



TOWN OF CLINTON
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Board of Adjustment

Minutes of the Town of Clinton Board of Adjustment meeting held on August 27, 2012 at 7:30pm in the Municipal Building at 43 Leigh Street Clinton, New Jersey 08809

Chairman Sailer called the meeting to order at 7:30pm and read the “Administrative Statement” and the “Statement of Adequate Notice”:

“Meetings are held on the fourth Monday of each month when an application is pending before the board. The application must be filed at least 21 days prior to the meeting date. Meetings begin at 7:30pm and are adjourned no later than 10:30pm. Fees are charged on a per meeting basis”.

“Adequate notice of this meeting has been provided indicating the time and place of the meeting with the proposed agenda, which notice was posted, made available to the newspapers and filed with the clerk of the Town of Clinton in accordance with Section 3(d) of the Public Laws of 1975”.

ROLL CALL:

Present: Berson, Carberry, Feldmann, Layding, Recame, Sailer, Smith, Wetherill

Absent:

Attorney Caldwell & Mr. Robert Clerico were present.

Chairman Sailer welcomed new member Martin Layding, who was previously sworn in.

Approval of Minutes:

A Motion was made by Mr. Carberry, seconded by Mr. Smith, to approve the minutes of June 25, 2012 2012:

All Ayes. Motion Carried
Abstain: Berson, Recame

Voucher Approval:

A Motion was made by Mr. Carberry, seconded by Mr. Feldmann, to approve the following voucher:

Van Cleef Engineering	Moriello-Site work	\$393.25
Van Cleef Engineering	D&D- Site work	\$1,179.75

All Ayes. Motion Carried

Completeness hearing for Block 16 Lot 22.02- Eastern Hill LLC:

Attorney Walter Wilson & Applicant Mr. John Kerwin were present

Attorney Wilson stated he believed sufficient information has been submitted for the board to deem the application complete. Attorney Walter Wilson stated that Mr. Clerico's report of August 23, 2012 suggested if the Use were approved the board should treat the site plan application as a new application. Attorney Wilson disagreed it was his opinion that this will not be a new site plan application but an amended application to the prior site plan approval. The information on the site conditions still relate to the previous approval.

A Motion was made by Ms. Wetherill, seconded by Mr. Feldmann, that if the Use were approved then the Board should consider the Site Plan Application as a new application:

Attorney Wilson stated by considering the site plan application as an amendment he is not trying to short cut the process it would just let the applicant rely on previous documents that were submitted such as traffic reports and some outside legal protection that is already in place under the prior site plan approval. Attorney Wilson stated the applicant will present all the documentation to the board so they have enough information to rely on.

Attorney Caldwell advised the board the discussion is premature; tonight we are here to discuss completeness on the Use Variance application not the merits of the application. The site plan cannot be decided on until the board hears the proofs on the use and the impacts.

Mr. Feldmann stated at the prior meeting the board asked the applicant to submit several items in order to deem the application complete, however the applicant has only submitted the topographic survey. Attorney Wilson responded we will be providing all of the other information during the public hearing. Mr. Clerico stated that even though we do not have a checklist for a Use Variance application the items that he suggested would be helpful to the board.

Attorney Caldwell responded that the applicant has the burden of proof to establish whether the use should be there; in order to get to that level the applicant will have to provide certain information regarding the site and if they do not satisfy the board then they will not get the board's approval. The Municipal Land Use Law allows an applicant to bifurcate and there is no standard in the MLUL in what needs to be presented for a Use Variance application. The Town of Clinton does not have an adopted checklist for a Use Variance application and just because the board deems the application complete doesn't mean the application is approvable. Attorney Wilson stated that it is to the applicant's advantage to provide the board with as much information as requested and we will provide that information during public testimony. In addition, the board does not give up its right to ask for more information during the public hearing process.

Considering the discussion tonight Ms. Wetherill, seconded by Mr. Feldmann, withdrew the Motion regarding consideration of the site plan.

After reviewing Mr. Clerico's letter dated August 23, 2012, Attorney Wilson agreed to submit items 1-5 two weeks prior to the Public Hearing.

A Motion was made by Ms. Wetherill, seconded by Mr. Carberry to require the applicant to submit items # 1-5 of Mr. Clerico's review letter dated August 23, 2012 by September 10, 2012 and if the items are submitted completeness determination and the Public Hearing will be scheduled for September 24, 2012:

Roll Call Vote:

Ayes: Berson, Carberry, Feldmann, Recame, Sailer, Smith, Wetherill

Nays:

All Ayes. Motion passed.

Information Session for Board Members presented by Attorney Caldwell.

Attorney Caldwell went over zoning laws and guidelines for the Board of Adjustment. The session touched on several topics in regard to planning & zoning and board members roles. The board members asked several questions in regards to their roles and responsibilities as board members.

There being no further business a Motion was made by Mr. Carberry, seconded by Ms. Wetherill, to adjourn the meeting at 9:25pm:

All Ayes. Motion carried.

Respectfully submitted,

Allison Witt
Land Use Administrator