



TOWN OF CLINTON
INCORPORATED APRIL 5, 1865
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Board of Adjustment

Minutes of the Town of Clinton Board of Adjustment meeting held on October 22, 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 William Caldwell, Mr. Robert Clerico, & Mr. Carl Hintz were present.

Approval of Minutes:

A Motion was made by Mr. Carberry, seconded by Mrs. Wetherill to approve the minutes of September 24 2012:

All Ayes. Motion Carried

Voucher Approval:

A Motion was made by Mr. Carberry, seconded by Mrs. Wetherill, to approve the attached voucher list:

All Ayes. Motion Carried

Completeness hearing for Block 6 Lot 1.01- 82 West Clinton LLC:

Attorney Eileen Welsh, KL Gates and Mr. James Henry, Engineer were present. Mr. Henry advised the board they will comply with Mr. Clerico’s review letter dated October 17, 2012 and resubmit the information for completeness consideration.

A Motion was made by Mr. Berson, seconded by Mr. Carberry, to deem the application incomplete per Mr. Clerico’s review comments:

All Ayes. Motion Carried.

The applicant was notified that to be considered for the November meeting all information must be submitted 21 days prior to November 26, 2012 and if not received the next scheduled meeting will be in January 2013.

Public Hearing for Use Variance application- Block 16 Lot 22.02- Eastern Hill LLC

Attorney Walter Wilson, Mr. James Chmielak, PP from Kensho Resources LLC, Mr. Kenneth Pizzo Jr, and Mr. John Kerwin were present.

The following items were submitted into evidence:

- A1 Application package
- A2 Proof of publication
- A3 200 Foot Mailing Lists
- A4 Certified Mailings
- A5 Tax Certification
- A6 Site Plan by Stires Associated dated October 15, 2011 revised September 11, 2012
- A7 Topographic Survey dated June 19, 2012
- A8 Architectural rendering
- A9 Stormwater Statement letter dated June 20, 2012 prepared by Craig W. Stires, PE
- A10 Application Addendum dated September 24, 2012 prepared by Attorney Wilson
- A11 Aerial Photo Map
- A12 Colored Architectural Rendering (sheet 4 of architectural rendering)
- A13 Colored rendering of landscape plan (sheet 6 of the site plan)
- B1 Van Cleef report dated May 16, 2012
- B2 Van Cleef report dated August 23, 2012
- B3 Carl Hintz report dated October 17, 2012

Mr. James Chmielak was sworn in. Mr. Chmielak advised the board the applicant is seeking to amend the prior office building approval to construct a 37 unit residential apartment building. Mr. Chmielak advised the board the property received preliminary site plan approval for an office building in 1990, amended site plan approval in 1997 and an amended preliminary site plan approval in 2008. The initial phases of construction were started on the property but construction has come to a halt due to the economic downturn and low demand for commercial space in the area. The applicant is seeking variance relief for the proposed 37 unit residential apartment building from the Town of Clinton Board of Adjustment.

Mr. Chmielak went over the description of the property, the property is located in the OB-2 zone, to the north and west the site is bordered by the State of New Jersey Spruce Run Reservoir property, to the east is Halstead Street and the Evergreen Cemetery property, to the south is the county library, community center and residential structures. The site is located at the northernmost part of town which has direct access to and from Route 31. The property consist of 1.88 acres, the site topography slopes north to south at approximately a 5% slope. The property is accessed directly from Halstead Street which already has utility connections and currently the site contains portions of below grade foundation improvements and portions of the drainage system pursuant to the previously approved office building plan. The new plan includes utilizing the existing foundation and drainage improvements which currently exist on the site.

Mr. Chmielak stated the applicant is requesting the following D Variance relief:

1. **D1- Use Variance** to allow 37 residential units where residential is not permitted in the OB-2 zone.
2. **D4-Floor Area Ratio (FAR)**-the standard in the zone is 20%, the prior approval allowed 30% and the new proposal is 68%. Mr. Chmielak added that the impervious cover will be reduced from the prior approval which was slightly over 64%, the new proposal is 61% and the zone permits 80%.
3. **D6- Height Variance** - the proposal requested includes a 45.75' high 3 1/2 story building, where the ordinance permits a maximum height of 40'. Mr. Chmielak advised the board the initial calculation of 51 feet on the plan is incorrect.

Additional bulk variance relief will be sought at site plan approval, parking setback to the property line and

the building, minimum lot width at the street and minimum lot width at the building line.

The proposed use includes a multi-family residential use building with overall dimensions of 90 feet by 180 feet. The proposed building will utilize the prior approved building location with an additional footprint of 4,054 SF along the north side of the building as indicated on the plan. The apartments will be a mix of one and two bedrooms, there will be 9 one bedrooms ranging from 797 to 1030 SF and 28 two bedrooms ranging from 1113 to 1585 SF. The architectural details shown on exhibit A-12 incorporate a number of different architectural styles and elements that were previously discussed with town representatives in the past. The architectural details will be in keeping with the character of the Town of Clinton.

The site improvements are shown on Exhibit A 13 (sheet 6 of 9 of the site plan), the driveway into the site comes directly off Halstead Street, there is a two-way parking aisle along the front of the proposed structure which wraps around the north and south side, the parking layout is similar to the adjacent library building lot. The overall site design for the proposal is very similar to the previously approved office building as it relates to the building location, parking areas, lighting and utilities. There are a number of plantings proposed and berms that will add a visual element to the site.

Mr. Chmielak advised the board the number of parking spaces will decrease under the residential proposal from 106 to 87 spaces. Using the ITE trip generation manual the residential proposal will generate fewer trips than the office use approval. The office building approval calculated at 414 trips per day, the new proposal will generate 246 trips per day which is a 40% reduction of travel time in and out of the site.

Mr. Carberry inquired about any earlier comment made regarding meeting with town officials and prior discussions on architectural style. The question was tabled, until Mr. Pizzo could be sworn in.

Mr. Smith inquired what the actual height was from the ground to the peak of the building, and how the height will compare visually to its surroundings. Mr. Chmielak responded approximately 48' high and since the building is next to open space and the reservoir the impact will be minimum, after further review it was determined the height to the top of the peak from the south side would be 51 feet.

Mr. Kenneth S. Pizzo, Jr. member of Eastern Hill LLC was sworn in and in answer to Mr. Carberry's earlier question he was unsure who they met with but would find out. Mr. Pizzo proceeded to give the board a little bit of background on what his company does. The core business is developing boutique apartment buildings, the company owns and manages their own apartments, the apartment finishes will be of high quality. Mr. Pizzo stated the target market will be empty nesters and added that he believed the project would be a good ratable for the town. Mr. Smith inquired if there was a demand in this area for this type of project, Mr. Pizzo felt there was a demand for rentals of this type in the town.

Mr. John Hamilton Kerwin, employee of the Pizzo family was sworn in. Mr. Kerwin explained to the board their project in Lebanon is very similar to the proposal. There are two types of demographics in Lebanon, the first is a two income couple and the other is for people looking to downsize but stay in the area. The development in Lebanon has 150 units which are 100% occupied. Ms. Wetherill inquired about school age children, Mr. Kerwin stated 7 children in the grammar school, 3 children in middle school and 3 in high school and there are some other children that are either in private school or are not of school age. Mr. Kerwin testified that he thought Clinton would draw more empty nesters, the building would be serviced by elevators and research has shown that there are fewer children in our elevator buildings.

Mr. Chmielak stated the MLUL requires the applicant show "Special Reasons" to justify the approval of a D1 Use Variance and in addition, must satisfy the "Positive and Negative Criteria". There are three categories of circumstances in which "Special Reasons" may be found. They are as follows: (1) where the proposed use inherently benefit the public good and has inherent community value; (2) where the property owner would suffer undue hardship if compelled to use the property in accordance with the permitted uses in the zone, (3) where the use would serve the general welfare, because the site is particularly suitable for the proposed use. Mr. Chmielak testified in this case, the proposed project is primarily supported by category # 3 because the site is particularly suited for the proposed use. Also under the

affordable plan the applicant would be required to set aside 20% or 8 units as affordable housing the positive criteria is further supported by considering the affordable housing as an inclusionary residential development as an “inherently beneficial use”. Attorney Wilson stated that the Town of Clinton’s housing and fair share round three plan is still up in the air, therefore if the town wishes the applicant can offer the town a “deeded reservation benefit” which means within five years the town can call upon the 8 units to be converted to affordable units if needed.

Mr. Chmielak proceeded to go over the special reasons in terms of site suitability for the proposed use:

1. Location of property at the edge of town with immediate access to Route 31 which will minimize traffic through the downtown area.
2. The frontage of the site along Halstead Street is already improved, there is an existing roadway with improvements and utilities. No roadway extensions will be required.
3. Office site improvements can be reused and easily adapted to accommodate the residential plan.
4. Located within walking distance to downtown while still maintaining the location at the periphery of town close to Route 31.
5. Located in the vicinity of other community oriented uses such as the library, community center, basketball courts, tennis courts, baseball courts, playground and a church.
6. There is no other similar residences in town making this multifamily proposal unique.
7. The site is bordered by open space which lends itself to accommodating the proposed building as it relates to mass and space.

Mr. Chmielak stated that the positive criteria is further supported with the proposed inclusionary residential development which can be considered an “inherently beneficial use” and if the board goes under that determination then it automatically satisfies the positive criteria proof.

Mr. Chmielak stated that in regards to special reasons the following would apply under the terms of the MLUL 40:55D-2 (e), (g), (j), (m) and (i):

- (e). The project will provide an appropriate residential development alternative that has a synergistic location to compatible uses and walking distance to downtown. The project will contribute to the viability of the downtown area as well as being located an approximate distance from downtown.
- (g). The project provides for sufficient space for multifamily and will serve primarily young professionals, mature and empty nester households. Additionally it supports the Master Plan housing goal by providing housing for all income, ages and lifestyles.
- (j). The proposal is an efficient use of the property
- (m). The project will not require extensive roadway access or utility improvements.
- (i). The project promotes a desirable visual element that is in keeping with the town’s characteristics.

Mr. Chmielak concluded that in terms of the D1 Use Variance the positive criteria is satisfied under site suitability and special reasons.

Moving on to the D4 FAR Variance the MLUL requires the applicant show the site can accommodate any impacts from the increase of the FAR. The site will require less parking spaces, less impervious coverage, reduction in traffic trips so the intensity of traffic will be reduced. The increase in size and mass of the building can be accommodated based on the building setback from the road, substantial landscape buffer and berms which will mitigate direct open views of the property and the building footprint has a comparable height to width ratio as the library building.

Ms. Wetherill asked compared to the library what is the eave line comparison, Mr. Chmielak responded from the mid- eave line approximately 10' higher than the top of the library and to the top of the proposed building approximately 16' higher than the top of the library.

Mr. Chmielak stated the FAR Variance will have no negative impact to the residential surrounding or the approach into Clinton due to the significant landscaping and concludes that the site can accommodate any potential impact from the increase FAR.

Moving onto the D6 Height Variance the proposed building height is 45.75 feet where 40 feet is permitted. The proposal exceeds the ordinance by 5.75 feet. The topographic condition of the slope is the driving factor for the calculated building height and if the grade was more moderate, a height variance would not be required. No substantial impact is anticipated from the proposed height of the new building as it is separated from the library by 140 feet and will contain a landscape buffer which separates the two parking lots. Therefore, Mr. Chmielak concludes that the site can accommodate any potential impact resulting from the proposed height of the building.

Mr. Smith inquired about the concept of inherently beneficial use, Mr. Chmielak responded that if the proposal provides an inclusionary residential development to satisfy the town's round three affordable housing plan the project would qualify under a "inherently beneficial use" however, the town has not determined the need for the affordable units under round three at this time, therefore we have offered the units conditionally in the future.

Due to the timeframe the public meeting for Eastern Hill LLC will be carried to the November 26, 2012 meeting.

There being no further business a Motion was made by Mr. Berson seconded by Mr. Carberry to adjourn the meeting at 10:10pm.

Respectfully submitted

Allison Witt
Land Use Administrator