



## **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

### **Land Use Board Minutes**

Minutes of the Town of Clinton Land Use Board meeting held on February 4, 2014 at 7:00pm in the Municipal Building at 43 Leigh Street Clinton, New Jersey 08809

Chairman Sailer called the Reorganization meeting to order at 7:00pm and read the "Statement of Adequate Notice" and the "Administrative Statement".

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 first Tuesday of each month. Applications must be filed at least 21 days prior to the meeting date. In order to ensure that all applications receive complete and thorough consideration of the board, all meetings will adjourn no later than 10:00pm with all items not concluded to be carried over to the next month's agenda".

Present- Attorney William Caldwell, Robert Clerico, Engineer, and Kendra Lelie, Planner

#### **Oath of Office:**

Mr. Jeffrey Schaumburg was sworn in as the Class II Land Use Member.

#### **Roll Call:**

**Present:** Chairman Sailer, Mr. Feldmann, Mr. Hetzel, Mr. Maher, Mr. Perez, Mr. Schaumburg, Mr. Smith, Mr. Layding, Mr. Blanco

**Absent:** Mayor Kovach and Mr. Carberry

#### **Approval of Minutes:**

A Motion was made by Mr. Feldman, seconded by Mr. Layding, to approve the January 7, 2014 minutes:

**Ayes:** Sailer, Feldmann, Hetzel, Maher, Perez, Smith, Layding, Blanco

**Abstain:** Schaumburg

**All Ayes.**

**Motion Carried**

#### **Site Plan Report:**

Mr. Feldmann advised the board they met with Dominick Marciano to go over the minor site plan submission to review the checklist for completeness. The site plan committee asked Mr. Marciano for additional information which has been submitted, part of the submission is a waiver request from the applicant to waive the requirement of a plan drawn and sealed by a licensed Engineer. The board must determine the waiver request as part of the completeness determination.

#### **Completeness Determination for Block 12 Lot 6- 25 Old Hwy 22- NNA & Sons Inc.**

Mr. Dominick Marciano, applicant and his Attorney Mr. Lee Roth were present.

Mr. Clerico advised the board based on the scope of work proposed and for the purpose of completeness the board can grant the waiver request. Mr. Maher advised the applicant that his new application was not signed by the owner of the property. The applicant will have the owner sign the application before the March meeting. Attorney Roth asked if the board would consider the application tonight, Mr. Clerico and Ms. Lelie have not had the opportunity to review the Minor Site Plan application for its merits.

A Motion was made by Mr. Maher, seconded by Mr. Hetzel, to approve the waiver request and determine the application complete:

Roll Call Vote:

Ayes Sailer, Feldmann, Hetzel, Maher, Perez, Schaumburg, Smith, Layding, Blanco

Nays:

**All Ayes. Motion Carried.**

The board will hear the applicant at its March 4, 2014 meeting.

**Memorialization of Resolution for Hunterdon Capital LLC- Block 31 Lots 24.02 & 24.05:**

A Motion was made by Mr. Feldmann, seconded by Mr. Maher, to approve the Resolution for Hunterdon Capital LLC:

Roll Call Vote:

Ayes: Feldmann, Hetzel, Maher, Perez

**All Ayes. Motion Carried.**

**Memorialization of Resolution for The Hunterdon Art Museum- Block 9 Lot 1:**

A Motion was made by Mr. Smith, seconded by Mr. Feldmann, to approve the Resolution for Hunterdon Art Museum:

Roll Call Vote:

Ayes: Feldmann, Perez, Sailer, Smith

**All Ayes. Motion Carried.**

Per the MLUL Mr. Feldmann and Mr. Schaumburg recused themselves from the next agenda items regarding 82 West Clinton LLC.

**Completeness Determination for Block 6 lot 1 & 1.01- 82 West Clinton LLC:**

Attorney John Marmora from K&L Gates LLP was present.

The applicant is requesting the following waivers from the checklist:

1. Checklist item 11A-waiver from providing all corners of the building on Lot 1.
2. Checklist item 19- waiver from providing location & description of lighting on Lot 1.

A Motion was made by Mr. Blanco, seconded by Mr. Hetzel, to grant the waiver for the purpose of completeness and determine the application complete:

Roll Call Vote:

Ayes: Sailer, Hetzel, Maher, Perez, Smith, Layding, Blanco

Nays:

**All Ayes. Motion Carried.**

**Public Hearing for Block 6 Lot 1 & 1.01- 82 West Clinton LLC- Use Variance & Site Plan request:**

Attorney John Marmora, K&L Gates LLP, Mr. John Palus, Civil Engineer, Dynamic Engineering, Mr. Kamlesh Shah, Architect Kamlesh Shah Design, Craig Stem, owner of Lot 1, and Heather Holmes, stenographer were present on behalf of the applicant.

The following items were submitted into evidence:

- A1 Application
- A2 Affidavit of Service & Proof of publication
- A3 Town of Clinton Clerk's 200-Foot List
- A4 Certified Mailings
- A5 Tax Certification dated January 14, 2014
- A6 Preliminary & Final Site Plan prepared by Dynamic Engineering dated October 23, 2013
- A7 Boundary & Topographic survey prepared by Blue Marsh Associates Inc. dated 1/18/12 revision date 9/3/13.
- A8 Land Title Survey dated 5/17/12 revised 5/30/12
- A9 Architectural Floor Plans & elevations prepared by Kamlesh Shah Design dated October 25, 2013
- A10 Absence of wetlands buffer letter prepared by Byron DuBois, Trident Environmental Associates dated November 13, 2013.
- A11 Traffic report prepared by Dynamic Traffic LLC dated October 23, 2013.
- A12 Drainage statement report prepared by Dynamic Engineering dated October 2013.
- A13 Environmental Impact Statement prepared by Dynamic Engineering dated October 2013.
- A14 NJDOT letter of interest prepared by Dynamic Traffic LLC Dated June 18, 2013
- A15 Colored version of Aerial map
- A16 Colored rendering of landscaped sight dated 2/4/14
- A17 Colored rendering of exterior elevation
- A18 Floor Plan
- A19 Brick façade finish
  
- B1 Van Cleef Engineering Report dated January 31, 2014.
- B2 Carl Hintz report dated January 14, 2014
- B3 J. Daniel's Fire Official report dated 1/13/14
- B4 Chief Police Matheis report dated 1/13/14
- B5 Environmental Commission Report dated 1/23/2014
- B6 Shade Tree Commission Report dated 12/12/13
- B7 Photographs of Shammy Shine Site taken by R. Clerico

Attorney Marmora advised the board when the applicant initially filed the application the professional reviews received were not encouraging and the advice given was to try to obtain a cross-easement with the property owner of Shammy Shine, lot 1. The cross easement would enable vehicles to make a left-turn movement out, the applicant has accomplished obtaining the easement and now is before the board to seek approval to demolish the existing building on Lot 1.01 and redevelop the site to include the gas pumps, and a 7-Eleven store. Attorney Marmora advised the board there will be a number of variances associated with the proposal on Lot 1.01 and is in agreement that Lot 1, the car wash site will also need approval for a variance for the expansion of a non –conforming site.

Mr. John Palus, Civil Engineer from Dynamic Engineering was sworn in. Mr. Palus went over the existing conditions of the site which is an existing gas station. The site presently has an ingress/egress driveway off West Main Street which is a right turn in and right turn out only, the second ingress/ egress is located off Route 173 and is also a right turn in and right turn out only. The overall design has been

reoriented based on the board professional's prior comments, the owner of lot 1.01 has now obtained a cross easement from Mr. Stem the owner of Lot 1, which will allow vehicles a left turn out.

Mr. Palus went over exhibit A-16 which shows the proposed finished sites for Lot 1, the car wash site and Lot 1.01 the Shell station site. The only modification to the car wash site is the cross easement and the widening of the drying aisle the minor improvements to Lot 1 will also require an impervious coverage variance.

The improvements to Lot 1.01 will include a new kiosk under the existing canopy, the building that exists on site now will be demolished and replaced with a new building to operate a 7-Eleven store. The overall square footage of the new building will be 2,205 square feet, which is smaller than a typical 3,000 square foot 7-Eleven store. A 10 foot sidewalk will be installed on the south side of the building, there will be a total of 14 parking spaces, 5 store front spaces, 5 spaces on the eastside of the building and 4 spaces on the west side. The proposal will also include a new 10 x 20 foot trash enclosure on the west side of the site. The two driveways will remain the same and a cross easement will be tied into Lot 1 The smaller box type deliveries will utilize the parking spaces and larger tractor trailer deliveries will have a designated area along Route 173. The larger truck deliveries are scheduled once a week and will last about 20 minutes. The site will maintain a four foot aisle on the north side of the canopy which will allow vehicles to maneuver around when cars are filling up with gas.

The lighting on site complies with EIS Standards which will provide adequate lighting for safety and security. The LED site lighting will include six 15- foot high pole mounted fixtures, the poles will be installed with shoebox lenses, the sixteen metal halide fixtures on the canopy will be replaced with LED lighting and the number will be reduced to twelve fixtures. As far as the building, two small LED light fixtures will be installed on the building and under the canopy overhang LED soffit lighting will be installed to illuminate the pedestrian area when you enter the building.

Improvements to the landscaping on the site will include a 15- foot buffer along the perimeter of West Main Street which will include low vegetation so as not obstruct the sight lines but will create a visual barrier from the residential homes. Additional buffering will also be added to the car wash side, foundation plantings will be installed on the west side of the building and the mature trees on the northwest corner of the property will remain. Overall, the site will include 20 trees and 200 other plantings which will include evergreen shrubs, deciduous shrubs and ground covering.

From a storm water management perspective there will be a slight increase in impervious coverage for Lot 1.01 which will still comply with the ordinance. Two seepage pits will be installed on the east side of the property, the clean runoff from the building will discharge into the seepage pits so the discharge will get infiltrated back into the water table. There are some minor improvements to the northwest corner of Lot 1 which will create the need for an impervious coverage variance but when you look at both lots jointly the impervious coverage is under the Town's ordinance standard of 75 percent.

In regard to outside agency approvals the applicant has a "no interest" letter from Hunterdon County, applications are pending with DOT and Hunterdon County Soil Conservation, Will Serve letters from the Town of Clinton Water and Sewer departments are pending, all copies will be provided to the board once the applicant receives them.

The proposed signage consists of two free standing signs, one located on the west side of the property angled for vehicles coming off Route 78 and the second freestanding sign at the southeast corner essentially advertising to people coming from downtown. Both signs will be lit and are 72.5 square feet in area and 17.5 in height. The westerly sign will have a 1-foot setback and the south easterly sign will have a 10-foot setback. Mr. Maher inquired what is the size of the free standing sign that is currently on the site, Mr. Palus stated the sign out there now is under 40 square feet and 14.7 feet in height. The two existing canopy signs will be reduced from 22.25 feet to 15 ½ feet. The 7-Eleven store will have two

identical logo signs one located on the south side of the building and the other facing to the west, each sign will be 45.33 square feet, and a 10.2 square foot ATM sign will be also be installed on the building.

Mr. Kamlesh Shah, Architect, was sworn in. Mr. Shah went over the building elevations with the board shown on exhibit A-17. The proposed building is geared to blend into the neighborhood, it is a residential design with a pitched roof and light gray asphalt shingles, the building will have hardy plank façade with red dual colored brick on top and grey toned stone on the bottom. The middle of the building will have a glass store front to break up the monotony of the façade. The A/C units will be located on the rear roof of the building and will be shielded on two sides to block from view. Mr. Shah testified there will be no cooking or preparing of foods on site, the goods sold will already be prepackaged foods. There will be one ADA accessible bathroom and the rear space of the building will be for storage and employees.

Mr. Maher questioned why the AC units were proposed to be installed in the roof, Mr. Shah responded the site in the rear is limited in space, on the roof the units will be out of the way and since they are on the roof the noise will basically dissipate up. Mr. Maher questioned if there was a report to indicate that installing the AC units on top of the building versus on the ground would cause less noise to the neighborhood, Mr. Shah stated he could provide the board with a standard noise criteria provided by the manufacturer or if the board preferred we can have the acoustical engineer provide the board with some data.

Mr. Smith inquired if any consideration would be given to explore externally lit signs as opposed to backlighting the signs Mr. Shah stated the signs are franchise prototype signs and he could work to explore other options to present to the franchise.

Mr. Layding inquired if a study or an analysis was done to determine what the net increase of light output would be at the site once all the additional lighting was in place, Mr. Shah stated the Civil Engineer will address when he testifies. Mr. Layding asked about the site layout in relation to the room between where the semi- truck would park for deliveries and the canopy, Mr. Shah stated the Civil Engineer will also address the site layout.

Mr. Perez stated the site is right off a major interstate and inquired if the patrons that would frequent the site would not be local, Mr. Shah responded that was fair to say most customers will come by vehicular traffic and that the traffic engineer will testify to the amount of traffic coming from within town as opposed to the interstate.

Mr. Clerico inquired about the number of bathrooms, Mr. Shah stated the number is determined by the National Plumbing Code which is determined by occupancy, we anticipate 15 persons or less will be in the store at same time including employees which would require one ADA bathroom. Mr. Perez inquired how many bathrooms exist today, Mr. Shah stated two but they are not ADA compliant. Mr. Hetzel stated this facility is located off a major interstate and felt one bathroom would not be sufficient, Mr. Shah stated based on the foot print of the building it was his opinion one bathroom would be adequate for this store. Mr. Clerico inquired at what point under the code would you be required to install two bathrooms, Mr. Shah stated he believed once the occupancy exceeded 25 people. Mr. Perez inquired how Mr. Shah calculated the number of potential customers Mr. Shah stated the determination was based on past history for similar buildings with the same footprint. Mr. Maher inquired when Mr. Shah determined the number 15 if he used any information from the traffic study Mr. Shah stated he had not. Mr. Maher stated earlier testimony indicated the occupancy of the building could accommodate 15 people and what happens if we find out the usage is higher Mr. Shah stated that if the board determines another bathroom is necessary we would certainly look into it. Attorney Marmora commented that in a way he believes the site is self-policing, if it is not convenient people will pass right by, if you pull into the site and there is no parking and the pumps are full most people will keep going. Mr. Blanco inquired how we come up with a realistic number based on this location, we may see a phenomenal amount of traffic coming off a very busy highway that will see a gas station and a convenience store and will not look around, the board

needs to understand what assumptions that you have based the number of people to be consumers at a one particular point of time, Attorney Marmora stated we will have the traffic engineer address when he testifies.

Mr. Clerico inquired if you would see the mechanical equipment on the roof from the back of the building, Mr. Shah responded depending on the angle some of the trees may hide some of the equipment but you will see the equipment from Lot 1. Mr. Clerico inquired about the noise difference from installing the equipment on the ground versus the roof and advised the applicant they should look into the surrounding properties to determine if they feel this is a good design based on visual and noise, Mr. Shah stated they would look into the difference. Mr. Layding inquired if the elevated design will magnify the sound and make it seem louder because it will not have the building to dissipate the sound, Mr. Shah deferred the answer to the acoustical engineer.

Mr. Clerico inquired what determines if a secondary door is required for ingress and egress, Mr. Shah responded the codes are determined by IBC, International Building Code, the secondary door may be necessary for an emergency exit after the calculations have been determined. Mr. Clerico suggested since the site is tight in terms of room that another door may have some site plan implications so it is important to know, Mr. Shah responded he will advise the board at the next meeting. Ms. Lelie inquired if the reduced square footage of the building eliminates the need for a separate door for loading, Mr. Shah testified that most times loading comes through the front door, it depends on the site design and that 75% of 7-Eleven stores that are over 3,000 square feet have a separate loading entrance but they still use the front door for deliveries.

The board opened the meeting to the public for questions:

Mrs. Jennifer Feldmann, West Main Street questioned the placement of the AC Units and inquired if the board will receive a noise study, Mr. Shah stated the units will only be visual from the north side of the site and from the sides you may see a small 2 foot section beyond the sloped edge of the roof. The board confirmed they will be anticipating data from the applicant regarding the decibel levels.

There being no further questions the board closed the meeting to the public.

Mr. Layding inquired if Mr. Palus could answer his earlier question regarding net increase in lighting, Mr. Palus stated an analysis on site lighting was done by EIS standards for the pedestrian area and parking area and the site meets all EIS standards, there will be no light spillage into the residential area, this area will have a 0.0 foot candle. Mr. Palus added the sign lighting was not incorporated into the lighting study. Mr. Palus stated in regards to the earlier comments regarding the acoustic concerns coming from the placement of the HVAC units, the decibel levels will meet daytime and nighttime residential and commercial standards, Mr. Palus will provide the board with data at the next meeting. Mr. Layding inquired if someone was looking down from a second floor window would they see a net increase in lighting, Mr. Palus responded shoebox fixtures will be placed over the lights which will force the light downwards, you will see an ambient light so the site is illuminated but there will not be a direct glare directed at the residential properties.

Mr. Maher questioned the hours of operation Mr. Palus stated it will be a 24 hour operation for the gas station and convenience store. Mr. Maher inquired if the Shell gas station and 7-Eleven employees are separate, Mr. Palus stated there will be two different franchises, the gas station employees will work out of the kiosk and will be separate from the 7-Eleven employees. Mr. Clerico asked for clarification that there will be one owner but two separate businesses being operated on this site, Attorney Marmora stated that was correct. Mr. Smith inquired how many employees will be working and if parking for employees was taken into account, Mr. Palus stated typically you will see one gas attendant and 2 store employees and there is a high frequency of employees associated with these type of businesses that do not drive to work they either use public transportation, bike or get rides.

Mr. Layding questioned the maneuverability of the site and whether there will be enough room for a semi-truck to get around the canopy, Mr. Palus stated yes there is a 13.6 foot clearance under the canopy. Mr. Maher stated the truck would be able to go under the canopy but questioned if a truck could

easily navigate to the south of the canopy, Mr. Palus stated he can provide detail to show there is enough clearance. Mr. Perez inquired about the time of deliveries, and wondered if two trucks could show up at the same time Mr. Palus stated, deliveries are scheduled in a way to avoid conflict we can control the time of the tanker truck delivery, the small box type trucks typically come in the morning and the tractor trailer has an eight hour window and is normally only there for 20 minutes.

Ms. Lelie inquired about the Kiosk operation, Mr. Palus stated the Kiosk will have a monitoring system. card reader, safe, register, all things associated with a gas transaction and a place for the attendant to sit.

Mr. Smith inquired about the 10 x 20 dumpster area, Mr. Palus stated the area will house the dumpsters, recycling containers, placement for cardboard and will have solid gates in front away so you can't see in.

Mr. Perez questioned the sign on the south east corner of the site and inquired if it will be a visible from the residential properties on West Main Street, Mr. Palus stated he will look into.

Due to the timeframe A Motion was made by Mr. Hetzel seconded by Mr. Layding to carry the hearing to the March 4, 2014 meeting night.

**All Ayes. Motion carried.**

**Old Board Business- Subdivision approval Block 29 Lot 3.03- Morriello:**

Attorney Caldwell wanted to advise the board the board previously granted approval for a subdivision and as of today the applicant has failed to follow through on the conditions of approval and failed to pay her escrow account. The applicant is presently disputing her invoices received from the boards professionals and Attorney Caldwell recommends no further action in regards to rescinding her approval be taken until the escrow dispute has been settled.

**Voucher Approval:**

A Motion was made by Mr. Perez, seconded by Mr. Hetzel, to approve the attached vouchers list:

**All Ayes. Motion Carried.**

There being no further business, A Motion was made by Mr. Maher, seconded by Mr. Hetzel, to adjourn the meeting at 10:00pm.

**All Ayes. Motion Carried.**

Respectfully submitted,

Allison Witt  
Land Use Administrator