

# MINUTES OF CLINTON TOWNSHIP BOARD OF ADJUSTMENT

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## IN-PERSON PUBLIC MEETING

DATE: March 28, 2022

Chairman McCaffrey called the meeting to order at 7:00pm.

Chairman McCaffrey read the Public Notice.

This was an in-person public meeting of the Zoning Board of the Township of Clinton, County of Hunterdon and State of New Jersey. Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act in that an Annual Notice was published in the Hunterdon County Democrat and the notice of and agenda for this meeting was posted on the bulletin boards in the Municipal Building and outside the Planning and Zoning Office and faxed to the Hunterdon County Democrat, the Express Times, the Courier News, the Hunterdon Review, and the Star Ledger, no later than the Friday prior to the meeting.

### MEMBERS ATTENDANCE

Lewis, Lyte, McCaffrey, McTiernan, Pfeffer, Stevens  
Ms. Rohrbach arrived at 7:05pm.

### MEMBERS ABSENT

Yager

### PROFESSIONALS/STAFF IN ATTENDANCE

- 1) Jonathan Drill, Esq., Board Attorney
- 2) Denise Filardo, Board Secretary

### REVIEW OF VOUCHERS

Board Members reviewed vouchers. There were no questions or concerns.

### MEETING MINUTES

- 1) MEETING MINUTES – DECEMBER 13, 2021

A motion was made by Ms. Stevens and seconded by Mr. McTiernan to adopt the Meeting Minutes of December 13, 2021. The vote record follows.

<b>Roll Call: Meeting Minutes 12-13-2021</b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Not Eligible</b>	<b>Absent</b>
Lewis					X	
Lyte (Alt. 1)			X			
McCaffrey (Chair)			X			
McTiernan		X	X			
Pfeffer (Vice Chair)			X			
Rohrbach			X			
Stevens	X		X			
Yager						X

2) MEETING MINUTES – JANUARY 24, 2022

A motion was made by Ms. Stevens and seconded by Mr. McTiernan to adopt the Meeting Minutes of January 24, 2022. The vote record follows.

<b>Roll Call: Meeting Minutes 1-24-2022</b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Not Eligible</b>	<b>Absent</b>
Lewis			X			
Lyte (Alt. 1)			X			
McCaffrey (Chair)			X			
McTiernan		X	X			
Pfeffer (Vice Chair)					X	
Rohrbach			X			
Stevens	X		X			
Yager						X

**RESOLUTIONS**

1) JOSEPH SERRANI

Block 16, Lot 70

Application No. BOA-2020-05

Resolution No. 2022-01

Resolution dismissing Application No. BOA-2020-05 With Prejudice for failure to comply with conditions of Resolution No. 2021-04.

Mr. Serrani did not pay the legal fees to the Herra as conditioned in Resolution No. 2021-04, therefore the Dismissal is now being changed from a Dismissal without Prejudice to a Dismissal With Prejudice.

A motion was made by Ms. Stevens and seconded by Mr. McTiernan to adopt Resolution No. 2022-01. The vote record follows.

<b>Roll Call: Joseph Serrani Dismissal with Prejudice - Resolution No. 2022-01</b>
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Member	Motion	2nd	Yes	No	Not Eligible	Absent
Lewis			X			
Lyte (Alt. 1)					X	
McCaffrey (Chair)			X			
McTiernan		X	X			
Pfeffer (Vice Chair)					X	
Rohrbach					X	
Stevens	X		X			
Yager						X

Mr. Pfeffer recused from St. Clair application and exited the meeting.

**PUBLIC HEARING**

- 1) ST. CLAIRE REAL ESTATE, LLC  
 ROUND VALLEY DENTISTRY  
 Block 59, Lot 1  
 87 Beaver Avenue  
 Application No. BOA-2021-10  
 Resolution No. 2022-02

Resolution memorializing grant of a “D(4)” Far Variance, “C(1)” and C”(2)” Variances, Site Plan Ordinance Exceptions, Preliminary and Final Site Plan Approval, and Modification of Prior Approval Conditions to allow construction of an addition by converting a prior bank “drive-thru” area of the site into additional dental office space.

This application commenced on January 24, 2022 and was continued to March 28, 2022.

The applicant’s attorney, Kara Kaczinski provided an overview of the prior relief granted by the Planning Board and the requested relief.

Applicant’s Engineering and Planning Expert Chris Nusser via telephone due to illness.

The following individuals were sworn and testified during the January 24, 2022 hearing and remain under oath.

- 1) John Mielo (Applicant’s managing member),
- 2) Wayne Ingram, PE, PP (Applicant’s engineering and planning expert),
- 3) John Olivo, LLA, ASLA (Board’s landscape architectural expert), and
- 4) Tom Behrens, PP, AICP (Board’s planning expert);
- 5) John Haerberle, RA, AIA (Applicant’s architectural expert), testimony held until March 28, 2022.

It was noted that there was no one in the public and running a Webex platform and no one from the public was on the Webex either.

Mr. Haerberle’s was sworn at the January 24<sup>th</sup> hearing, his testimony was held until this meeting and he remains under oath.

Mr. Haeberle credentials were accepted as an architectural expert by the Board.

Mr. Haeberle's testimony included and was not limited to the following:

- Reference to rendering R-1 dated February 2, 2022 which was prepared in response to the Board's request at the January 24<sup>th</sup> hearing to utilize brick on all three sides of the addition as opposed to only one side,
- Overview of the traditional architectural style of the existing two-story building,
- Dimensions and location of the proposed 196sf addition,
- Materials to be used,
- Display of sample brick facing labeled "Glen Gary Danish 1776" which will match the existing brick on the building.

## **BOARD FINDINGS AND CONCLUSIONS**

### "D(4)" FAR Variance

- the 0.49% FAR deviation is minimal and is not the result of a building addition but due to additional floor area that will be added to the dental office building through the conversion of the unenclosed prior drive-thru area to dental office use.
- the additional dental office space will result in an increase in employees on site and in the dental office building at any one time from 6 to 8, however the overall intensity of use on the site can be accommodated within the confines of the existing dental office building and within the existing improvements on the site.
- the new dental office space will house a fifth patient chair but will not increase in the number of dentists working in the dental office building at any one time because the proposed fifth chair will be used by a specialist that will have scheduled hours just like all of the other dentists and no more than four (4) dentists and four (4) dental hygienists will be working in the dental office building at any one time.
- even though the number of employees at any one time will increase from 6 to 8, the existing 18 parking spaces on the site are still two (2) more spaces than needed to accommodate all employees and patients on the site at any one time.
- the proposed development will not increase the impervious coverage currently on the property and will not result in any negative impacts and therefore will not cause substantial detriment to the public good.
- the proposed development will allow for a fifth dental chair to be used by a specialist which will promote the health of patients and the public.
- the Board concluded that the "d(4)" variance can and should be granted subject to the applicant's compliance with the Board imposed conditions.

### "C(1)" Front Yard Setback and Impervious Coverage Variances.

- granting the "c(1)" variances to allow the two front yard setback deviations and the impervious coverage deviation are warranted as there is nothing the applicant can do to obtain additional lot area to provide additional front yard setback area and if the front yard requirement is strictly enforced, no building could be erected or used on the property.
- these conditions constitute extraordinary and exceptional situations uniquely affecting the property and the proposed converted portion of the dental office building located on the property, and that unless "c(1)" front yard setback and

impervious coverage variances are granted to allow the proposed conversion of the prior drive-thru area to dental office space, these zoning ordinance regulations will have the effect of inhibiting the extent the property can be used.

- the “c(1)” front yard setback and impervious coverage variances can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the master plan and zoning ordinance as the proposed new portion of the dental office building will be indistinguishable from the existing building due to the use of the same brick on all three sides of the addition and will be aesthetically pleasing and the additional 0.23% of impervious coverage is negligible.
- the Board concludes that the “c(1)” variances can and should be granted subject to the applicant’s compliance with the Board imposed conditions.

#### “C(2)” Parking Variance

- Even though the number of employees on the site and in the dental office building at any one time will increase from 6 to 8, the existing 18 parking spaces on the site are still two (2) more spaces than needed to accommodate all employees and patients on the site at any one time.
- granting a “c(2)” parking variance to allow the existing 18 off-street parking spaces to remain where 23 spaces are required will provide more open space on the site than now exists because no additional blacktop will need to be installed to provide additional spaces, thereby promoting the purposes of the MLUL and these zoning benefits are community wide benefits and the granting of the variance will not just benefit the applicant.
- the variance can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the master plan and zoning ordinance.
- the Board concludes that the “c(2)” variance can and should be granted subject to the applicant’s compliance with the Board imposed conditions.

#### Findings and Conclusions as to Site Plan Ordinance Exceptions

- the Board agrees with the applicant that there is not enough physical space on the property to fully comply with the site plan landscaping requirements. As such, the literal enforcement of the ordinance requirements at issue will exact undue hardship because of the peculiar conditions of the property.
- landscaping exceptions were granted by the Planning Board as part of the 2017 approvals and granting these exceptions is reasonable under the circumstances due to the small size of the addition (196 square feet) and the fact that there will be no negative impact on the adjacent lots and/or travelling public.
- granting the requested exceptions is within the general intent and purpose of the provisions for site plan review and approval. As such, the Board concludes that the exceptions can and should be granted subject to the applicant’s compliance with the Board imposed conditions.

Findings and Conclusions as to the Request to Modify the Condition of Planning Board Resolution No. 2017-03 which provides that the applicant must obtain approval by either the Planning Board or the Board (as the case may be) to expand the dental office building and/or increase the number of employees on the property at any one time beyond a total of 6 employees.

- the Board believes that the Planning Board’s intent in imposing the condition was to ensure that there would be adequate parking for the dental office use so that prior board approval had to be obtained before any expansion of the physical building and/or before any increase in the number of employees on the property at any one time.
- the proposal to modify the condition by increasing the permitted number of employees on site at any one time from 6 to 8 is consistent with the Planning Board’s intent in imposing the condition as the existing 18 parking spaces will accommodate the increase in employees and expansion of the square footage of the building.
- the Board concludes that the requested condition modification can and should be granted subject to the applicant’s compliance with the Board imposed conditions.

Findings and Conclusions as to Preliminary and Final Site Plan Review.

- With the exception of the variances and exceptions that have been requested and which the Board concludes should be granted, and subject to the applicant’s compliance with the Board imposed conditions, the Board finds that the proposed Site Plans and Architectural Drawings will comply with all other zoning ordinance regulations and site plan ordinance requirements.
- The Board also concludes that the Welcome Sign Detail and Identification Sign Detail referenced above comply in all respects with the Township signage regulations.

**RELIEF GRANTED**

All of the relief granted below is subject to the applicant’s compliance with the Board imposed conditions.

“D(4)” FAR Variance to allow the FAR on the property to increase from 14.62% to 15.49% after the construction of the addition to the dental office building, where 15% is the maximum permitted FAR in the C-1 zone.

“C(1)” Front Yard Setback and Impervious Coverage Variances

- Two “c(1)” variances to allow the dental office building after construction of the addition to be setback 30.91-feet from Beaver Avenue and approximately 34-feet from Route 31, where the minimum required setback is 40-feet in the C-1 zone, and
- One “c(1)” variance to allow 51.7% impervious coverage on the property where a maximum of 40% impervious coverage is allowed in the C-1 zone.

“C(2)” Parking Variance to allow the existing 18 parking spaces on the property where a minimum of 23 parking spaces is required for the dental office use as the dental office is a medical office which requires one (1) parking space for every 150 square feet of floor area in the medical office.

The Prior “C(1)” and “C(2)” Variances Remain in Full Force and Effect as they run with the land.

Exceptions from Site Plan Ordinance Landscaping Requirements

- that parking lot landscaping be provided;

- that the applicant shall install a parking lot buffer which shall screen parking from the public right-of-way and adjacent uses both on and off site;
- that landscaping buffer neighboring lands;
- that front yard buffers for all non-residential site plans be provided in the C-1 zone.

Modification of Condition No. C.5 of Planning Board Resolution No. 2017-03 which provides that the applicant must obtain approval by either the Board to expand the dental office building and/or increase the number of employees on the property at any one time beyond a total of 6 employees is modified to provide that the applicant must obtain approval of the Board to expand the dental office building and/or increase the number of employees on the property at any one time beyond a total of 8 employees.

Amended Preliminary and Final Site Plan Approval.

A motion was made by Ms. Stevens and seconded by Ms. Lyte to grant the aforementioned relief. The vote record follows.

<b>Roll Call: St. Clair Real Estate d/b/a Round Valley Dentistry Amended Site Plan and "d" Variance</b>						
<b>Member</b>	<b>Motion</b>	<b>2nd</b>	<b>Yes</b>	<b>No</b>	<b>Recused</b>	<b>Absent</b>
Lewis			X			
Lyte (Alt. 1)		X				
McCaffrey (Chair)			X			
McTiernan			X			
Pfeffer (Vice Chair)					X	
Rohrbach						
Stevens	X		X			
Yager					X	X

**ADJOURNMENT**

A motion was made by Ms. Stevens and seconded by Ms. Lyte and the meeting was adjourned at 7:44pm.

Respectfully Submitted,

*Denise Filardo*

Planning and Zoning Board Secretary

These minutes were approved on August 22, 2022.