



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 September 6, 2016 at 7:00pm in the Municipal Building at 43 Leigh Street Clinton, New Jersey 08809

Chairman Sailer called the meeting to order at 7:00pm and read the "Statement of Adequate Notice and "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 next month's agenda".

Attorney William Caldwell, Mr. Robert Clerico and Mr. Jim Kyle were present.

ROLL CALL:

Present: Sailer, Carberry, Feldmann, Hetzel, Mellick ,Smith, Viotto

Absent: Blanco, Kovach, Maher, Schaumburg

Approval of Minutes:

A Motion was made by Mr. Hetzel, seconded by Mr. Carberry, to approve the minutes of August 2, 2016:

All Ayes: Motion carried.

Abstain: Viotto

Minor Site Plan Application- Block 12 Lot 4- 10 East Main Street- G. DePietro:

Gregory DePietro & June DePietro, applicants were present and sworn in. The following items were submitted into evidence:

- A1 Application Package.
- A2 Tax Certification dated August 31, 2016.
- A3 Architectural prints prepared by Allende Matos dated July 5, 2016.
- A4 Review report prepared by Allende Matos dated 9/2/2016
- B1 Robert Clerico, Van Cleef Engineering report dated 9/1/2016

Mr. DePietro advised the board they were looking to open up a restaurant at 10 East Main Street. The restaurant will only have one seating and a chef's choice menu. The space will accommodate 14 tables which will seat 40 patrons. The restaurant will be open Thursday thru Sunday, hours of operation will be 5:00pm-10:00pm by reservation only. No exterior improvements will be necessary and the interior remodel will include a kitchen and a ADA bathroom.

Mr. Clerico went through his report with the board, the proposal is located in the C-1 zone, which has no parking standards, the only external changes will be to add two canopies and the applicant has indicated

the signage on the canopies will comply with the sign ordinance. The location of the dumpster and enclosure is in front of the building, which is a pre-existing non-conforming use. Mr. Clerico stated the applicant’s architect has addressed my concerns in his letter dated 9/2/2016. The applicant will need to receive Board of Health approval and will need to check with the Town Flood Plain Administrator if the construction work falls under substantial work and will require a flood plain permit.

A Motion was made by Mr. Carberry, seconded by Mr. Hetzel, to approve the Minor Site Plan for Block 12 Lot 4 as presented tonight; subject to compliance with Mr. Clerico’s letter dated 9/1/2016; Board of Health approval; determination from Flood Plain Administrator regarding flood plain permit; applicant to apply for necessary construction and sign permits; payment of all outstanding fees, escrow, and any other outside agency approvals that may be necessary

Roll Call Vote:

Ayes: Sailer, Carberry, Feldmann, Hetzel, Mellick ,Smith, Viotto

Nays:

All Ayes. Motion Carried.

Mr. Carberry per the MLUL recused himself from this application.

Use Variance Application- Block 13 Lot 19- 5&51/2 East Main Street- R. Hisena

Attorney Steven Schaffer, Mr. David Karlebach, Planner and Rudolfo Hisena, applicant were present. The following items were submitted into evidence:

- A1 Application Package.
- A2 Affidavit of Service & Proof of Publication.
- A3 200 Foot Certified Mailings.
- A4 Tax Certification dated August 10, 2016.
- A5 Survey prepared by Engineering & Land planning 7/7/16.
- A6 Architectural prints prepared by D.A Denson dated 8/17/2016.
- A7 Planner report prepared by John McDonough
- A8 Summary Handout prepared by applicant dated 9/6/16
- B1 Jim Kyle, Kyle Planning & Design report dated 9/2/16

Attorney Schaffer gave the board an overview of the proposal. The property is located in the C-1 zone in the east section of the core downtown district. The building is a duplex which is two half stories high. It was constructed in the 1900’s for residential occupancy. In 1986 the one side of the duplex changed to an electrician’s office and then a few years later an architect’s office, the eastern side of the property remained residential. The lot has 2 parking spaces on site, in the rear yard is a bbq area and a play area for the residential tenants. The applicant is proposing to reestablish the use of the property back to a residential use. The applicant does not propose any construction or any exterior site improvements. The C-1 zone permits residential however not on the first floor so tonight the applicant seeks a D-1 variance to permit a residential use on the first floor and a waiver of site plan.

Mr. David Karlebach,PP was sworn in. Mr. Karlebach advised the board the structure as it exists has the appearance of a residential structure to the west of the property as you travel up Main Street it is dominated by commercial uses. When you travel east of Leigh Street the retail wall breaks down and it is predominately multifamily buildings with a few commercial uses. The property has front steps in front of the building which is a drawback for retail use, the adjoining space is occupied as a residence with two occupants plus children, the architectural style of the building reflects a residential nature, the application will breathe new life back into the building.

Mr. Karlebach went through the positive and negative criteria with the board, which is outlined in Mr. McDonough’s report (exhibit A7). The lot is particular suited for the use by virtue of its location which

is between mixed use buildings and stand-alone residential uses; it is a positive to infuse more residents into this area so the commercial and retail uses can be utilized; this property is more suitable for residential uses, this property has a long history of residential uses. All these factors make this site more suited for residential use and less for commercial. In terms of the negative criteria, Mr. Karlebach testified he believed there would be no substantial detriment to the public, there would be no external changes, the property would visually remain the same it will mirror what exists today and the residential use will generate less traffic. Mr. Karlebach stated it will be a supreme benefit to reoccupy the building and the board should feel comfortable in approving the D-1 Variance.

Mr. Kyle questioned whether the RSIS parking standards of three parking spaces would apply. Attorney Schaffer stated the RSIS is applied to prevent towns from making more stringent requirements, the town has no parking requirements for the C-1 zone and he stated that he does not believe the RSIS applies but if the board wants to apply the RSIS then he will ask the board to grant a de Minimis exception.

Mr. Rudolfo Hisena was sworn in and advised the board the tenants that have occupied the adjoining duplex for many years do not have a car, so parking is not an issue the site has 2 onsite spaces that have been vacant for years and there is a space in front of the building that is available and after peak hours parking will not be a problem. Mr. Clerico stated there are provisions in the RSIS for exceptions and it appears the site has two spaces and one in front the board can issue a de Minimis exception.

Mr. Hisena advised the board the space on the first floor includes a dining room and kitchen and the second floor has a bedroom and bathroom and the space more represents a residential home rather than an office.

Mr. Kyle advised the board they should look at the particular structure and decide if it is consistent with the zone plan. If the use was granted it would be site specific and no precedent would be set because every application stands on its own merits.

In closing Attorney Schaffer stated this change will have no negative impact on the neighborhood, the use is a permitted use just not allowed on the first floor. This area is a transitional area with mixed uses.

There being no testimony or input from the public a Motion was made to close the hearing.

A Motion was made by Mr. Feldmann, seconded by Mr. Hetzel, to approve the Use Variance with a de Minimis exception from the RSIS parking standards:

Mr. Feldmann stated he believed the applicant's case was persuasive, the site is suitable for a residential use, the positive and negative criteria has been met, the site is in a transitional area with numerous residential homes and the use will not impact the area.

Roll Call Vote:

Ayes: Sailer, Feldmann, Hetzel, Mellick, Smith, Viotto

Nays:

All Ayes. Motion Carried.

Mr. Carberry rejoined the meeting.

Board Discussion:

The board received a request to view some proposed changes for the hotel site on Route 31. The changes are outlined in an email that was distributed to the board. Mr. Clerico gave the board a brief history of the approval and what the new proposal entailed. The board expressed concerns with the height of the new proposal and felt that the new roof with its structures may exceed the height variance that was previously

granted. Attorney Caldwell and the board agreed this change would require the applicant to amend their site plan approval and the height variance approval and the applicant should come back to the board for a public hearing. The applicant will be notified that the field change request was denied.

Draft Preliminary Redevelopment Investigation Discussion:

Mr. Kyle presented the board with a draft plan titled "Preliminary investigation for determination of a non-condemnation area in need of redevelopment". Mr. Kyle explained the lots included in the report just allow them to be included in the plan but it is not mandatory they participate in the redevelopment it will just give them the option if they want to. When the plan is prepared guidelines and standards will be in place which will guide a developer on what can be done. Mr. Kyle advised the board he will finalize the investigation and the Land Use Board will hold a public meeting on October 4, 2016 to recommend the determination to council and if the Governing Body agrees with the determination they must adopt a resolution that will be forwarded to the state for review. Once the determination has been approved the need step will be for the Land Use Board to put together a plan for the redevelopment zone.

Mr. Feldmann stated the town should educate the owners within the redevelopment area and it would make sense to send out a fact sheet or have someone talk with them before the public hearing so they are informed. Mr. Kyle stated he would put a bullet fact sheet together to be included in the certified mailings.

Board Discussion:

Mr. Kyle advised the board that at the next meeting the board will need to adopt a reexamination report which is specific to the highlands. The meeting will be noticed and open to the public.

Voucher approval:

A Motion was made by Mr. Hetzel, seconded by Mr. Carberry, that the vouchers be approved:

All Ayes. Motion carried.

There being no further business a Motion was made by Mr. Carberry, seconded by Mr. Hetzel the meeting be adjourned at 9:55pm.

All Ayes. Motion carried.

Respectfully submitted,

Allison Witt
Land Use Administrator