



TOWN OF CLINTON

INCORPORATED APRIL 5, 1865

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Land Use Board Minutes

Minutes of the Town of Clinton Land Use Board meeting held on June 4, 2019 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 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".

Attorney Katie Razin, Robert Clerico and Beth McManus were present

New Member- Ches Snider was sworn in.

ROLL CALL:

Present: Chairman Sailer, Mr. Feldmann, Ms. Healy, Mr. Lubsen, Mr. Smith, Mr. Snider, Mr. Viotto

Absent: Mr. Mellick, Ms. Van Weeren

Abstain: Per the MLUL Mayor Kovach, Ms. Dineen were not present.

Approval of Minutes:

A Motion was made by Mr. Smith, seconded by Ms. Healy, to approve the May 7, 2019 minutes:

All Ayes. Motion Carried

Abstain: Mr. Viotto

Site Plan Review Report:

Mr. Feldmann advised the board the Site Plan Committee met with the following applicant, Francesca Conroy 10 Olsen Lane, Block 31 Lot 32 and Block 31 Lot 29 - Lot Line Adjustment application. The application was deemed complete, public hearing to be scheduled for September 3, 2019.

Executive Session-Resolution # 19-07 Executive Session- Legal Advice:

A Motion was made by Mr. Feldmann, seconded by Mr. Smith, to enter into executive session at 7:05pm; action may be taken upon returning to regular session:

RESOLUTION AUTHORIZING EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act; *N.J.S.A. 10:4-6 et seq.*, declares it to be the

public policy of the State to insure the right of citizens to have adequate advance notice of and the right to attend meetings of public bodies at which business affecting the public is discussed or acted upon; and

WHEREAS, the Open Public Meetings Act also recognizes exceptions to the right of the public to attend portions of such meetings; and

WHEREAS, the Land Use Board find it necessary to conduct an executive session closed to the public as permitted by the *N.J.S.A. 40:4-12*; and

WHEREAS, the Land Use Board will reconvene in public session at the conclusion of the executive session;

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Town of Clinton, County of Hunterdon, State of New Jersey that they will conduct an executive session to discuss the following topic(s) as permitted by *N.J.S.A. 40:4-12*:

A matter which Federal Law, State Statute or Rule of Court requires be kept confidential or excluded from discussion in public (Provision relied upon: _____);

_____A matter where the release of information would impair a right to receive funds from the federal government;

_____A matter whose disclosure would constitute an unwarranted invasion of individual privacy;

_____A collective bargaining agreement, or the terms and conditions thereof (Specify contract: _____);

_____A matter involving the purpose, lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed;

_____Tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection;

_____Investigations of violations or possible violations of the law;

_____Pending or anticipated litigation in which the public body is or may become a party and the general nature of the litigation is:

Matters falling within the attorney-client privilege, to the extent that Confidentiality is required in order for the attorney to exercise her ethical duties as a lawyer; (The general nature of the matter is: privileged legal advice as to issues related to potential settlement and board processes following settlement).

_____Matters involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any specific prospective or current public officer or employee of the public body, where all individual employees or appointees whose rights could be adversely affected have not requested in writing that the matter(s) be discussed at a public meeting; (The employee(s) and/or general nature of discussion is _____)

OR _____ the public disclosure of such information at this time would violate the employee(s) privacy rights; therefore this information will be withheld until such time as the matter is

concluded or the threat to privacy rights no longer exists.;

_____ Deliberation occurring after a public hearing that may result in the imposition of a specific civil penalty or loss of a license or permit;

BE IT FURTHER RESOLVED that the Land Use Board hereby declares that its discussion of the subject(s) identified above may be made public at a time when the matter at hand is concluded and when the Board Attorney advises that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Board or any other entity with respect to said discussion.

BE IT FURTHER RESOLVED that the Land Use Board, for the reasons set forth above hereby declares that the public is excluded from the portion of the meeting during which the above discussion shall take place.

All Ayes. Motion carried

Regular Session reconvened at 7:10pm

Resolution Approval for Ansuya Riverbend LLC- Blocks 17 & 17.01- Lots 2 & 2.03- Amended Preliminary Site Plan, Bulk Variances, Final Site Plan approval for Phase I; Phasing of the project and extension requests for Site Plan approvals for Phase II and III.

A Motion was made by Mr. Smith, seconded by Mr. Feldmann, to adopt the Resolution for Ansuya Riverbend LLC with conditions:

Roll Call Vote:

Ayes: Sailer, Feldmann, Healy, Lubsen, Smith

Nays:

All Ayes. Motion Passed.

Mayor Kovach and Councilwomen Dineen abstained from the hearing because they were part of the negotiated settlement on behalf of the Town, which included the application for the subdivision relief.

Application for Major Subdivision – Block 14 Lot 32- AMBE Holdings of Clinton LLC:

Attorney Howard Apgar and Mr. Wayne Ingram Engineer /Planner were present; Mr. Ingram and the Board Professionals were sworn in.

Chairman Sailer spoke “ *Good evening before we get started I just wanted to preface this application with a short introduction. The piece of property that is the subject of the application is part of the Town’s settlement agreement with Fair Share Housing Center, which has been considered and approved by the court. For tonight’s purpose and for everyone’s consideration, what is being proposed for this application this evening is a subdivision of land. No development proposal has been proposed at this time and the board is only considering the subdivision of land and related variance application that is before us this evening. For the board’s purposes tonight, what may be proposed to be developed on the site is permitted and the same will hold true when the applicant returns for site plan approval in the future. If members of the public have any questions for the applicant’s witnesses or the board’s experts or any comments for the board’s consideration, we ask they focus on and relate to the subject of this application and testimony that is before the board, which is for subdivision approval.*”

The following items were submitted into evidence:

- A1 Major Subdivision and Variance Application
- A2 Affidavit of Service & Proof of Publication
- A3 Town of Clinton Clerk’s Certified 200 foot list
- A4 Tax Certification dated May 8, 2019

- A5 Subdivision Plan dated prepared by Engineering & Land Planning dated March 19, 2019
- A6 NJDEP Verification Flood Hazard Plan dated 7/10/2009
- A7 NJDEP Flood Hazard Area Approval dated 11/19/2009
- A8 NJ DEP Wetlands LOI prepared by Engineering & Land Planning dated May 4, 2018
- A9 NJ DEP wetlands letter of Interpretation DATED 5/2/2018
- A10 NJ DEP Wetlands letter of Interpretation dated 10/20/2009
- A11 Geology Evaluation report prepared by AEON Environmental & Geological Consulting dated 6/25/2009
- A12 Steep Slope Mapping –Highlands Council
- A13 Buffer Area Mapping= Highlands Council
- A14 Advanced property report- Highlands Council
- B1 Robert Clerico, Van Cleef Engineering report June 3, 2019

Attorney Apgar advised the board his client AMBE Holdings is here tonight to receive subdivision approval for Block 14 Lot 32 to create three separate lots in accordance with the court settlement.

Mr. Ingram testified the subdivision will be broken down into three parcels; lot 32.01 will be designated as the commercial lot and consists of 7.201 acres; Lot 32.02 will be the future residential lot and consists of 8.02 acres and the remaining lot 32.03 which is 11.96 acres will be open space and dedicated to the town. The creation of the three lots will create a need for a variance on the open space lot however, Mr. Ingram stated since no construction is proposed on the open space lot so there will be no detriment in granting the bulk variance. In regards to item 1b of Mr. Clericos' review report Mr. Ingram stated there is no proposed access from the lot 32.02 onto Central Avenue, the proposed access is from Route 31. The applicant agrees to all the conditions outlined in Mr. Clericos' review letter.

Attorney Apgar brought to the attention of the board the open space property has an easement over the property at 65 Center Street Block 15 Lot 14, the homeowner has requested we eliminate the easement, Mr. Apgar testified we have no issue with vacating the easement and we will do this before filing the subdivision plans.

Public Questions:

Mr. Luke Jacobs, contract purchaser for 1 Central Avenue inquired where the lot line ends next to lot 32 and advised the board he is opposed to any building that would block his view.

There being no further questions or comments, a Motion was made by Ms. Healy, seconded by Mr. Smith, to approve the major subdivision with variances, conditioned upon the court appointed fair share housing payment be submitted, any future development of lot 32.02 will have access onto Route 31, and the items in Mr. Clerico' s review letter dated June 3, 2019 are satisfied.

Roll Call Vote:

Ayes: Chairman Sailer, Mr. Feldmann, Ms. Healy, Mr. Lubsen, Mr. Smith, Mr. Snider, Mr. Viotto
Nays:

All Ayes. Motion Passed.

Application for Block 15 Lot 4-Clinton United Methodist Church- Application for Use Variance, Minor Site Plan:

Attorney George Dilts, Mr. Scott Eichlin, and Mr. Wayne Ingram were present and sworn in.

The following items were submitted into evidence:

- A1 Variance, Minor Site Plan Application
- A2 Affidavit of Service & Proof of Publication
- A3 Town of Clinton Clerk's Certified 200 foot list
- A4 Tax Exemption Certification dated March 19, 2019

- A5 Site Plan dated prepared by Engineering & Land Planning dated 12/12/2018
- A6 Architectural Plans prepared by Frank Joseph Bell dated 6/26/2018
- B1 Robert Clerico, Van Cleef Engineering. Report dated 6/1/2019
- B2 J. Daniels review comments dated 5-13-2019
- OA1 HCPB Letter dated 5/21/19

Attorney Dilts gave an overview of the Minor Site Plan application, the church which is a conditional use in the zone is looking to put a canopy over the existing front stoop which encroaches on the front yard setback and will require a c(1) Variance. In addition, because the conditional use cannot comply with all the bulk standards a d(3) Variance is required. The applicant also proposes a small 23 x 6 foot addition in the rear of the building to accommodate a lift, Mr. Dilts added they have no objections to Mr. Daniels comments and Mr. Clerico's review letter.

Mr. Scott Eichlin, an employee of Frank Bell Architect is here tonight as a factual witness, Mr. Eichlin proceeded to give an overview of the proposal with the board. The Church is looking to install a roof over the exiting front stoop, a canopy over the handicap ramp and an addition in the rear, which would enclose the area to accommodate a lift. The lift addition would make both levels of the church ADA compliant. Mr. Clerico inquired if the addition is located in the flood plain, Mr. Eichlin responded the lower level is but to the best of his knowledge, the church has never had issues with the basement flooding. Mr. Eichlin also stated as part of construction they will be installing a sump pump and drain by code.

Mr. Ingram went over the site layout, he explained the proposed changes are minor modifications, an application has been filed with NJ DEP for the portion of the building in the flood plain and is currently under review. Mr. Ingram advised the board the access already exists and they are not expanding the area of the flood plain. Mr. Ingram stated the church is a conditional use in the zone, the site presently is non-conforming, the lot is undersized and the non-conforming building setback from the street is a pre-existing condition. The proposed lift and canopies will not impact the site, the lift will be beneficial as it will give everyone access to all levels of the building. Mr. Ingram stated there will be no negative impacts with granting the approval of the d (3) variance and site plan application.

Mr. Dilts advised the board he was having trouble locating the documents that reflect the merger of Lot 4 & 5 and has no objection to create a deed of merger for both lots, which he will accept as a condition of approval.

There being no public questions or comments a Motion was made by Mr. Feldmann, seconded by Mr. Smith to grant the d(3) variance, bulk variance and Minor Site Plan Approval.

Roll Call Vote:

Ayes: Chairman Sailer, Mr. Feldmann, Ms. Healy, Mr. Lubsen, Mr. Smith, Mr. Snider, Mr. Viotto
Nays:

All Ayes. Motion Passed

Board Discussion on the draft copy of the C-4 Preliminary Investigation:

Ms. McManus gave the board an overview of the areas in the C-4 zone identified by the Governing Body as an area in need of redevelopment, the lots included in the study will be non-condemnation. The next step is for the Planning Board to hold a public hearing and make a recommendation to the Governing Body, the recommendation comes from the Planning Board however, it is the Governing Body's ultimate decision. Once the lots have been declared the next step is for the Planning Board to prepare a redevelopment plan where the uses, zoning controls, details and stronger development controls can be implemented. In addition as an incentive to developers the town can offer tax incentives if they want to. Beth asked the board members to review the draft copy of the Preliminary Investigation and forward any comments, revisions, corrections to Mr. Kyle no later than June 6, 2019. The Public Hearing is scheduled for June 18, 2019.

Voucher Approval:

A Motion was made by Mr. Viotto , seconded by Mr. Feldmann, to approve the vouchers:

All Ayes. Motion Passed.

There being no further business A Motion was made by Mr. Viotto, seconded by Ms. Healy, to adjourn the meeting at 8:40pm.

All Ayes. Motion Passed.

Respectfully submitted

Allison Witt
Land Use Board Administrator