READINGTON TOWNSHIP BOARD OF ADJUSTMENT
MINUTES
January 19, 2006

A. Attorney Donald Moore called the reorganization meeting to order at 7:33 p.m. announcing that all laws governing the Open Public Meetings Act had been met and that the meeting had been duly advertised.

B.

Mrs. Fort	**present**
Mrs. Flynn	**present**
Mrs. Goodwin	**present**
Ms. Hendry	**present**
Mr. Shepherd	**present**
Mr. Staats	**present**
Mr. Stettner	**present**
Mr. Thompson	**absent**
Mr. Denning	**present**

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

Attorney Moore stated on the record that the following Board member was sworn in prior to the meeting.

Eric Stettner 2nd. Alternate - One year

C. Nominations:

1. Chairman: Attorney Moore asked for nominations for Chairman. Mrs. Goodwin 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. Ms. Hendry 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 had been submitted:

Donald Moore, Esq., - 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
Hatch, Mott & McDonald – Environmental Consultants

Motion was carried with a vote of Ayes all, nays none recorded to accept the professionals.

5. Schedule for the meeting dates for 2006

Chairman Fort stated that the meeting schedule would be the third, Thursday of every month.

Motion was carried with a vote of Ayes all, nays none recorded to approve the schedule of dates.

6. Technical Review Committee:

Marygrace Flynn and James Staats volunteered to be members of the Technical Review Committee for the year 2006.

Mrs. Fort requested that the Technical Review Committee be expanded to 3 people. Mr. Staats made a motion to expand the committee to 3 people. Mrs. Goodwin seconded the motion. Motion was carried with a vote of Ayes all, nays none recorded.

Mr. Denning made a motion to appoint James Staats, Marygrace Flynn and Betty Ann Fort as members of the Technical Review Committee. 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

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

E. APPROVAL OF MINUTES:

November 17, 2005 -Mr. Denning made a motion to approve the Minutes. Mr. Shepherd seconded the motion. Motion was carried with a vote of ayes all, nays none recorded. Ms. Hendry abstained.

F. CORRESPONDENCE:

Linda Jacukowicz read the correspondence into the record.

Attorney Moore stated that a new law went into affect this year requiring board members to attend a classified course. The only exception is if a member is a licensed professional planner. The board member has a total of 18 months to comply with the new law.

The board addressed the letter from Joseph Delaney of the Hunterdon County Housing Corporation, Block 4, lot 94. The County purchased the property. The housing corporation is claiming that it is a 2 family house. The taxes have been paid as a 2 family house; however, there is no record of a variance. Attorney Moore will research this matter and give the results to the board at their next meeting.

The memo from Michael Sullivan of Clarke, Caton & Hintz to Clay McEldowney dated December 14, 2005 regarding CVS was addressed. Mr. Sullivan stated that the applicant damaged a large tree that is in close proximity to the new driveway. A third of the roots were disturbed. Mr. Sullivan stated that CVS has been instructed to narrow the driveway and to use a curbing in the area of the root zone. Mr. Hansen stated that they have not gone down to sub-grade level yet, so the roots are still preserved. Michael Sullivan stated that a condition could be placed in the resolution to protect the township so that if there were an accidental removal of trees this could be handled administratively. This would give the zoning officer authority to issue a stop work order. Madam Chair stated this is a good lesson. In the future when a site plan application is received, that has a drip line that is very close to a driveway, we have to be careful. Mr. Sullivan recommended retaining a certified arborist. Ms. Hendry will provide a name of an arborist at the next meeting. The board wants an update on the CVS application from Mr. McEldowney's office.

On the Hionis matter, the board received a letter from the Hunterdon County Ag. Board with a copy of their memorialized resolution.

The board received a letter from Mr. Hansen regarding the Hoffman application. Mr. Hansen stated that they are still missing some items.

G. PUBLIC HEARING:

1. Scanlon Farm
Block 55, lot 17 & 17.2
Appeal Decision of Zoning Officer

Frank Scanlon stated that he is appearing on behalf of his mother who is the applicant. He stated that in 1999 the farm was placed into the Farmland Preservation Program. At that time, Readington Township purchased an easement. A variance was granted so that they could construct a barn with an apartment specifically for a family member/and or farm help to work on the farm. The barn was built in 2003. The Scanlon's did not know that there was a time limit on the variance. In 2004 a septic system was installed. Recently the forms were submitted to the building department so that the apartment could be constructed. His permit application was denied because the variance approval had lapsed. He stated that he is here to request an extension to that variance. Mr. Moore stated that Mr. Scanlon and his attorney have been very cooperative in terms of explaining what occurred. Everything that the applicant was granted has been complied with except for the internal improvements in the barn. Mr. Scanlon stated that there have been no changes in the area surrounding the farm since their variance was granted in 1999. The property consists of approximately 87 acres.

Mr. Moore stated that the true legal mechanism is to grant him a new variance identical to the variance that was previously granted.

Mr. Shepherd made a motion to grant the variance that mirrors the variance that was previously granted and to allow the time frame to be extended for a year. Mr. Denning seconded the motion.

Mr. Moore stated that usually the resolution is adopted at the following meeting next month. Mr. Moore suggested that the board should move to adopt a resolution that is identical in nature to the one that was adopted in 1999, just changing the date. This is not a common practice of the board, but under the circumstances since there is no change the board could adopt the resolution. He informed the applicant that there is a 45 day appeal period. This is for anyone who is against the application. A person opposed to the application could take him to court and stop the application. That 45 day time frame is a risk factor to the applicant.

Mr. Shepherd amended his resolution to approve the variance identical to the original approval as of this evening's date and also to approve a resolution of memorialization which will be identical to the original resolution, but have it re-dated for this evening. Mr. Denning seconded the motion.

Roll Call:
Mr. Denning aye
Mrs. Flynn aye

Mrs. Goodwin aye
Ms. Hendry aye
Mr. Shepherd aye
Mr. Staats aye
Mr. Stettner aye
Madam Chair aye

2. Our Lady Of Lourdes Church
Block 28, lot 10
Preliminary Major Site Plan
Action date: Signed extension and carried to February 16, 2006

Madam Chair announced that this matter has been carried to February 16, 2006. No further notice will be given to the public.

The Board took a five minute break.

3. Scanlon Farm
Block 55, lot 17 & 17.2
Appeal Decision of Zoning Officer
(continued)

Ms. Hendry stated that she wanted to clarify her vote on the Scanlon matter. She stated that she voted in the affirmative for the last resolution because of the unique circumstances of this particular application which was a re-application. However, there have been no material changes in the ordinance affecting this property. All work has been completed according to the prior resolution. The only aspect that was missing in this particular case was the failure to obtain a permit in a timely manner, not a failure to start the project or failure to timely complete it or any other failure that may have led to a different decision by her.

Madam Chair stated that the permit was just for one aspect of the project.

Attorney Moore stated that he felt that the applicant made it abundantly clear on the record that there have been no material changes in the surrounding properties in terms of development. In fact many of the properties since the granting have been placed into farmland preservation.

H. OTHER BUSINESS:

1. Policies & Board Members responsibilities

Marygrace Flynn wrote a protocol and procedures for the Planning Board. With her permission, it was applied to the Board of Adjustment. Attorney Moore reviewed the

procedures for the board. He stated that professional reports and correspondence are sent out 10 days prior to the meeting, and occasionally are sent out under separate cover. The board is required to attend site visits, or if they are not available, to visit the site on their own. He stated that if the board members are not prepared, they are incapable of making good decisions. At the hearings a valid legal basis is required for the board member's decision. Mr. Moore has provided worksheets for the board's convenience. Mr. Stettner is the new member on the Board of Adjustment. Mr. Moore has previously met with him to inform him that there have been a lot of changes in the land use law. Now there are 6 different types of use variances. He stated that when the board renders their decision, their reasoning is very important. The reasons must be placed on the record, especially if an appeal is taken. The board's reasons for their decision are used when the resolution of memorialization is drafted. Mr. Moore stated that a board member should never state that they will not vote for an application with all these conditions because no one enforces them. It makes the entire board look bad. Times have changed, and there are new enforcement officers. Since the Zoning Board is a quasi judicial board, members may not address aspects of an application with the public outside of the meeting. Written evidence such as letters and petitions may not be used as evidence. The rule of law is, unless everyone on the petition is in attendance and presents their views individually, the petition has to be disregarded.

Executive sessions are confidential, privileged attorney/client discussions. As are the documents that you may receive from the attorney marked as such. They may not be discussed with others, including close friends and family.

Meetings cannot begin without a quorum, so the board members attendance is vital to the process. Most of the applications that come before this board are use variances, so they should strive to have at least 5 members which is more than a quorum because otherwise a use variance application will fail unless the applicant can receive all 5 votes. Therefore, please strive to always have full attendance. Please give the secretary advance notice if you are unable to attend the meeting.

2. New legislature & ordinances

Mr. Sullivan stated that there is new educational requirement for the board members. This was recently signed by the Governor. If you are current board member, you have until July 2007 to attend a course.

He stated that another item is COAH. There has been a radical change to the way that COAH determines how municipalities are going to meet their affordable housing obligation. It used to be that COAH would give municipalities the numbers. There was a shift in the 3rd. round COAH regulation. This is governed by "growth share". Now, COAH does not tell you what the number is, the municipality has to calculate the number and COAH has to approve that number. This number is based on growth projections. As zoning board members, the housing plan element has been based on current zoning. Each residential development generates a number. Each non-residential development generates

a housing obligation. When variances are granted, there may be a subtle shift in the housing obligation by that particular property. The COAH obligation for a commercial development is based on every so many square feet will generate an affordable unit. If for example there was an 83,000 square foot office building that was built, that would generate an obligation on the town to provide 10 dwelling units of affordable housing.

Ms. Hendry wanted to know if that could be a consideration by the board when they are making decision. Mr. Sullivan answered yes. Ms. Hendry asked if the board members should be asking the applicant what their plan to meet the COAH requirements is. Mrs. Sullivan answered yes.

Ms. Goodwin asked if there was any type of use exempt. Mr. Sullivan answered churches.

At the Planning Board level, they are adding a standard clause to the resolution stating that the applicant will pay any and all fees due as a result of the housing fees.

I. TECHNICAL REVIEW COMMITTEE:

1. Paul & Joya Riner
Use Variance
14A Kline Boulevard
Action date: January 5, 2006

Marygrace Flynn stated that this matter remains incomplete. There was a letter from Lloyd Tubman, Esq., requesting that the applicant would not have to provide updated plans. Mr. Hansen stated that the applicant still needs to comply with the board's request to provide updated plans.

2. Coddington Homes
Use Variance
Whitehouse Ave.
Action date: January 5, 2006

Marygrace Flynn stated that this matter remains incomplete.

3. Nicholas Villa
Use Variance & Preliminary Major Site Plan
135 Main St.
Action date: February 13, 2006

Marygrace Flynn stated that this matter is still incomplete. They have to provide the location of the wells and provide proof of sewer capacity.

4. Thomas A. Foreman

Appeal
Block 58, lot 7
Action date: February 13, 2006

Marygrace Flynn stated that we need additional information from the zoning officer. Once that is received, he will be scheduled for a hearing.

J. ADJOURNMENT:

A Motion was made by Ms. Hendry to adjourn the meeting. Mr. Shepherd seconded the motion. Motion was carried with a vote of Ayes all, Nays none recorded.

Respectfully submitted,

Linda Jacukowicz,