



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 March 15, 2022 at 7:00pm. The meeting of the Town of Clinton Land Use Board has changed the format of its regular meeting 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”.

“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”.

N.J.S.A 10-4-8(b) authorizes municipalities to conduct public meetings through the use of streaming services and other online meetings. 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 the 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 your 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 you keep your device muted and your video turned off until called upon by the Chairman, please be advised the board also has the capability of using the mute feature if necessary.

Attorney Razin, Robert Clerico and Beth McManus were present

Donna VanWeeren was sworn in .

ROLL CALL:

Present: Chairman Sailer, Mr. Smith, Mr. DeVita, Mr. Lubsen, Mr. Padmos, Mr. Viotto,
Mayor Kovach, Ms. Dineen. Ms. Van Weeren, Mr. Kelly
Absent: Mr. Snider

Approval of Minutes:

A Motion was made by Mr. Viotto, seconded by Mr. Lubsen, to approve the February 1, 2022 minutes:

All Ayes.

Motion Carried

Abstain:

Kovach, Dineen, VanWeeren, Kelly

Completeness Review for Block 11 Lot 11- 37 Main Street and if deemed complete public meeting for a Minor site plan- Change of use office to retail/residential use:

A Motion was made by Mr. Viotto, seconded by Mr. Smith, to grant the permanent waiver requests under item 1 of Mr. Clericos' report dated March 11, 2022, grant temporary waivers for checklist items # 13, 32 and 40 and deem the application complete:

Roll Call Vote:

Ayes: Sailer, Mayor Kovach, Dineen, Smith, DeVita, Lubsen, Padmos, Van Weeren, Viotto,

Nays: **All Ayes. Motion Carried.**

Public Hearing:

Attorney Selvaggi and Mr. Steven Ackaway, Managing Partner for Legacy Intax LLC were present. Mr. Ackaway was sworn in.

The following items were submitted into evidence:

- A1 Application package
- A2 Tax Certification dated 2-15-2022
- A3 Minor Site Plans prepared by Jacob Soloman dated 8-12-2021 revised 2-9-2022
- A4 Survey prepared by VS Land Date dated 1-18-2022, revised 1-19-2022
- A5 Legal Description prepared by James P. Deady, surveyor dated 3-13-2019
- A5 Title Policy prepared by Foundation Title LL
- A6 Hunterdon county Planning Board letter dated 11-10-2021
- B1 Robert Clerico, Van Cleef Eng. Report dated March 11, 2022
- B2 Fire Marshal Report Dated 2-21-2022

Attorney Selvaggi advised the board tonight they seek Minor Site Plan approval for a change of use to operate retail use on the first floor and residential on the second floor, both uses are permitted uses in the C-1 zone. Attorney Selvaggi advised the board they have eliminated the proposed outdoor sales use and the proposed awning on the side of the building. In regard to Mr. Clericos' review letter dated March 11, 2022 and Mr. Daniels review letter dated February 21, 2022, the applicant takes no exception to the comments and suggestions.

Mr. Ackaway testified that he is the Managing Director of Legacy Intax LLC which is an investment business. The existing space in the building is office use on the first floor and second floor. Mr. Ackaway stated he was looking to convert the first floor into retail space and the second floor into four apartments. In the back of the building is a barn which is attached to the main building that will be used for tenant and residential storage as well as an area for garbage. Mr. Ackaway testified his architect confirmed the proposed apartments meet the minimum size requirements permitted by code. Mr. Ackaway advised the board he will be installing a sprinkler system on the second floor per code and per Mr. Daniels' suggestion if it is not too cost prohibitive he will consider adding it to the first floor. Mr. Ackaway stated he has no plans for any outside retail sales as originally proposed and the awning on the left side of the building will be removed from the plan. Mr. Ackaway stated the design as proposed will not require a second access to the apartments and it is his intention to comply with all building code regulations.

Mr. Ackaway testified he will comply with the ordinance and anchor the dumpster if necessary, apply for a regulated use permit from the town, have his surveyor identify and update the surveyor to show the easements, and will obtain all approvals from the water department, per Mr. Clerico's recommendations.

Chairman Sailer inquired if there will be one dumpster for all the building tenants, Mr. Ackaway replied yes and if I need to I can add more.

Mayor Kovach asked if Mr. Ackaway plans to take down all the walls, Mr. Ackaway responded if the existing walls work, I would like to leave up. Mayor Kovach voiced concerns that the plan shows one open space and the testimony presented states you might keep up the walls. Mr. Ackaway stated he was not sure what the concern was if the walls work he would keep them up. Mayor Kovach stated the concern is the plan does not match your testimony, the walls removed on the plan indicate one tenant versus multiple tenants. Mr. Ackaway stated he would like the walls for privacy but if the board wanted he would remove the walls for now. Mr. Clerico stated the issue is if the board is looking at your plan and if you are changing the plan to split the space up that may trigger the need for separate access ways and other code issues.

Attorney Selvaggi stated without securing any tenants at this time we cannot answer whether the space will be split, the best way to market the space is to show as an open space for now and if in the future he decides to split the space he will need to go to the building department for permits. Attorney Razin added there is no trigger in the ordinance that would require the applicant to come back to the board if you change the space in the future as long as you are still in line with the minor site plan procedures, you would just need to go to the building department. Mr. Ackway stated he will take down all the walls at this time.

Ms. Dineen inquired based on the testimony is it the intention of Mr. Ackaway to pursue sales similar to a flea market which was part of his testimony at a prior meeting, Mr. Ackaway stated it was no longer his intention to pursue that.

Mr. Clerico inquired if the water service was adequate to support the sprinkler system, Mr. Ackaway stated his engineer will need to determine that. Mr. Clerico stated the garbage needs to be shown on the plan so it can be evaluated under the code requirements, and inquired if the essence of what you are proposing meets code, Mr. Ackaway responded yes. Mr. Clerico asked for clarification on the garbage, Mr. Ackaway responded he proposes to put the garbage in the barn and agrees to revise the plan to show this.

Mr. Daniels stated the residential building code will require a sprinkler system and due to the flood elevation the design may not support the line, Mr. Ackaway responded he will probably do the water storage system that will be located in the barn, and he will let his professionals design the FDC along the alleyway per Mr. Daniels suggestions outlined in his memo dated February 21, 2022. Mr. Daniels stated the plan will need to be revised and will need to be reviewed from a fire safety standpoint.

Mr. Padmos asked for clarification on the entrance he stated it looks like you can access the retail space when entering the stairs and inquired how you access apartments, Mr. Ackaway responded when you enter the first floor there is set of stairs to access the apartments.

Mr. Jonas inquired how you stop consumers accessing the upstairs, Mr. Ackaway replied that each apartment will have a separate door. Mr. Daniels added the building department will require an additional door before you can access each apartment doors.

The board opened the meeting to the public there were no public questions or comments.

Attorney Selvaggi summarized the conditions of approval: the architectural plans will be revised to show the removal of the walls; the additional interior door; the location of the garbage within the barn which will require approval from the Fire Marshal; and the awning will be removed from the plan. In addition, we will apply for the regulated use permit; the survey will be updated to include the additional easement language; and we will comply with the Fire Marshal and will show the fire compliance on the building plans. Attorney Selvaggi stated we meet the standards for a Minor Site Plan approval and would ask the board to grant the approval with the agreed upon conditions as discussed.

A Motion was made by Mr. Smith, seconded by Mr. Viotto, to approve the Minor Site Plan with the conditions that were agreed upon:

Roll Call Vote:

Ayes: Sailer, Mayor Kovach, Smith, DeVita, Lubsen, Padmos, Van Weeren, Viotto, Kelly

Nays:

All Ayes: Motion Carried.

Review & Recommendation of Proposed Ordinance - Permitted uses C-1 Zone:

Beth McManus stated the proposed ordinance amends the permitted uses within the C-1 zone, the ordinance is in character with the retail and restaurant uses in the C-1 zone and she advised the board that in her opinion this ordinance is consistent with the Town Master Plan.

A Motion was made by Mayor Kovach, seconded by Mr. Smith, recommending the proposed ordinance is consistent with the Town of Clinton Master Plan:

Roll Call Vote:

Ayes: Sailer, Mayor Kovach, Smith, DeVita, Lubsen, Padmos, Van Weeren, Viotto, Kelly

Nays:

All Ayes: Motion Carried.

Review & Recommendation of Proposed Ordinance- AH1 Zone- Block 3 Lot 2:

Beth McManus advised the board the Ordinance will create assisted living age restricted housing as well as independent living on Block 3 Lot 2 which also satisfies the settlement agreement with the Towns' Fair Share Housing obligation. The goal of the Master Plan is to provide suitable housing for all and to encourage a variety of senior housing, this ordinance satisfies that goal and is consistent with the Town of Clinton Master Plan. Ms. McManus stated this ordinance will give us assurance that development will proceed which gives us certainty for the Towns fourth round fair share housing plan.

A Motion was made by Mayor Kovach, seconded by Mr. Smith, recommending the proposed ordinance is consistent with the Town of Clinton Master Plan:

Roll Call Vote:

Ayes: Sailer, Mayor Kovach, Smith, DeVita, Lubsen, Padmos, Van Weeren, Viotto, Kelly

Nays:

All Ayes: Motion Carried.

Board Discussion:

The board discussed meeting in person, Mayor Kovach advised the board maybe in the spring.

Voucher approval:

A Motion was made by Mr. Vioto, seconded by Mr. Padmos, to approve the voucher list:

All Ayes. Motion carried.

Adjournment:

There being no further business a Motion was made by Mr. Vioto, seconded by Mr. Devita to adjourn the meeting at 8:50pm.

Respectfully submitted,

Allison Witt Land Use Board Administrator