

**READINGTON TOWNSHIP BOARD OF ADJUSTMENT  
MINUTES**

**March 15, 2012**

**A. Chairperson Denning called the meeting to order at 7:34 p.m. announcing that all laws governing the Open Public Meetings Act had been met and that the meeting had been duly advertised.**

**Members present**

<b>Mrs. Flynn</b>	<b>absent</b>
<b>Ms. Hendry</b>	<b>absent</b>
<b>Mr. Hendrickson</b>	<b>absent</b>
<b>Mr. Simon</b>	<b>absent</b>
<b>Mr. Stettner</b>	<b>present</b>
<b>Mrs. Goodwin</b>	<b>present</b>
<b>Mr. Thompson</b>	<b>present</b>
<b>Mr. Denning</b>	<b>present</b>

**Donald Moore, Esq., Kelleher & Moore  
John Hansen, Ferriero Engineering  
Michael Sullivan, Clark Caton & Hintz**

**B. APPROVAL OF MINUTES:**

**February 19, 2012 - Mr. Stettner made a motion to approve the minutes. Mr. Thompson seconded the motion. Motion was carried with a vote of Ayes all, Nays none recorded.**

**March 3, 2012 – site walk. Mrs. Goodwin made a motion to approve the minutes. Mr. Denning seconded the motion. Motion was carried with a vote of Ayes all, Nays none recorded. (counsel for the applicant was sent a copy of the minutes)**

**Mr. Thompson stated that he did not attend the site walk, but he did visit the site later in the week.**

**C. CORRESPONDENCE:**

- 1. Copy of a memo from Donald Moore, Esq., to Michael Sullivan regarding the ROM zone.**
- 2. Letter from Mark Hartman to the board. Mr. Hartman addressed the board. Mr. Hansen informed the board that the approving resolution had a list of conditions. Once all outside permits are received, the plans can be signed. Mr. Hartman is asking for a deviation from that process. There are still some outstanding issues with Michal Sullivan and treatment works approval from the State and local sewer authority. Mr. Hansen stated that if the board wanted to deviate from the procedure he recommended an amendment to the developer’s agreement. The developer’s agreement could be revised to contain the condition that no work can be performed on the utilities without permits. Mr. Hartman would only be allowed to perform site work and no whole building permits would be issued. A time constraint could be imposed if permits aren’t received in 150 days. The township would have the right to stop work. A cash restoration bond should be in place; and**

Mr. Sullivan's issues should be resolved. Mr. Hartman requested a building permit only for the foundation in order for him to perform the site work. Mr. Hansen agreed. Mr. Thompson stated that he was the dissenting vote when this application was approved. Mrs. Goodwin also felt uncomfortable with giving permission for the waiver request. Mr. Stettner stated that he did not have a problem with granting his request. Chairman Denning stated that he felt comfortable with agreeing to the request since a bond will be posted.

Mrs. Goodwin made a motion to deviate from our normal process by allowing the applicant to perform the above listed items. Mr. Stettner seconded the motion.

Roll call:

Mrs. Goodwin            aye  
Mr. Stettner            aye  
Mr. Thompson          aye  
Chairman Denning      aye

A letter was received by the board from Anthony Koester, Esq., regarding Hunterdon Hills Animal Hospital. Mr. Moore read the letter into the record. The applicants request is a deviation from the process to allow the construction to begin. Mr. Hansen informed the board he did speak with Attorney Koester. Mr. Hansen recommended that the same conditions could be imposed on this applicant as what was imposed on the previous request, Mr. Hartman.

Mrs. Goodwin was uncomfortable approving anything without the applicant being present. Mrs. Goodwin suggested that a letter be sent to the applicant indicating that the board has questions.

**D. TECHNICAL REVIEW COMMITTEE:**

1.     **John Schley**  
       **37 Island Road**  
       **B. 14, L. 1**  
       **Variance**  
       Action date: April 1, 2012 – Mrs. Goodwin stated that the TRC does not recommend that the application be deemed complete.
  
2.     **Hunterdon Brewing Company, LLC**  
       **12 Coddington Road**  
       **B. 36, L. 44.02**  
       **Variance**  
       Action date: April 7, 2012 – Mrs. Goodwin stated that the TRC recommends that this application be deemed complete.
  
3.     **Todd Sherry**  
       **281 Potterstown Road**  
       **B. 4, L. 13**  
       **Variance**  
       Action date: April 9, 2012 Mrs. Goodwin stated that the TRC recommends that this application be deemed complete.

4. **Oh Harvest Group, LLC**  
**405 Rt. 22 East**  
**B. 21.13, L. 4**  
**Variance**

**Action date: April 16, 2012 Mrs. Goodwin stated that the TRC does not recommend that the application be deemed complete.**

**Mrs. Goodwin made a motion to deem Hunterdon Brewing Company, B. 36, L. 44.02 and Todd Sherry, B. 4, L. 13 complete. Mr. Stettner seconded the motion. Motion was carried with a vote of Ayes all, Nays none recorded.**

**E. RESOLUTIONS:**

1. **21 County Line Road, LLC & Precision Graphics, Inc.**  
**Use Variance**  
**21 County Line Road**  
**B. 39, L 58.01**

**Mr. Thompson made a motion to approve the resolution. Mrs. Goodwin seconded the motion.**

**Roll call:**

**Mr. Stettner            aye**  
**Mr. Thompson        aye**  
**Mrs. Goodwin         aye**  
**Chairman Denning   aye**

**F. VOUCHER APPROVAL: (sent electronically to Board)**

**Mrs. Goodwin made a motion to approve the vouchers as submitted. Mr. Thompson seconded the motion. Motion was carried with a vote of Ayes all, Nays none recorded.**

**G. PUBLIC HEARINGS**

1. **Winfield Management**

**B. 8, L. 3**

**Application for Amended Approval and sign waiver**

**Chairman Denning announced that this matter was carried to April 19, 2012.**

**H. OLD BUSINESS –**

- 1. 25 Ridge Road Realty, LLC  
Bifurcated application for Interpretation  
25 Ridge Road  
B. 38, L. 52 (continuation)**

**Roy E. Kurnos, Esq., stated that this is a continuation of last month's meeting.**

**Witnesses for this evening are: Scarlet Doyle, Mr. Balardo prior owner; and Mr. Becker who is the owner of 25 Ridge Road.**

**Mr. Kurnos stated that there is a problem with the size of the sign. They incorrectly measured it. Mr. Hansen stated that he would review the size, but to make a determination as to whether or not the sign is conforming is the zoning officer's call. Mr. Moore swore in all of the witnesses.**

**Scarlet Doyle stated her credentials for the record. She is a licensed planner in the State of New Jersey since 1981. The board accepted her credentials.**

**Mrs. Doyle testified that she reviewed Readington Township's ordinance. She reviewed the previously submitted exhibits. She explained that the property lies in the ROM2 zone.**

**Exhibit A-11 – (1) – Copy of a section of the zoning map prepared by Scarlet Doyle, dated July 2009.**

**The permitted uses that are applicable are administrative and business, office light warehousing, associated offices and light manufacturing. However there is not a definition in the ordinance for light warehousing.**

**Exhibit A-12 (2) copy of the Appendix XI from Cox.**

**Mrs. Doyle stated that years ago this property appeared and received approval to increase the Floor Area Ratio. The building was never built.**

**Exhibit A-13 (3) copy of the MLUL regarding enforcement.**

**Exhibit A-9 remarked as A-25 (4) copy of A-9. Zoning permit, the date issue 8/31/2010. Application number: ZA-10-00240, Permit Number: ZP-10-00236**

**Mrs. Doyle informed the board that the zoning officer did issue a zoning permit.**

**Exhibit A-14 (5) Dated December 16, 2010 from Attorney Kurnos.**

**This letter was for the mortgage company. He applied and requested another zoning permit. This sets forth what uses the building will house.**

**The applicant closed title. Nine months after the zoning permit was issued**

**Exhibit A-15 (6) – Letter from Readington Township.**

**Ms. Doyle stated that the Township Committee discovered that the zoning permit was issued in error. She informed the board that no matter how good the intentions are of the governing body, they should resist in making zoning determinations. The zoning board of adjustment has the only jurisdiction to make that determination.**

**Exhibit A-16 (8.0) Letter to Mr. Becker from John Barczyk dated September 19, 2011.**

**Mrs. Doyle underlined the important lines of the letter. She read the letter into the record. Mr. Barczyk revoked the zoning permit 9 months after the applicant purchased the property. Mrs. Doyle went through every item of Mr. Barczyk's letter, including: Section 148-6; 148-6 F; 148-6I; 148:57 and 148-54B.**

**Mrs. Goodwin wanted to know why the applicant did not apply for a variance when they were instructed to do so, rather than the interpretation of the ordinance. Mrs. Doyle said that a variance application is not necessary. At this point, according to the zoning officer, the property is no longer legally occupied.**

**A-17 – (10.0) copy of the ROM2 ordinance.**

**She specifically pointed out section F which is the area and yard requirements in the ROM-2 zone. The minimum tract area is less than 25 acres; but the minimum lot is 2 ½ acres. First you have to look at the definition of tract.**

**The letter from the zoning officer refers to paragraph (f) of the ordinance.**

**A-18 – (16) Information from the Township of Readington website definition sections.**

**In order to determine what the intended use is, you have to go back to the ROM2 zone. The section of the ROM2 ordinance states that they want small uses within a planned park.**

**A-19 (14) The Readington Township Code taken from the website, definition section.**

**The ordinance does not have a planned park definition. Without having a definition of planned park she needs a preponderance of information to be comfortable with the word “planned”.**

**A-20 (15) Definition of “planned”.**

**All definitions indicate developed as a single development. A planned development is a single entity. This is a tract. Every term that is related to “planned” references it as a single entity.**

**Mr. Barczyk contends that the use “light warehousing” is not permitted based upon the ROM1 standard.**

**A-21 (9.0) Ordinance section 148-23 ROM-1 Research Office and Manufacturing Zone.**

**Mr. Barczyk’s letter states that light warehousing and office use must have access to Route 22. The only place that they mention ROM1 is under area and yard requirements. In ROM 1 principal uses, B1 B – the property is located in the ROM 1. On the 3<sup>rd</sup>. page it speaks about yard and area requirements if it was a tract. You cannot assign permitted uses in B to ROM 2. The uses don’t change. The area and yard requirements change the tract. Even though it is in ROM2 he is stating that the use of light warehousing based on the ROM1 standard. The next item in his letter that is mentioned is 148-6.**

**A-22 – 148-6 Prohibited uses in the ordinance – Uses for ROM2**

**In Mr. Barczyk’s letter, the issue is the trucking. He believes that trucking is not permitted. In A-17, second page (3) prohibited uses, it states that trucking is permitted and warehousing is a permitted use.**

**Trucking is not prohibited under this section. Trucking is inherent in the use and is protected in the ROM 2 under nuisance.**

**The board took a five minute break.**

**Mrs. Doyle stated that the next item is 148 6 F, merchandise materials outside of the building and not screened from view. She stated that the term merchandise is not defined in the ordinance. She did not see storage of merchandise outside of the building. The zoning officer is not clear as to what he means. Section 148-6 (i) parking for short time of trucks. He states that this applicable. She argues that it does not. The trailers that are on site are not for storage.**

**Mr. Thompson stated that during his visit to the site, he was told that the trailers are used for storage.**

The next section is 148-57 that states no more than one principal use, dwelling, shall be permitted on the lot. There are two businesses on the site. At 148-54 b 2 no conforming use shall be changed increased unless relief is granted. In 1991 the last conforming use was on the site. This did go to the zoning board and the enlargement to the building did not occur. The revocation of the zoning permit should be overturned by this board. The permitted uses are those as proposed in ROM2. The decision of unscreened merchandise should be overturned. The two uses on the property could be a possibility.

Mr. Denning asked if the parcel qualifies as a ROM2 zone. Mrs. Doyle answered yes, because it is not a tract.

Mrs. Goodwin wanted to know what the other businesses are on the site. Mrs. Doyle answered that there is light warehousing, light manufacturing and some additional uses.

Mrs. Doyle continued to testify and identified the principal uses.

Exhibit A-23 – No more than one principal use shall be on the lot.

Exhibit A-24 – (13) 148-54-b2 ordinance

Exhibit A-25 – aerial view

Mrs. Doyle stated that there are two issues for the board. Under what conditions can a zoning permit be revoked? The zoning officer issued his approval in December 2010 and revoked it 9 months later. The board should get advice from counsel. The second issue – once the zoning officer makes a decision, an appeal must be made within 20 days. There were 2 zoning permits issued. The latest being December 2010. The Township Committee informed the zoning officer 9 months after the fact indicating that the decision had to be revoked.

Exhibit A-26 – (17) – Page 126 – 2011 edition of Cox – Opinion

Exhibit A-27 (18) google map

#### **QUESTIONS FROM THE PUBLIC AND BOARD:**

There were no questions.

Joseph Belardo – was sworn. Mr. Belardo stated that he resides in South Plainfield, New Jersey. He testified that he was a sales manager and Mohawk Manufacturing was his client. He visited the site at least 4 times a month. He estimated that 30 trucks a day traveled in and out of the site. He testified the activity of the site when Mohawk Manufacturing was a working company. He purchased the site in 2001.

When he purchased the property it was unkempt for 2 years. The roof was in bad repair. There was steel and garbage on the premises. There were 12-14 trailers on the site. He was a miscellaneous metal fabricator. His business was more intense than the Mohawk Manufacturing. He built modular buildings. In Mr. Sullivan's report he noticed that there was another building located on the site. Mr. Belardo testified that he replaced a building that was already there. He said he did go to the zoning officer for approval for the building. He has the zoning permit on the wall signed by Mr. Barczyk. Mr. Belardo needed the zoning permit to sell the property. He operates a support systems specialty at the site.

Mr. Sullivan wanted to know if the modular building was permitted. Mr. Belardo answered yes. He would like it to remain at the site. They do not have a large business.

This matter has been carried to the next meeting which is April 19, 2012. No further notice will be required.

**I. ADJOURNMENT:**

Mr. Thompson made a motion to adjourn the meeting. Mr. Stettner seconded the motion. Motion was carried with a vote of Ayes all, Nays none recorded.

Respectfully submitted,  
Linda Jacukowicz