

**READINGTON TOWNSHIP BOARD OF ADJUSTMENT  
MINUTES  
January 17, 2008**

- A. Attorney Donald Moore called the reorganization meeting to order at 7:43 p.m. announcing that all laws governing the Open Public Meetings Act had been met and that the meeting had been duly advertised.**

**B.**

<b>Betty Ann Fort</b>	<b>present</b>
<b>Marygrace Flynn</b>	<b>present</b>
<b>Keith Hendrickson</b>	<b>present</b>
<b>Diana Hendry</b>	<b>present</b>
<b>George (Chip) Shepherd</b>	<b>present</b>
<b>Britt Simon</b>	<b>present</b>
<b>Eric Stettner</b>	<b>present</b>
<b>Richard Thompson</b>	<b>present</b>
<b>Michael Denning</b>	<b>present</b>

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

**Attorney Moore stated on the record that the following Board members were sworn in prior to the meeting.**

**Eric Stettner One year - completing Meredith Goodwin's term  
George Shepherd - Four years  
Marygrace Flynn – Four years  
Britt Simon – 2<sup>nd</sup>. Alternate - One year**

**C. Nominations:**

**1. Chairman: Attorney Moore asked for nominations for Chairman. Mrs. Flynn nominated Betty Ann Fort as Chairman. Mr. Denning seconded the motion. There were no other nominations. Motion was carried with a vote of ayes all, nays none recorded.**

**The meeting was turned over to Chairman Fort.**

**2. Vice Chairman: Mrs. Flynn nominated Michael Denning for Vice Chairperson. Mr. Shepherd seconded the motion. There were no other nominations. Motion was carried with a vote of Ayes all, nays none recorded to nominate Michael Denning as Vice-Chairperson.**

**3. Secretary: Mrs. Flynn nominated Linda Jacukowicz for Board Secretary. Mr. Shepherd seconded the motion. There were no other nominations. Motion was carried with a vote of Ayes all, nays none recorded.**

**4. Professional Services Contracts**

**Chairman Fort stated on the record that the following professional service contracts were submitted:**

**Donald Moore, Esq., Marci Hamilton, Esq. Counsel and Special Attorney Services**  
**Edwards & Kelcey – Traffic Engineering Services**  
**Clarke – Caton – Hintz, Professional Planning Services**  
**Key-Tech - Inspection and testing services**  
**Ostergaard Associates – Acoustical experts**  
**Princeton Hydro – Environmental Consultants**  
**John Hansen, Ferriero Engineering - Professional Engineers**

**Mrs. Flynn made a motion approve all of the professional service contracts. Mr. Shepherd seconded the motion. Motion was carried with a vote of Ayes all, nays none recorded.**

**5. Schedule for the meeting dates for 2008**

**Chairman Fort stated that the meeting schedule would be the third, Thursday of every month. The December meeting was scheduled for Tuesday, December 9, 2008.**

**Mr. Denning made a motion to approve the meeting dates. Mr. Shepherd seconded the motion. Motion was carried with a vote of Ayes all, nays none recorded.**

**6. Technical Review Committee:**

**Mr. Denning made a motion to appoint Marygrace Flynn and Betty Ann Fort to the Technical Review Committee for 2008. Mr. Shepherd seconded the motion. Motion was carried with a vote of Ayes all, nays none recorded.**

**7. Technical Review Committee Schedule**

**Mrs. Flynn made a motion to approve the Technical Review Schedule. Mr. Denning seconded the motion. Motion was carried with a vote of Ayes all, nays none recorded.**

**D. Publications**

**Hunterdon County Democrat**  
**Hunterdon Review**  
**Courier News**  
**Star Ledger**  
**Express Times**

**Mr. Denning made a motion to approve the publications. Mrs. Flynn seconded the motion. Motion was carried with a vote of Ayes all, nays none recorded.**

**E. APPROVAL OF MINUTES:**

**December 11, 2007 -Mrs. Flynn made a motion to approve the minutes. Mr. Denning seconded the motion. Motion was carried with a vote of ayes all, nays none recorded.**

**F. CORRESPONDENCE:**

**No correspondence was read into the record.**

**G. OTHER BUSINESS:**

- 1. Voucher approval  
(see attached)**

**Mr. Denning made a motion to approve the vouchers as submitted. Mr. Shepherd seconded the motion. Motion was carried with a vote of ayes all, nays none recorded.**

**H. RESOLUTIONS:**

**None**

**I. TECHNICAL REVIEW**

- 1. Wachovia Bank, N.A.  
420 Route 22  
Block 8, lots 4, 5, 6 & 7  
Variance application  
Action Date: February 10, 2008**

**Mrs. Flynn stated that the Technical Review Committee determined that the application is complete. Mr. Denning made a motion to deem the application complete. Mr. Shepherd seconded the motion. Motion was carried with a vote of ayes all, nays none recorded.**

**J. PUBLIC HEARINGS:**

- 1. CharDham Hindu Temple/Readington  
Use Variance & Preliminary Site Plan  
25A Coddington Road  
Signed extension to January 17, 2008**

**Mr. Moore stated that upon reviewing the transcripts, he could not find anywhere other than Elizabeth McKenzie's testimony that depicted the exact hour when the temple's services would start. Mr. Moore stated that Ms. McKenzie testified that the Sunday services would start at 10:00 a.m. and there is testimony stated that they would conclude at 12:00 p.m.**

**Lloyd Tubman, counsel for the applicant, stated that the plan time for services is Sunday from 10:00 a.m. to 12:00 p.m.**

Mr. Bipin Gunvantral Desai and Mr. Yogendra Bhatt were both previously sworn and remained under oath. Mrs. Tubman asked Mr. Bhatt if the planned hours of services was on Sunday from 10:00 a.m. to 12:00 p.m. Mr. Bhatt answered through Mr. Desai yes.

Kevin A. O'Brien from the firm of Shamrock Enterprises, Ltd. was sworn. He stated that he had been retained by Joan Pieros, a member of the public.

Mr. O'Brien testified that an application for a use variance rests on a 3 prong burden of proof. First prong is that it meets special reasons that are rooted in the basis for zoning. The second prong is that it meets the positive criteria and that it can be reconciled with the master plan and the zoning ordinance. The last prong is the negative criteria and that there would be no substantial detriment to the public good or impairment to the zone plan or the zoning ordinance. As an inherently beneficial use this application meets the special reasons test and the positive criteria test. He wanted to inform the board as to the negative criteria. The applicant has to prove that the requested variances can be granted without substantially impacting the surrounding properties. He referred to MLUL Chapter 40:55D-70 which states that no relief can be granted, including an inherently beneficial use without the showing that the variance can be granted without substantial detriment to the public good and that it will not substantially impair the intent and the purpose of the zone plan and the zoning ordinance. There are 2 parts to the negative criteria. The first part deals with public good and the second part deals with the zone plan and the zoning ordinance. He referred to *Medici v. BPR CO.*, 107 N.J. 1, 22-23 n. 12 (1987).

Pursuant to the applicant's planner who testify on November 15, 2007, she pointed out the public detriment associated with the application, such as, the view of the temple should be softened; the lighting should be lowered and also the temple will be visible even when the leaves are off of the trees. The applicant's planner also pointed out that she was not aware of any other church that closed their doors to congregants.

Mr. O'Brien stated that there are many outstanding issues regarding the lighting of the facility, the traffic, outdoor activities, visibility and the number of congregants that will attend the temple. Regarding the zone plan and the zoning ordinance, the question arises as to whether or not the application can be rectified with the master plan. The master plan identified as a major problem and as an objective on page one, "Preservation and improvement to the rural residential character of Readington Township. He stated that the ROM-2 district is intended to permit the development of small scale research, office and manufacturing uses on relatively small lots in a corporate industrial park setting. Non residential uses in the ROM-1 and ROM-2 zones must be adequately buffered or developed for residential use.

In terms of the impacts to the public; they can observe the temple from a number of properties; lighting, traffic, and outdoor activities. The application does not meet the township's Master Plan goals by keeping the Readington Township rural. It does not meet the Master Plan goal by keeping the ROM2. The neighbors anticipated a research office facility at this location. Pursuant to Exhibit A-36, it shows the results of the balloon test. Regarding Exhibit A-35, it indicates how the temple will be visible from various directions surrounding it.

Ms. Hendry asked if the structure was within the height limitations of the zoning ordinance and would the building be visible from any of the points that are identified. Mr. O'Brien

did not know. He discussed the lighting plan. The board determined that the board had received revised lighting plans that were not entered into the record as an exhibit.

Mr. O'Brien stated that the problems with the traffic control have not been shown when the parking spaces are filled and the congregants have to be turned away. The number of congregants has been stated to be no more than 150 at this location at any time. There is only one way to insure this, by limiting the amount of parking. The 55 parking spaces that are proposed are more than adequate at 3 people per car to reach the 150 number. The Sica balancing test asks the board to weigh the benefits of the application, the detriments of the application and to reasonably balance those, and to come up with reasonable conditions that would allow the application to go forward and taking into account the negative criteria. One of the reasonable conditions for this application would be to keep the height at 35 feet which is allowed in the zone. In terms of parking, the 55 parking spaces are more than adequate to take 150 people into the temple. It was Mr. O'Brien's recommendation that the board restrict off site parking. The landscaping must be high enough to block all views of the temple. What has been proposed by the applicant does not block the views of the residents that are within 900 feet of the proposed temple. In terms of lighting, no weekends or evening activity were envisioned by the Master Plan or the ordinance in this neighborhood. There should be no outside lighting or activities. The resolution should also state that no one can live inside the temple under any circumstances. The temple should not be rented out for outside events. Festivals should not be allowed at this location. The board should insure that the services will take place on Sunday from 10:00 a.m. to 12:00 p.m. In conclusion, it was Mr. O'Brien's opinion that the board's approval of this application would result in substantial detriment to the public good and substantial impairment to the intent and purpose of the zone plan and the zoning ordinance. Reasonable conditions could be placed on this application that would allow the board to consider it.

Mrs. Flynn asked if activities occurred during the week from 9:00 a.m. to 5:00 p.m. would that be acceptable. Mr. O'Brien answered that he did not know how anyone could object to it because those are the hours that are in affect in ROM-2 buildings.

Ms. Hendry wanted to know that if any building was erected for a permitted use that those residents should not be able to see that building? Mr. O'Brien answered that a permitted use would be less than 35 feet. He was not sure if the neighbors would be able to see it.

Mr. Sullivan stated that the lighting plan had been revised and it is under one foot candle power.

Mr. Moore stated that a revised Environmental Impact Statement was prepared by James Hill and he read a portion of it into the record: "...the lighting plan for the site had been prepared in accordance with the township's land ordinance Section 148, and that it was proposed that only security lighting at the entrance to the temple will remain on after 9:00 p.m. or at an agreed time between the applicant and the reviewing board..."

#### **PUBLIC QUESTIONS:**

Attorney Tubman asked if Mr. O'Brien read all of the transcripts. He answered that he did. She wanted to know if he recalled the discussion regarding the lighting wherein Mr. Hill stated that for personal licensing purposes he was proposing a lighting standard higher than what was required by the board. He did not recall seeing that. She asked if he remembered reading that Mr. Hill agreed to reduce the lighting below what he originally proposed at the

urging of the board. Ms. Tubman asked if houses of worship are allowed in the RR zone. Mr. O'Brien answered that they are permitted as a conditional use. Ms. Tubman asked that as a condition of the conditional use are they allowed to be 50 or 60 feet high. Mr. O'Brien answered that that was correct. There is no limitation for the height of the steeple.

Ms. Hendry stated that this argument is relevant because the people, who are objecting, live in the RR zone. The issue then becomes if it were in their backyards in the RR zone, this application would be permitted.

Ms. Tubman stated that there are 5 conditions that must be met as the conditional use standards which are: safe and adequate access to a public street; meet the minimum lot size area and setbacks for the zone in which it is located; building height not to exceed 50 feet, towers and steeples are exempt; minimum off street parking of one space for every 3 seats or every 72 inches of seating spaces where benches are used; and one free standing sign not exceeding 24 feet in area.

Ms. Tubman asked that if this property was developed for an industrial or office use, would there not be a potential 5 day a week usage. Mr. O'Brien answered yes. Ms. Tubman asked if there would be anything to prohibit longer hours than 9:00 a.m. to 5:00 p.m. He answered no. Ms. Tubman asked then would the use be not more intense than the contemplated Sunday morning ceremony. Mr. O'Brien answered yes.

Madam Chair announced that the board will take a break. The board reconvened at 9:00 p.m.

Madam Chair opened the hearing to comments from the public. She requested that the public confine their comments to land use issues.

#### **PUBLIC COMMENTS:**

Michael Renda, Esq., stated that he is appearing on behalf of Mary and Michael Renda who live on 11 Pearl Street. He highlighted the zoning map where houses of worship as conditional uses were allowed within the township. He stated that the Township Committee specifically zoned this small area for a certain use. He stated that it is contrary to the zoning ordinance to reduce this zone by allowing an application that is a permitted in a large section of the township.

Exhibit D-2 – Highlighted zoning map showing the ROM-2 zone, prepared by Michael Renda.

Mr. Moore asked Mr. Hansen if there would be a way to figure out what portion this piece of property bears to that entire zone.

Rakesh Saini, 6 Tunis Cox Road read his statement into the record. He presented reasons why he was not in favor of the application. He asked that the board not approve the application.

Amy Broidrick, 9 Tunis Cox Road read her statement into the record. She presented reasons why she was not in favor of the application. She stated that she was confident that the board would see that the applicant did not meet the requirement to prove that the

negative criteria was addressed and that the requested variances will negatively impact the surrounding properties.

Savita Saini, 6 Tunis Cox Road read her statement into the record. She was not in favor of the application. She asked that the board not approve the application.

Fred Bardon, 9 Tunis Cox Road read his statement into the record. He presented reasons why he was not in favor the application.

Exhibit D-3 Photographs taken by Mr. Barden of the site numbered 1 through 10 taken on December 11, 2007

Exhibit D-4 Photographs taken on May 5, 2007

Exhibit D-5 – Tentative submission from Mr. Barden 2003 Uniform Business report and information from Florida.

Mr. Bardon indicated that Mr. Bhatt was an officer in the Hindu Sanaten Dharma Seva Mandal Inc.

Ms. Tubman reviewed the document and did not have an objection to enter this document into the record. Ms. Tubman indicated that she will address this introduced information at the next meeting.

Prerna Saini 6 Tunis Cox Road stated that she read the majority of the transcripts and attended a few meetings. She stated that she agrees with her parents' statements and the statements of her neighbors.

Dan Sargent 1 Pearl Street stated that he is opposed to the temple. There are safety reasons on Coddington Road. He was also concerned about enforcement.

Andrew Kokinda 5 Tunis Cox Road stated that he expressed his full agreement to his neighbors' comments.

David Hamblin, 22 Coddington Road stated his opposition to this application on the record. He wanted to make sure that restrictions at the railroad intersection be imposed.

Michele Jaunarajs – 101 Pulaski Road stated that she agreed with the statements with her neighbors.

Dave Hamblin, 22 Coddington Road was concerned about the railroad tracks and the intersection.

Madam Chair announced that this matter was carried to February 21, 2008.

**K. ADJOURNMENT:**

Mr. Shepherd made a motion to adjourn at 10:43 p.m. Ms. Hendry seconded the motion.

Respectfully submitted,

Linda A. Jacukowicz