

**Borough of Clementon**

**Planning/Zoning Board**

**September 14, 2017 Meeting Minutes**

The September 14, 2017, meeting of the Clementon Planning/Zoning Board was called to Order by Chairman Feldman. It was announced that the meeting has been properly advertised and posted Pursuant to N.J.S.A. 10:4-6, The Open Public Meetings Act. The meeting was then opened with a salute to the flag and called to order by Chairman Feldman.

Present: Chairman Feldman, V.C. Kunkel, Secretary McKelvey, Member Armbruster, Member Lofland, Member Kuns, Member Saunders, Member Naurath, Solicitor Rhodes. Bill Fleming , Churchill Engineering.

Absent: Mayor Weaver

May, July, and August 2017 meeting minutes were approved.

Chairman Feldman calls Ms. Yoder for a 6 foot fence variance for back of her yard. It will start behind her side door and continue. Starting from the east side to west side, it will be 6 foot pressure treated fence.

Mrs. Yoder: I had a child recently and I want to keep him in the yard. A chain link would not give me privacy. I plan on getting a German Sheppard and I would not want it to jump the fence. I want to keep people from walking through my property from the railroad tracks.

Chairman Feldman: will you agree to keep enough room in between your fence and the other fences to maintain.

V.C. Kunkel: made motion to approve.

Member Kuns: Made Second motion.

Roll Call: Chairman Feldman, V.C. Kunkel, Secretary McKelvey, Member Lofland, Member Kuns, Member Saunders, Member Naurath all approved. Member Armbruster abstained.

Chairman Feldman: There is a 45 day grace period to appeal this vote. It is up to you if you put the fence up now or wait. You are aware if there is an appeal, you might have to take the fence down.

Mrs. Yoder: Yes, Thank you.

Chairman Feldman: Tim Lindmeir

Robert Wiltsee, Attorney for Tal Management properties. We will proceed with the 6 voting members.

This applicant appeared back in 2012 the application was denied. Our burden is to convince the board that our application is different. We are asking for an expansion of the use variance.

Solicitor Rhodes: The law says we don't have to hear the case twice once it has been denied. That decision becomes the law of the case. The applicant must demonstrate that their request is different from the initial one that was denied. I agree with Mr. Wiltsee to some extent that it is not an abstract analysis of expansion of non-conforming use in general. If he had applied to do a patio on the south side and we denied it. Now is saying he is putting it on the North side with a different configuration, you might say that it is a different application. A preliminary approach focusing on location size materials that might be the way you want to do.

Chairman Feldman: In the case of a variance this is from a case Cox. When an applicant decides to use the land that is not permitted in the zone which this one is and the applicant is denied, which this one was. The applicant seeks subsequently the same but comes in with an altered site plan. Which this does, the second application may be barred by the doctrine of res judicata. In my opinion this application is exactly what I just read to you.

Mr. Wiltsee, Esquire: I disagree it is different. If we try to categorize what we can come to this board with will come down to sub division, site plan and variance, with a couple of variations. Yes we are here for an expansion of a use variance. From Mr. Rhodes' point, if you have a different application you have a different application. Just because it has a use variance doesn't mean the board can't hear us. Now if you hear us and you don't want to hear the site plan than we can understand that. But we should be able to explain to the board how we are different from the other application.

V.C. Kunkel: before we get into this we have another Borough Official our Engineer. Have you looked over this?

Bill Fleming: I have looked at this. I was interested in hearing what the difference is between the two.

Solicitor Rhodes: I understand that the Chairman is interpreting res judicata to say if the applicant is asking for any type of use variance he is barred.

Chairman Feldman: I only read what Cox said, so yes that is exactly what I am saying.

Solicitor Rhodes: The board needs to make a decision first on the interpretation. My interpretation as council is that that is not the interpretation of res judicata. It is intended to prevent an applicant from coming in and giving you the same presentation. If he alters it substantially until I hear it presented, it will be hard to say. The board needs to make a decision to see if they see res judicata preventing him from asking for a use variance ever again.

Chairman Feldman: I am asking the board to either let this application proceed or apply res judicata to this application. And send the gentleman back home.

V.C. Kunkel: I make a motion to proceed and let them present the changes they have made.

Secretary McKelvey: Made second motion

Roll Call: Chairman Feldman, No, V.C. Kunkel, Yes, Secretary McKelvey, Yes, Member Armbruster Abstained, Member Lofland, No, Member Kuns, Yes, Member Saunders, No

Chairman Feldman: I think you are denied.

Mr. Wiltsee, Esq.: Well the board made the decision against the advice of their professionals, that's all we can do. Thank you for your time.

Solicitor Rhodes: The applicant has a right to appeal the board's decision thru superior court. If he does do that and he is successful he will be back.

Chairman Feldman: We have a mercantile license for Palace Restaurant?

Yin Li: The restaurant is 18 Berlin Rd. Only changes that will be made will be the sign same size as the previous one. We will have the existing trash pickup and four employees. Hours will be 11am to 10pm, 7 days a week.

Chairman Feldman: I need a motion to send this to council.

V.C. Kunkel: Made first motion to send to council. Second motion was made by Member Saunders.

Roll Call: Chairman Feldman, Yes, V.C. Kunkel Yes, Secretary McKelvey, Yes, Member Armbruster, Yes, Member Lofland, Yes, Member Kuns, Yes, Member Saunders, Yes, Member Naurath, Yes.

Chairman Feldman: Site Plan for Darryl Pitt.

Darryl Pitt and Shaquoia, Pitt, 97 Pheasant Lane, Willingboro, NJ was sworn in by Solicitor Rhodes. We want to turn the front of the building into a parking lot.

Wayne Ingram Engineer of Project: What they want to do is open a financial Insurance institution. And convert the residence into a commercial structure. Installing a 5 car parking lot and a driveway to the White horse pike. We applied to the DOT for the curb cuts. We will be modified and centralized on the lot, minor lighting improvements, Minimal landscaping on the side of the property. This is in the business zone it is only a 960 sq ft building. We are installing a small trash area. The full driveway area is about 3754 sq feet. The total impervious is 5,010 sq feet is the total sq footage including the building. This is a minor project. No need for storm water management everything will continue to drain towards the road. We are in the B2 zone which permits the office use.

Chairman Feldman: I want to look at the grading on the site plan. How long is the driveway?

Mr. Ingram: 70 feet to the parking area. It is grading to the road, we have a vacant lot to the left and a bar to the east. No adjoining residential properties.

Chairman Feldman: How do you plan to drain the driveway?

Mr. Ingram: Sheet flow. It's 102 and the street is about 100 so there is about 1 foot drop. We have a handicap strip that goes all the way to the Western side of the property. We will have a handicap ramp that is required.

Chairman Feldman: I can't tell by this plan if this is compliant with the ADA regulations. Have you prepared the detail?

Mr. Ingram: We have detailed grading showing we are compliant.

Chairman Feldman: It is showing a 102 ½ and then a 105.36, that's about 3 feet. Does that comply with 12%? What is the distance from the beginning of the ramp to the end of the ramp?

Mr. Ingram: We have a 15 foot run then a landing pad, then another 15 foot run. So 30 feet for a 2 ½ foot rises. We can agree that we will lengthen the ramp to meet the requirements.

Chairman Feldman: to clarify things put a detail on the plan for Mr. Fleming to review it and we all know it complies.

Mr. Ingram: We plan on putting a free standing sign in accordance to the requirements. It will be located just east of the driveway just 10 feet from property line. We are proposing a couple of lights for the parking lot also to meet with the required standards along with minimal landscaping of the parking area. We don't have much frontage we have some existing vegetation.

Chairman Feldman: Mr. Fleming do you have any comments? Have you been able to review the plans?

Bill Fleming Churchill Engineer: I have not, my recommendation to the board that they make their decision based on the applicant making the necessary changes found by the Engineer.

Chairman Feldman: If we do conditionally approve the application and he finds things that have to be adjusted or amended, do you agree to get those things done?

Mr. Ingram: If for some reason we have to come back before the board for a modification, I don't think we have a choice.

Chairman Feldman: I am sure you can handle it between you guys. If it is more serious than you'd have to come back.

Mr. Ingram: Most of the landscaping ordinance requires buffering if near a residential area. That doesn't apply to us. We have vegetation to the West and a bar to the East. We did propose a small landscaped island along the driveway area we didn't feel the need to have more landscaping beyond what we proposed.

Member Armbruster: Do you intend on putting any barriers along the street? The bar often times have parking issues. I feel they will be parking in your area if someone were to get hurt in your area I feel you would have some liability issues. You might want to show something on the site plan.

Mr. Ingram: We would have to make sure it is far enough back to avoid a problem with the roadway.

Chairman Feldman: Anyone from the Public, Board, Engineer with questions? May I have a vote on the conditional approval for the site plan, grading plan etc.?

V.C. Kunkel made first motion.

Secretary McKelvey: Second motion

Roll Call: Chairman Feldman, V.C. Kunkel, Secretary McKelvey, Member Armbruster, member Loftland, Member Kuns, Member Saunders, Member Naurath all agreed on the conditional approval of the parking lot.

Gene Richards Zoning Officer: There have been 19 sales of properties in town From August to today. That's all I have.

Bill Fleming: I don't know what happened with the Hideaway property.

Chairman Feldman: We didn't hear it so you didn't have to comment on the plans.

Member Armbruster: We haven't done a master plan review in about 10 years. Normally we do it about every 7 years. We may want to consider doing it for 2018. It does become time intensive for the board it would be a good time to consider. We should probably submit it for the 2018 budget. I do think Bill Fleming would be able to do it for us.

Bill Fleming: I do know the town very well. It's not something I do routinely. I can see if Leigha or Bob Melvin I could ask.

Member Armbruster: I just want to make sure it is in the budget. We need to make sure things are kept current with our Zoning.

Secretary McKelvey: Will there be any suggestions for the classes offered by the League for Municipalities.

Member Lofland made motion to adjourn. Second by V.C. Kunkel.

