1999 court case found that school bus depots are an inherently beneficial use. She indicated that an essential public service is being provided for school children as well as the elderly and disabled through the LINK transportation contract.

In addition, Mrs. Neighbor contended that the improvements promote safety, describing the access from the highway and on-site circulation. She said the front of the site is heavily wooded.

Further, Mrs. Neighbor pointed out that this is an existing facility located along a major highway. She indicated that an approval would specifically limit the extent of the use of the site. Monitoring and compliance would be spelled out. Mrs. Neighbor confirmed that other uses allowed in the zone could be more obtrusive. She indicated that the impact is less than many of the other uses that are allowed by ordinance.

Mrs. Neighbor confirmed that this property is zoned for non-residential use. There is limited activity on the site. The nature of the use furthers the public good. She noted that this is a minor expansion and the number of vehicles on the site will actually be reduced.

Mr. Banisch confirmed that the proposed impervious coverage is at the limit of what is permitted by ordinance.

There was some discussion as to the desirability of curbing or wheel stops. The Board professionals recommended locating the berm closer to the parking area in lieu of curbing or wheel stops. The Board concurred. As to the concerns of the fire chief, applicant agreed to meet with the Board professionals and Board member, Mark Ciarlariello, to review the matter and come to a resolution.

Mary Emilut asked about the air quality results. Applicant confirmed that there was no impact, and further, the pavement of the property would actually improve the air quality.

No one else appearing to speak in favor or against the application, the public hearing was closed.

Applicant requested that it be permitted to utilize the 10,000-gallon tank prior to adoption of the resolution. Mr. Drill suggested that a resolution could be adopted tonight to authorize the temporary use of the tank.

Motion was made by Joe Arancio and seconded by Frank Senske that the Board attorney prepare a draft resolution granting the use variance and site plan approval for consideration at the September 24 meeting.

Members in favor: Frank Senske, Ira Breines, Joe Arancio, Antje Doyle, John Matsen.

The Board recessed to allow preparation of the resolutions.

NEW BUSINESS

1. Mr. Matsen recommended approval of the vouchers for payment.
2. Ms. Reese raised a sign visibility issue that relates to the Harley Davidson dealership. Applicant has requested that the lower branches be trimmed to allow improved visibility. Should this be ineffective in actuality improving visibility, Ms. Reese requested permission to authorize removal of the trees as necessary. Motion granting authority to RCBA to allow removal of the tree, if necessary, was made by Joe Arancio and seconded by Frank Senske.
3. Ms. Reese addressed issues related to the APM convenience store. She noted that Board of Health approval is required. She requested clarification of the terms of the resolution. The Board agreed that the resolution allows for custom-made sandwiches.
4. Mr. Drill read the Laidlaw resolution, No. 2001-06, into the record to allow the temporary use of the 10,000-gallon diesel storage tank subject to governmental approvals for the use of the tank. The use extends through 12/31/01. Motion to grant was made by Ira Breines and seconded by Antje Doyle. Members in favor: Frank Senske, Ira Breines, Joe Arancio, Antje Doyle, John Matsen.
5. **Clinton Honda**, Block 32, Lots 3 and 2

Applicant was granted a D2 use variance via Resolution No. 2001-03 dated 5/29/01 and subsequently submitted application for preliminary and final site plan approval to expand the automobile dealership.

Attorney for applicant now seeks to withdraw the site plan application.

Mr. Drill noted that there is case law that holds that the Board can prevent withdrawal. There is also an option that the Board acknowledges the request and adopts a motion to dismiss without prejudice. The Board could provide that the re-submission be different from the original and most recently revised submission.

Motion was made by Frank Senske and seconded by Joe Arancio to allow dismissal based on the applicant's withdrawal. Mr. Drill read the resolution into the record. Provision will be made that applicant substantially change the rejected architectural plans re-submit plans that are different from those on the exhibit. All other site plan issues must be addressed. If the site plan is not submitted by May 29, 2002, the D variance will be nullified.

6. Litigation matters:

As to the Clinton Realty matter, Mr. Drill confirmed that the case has been dismissed.

As to APM, there is a stay, which remains in effect. The permanent c.o. has not been issued. Ms. Reese noted that the temporary c.o. expires at the end of August.

6. There will be no meeting in August due to lack of a quorum.

ADJOURNMENT

The meeting adjourned at 11 p.m.

These minutes were approved 9/24/01.

Alice Oldford
Secretary to the Board