



TOWN OF CLINTON
INCORPORATED APRIL 5, 1865
43 Leigh St., P.O. Box 5194
Clinton, NJ 08809-5194
TEL: (908) 735-2275 FAX: (908) 735-8082

Land Use Board Minutes

Minutes of the Town of Clinton Land Use Board meeting held on May 4, 2021 at 7: 00pm. The Meeting of the Town of Clinton Land Use Board has changed the format of its regular meetings for the duration of the COVID-19 Public Health Emergency to “Virtual” Meetings via ‘Zoom”.

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”.

N.J.S.A. 10:4-8 (b) authorizes municipalities to conduct public meetings through use of streaming services and other online meeting platforms.

The Town of Clinton is using ZOOM Video Meetings. Please be aware that this meeting is being recorded for the public record. ZOOM meetings are imperfect, so if glitches pop-up, please be patient. We will open the meeting to the public during public comment time, each person will have the opportunity to ask questions and give comments at the appropriate time. If you would like to speak, please use the raise hand feature and I will call on you one at a time, you must provide you name and address to be recognized for comment. Any individual giving sworn testimony, including members of the public making comments, shall appear by video. Members of the Public we ask that you keep your device muted and your Video turned off until called upon by the Chairman. In addition, the Board also has the capability of using the mute feature if necessary.

Attorney Razin, Mr. Clerico, Engineer Mr. Jim Kyle, Planner were present

ROLL CALL:

Present: Mr. Sailer, Ms. Healy, Mr. Kelly, Mr. Lubsen, Mr. Smith, Mr. Snider, Mayor Kovach, Ms. Dineen, Ms. VanWeeren

Absent: Mr. Viotto

Approval of Minutes:

A motion was made by Mr. Lubsen, seconded by Mr. Smith, to approve the April 6, 2021 minutes

All Ayes.	Motion Carried
Abstain:	Kovach, Dineen

Public Hearing for Clinton Moebus 34 – “Clinton Commons”- Block 14 Lot 32- 65 ½ Center Street
Property faces Route 31 South) Preliminary & Final Subdivision for 5 lot subdivision and Preliminary Site Plan Application. Mixed Use- commercial and residential- **THIS MEETING HAS BEEN CARRIED AND WILL BE MOVED TO THE JUNE 15, 2021 MEETING AT 7:00PM.**

Resolution for Puleo International LLC Block 18 Lot 5- 13 Moebus Place (property fronts Route 31 North) - Use Variance, Preliminary & Final Site Plan Application. - RESOLUTION CARRIED TO MAY 18, 2021

Completeness Review for Ansuya Enterprise of Clinton LLC/ Ansuya Riverbend LLC Block 17 Lot 2 Block 17.01 Lots 2.03, 2.04 and 6- Route 31 Northbound -Phase II and III- Amended Preliminary & Use Variance Approval for Phase II and Amended Preliminary and Final Site Plan Approval for Phase III

Attorney Kara Kaczynski and Wayne Ingram were present.

A Motion was made by Mr. Smith, seconded by Mr. Lubsen, to grant the permanent waivers under item # 1 and 2 of Mr. Clerico's report dated May 2, 2021, grant temporary waivers for checklist item 46, J & 15 deny waivers under items 5 & 6 with the exception of A and 39g of Mr. Clerico's report dated May 2 2021 and deem the application incomplete:

Roll Call Vote:

Ayes: Sailer, Healy, Kelly, Lubsen, Smith, Snider, Kovach, Dineen, VanWeeren

Nays:

9-0 Motion passed.

When the requested waivers have been submitted Mr. Clerico will complete an administrative completeness and a public hearing will be scheduled.

Mr. Lubsen recused himself from hearing the application for Q&A Real Estate Development LLC due to conflict per the MLUL.

Public Hearing for Block 11 Lot 20- 9-11 Route 22 Q&A Real Estate Development LLC - Variance and Waiver of Site Plan Application request.

Attorney Kara Kaczynski, Christopher and Diane Deegan, owner and applicant were present and sworn in, the following items were submitted into evidence:

- A1 Variance & waiver of site plan Application
- A2 Affidavit of Service & Proof of Publication
- A3 Town of Clinton Clerk's certified 200-foot list 2-16-2021
- A4 Tax Certification dated 3-1-2021
- B1 James Kyle, report dated April 30, 2021

Attorney Kaczynski advised the board her client is here tonight to request a waiver from site plan to operate a sales office for their roofing and siding company which is a permitted use in the zone. They are also requesting a C variance pursuant to section 88-62 (6) and if needed 88-62 (2) to be allowed to park their commercial vehicles on site. The office use will have two employees, no customers or on site sales will take place in the office, they are requesting to park 6 business vehicles on the property, plus two spaces for employees. Attorney Kaczynski advised the board the applicant plans to make no external changes to the site, with the exception of the exterior of the building which will include new roofing, siding, windows and exterior lighting the waiver of site plan request is appropriate for this use. In regard to the variance request to park their business vehicles in a front yard, the property is a corner lot the applicant has a hardship since there is no rear or side yard on this property, the hardship should justify the granting of the variance.

Mr. Christopher Deegan advised the board the lot is an irregular L-shaped lot, we are planning to have an office we can work out of and be able to park some vehicles on site. The vehicles on site will be a mix of pickup trucks and regular size vans, this prior use of this site was an auto repair shop which was extremely active they generally had 15-18 cars onsite at one time, this was a messy corner. Mr. Deegan stated it is our intention to clean up the property, we have already installed a new roof, installed new doors in place of the old garage doors, we will remove the fake brick, add new siding on all sides of the building, new gutters and leaders and replace the windows on the side of the building. The office will be utilized for administrative work, it will be a convenient place for my wife to work it will be close to

home, the office will not be open to customers, there will be no onsite sales. Mr. Deegan advised the board when he bought the building he was not aware of the commercial vehicle ordinance and if I had known I would have not purchased the building. Mr. Deegan stated his employees will come to the site park the personal cars and pick up the business vehicles and at the end of the day my workers will come back to the site to switch. Mr. Deegan stated he was amicable to pave and strip the lot there is not a lot of options where the vehicles can be parked, but he is willing to work with the board.

Ms. Diane Deegan testified there will not be a lot of traffic on site, we will not be open to the public, perhaps once in a while someone will just walk in, we do a lot of work through emails and we meet customers at their home for sales. The business vehicles have their company name, phone number and state license which is required in order to comply with the consumer fraud act.

Mr. Christopher Deegan advised the board he is willing to add some plantings, pave and strip the lot as suggested by the board planner, Mr. Kyle. In addition, we plan to replace the exterior lights and add new lighting by the bay doors and the office entrance door. The existing garage space will be used to park their own personal vehicles and storage. Mr. Deegan stated if given the opportunity to work with Clinton we will clean up the property and work within the limits of the town, this corner will be incredible.

Attorney Razin asked for clarification on the relief sought, Attorney Kaczynski stated she believed only section 88-62 (6) applies since this was an existing commercial use prior to the adoption of the ordinance, she does not think 88-62 (2) applies, however if the board does not agree we will request a variance from this section also.

Ms. Healy asked if there was a diagram available on where they plan to park the vehicles, Attorney Kaczynski replied we are amenable to provide a drawing outlining the spaces with the approval of the board planner as a condition of approval. Mr. Kyle stated looking at the survey it looks like the area for parking is to the left and in front of the garage doors, Mr. Kyle stated he thought it was important to see the exact location of the proposed parking spaces, what areas will be stripped and the addition of landscaping, given the change he feels it is not a bad idea to have them file for a minor site plan so we have a record of the property. Mr. Clerico added that the applicant is repaving, restriping, landscaping, removing and adding exterior lighting I would think you would need some sort of plan, they can utilize the existing survey we just need some documentation on record.

Christopher and Diane Deegan both expressed their thoughts, they stated anything is better than what is there now, and they are concerned with the additional costs involved with providing the additional information. They stated they are looking to clean up the site and seem to be getting a lot of negative restrictions, we will not spend any more money, we will not apply for a site plan, we will just walk away and leave the site as is. Mr. Kyle stated the items you have testified to have not been included in your application, we are not asking you to do anything unreasonable we are willing to work with you.

Mr. Smith stated it is hard to act on a waiver request without seeing a drawing, Mr. Deegan stated the vehicles are parked on site now to the left of the building. Mr. Snider advised the board that he walks past the site daily, the vehicles are all backed in facing the street, and he is not worried about seeing a plan. Mr. Kelly stated he can envision the lot and does not need to see a plan. Mr. Sailer inquired about site signage, Mr. Deegan stated any signs will be whatever the town allows. Mr. Kelly asked for clarification on the window replacement, Mr. Deegan replied they will be replaced in kind no change to the size. Mayor Kovach stated they are not trying to make it more difficult a lot of the questions were answered in your testimony, and if you work with the board planner, Mr. Kyle and Mr. Clerico I am comfortable with moving forward.

The meeting was open up to the public:

Marie Cook owner of 35 Leigh Street, was sworn in, Ms. Cook commented she would like to see a more appealing site, this is an entrance into town. My biggest concern is as it relates to signage is the advertisements on the 6 vehicles which is not in accordance with the sign ordinance, and how the signage will be displayed, Ms. Cook stated this is an important corner of town.

Amy Devita, 17 Halstead Street, advised the board she is a neighbor and customer and when speaking with Chris he was so excited about purchasing the property he expressed that he has plans to make this a great space for the town. Ms. Devita stated this can only be a big improvement.

The board recapped some of the conditions if the board were to approve the application, only small pickup trucks and vans on site, no large trucks permitted; the signage will be consistent with the sign ordinance; the approval is subject to the applicant preparing a plan showing the paving, stripping, lighting, landscaping which can be hand drawn on the survey and to reviewed and approved by the board professionals.

Ms. Healy stated she is comfortable with the hand drawn document and the board professional review and approval and is pleased to move forward with a vote tonight; Ms. Dineen commented she agrees that she trusts our board professionals to review; Mr. Snider, Mr. Smith. Mayor Kovach agreed as long as they work with the Board Professionals they are comfortable moving forward.

A Motion was made by Mr. Smith, seconded by Mayor Kovach, to grant the Waiver of Site Plan request with the condition the hand drawn site plan be submitted to the board professionals for review and approval, only pickup trucks and vans will be parked on site, the signs will be consistent with the sign ordinance, and the granting of the two C-1 Variances:

Roll Call Vote:

Ayes: Sailer, Healy, Kelly, Smith, Snider, Kovach, Dineen,

Nays:

Ms. Van Weeren connection was lost

7-0 Motion passed

Mr. Deegan stated he will have the plan within 2 weeks.

Interpretation of the Town of Clinton Ordinance “Dwelling, Two-Family” and Appeal of zoning denial Block 6 Lot 2- 72-74 West Main Street LLC

Attorney CherylLynn Walters from the law firm Nehmad Davis & Goldstein and Mr. Kyle Midgley operator of Sober Fit 2 were present. Attorney Walters advised the board they are here tonight to seek an interpretation of the zoning code as it relates to a family dwelling and to seek an appeal from the zoning officers’ denial.

The property is located at 72-74 West Main Street it is a two family dwelling with a detached garage and is located in the R-3 zone where two-family dwellings are permitted. Attorney Walters advised the board as part of this application a project narrative and an outline of the interpretation request was provided. Attorney Walters advised the board the Towns definition of “family” defines family as persons to be blood related or not more than 5 non-blood related persons, the courts found this definition to be unconstitutional, tonight Attorney Walters is asking the board to interpret the definition of a “family”.

Mr. Kyle Midgley owner and operator of the sober living facility residence gave the board a background of the sober living home and how it will operate. The home provides sober living to people in recovery from drug and alcohol addiction. Mr. Midgley stated he currently operates two facilities, both are licensed by the State of NJ Department of Community Affairs, the home provides structure for those in early recovery. The state requires any sober living home to be conducted in a single family dwelling, the license allows up to 10 residents plus a house manager. This is two family home, 72 West Main Street will house 6 residents including a house manager and 74 West Main Street will have 10 residents plus a house manager, the residents live together and operate together as a family unit. The house manager is the parent figure of the house, the residents living together will offer each other support, they live together, cook together, share bathrooms and living space together, some residents will have their own bedroom and some will share. The residents are held accountable they will have random drug and alcohol tests, they all have chores they must complete which include cooking, housekeeping, maintenance of the grounds, they have weekly meetings, they live together to support each others’ sobriety, we all become a family unit. The house manager monitors the rules, the residents are required to have jobs or be actively seeking employment unless they are disabled, they must attend off site weekly NA or AA meeting and obtain a sponsor, the house is a twelve step recovery home. In addition, the residents must contribute financially to carry the costs of the house. Mr. Midgley stated if a resident fails to stay sober or test

positive to a drug or alcohol test they are given 45 minutes to pack up and leave the home, if this happens I try to get them back into a treatment program and if needed they will be escorted from the premises. The typical stay for a resident is 6-8 months this is not a short term facility they can stay as long as they need to.

Mr. Smith inquired if there were any plans to use the garage and what the bedroom configuration was in each home, Attorney Walters stated the carriage house is not part of this application, 72 West Main Street has 5 bedroom and three full bathrooms and 74 West Main Street has 8 bedrooms and 3 full bathrooms. Mr. Lubsen inquired about the license, Attorney Walters stated this is an annual license which must be renewed every year. Mr. Sailer inquired about the amount of cars on site, Mr. Midgley responded based on my other houses about half of the residents have cars, there will be an average of 10 cars when the house is running at full capacity. Mr. Snider inquired how many facilities like this are in the state, if there was a cap on the amount of houses within a town and if the insurance company or state was reimbursing the owner, Mr. Midgley stated there are approximately 800 houses in NJ, the bills are paid by the residents and there is no law to limit the number of sober facilities in a town. Mr. Sailer inquired if this was a co-ed facility, Mr. Midgley responded this will be an all-male home the typical age range is between 30-60 years old. Mr. Midgley advised the board there is a vetting process for residents, he asks a lot of questions and gets to know their journey, he tries to stay away from violent offenders, I have the final say and make the final determination on who lives in the home. Ms. Healy inquired if there were any required credentials for a house manager, Mr. Midgley stated no credentials were required, however before the licensed is issued the state does a background check on the owner and the property house manager if there are any changes to the staff they must let the state know, the state also inspects the property annually. Mr. Midgley concluded the home has rules that must be followed, we do limit hours for visitors such as family and children since this is a male facility no female visitors except family are permitted.

There were no questions or comments from the public.

Attorney Razin advised the board she has researched the cases studies and is in agreement with Attorney Walters, the boards' role is to interpret the ordinance as being lawful, a lawful reading would require you to remove the restrictions based on blood and numbers. The first part the board must decide if this is operating as a single family unit and the second part is to determine if the definition is lawful. Attorney Razin stated it was her advice to remove the distinction between blood and non- blood relations, if you decide on this interpretation the appeal becomes mute.

Mr. Kyle agreed with Attorney Razin when applying the case law outline in Attorney Walters report I agree, the findings apply to this situation, the CSLR is operating as a single family unit and meets the definition of family and is a permitted use.

Mr. Snider inquired how many other cases has Attorney Walters come across, Attorney Walters replied every case is different, each town has a different definition of what is family, some towns I am successful other towns I end up in litigation. Attorney Walters asked the board to provide a favorable interpretation of the operation as being a family unit not based on numbers or familiar or unfamiliar relations but based on the testimony provided, this use constitutes as single family unit and satisfies the definition of a family under the code.

A Motion was made by Mayor Kovach, seconded by Ms. Dineen, that when interpreting the ordinance there should be no distinction of numbers or non-blood relations and this use meets the definition of a family and therefore the use is permitted in the zone and the appeal becomes mute:

Roll Call Vote:

Ayes: Sailer, Healy, Kelly, Lubsen, Smith, Snider, Kovach, Dineen,

Nays:

8-0 Motion passed

Board Discussion:

The board received a request to carry adopting the resolution for Puleo International LLC and allow the applicant to reopen the meeting to address some additional testimony. Attorney Kara Kaczynski stated the other principal of the company has some concerns regarding new shipping agreements which reflect the

off season timeframe, we would like the opportunity to address the issues head on and would ask the board to allow us to reopen the meeting in lieu of adopting the resolution.

A Motion was made by Mr. Lubsen, seconded by Ms. Healy, to reopen the meeting on May 18, 2021 at 7:00pm, the meeting will be re-advertised and legal notice will be mailed out:

Roll Call Vote:

Ayes: Sailer, Healy, Kelly, Lubsen, Smith, Snider

Nays:

6-0 Motion passed

Chairman Sailer advised the board due to lack of quorum the July 6, 2021 Land Use Board meeting will be cancelled.

Voucher approval:

A Motion was made by Mr. Snider, seconded by Ms. Healy, to approve the vouchers:

All Ayes. Motion Passed.

There being no further business a Motion was made by Ms. Healy seconded by Mr. Snider, to adjourn the meeting at 10:05pm.

Respectfully submitted

Allison Witt,
Land Use Board Administrator