

MINUTES OF CLINTON TOWNSHIP BOARD OF ADJUSTMENT

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PUBLIC MEETING

November 26, 2007

PRESENT: John Matsen, Ira Breines, Wayne Filus, Dave Roberts, Peter Geiger, Tom McCaffrey, Dan Fennell, Sharon Stevens and Amy Switlyk.

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

ABSENT: None.

CALL TO ORDER

Chairman Matsen 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 on January 18, 2007 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

Tom McCaffrey moved and Ira Breines seconded a motion to approve the minutes of October 29, 2007. The Board concurred unanimously.

RESOLUTION

CLINTON UNITED METHODIST CHURCH, Block 29, Lot 4
Resolution #2007-12, Application #2007-03

Dave Roberts moved and Tom McCaffrey seconded a motion to approve the memorializing the resolution to grant completeness waiver requests. Members in favor: Matsen, Stevens, Fennell, Breines, McCaffrey, Geiger, and Roberts.

COMPLETENESS WAIVERS HEARING

HARRISON STREET REAL ESTATE, Block 72, Lot 1

Raymond Drake, Esq. introduced himself on behalf of the applicant. He listed the completeness waivers that were being requested and noted that there would be no site plan necessary. Chairman Matsen noted that the site itself would not change and that the applicant was only seeking to change the occupancy of the building. Ira Breines moved and Sharon Stevens seconded a motion to approve the waiver requests. Members in favor: Matsen, Stevens, Fennell, Breines, McCaffrey, Geiger, and Roberts.

PUBLIC HEARINGS

HENSFOOT/KIMBERLEY, Block 4.03, Lot 29

Robert Benbrook, Esq. introduced himself on behalf of the applicant. Jon Drill summarized the conversation that he and Mr. Benbrook had held, explaining that on October 22, 2007, the Public Hearing had begun and noted that he had been directed by the Board to prepare a draft resolution. Mr. Benbrook indicated that all items in the resolution were acceptable except for one. Mr. Drill noted that the applicant wanted to park in the front of the building and that a variance would be needed. Mr. Benbrook commented that they were not pleased with the provisions of the draft resolution, but were happy that the Board had tried to meet the applicant half way. He discussed the aesthetics of the new proposal and noted that there had been no discussion concerning the parking during the Public Hearing. He indicated that their engineer had calculated that there were 45 spaces in the front. He stated that the topography would make it difficult to put the parking in the rear of the building, because it would be a large earthmoving task. The parking is currently in the front.

Sharon Stevens discussed the intensity of the retail use that was proposed and noted that that the proposal would make it more intense. Mr. Benbrook commented that the proposed resolution did not permit the applicant to apply for a variance for the parking and that it was an existing, nonconforming parking lot. He discussed the location of the sign and that it would be moved to a more suitable place. He noted that the applicant was very appreciative of the intent of the board to approve the application and that he could live with the sense of the resolution, except for the location of the parking.

Chairman Matsen pointed out that, during the Public Hearing, he had stated that the parking should be in accordance with the zoning regulations, noting that the bulk of the parking was currently in the rear of the building. Mr. Benbrook explained that the draft resolution stated that the applicant was limited as to what variances could be requested at the site plan application. Jon Drill stated that the resolution only permits them to ask for a variance for the sign location. Tom McCaffrey asked whether the applicant wanted to be able to request a variance for the parking at the time of site plan and whether the discussion could be deferred as to the merits. Mr. Benbrook stated that he was not asking the Board to make a decision tonight and that the applicant would bring in a fully engineered plan. Discussion concerning the sign location ensued. Mr. Benbrook stated that the site had an existing protected parking area, and that they were

willing to waive that until site plan application. He noted that the applicant was not asking for a commitment from the Board, but that they wanted to be able to have the opportunity to have the issue on the table in the future. Chairman Matsen stated that he was not uncomfortable with the prospect of allowing them the opportunity to make a case. The applicant would not be prohibited from applying for a variance or from pleading their case for the parking in the future.

Chairman Matsen noted that testimony should be heard concerning the applicant's request to make the building weatherproof before site plan approval. He noted that it was not made at the last hearing and noted that the clause had not been discussed by the Board. Mr. Hartmann explained that construction needed to begin as soon as possible to seal up the building. He indicated that the building would not be occupied and that it would take 1-2 months to get through the building permit process, noting that they were in the process of engineering the site plan. Tom McCaffrey asked how far he would go through the process and when the Board would see a site plan. The Board would just be agreeing to the building, not lighting, landscaping, signage or parking.

Jon Drill read the proposed section of the resolution into the record, which addressed the proposed height and the footprint of the building. He read the restrictions that the Board's architect had requested. Chairman Matsen discussed the material and color samples for the building and it was suggested that a subcommittee be appointed to address the issue. The color samples will be submitted to the administrator. Chairman Matsen noted that the applicant would not file a prerogative writ on the resolution. Mr. Benbrook responded that the resolution would not be challenged. Chairman Matsen noted that the Board was giving an exceptional approval. Ira Breines asked whether the building would change if a client wanted it, and Mr. Hartman replied that it would not. He indicated that he would bring in revised plans before the building permits were applied for. Jon Drill read the revisions into the record concerning aesthetic alterations.

Sharon Stevens moved and Ira Breines moved to adopt the resolution as discussed. Members in favor: Matsen, Stevens, Fennell, Breines, Geiger and Roberts. Members opposed: McCaffrey.

HALE, Block 29, Lot 31

Walter Wilson, Esq. introduced himself on behalf of the applicant. Exhibit A-9 (Colorized Version of Alternate Conceptual Development R-1 Zone, dated November 6, 2007) was marked into evidence. Mr. Chmielak noted that it showed a permitted subdivision under current zoning that included demolition of the existing historic residences on the lot and an access lane on the rear of the property. He noted that the proposal would not require any disturbance of the steep slopes. The footprints of the residences would be 40 by 80 feet, a large first floor. The Board's planner and engineer agreed with Mr. Chmielak's assessment.

He referred to Exhibit A-4, which represented the original proposal that allowed the current historic structures to remain. He noted that the plan would use the existing driveway, and that significant open space and environmentally sensitive areas would remain undisturbed on the property. A deed restriction against further subdivision was a part of the proposal. Mr. Chmielak noted that the site would meet cluster requirements, but that a conservation easement was not suggested, as the property would be used for horticultural uses. He stated that the proposal was a major development that would need

to comply with stormwater management regulations. Drywells were discussed by Mr. Chmielak. Mr. Wilson discussed the aquifer testing, noting that the conclusions that the site could support two additional residences on the property. Ira Breines expressed concern about the amount of water that the horticultural use on the property might require.

Mr. Wilson discussed the lot size analysis and Mr. Chmielak noted that additional lots had been added and listed the lots surrounding the property in question. He commented on the averages of the lot sizes. Mr. Chmielak concluded that the two new lots would not be out of character for the area. Sharon Stevens asked about an overall average. Ira Breines asked whether additional lots could be subdivided from the remainder lot and the applicant indicated that a deed restriction would be provided. The impervious coverage was discussed. Jon Drill stated that the relief needed was a D2 variance, because the applicant wanted to maintain the dwelling and cottage. It was determined that a D5 variance was also required. C variances were discussed. Mr. Chmielak expressed the opinion that the proposal was a better planning alternative for the lot than what was allowed under the zoning. He stated that the application would have less impervious coverage, allowed the existing structure to remain, and was environmentally more sound. He indicated that the gardens had an historical horticultural significance. A deed restriction was discussed. It was noted that the conservation easement prohibited disturbance. Sharon Stevens asked about whether the historical house could be destroyed in the future. Mr. Chmielak commented that the visual appearance from Route 31 would not change and that the cottage blended well with the house. He noted that there was a functioning water system on the property. The environmentally sensitive area provided a buffer for the two new houses. Mrs. Dawn Hale was sworn. She testified that the main house was built in the 1700's, possibly 1696. She indicated that the cottage was dated 1835.

Mr. Chmielak listed the positive criteria, which were to preserve historic resources and provide protection for environmentally sensitive lands. He indicated that the proposal maintains open space on the property and that the density would be similar to that of the surrounding area. Restoration of the houses and green houses was discussed. He stated that there would be no detriment to the public good and that the project would have no negative impact on the surrounding area. A design standard exception was discussed for a 10 foot wide driveway on one of the lots. Beth McManus commented that the Board may ask for a natural buffer easement along Allerton Road. There were no questions or comments from the public. Dave Roberts discussed the sight distance and the thick vegetation. Placement of the driveways was discussed. Cathy Marcelli read a proposed condition concerning the grading.

The public hearing was closed. Tom McCaffrey expressed the opinion that the plan was a positive solution. Chairman Matsen commented that preservation of the farm was beneficial, and that the larger lot was characteristic of the area. Sharon Stevens moved and Ira Breines seconded a motion to approve the application as discussed. Members in favor: Matsen, Stevens, Fennell, Breines, McCaffrey, Geiger and Roberts.

Chairman Matsen called a recess at 9:43PM. The meeting was called to order at 9:48PM. Rebecca D'Alleinne recused herself from the following application, due to a conflict of interest.

CLINTON UNITED METHODIST CHURCH, Block 29, Lot 4

James Knox, Esq. introduced himself on behalf of the applicant. Proof of publication and mailing were submitted for the record. He stated that it was a bifurcated application for a height variance, and if approved, the applicant would return for site plan approval. Mr. Knox stated that the church was a conditional use in the zone and must satisfy conditions. Dave Roberts noted that he knew someone on the list and recused himself. Alternate #1 will now vote. Mr. Knox reported that the steeple was proposed to be 120 ft. in height. Both a D6 height variance and D3 variance for bulk standards would be required. Galen Goodwin, Pastor, Jack Althouse, architect, Tom Yaeger, Engineer & Land Surveyor, and John Madden, Planning Consultant were all sworn in along with Board Planner, Elizabeth McManus.

Exhibit A-1 (Proposed Complex dated 9/24/07) and Exhibit A-2 (Architectural Rendering dated 9/26/2007) were marked into evidence. Reverend Goodwin introduced himself as UMC's pastor and explained that the church provided for worshipping, teaching, and as an outreach to the community. He noted that the church was currently located at 12 Halstead Street and that there was an auxiliary site at Spruce Run School. He characterized it as a regional church community, commenting that the current church facility was not adequate for all of the church's activities. Reverend Goodwin stated that the steeple was symbolic religiously and that it was important for it to be seen.

Jack Althouse gave a brief introduction concerning his credentials. He stated that a large part of his practice was in the design of churches. The Board accepted him as a qualified expert. He indicated that the proposed steeple height would be 121 ft. in the Wren-Gibbs style of church architecture. He noted that this style's steeple was prominent and that in Hunterdon County, there were several examples of churches built in this design style. Mr. Althouse commented that a 200 foot steeple would be too tall for this style and, conversely, that if the steeple were $\frac{3}{4}$ of this height, it would not be consistent with the Wren-Gibbs style of architecture. He stated that the steeple would also serve to provide a chimney effect to heat and cool the building. Mr. Breines asked about the structural analysis of the steeple because of its narrowness. There was discussion regarding how to consider structural analysis of the steeple. Mr. Knox stated that the building code would determine any structural concerns. Mr. Geiger asked about the height of other steeples in Clinton Township. A 117 foot variance was granted previously for Immaculate Conception Church, but the zoning definition of height was different at that time. Discussion ensued concerning the layout of the area surrounding the church. Mr. Knox stated that it was intentional that the steeple should be seen from a distance. Ms. McManus referred to her report comment #5 regarding heights. Jon Drill asked about the lighting of the steeple. Mr. Knox stated that the issue had not yet been decided. Mr. Drill asked about placement of a red blinking light on the steeple for air traffic.

Mr. McCaffrey asked about the architect's professional opinion about the height. Mr. Drill stated that on page 3 of the BOA resolution for the Immaculate Conception church, it noted that the height of the steeple of 117 ft. was measured "halfway up the sill to the top". Mr. Knox stated that from the ground it is probably another 20 ft. higher. Ms. McManus asked if the church had considered using the inside of the tower for wireless communications. Mr. Althouse stated that the church had not yet decided to do so.

Cheryl Kearney, 3 Dogwood Drive, noted that the plan looked like a modern building.

Dave Martin, 10 Dogwood Drive, asked whether a beacon would be put on the steeple or whether it would be externally lit. Mr. Althouse responded that the church had not decided. He stated that a bell had been discussed, noting that it would fill the tower and would still allow for chimney effect to occur. He expressed the opinion that the bell would be heard mostly in the church because of the closed-in area.

Mr. John Madden's credentials were accepted as a planning expert. Exhibit A-3 (Aerial Photo of the Site) was marked into evidence. He stated that a church was a permitted use with conditions, that only one condition had not been met; the height condition, so the negative criteria needed to be proved. Church use promotes the public good and the church steeple is part of the church. He reported that the location on Route 31 in the OR zone would permit buildings that would have a greater visual impact than the proposed church. Mr. Madden referred to Exhibit A-3 and listed the characteristics of the site and surrounding properties. He stated that there would be substantial open space preservation on the site. Mr. Madden stated that the steeple was an aesthetically pleasing structure and would not be a detriment to the neighborhood. The proposed steeple was quite narrow and that he did not think that it would require a beacon for aviation purposes. He stated that the lighting of the steeple would be attractive. Mr. Madden expressed the opinion that it would not be detrimental for neighboring properties to have a lit steeple all night. The lighting would be dealt with when the applicant returned for a site plan approval. He stated that a steeple is "part and parcel" of church structures in the United States. Mr. Roberts asked if the church could be built without the steeple being this tall. Mr. Madden stated that it would not give it the same character. Mr. Althouse indicated that the height of the building was 40' 3", excluding the steeple, which would be approximately 80 ft. high.

Bob LeCompte, 30 Meadow Lane, asked about the height of cupola, which was 20 feet. Mr. Madden reflected on the impact on neighboring properties. He stated that the steeple would not create a shadowing effect. He commented that consideration of the impact created by increased height, such as increased floor area and usage, was not applicable with the height of a steeple. Mr. McCaffrey asked if the steeple would be visible from Dogwood Drive and Mr. Madden stated that a filtered view would be seen. Tom McCaffrey asked whether Mr. Althouse could bring in other churches that he had designed. Mr. Knox stated that Exhibit A-2 was a conceptual schematic drawing only. Ms. McManus stated that the approval could be conditioned so that the height of the sanctuary would not exceed the ordinance height maximum of 45 feet. Mr. Althouse noted that the design ratio of the steeple to the depth of the church was that the height should be taller than the front to back length of the church.

Cheryl Kearney, 3 Dogwood Drive, was sworn in. She expressed the opinion that the church was large and would be an eyesore. She commented that from her backyard there would be a clear view of the site in the winter. She suggested that the steeple be painted brown to better to blend in with the trees. She expressed the opinion that the steeple would take away from the scenery, but given the choice of a three story office building versus the church with the steeple, she would choose the church.

Bob LeCompte, 30 Meadow Lane, Lebanon, was sworn in. He stated that he owned the adjoining Lot 9 and expressed concern that the lights at the high school

athletic field were very bright and noted his concern with lighting the steeple. He did not wish to see driveways onto Valley Crest Road and expressed the opinion that chimes would be undesirable. He thought that steeples were nice, but noted that lighting and noise were his concerns.

Dave Martin, 10 Dogwood Drive, was sworn. He expressed concerns regarding the lighting and chimes. He indicated that he would like to see the actual design proposed to see how the building related to the steeple height.

The Board determined to carry the case to December 10, 2007 with no need for further notice. The hearing was closed for any additional evidence. Mr. Knox will give his summary at that meeting. Mr. Matsen moved and Dan Fennell seconded the motion to carry the application as discussed. The Board concurred unanimously.

NEW BUSINESS

Vouchers

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

Chairman Matsen read the Executive Session resolution into the record. Ira Breines moved and Sharon Stevens seconded a motion to enter closed session to discuss personnel matters. The Board concurred unanimously and entered closed session at 11:32PM.

The Board returned to open session at 11:52PM.

ADJOURNMENT

Tom McCaffrey moved and Sharon Stevens seconded a motion to adjourn, and the motion passed unanimously. The meeting was adjourned at 11:53PM.

These minutes were approved on January 15, 2008.

Rebecca E. D'Alleinne, Administrator