



TOWN OF CLINTON

INCORPORATED APRIL 5, 1865

43 Leigh St., P.O. Box 5194

Clinton, N.J. 08809-5194

(908) 735-8616 FAX (908) 735-8082

Board of Adjustment

Minutes of the Town of Clinton Board of Adjustment reorganization meeting and regular meeting held on January 22, 2007 at 7:30pm in the Municipal Building at 43 Leigh Street Clinton, New Jersey 08809

Chairperson Hendricksen called the Reorganization 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 applications is pending before the board. The application must be filed at least 21 days prior to the meeting date. Meeting 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".

Oaths of Office:

Mr. John Holt and Mr. William Berson were sworn in.

ROLL CALL:

Present: Feldmann, Gallo, Hendricksen, Holt, Tranquilli, Berson

Absent: Querry, Trepkau, Penyak

Election of Chairman:

A Motion was made by Mr. Holt to nominate Mrs. Hendricksen as Chairman; Mrs. Hendricksen declined the nomination due to her new work responsibilities.

A Motion was made by Mrs. Hendricksen, seconded by Mr. Holt, to nominate Mrs. Gallo as Chairman.

A Motion was made by Mr. Feldmann, seconded by Mr. Berson, to nominate Mr. Tranquilli as Chairman.

After a poll of the board the board decided to have a closed vote.

Closed vote results:

4 in favor of Mr. Tranquilli as Chairman

2 in favor of Mrs. Gallo as Chairman

Chairman Tranquilli proceeded to run the meeting. Chairman Tranquilli thanked Mrs. Hendricksen for her Chairmanship and expressed his appreciation for her guidance.

Election of Vice Chairman:

A Motion was made by Mr. Feldmann, seconded by Mr. Berson, to nominate Mrs. Gallo as Vice Chairman:

All Ayes. Motion Carried.

Appointment of Board Attorney:

A Motion was made by Mrs. Hendricksen, seconded by Mr. Holt, to appoint William Caldwell as the Board's Attorney for the 2007 calendar year

All Ayes. Motion Carried

Be it Resolved that William Caldwell, Esq. is hereby appointed to serve as the Board of Adjustment Attorney for the Town of Clinton and;

Whereas there exists a need for the performance of the statutory legal services for the year 2007 for the Town of Clinton Board of Adjustment and;

Whereas funds are or will be made available for this purpose to be certified by the local finance officer and;

Whereas the contract for Professional Services was awarded pursuant to the Fair and Open Process.

Now Therefore, Be Resolved by the Town of Clinton Board of Adjustment as follows:

The Mayor and Council are hereby authorized and directed to execute an agreement with William Caldwell, Attorney for 2007.

Notice of this action shall be printed once in the Hunterdon Review.

Appointment of Board Planner:

A Motion was made by Mrs. Hendricksen, seconded by Mr. Feldmann, to appoint Carl Hintz and Elizabeth McManus from Clarke, Caton and Hintz as the Board Planners for the 2007 Calendar Year:

All Ayes. Motion Carried.

Be it Resolved that Carl Hintz and Elizabeth McManus are hereby appointed to serve as the Board of Adjustment Planners for the Town of Clinton and;

Whereas there exists a need for the performance of the statutory Planner services for the year 2007 for the Town of Clinton Board of Adjustment and;

Whereas funds are or will be made available for this purpose to be certified by the local finance officer and;

Whereas the contract for Professional Services was awarded pursuant to the Fair and Open Process.

Now Therefore, Be Resolved by the Town of Clinton Board of Adjustment as follows:

The Mayor and Council are hereby authorized and directed to execute an agreement with Carl Hintz and Elizabeth McManus Planners for 2007.

Notice of this action shall be printed once in the Hunterdon Review.

Appointment of Board Engineer:

A Motion was made by Mrs. Hendricksen, seconded by Mrs. Gallo, to appoint Robert Clerico from Van Cleef Engineering as the Board Engineer for the 2007 Calendar Year:

All Ayes. Motion Carried.

Be it Resolved that Robert Clerico is hereby appointed to serve as the Board of Adjustment Engineer for the Town of Clinton and;

Whereas there exists a need for the performance of the statutory Engineering services for the year 2007 for the Town of Clinton Board of Adjustment and;

Whereas funds are or will be made available for this purpose to be certified by the local finance officer and;

Whereas the contract for Professional Services was awarded pursuant to the Fair and Open Process.

Now Therefore, Be Resolved by the Town of Clinton Board of Adjustment as follows:

The Mayor and Council are hereby authorized and directed to execute an agreement with Robert Clerico, Engineer for 2007.

Notice of this action shall be printed once in the Hunterdon Review.

Appointment of Board Secretary:

A Motion was made by Mrs. Gallo, seconded by Mr. Holt, to nominate Allison McGinley as the board secretary for 2007:

All Ayes. Motion Carried.

Committee Appointments:

Sign Committee:

Mr. Tranquilli to serve as Chairman, Mr. Feldmann, Mrs. Gallo, Mark Direnz to serve on the Sign Committee. Mr. Penyak to serve as an alternate member when needed.

Designation of Meeting Nights:

A Motion was made by Mrs. Gallo, seconded by Mrs. Hendricksen, to adopt the 2007 annual schedule: (schedule attached)

All Ayes. Motion Carried.

Meeting Notice Policy:

The board will meet in the Municipal Building at 43 Leigh Street Clinton NJ. The board secretary shall notify the board members of the meeting dates and will post the notice of the meetings on the bulletin board and notify one of the official newspapers of any scheduled meeting. The Chairman of the board can schedule a special meeting at any time he or she wishes and it shall be advertised.

A Motion was made by Mrs. Gallo, seconded by Mrs. Hendricksen to adopt the meeting notification policy.

All Ayes. Motion Carried.

Designation of the Official Newspaper:

A Motion was made by Mrs. Hendricksen, seconded by Mrs. Gallo, to designate the Hunterdon Review, the Hunterdon Democrat, and the Courier News as the official newspapers:

All Ayes. Motion Carried.

Administrative Policy Statement:

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. If the meeting must be canceled by the applicant after Friday noon for a Monday meeting and or less then 72 hours before a special meeting, the applicant will forfeit the application fee.

A Motion was made by Mr. Holt, seconded by Mrs. Hendricksen, to adopt the Administrative Policy Statement:

All Ayes. Motion Carried.

Public Meeting Resolution:

A Motion was made by Mr. Holt, seconded by Mr. Feldmann, to adopt the Public Meeting Resolution (resolution attached):

All Ayes. Motion Carried.

A Motion was made by Mrs. Hendricksen, seconded by Mrs. Gallo, to adjourn the reorganization meeting at 7:55pm:

All Ayes. Motion Carried.

Regular Meeting:

Chairman Tranquilli called the meeting to order at 7:55pm and read the “Administrative Statement” and the “Statement of Adequate Notice”:

“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”.

“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 by 10:30pm. Fees are charged on a per meeting basis.

ROLL CALL:

Present: Feldmann, Gallo, Hendricksen, Holt, Tranquilli, Berson

Absent: Querry, Trepkau, Penyak

Approval of Minutes:

A Motion was made by Mrs. Gallo, seconded by Mr. Feldmann, to approve the minutes of November 27, 2006:

**All Ayes. Motion Carried
Abstain: Hendricksen**

Voucher Approval:

A Motion was made by Mrs. Hendricksen, seconded by Mrs. Gallo, to approve the following vouchers:

Van Cleef Engineering	George Lee	\$228.00
Van Cleef Engineering	Clinton House	\$510.00

All Ayes. Motion Carried

The Clinton House Block 6 Lots 27 & 28:

Chairman Tranquilli announced that Attorney Benbrook has requested an adjournment until February 26, 2007 due to medical reasons.

A Motion was made by Mrs. Hendricksen, seconded by Mr. Feldmann, the application for The Clinton House be carried until February 26, 2007 meeting. Mrs. Hendricksen added that if another extension is requested by the applicant she would recommend the board deny the request and turn the enforcement over to the enforcement officer.

Roll Call Vote:

Ayes: Feldmann, Gallo, Hendricksen, Tranquilli, Berson
Nays:
Abstain: Holt

All Ayes. Motion Carried.

Completeness Review for Tomaro- Block 2 Lot 28- 110 West Main Street:

Attorney James Kinneally was here on behalf of the applicant.

Mr. Clerico advised the board that the applicant has submitted an application seeking approval of a use variance to allow a non-conforming use in the OB1 zone and in conjunction the board may want to request a site plan application or the applicant may request a waiver of site plan. The survey presented by the applicant is dated 1977 and after checking the files it appears in 1978 there was a site plan approval granted to expand the building, which never occurred. Mr. Clerico advised the board that there are improvements on the property, which are not reflected on the survey submitted. Mr. Clerico suggested that the applicant should present some documentation that reflects the current parking, the prior use of the building and a plan on what is intended.

Attorney Kinneally stated he would like to request a waiver of site plan and will provide the board with a new survey, which includes site parking and a floor plan of what is proposed within 10 days of the February meeting

A Motion was made by Mr. Holt, seconded by Mrs. Hendricksen, to deem the use variance application complete with the condition the survey and floor plan is submitted 10 business days prior to the February 26, 2007 meeting.

Roll Call Vote:

Ayes: Feldmann, Gallo, Hendricksen, Holt, Tranquilli, Berson
Nays:

All Ayes. Motion Carried.

Attorney Kinneally requested the board carry the meeting until February 26, 2007 so he would not have to renotece.

A Motion was made Mr. Holt, seconded by Mrs. Gallo to open the meeting for Vincent Tomaro Use Variance application Block 2 Lot 28 and carry the application to the February 26, 2007 meeting:

All Ayes. Motion Carried.

Sign Variance Application- Block 13 Lot 1- Pioneer Finance & Mortgage Company, Inc.:

Mr. Frank Gallagher, applicant was present.

Attorney Caldwell stated that because Mr. Gallagher was a corporation he would need an attorney present tonight. In addition, the board should determine what type of Variance is being heard. Attorney Caldwell stated that if you consider the sign a structure then it would be a "D" Variance. Mrs. Hendricksen stated that it was her opinion a sign would be considered a "C" Variance. Attorney Caldwell stated that any variance would require proper notice and that tonight the board can determine completeness only.

A Motion was made by Mrs. Hendricksen, seconded by Mrs. Gallo, to deem the "C" Variance application for a second projecting sign complete:

Roll Call Vote:

Ayes: Feldmann, Gallo, Hendricksen, Holt, Tranquilli, Berson

Nays:

All Ayes. Motion Carried.

The application for the Sign Variance for Pioneer Finance & Mortgage Company, Inc will be on the agenda for a public hearing on February 26, 2007.

Public Comment:

A Motion was made by Mr. Feldmann, seconded by Mr. Tranquilli, to open the meeting to the public and there being no questions a Motion was made by Mrs. Hendricksen, seconded by Mr. Feldmann, to close the meeting to the public:

All Ayes. Motion Carried.

Board Discussion:

Mr. Feldmann questioned the sign letter dated January 16, 2007 from Attorney Caldwell and stated that paragraph 2 states the Sign Committee will simultaneously review the sign application with the zoning officer and the way he understood it after Attorney Cushing explained the ordinance is the applicant applies for a sign with the Zoning Officer and if denied the applicant can appear before the Sign Committee or the Board of Adjustment. The Sign Committee has the power to grant permits based on certain criteria, which is under 88-64 I (c) 1- through 10. Mr. Feldmann added that if the Sign Committee grants the permit the applicant must notice the decision in the newspaper. Chairman Tranquilli added that the Sign Committee has ten criteria to determine if the committee can override the Zoning Officer's decision. Mrs. Gallo added that the sign committee can override the gray areas not addressed in the ordinance. Mrs. Hendricksen commented that it seems some of the criteria could border on a variance. Chairman Tranquilli responded that if the sign is grossly out of the criteria areas then the Committee does not have the authority to grant a permit and that per Attorney Cushing the criteria is placed in the Code as a relief valve. Mrs. Hendricksen inquired if the applicant comes before the Board of Adjustment after being denied by the Sign Committee can the Sign Committee members vote on the application and Mr. Tranquilli stated that no one has advised them they cannot.

Attorney Caldwell stated that under MLUL law section 40:55D-70 the Board of Adjustment shall have the power to hear appeals and he would not look forward to having to explain to a judge the redeligation of authority to a subcommittee. Attorney Caldwell added that a subcommittee that can override a zoning officer is also questionable. Mrs. Hendricksen inquired if town ordinances supercede the Municipal Land Use Laws and Attorney Caldwell responded that no town has the right to deviate from the MLUL section 40:55D-70. Chairman Tranquilli stated that the Sign Committee has a meeting scheduled for February 12,

2007 and requested that Attorney Caldwell contact Attorney Cushing to clarify the power of the Sign Committee before they meet.

Chairman Tranquilli reopened the meeting for public comment:

Mr. Hetzel, Main Street, stated he feels that the merchants in town will have a big turn out at the council meeting tomorrow night in regard to the enforcement of the sign ordinance.

Chairman Tranquilli responded that Mr. Barczyk is the enforcement officer in Lambertville and in 2001 when Lambertville started to enforce their sign ordinance it was difficult at first however it appears that the merchants police themselves now and that the end result is good. Mrs. Hendricksen added part of the problem was the lack of enforcement in the past and now it is a matter of people getting used to it.

There being no further business a Motion was made by Mr. Holt, seconded by Mrs. Gallo, to adjourn the meeting at 9:35pm.

Respectfully submitted,

Allison McGinley
Land Use Administrator