

**READINGTON TOWNSHIP BOARD OF ADJUSTMENT
MINUTES
November 15, 2007**

A. Chairperson Fort called the meeting to order at 7:38 p.m. announcing that all laws governing the Open Public Meetings Act had been met and that the meeting had been duly advertised.

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

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

B. APPROVAL OF MINUTES:

1. October 18, 2007 Mr. Denning made a motion to approve the minutes. Mr. Stettner seconded the motion. Ms. Hendry abstained. Motion was carried with a vote of ayes, nays none recorded.

C. CORRESPONDENCE:

There were no comments regarding the correspondence.

D. TECHNICAL REVIEW COMMITTEE:

None

E. RESOLUTIONS:

**1. Mark & Melissa Hampton
3 Powderhorn Rd.
Variance**

Mr. Denning made a motion to approve the resolution. Mr. Stettner seconded the motion.

Roll call:

Mr. Denning	aye
Mr. Stettner	aye
Madam Chair	aye

F. VOUCHER APPROVAL: (see attached)

Mrs. Flynn made a motion to approve the vouchers. Ms. Hendry seconded the motion. *Motion was carried with a vote of ayes, nays none recorded.*

G. OTHER BUSINESS:

Madam Chair announced that based upon the board's decision at the 2007 reorganization meeting, the December meeting will be held on Tuesday, December 11, 2007, beginning at 7:30 p.m.

H. PUBLIC HEARINGS

- 1. CharDham Hindu Temple/Readington
Use Variance & Preliminary Site Plan
25A Coddington Road
Action date: November 15, 2007**

Madam Chair made an announcement to the public that upon reviewing the transcripts from the last meetings, it appeared that some of the questions that are being asked of the applicant are not related to land use. She stated that the board's decision will be based upon sworn expert testimony from the board's and applicant's professionals and Mr. Bhatt's testimony. She requested that the public limit their questions to land use issues. The board's decision will be based only on land use issues.

Lloyd Tubman, Esq., Archer & Greiner, stated that she is the attorney for the applicant. She stated that this meeting is a continuation of many public hearings regarding this application. At the last meeting, there were numerous questions regarding Mr. Bhatt's attendance at Hindu functions other than here in Readington. A lot of the answers appeared to be confusing. No exhibits were entered into the record. As a result Ms. Tubman accessed information from internet. Some of the information relates to Mr. Bhatt and some does not. She wanted this information to be entered into the record. Ms. Hendry stated that she did not feel that articles retrieved from the internet should be entered into the record as evidence.

Attorney Moore stated for the record that in his opinion that the other functions that Mr. Bhatt has attended and spoken in front of weren't related to this application. These other functions were different types of religious institutions and stood for different purposes. The fact that Mr. Bhatt was invited and elected to go to functions for different types of religious uses other than what he has testified to is not relevant to this application.

Ms. Tubman stated that she is satisfied with this discussion without going further. The exhibit was stricken from the record. Additionally, prior to this meeting a new exhibit was submitted that will be presented next month and that is a proposal to resolve the question of head counting or record keeping. The exhibit will propose a gate to be closed when the parking lot is full with an appropriate message. This will be introduced at the December meeting.

PUBLIC QUESTIONS:

Mr. Bipin Gunvantral Desai and Mr. Yogendra Bhatt were both previously sworn and remained under oath.

Cathy Petrakis 8 Tunis Cox Road wanted to know in keeping with the 150 head count how would they handle the overflow of cars if more than 55 cars arrive at the temple. Ms. Tubman answered that the purpose of the gate is to resolve the question of too many persons to be accommodated on the site. Mr. Bhatt is not saying that there will not be more than 150 people in the temple at any given time. He is not representing that he is going to count and at 150 people insure that no more people will come. He is saying that he will assure the board that there is adequate parking for those who come. Ms. Tubman stated that she knows what the boards questions are, for example, what do we do about septic and water. If you examine the reports that are in the record, those are based alternatively on two items. One is 150 persons present and the other floor space on the entire temple floor in accordance with NJDEP requirements.

Mrs. Fort stated that every testimony up until this minute was based upon 150 people. Ms. Tubman answered that Mr. Bhatt has testified consistently that he never expects there to be more than 150 based upon the 67 members now and based upon him having to instruct and initiate new members. He also said that if they approach that number that he would build another temple elsewhere. It is not reasonable to ask that he count people at the door. No church in Readington and no church in New Jersey count people at the door. If the concern is too many people, that would be resolved by adequate parking. They are still looking for 55 parking spaces, although, they provided banked parking to reach the 100 spaces that would be required for 300 people.

Mrs. Flynn asked if more than 55 cars come, what are you going to do with the additional cars. Ms. Tubman answered, close the gate and ask them to come another day.

Ms. Petrakis stated that if the parking lot is full with the 55 cars, and the gate is closed, more people could still enter the temple if they arrived on foot.

Mr. Bhatt answered through Mr. Desai that he did not believe that this would happen.

Mrs. Flynn stated on the record that during prior hearings, Mr. Bhatt testified that there would not be more than 150 people attending services in the temple. This is the impression that the board was given. Now, it appears that Ms. Tubman is representing that Mr. Bhatt never said that.

Ms. Tubman stated that she is not representing that he didn't say that. At the last meeting, Mr. Bhatt was backed into a corner. Ms. Flynn stated that she is referring to Mr. Bhatt's testimony during the earlier meetings. Ms. Tubman stated that in the prior meetings, in particularly at the last meeting, Mr. Bhatt was asked to guarantee there would be no more than 150 people and he was looking for ways to meet that request. If the concern of the board is that they won't be able to accommodate that amount of people, they have proposed closing the gate.

Mr. Moore stated that referring to an old transcript, Mr. Bhatt made the representation whether it be congregants or visitors the number would never exceed 150 people. He stated that he understood it would be an arduous task to follow through with what he testified to

last time as far as taking attendance, but is he still maintaining that it will be 150 people and the gated parking area is to help him in maintaining that number. Ms. Tubman stated that it is in his expectation that there will never be more than 150 people and the gate is there to insure that if that happens it is their proposal that they build only the parking that they believe they need. Mr. Moore stated that the wording has been changed from guarantee to expectation. Ms. Tubman answered that he was being asked questions, when she was not asking those questions. He cannot guarantee that there will not be more than 150 people.

Madam Chair stated that the suggestion of attendance kept occurring because the board was concerned as to how Mr. Bhatt was going to enforce what he was testifying to. Ms. Tubman wanted to know what the rationale was and the legal basis for enforcing a cap of 150 people. Madam Chair responded that the board relied on Mr. Bhatt's testimony. Ms. Tubman stated that she is retracting Mr. Bhatt's testimony wherein he stated that he would limit the attendance to 150 people.

Ms. Tubman asked Mr. Bhatt if he understood when he was asked how he would limit the attendance to 150 people and that you were not required to guarantee no more than 150? Mr. Bhatt answered through Mr. Desai that he was thinking that because so far he only has 67 members and was figuring that during the period of 8 years, he didn't think that the number would go beyond 150 and this is his calculation. Madam Chair announced that our experts and the applicant's experts have all relied on the 150 people number pursuant to Mr. Bhatt's testimony. Ms. Hendry stated that it now appears at the last minute, Mr. Bhatt is trying to retract that testimony. Ms. Tubman requested a 5 minute recess. The board took a 5 minute break.

The board reconvened at 8:21 p.m. Ms. Tubman was concerned of limiting attendance and keeping records and submitting records to the municipal building. Ms. Tubman asked Mr. Bhatt if he was willing that when the parking lot is full to close the doors and not admit others as well as closing the gate. Mr. Bhatt answered through Mr. Desai, yes. She asked that when it appears that the two quadrants are approaching 100 approximately or that there are a number of spectators in the aisle outside would he use a counter at the door? Mr. Bhatt answered through Mr. Desai, yes. She asked, not to take names, but count names at the entrance. Mr. Bhatt answered through Mr. Desai, yes. Ms. Tubman asked the board if that was sufficient. Mr. Moore answered no, because he represented that when it reaches 150 people, those additional people be turned away pursuant to his prior testimony. Mr. Bhatt answered through Mr. Desai, yes.

Continued Public Comment:

Jim Casey, President of Minalex. How would the applicant insure that the people do not use his parking facilities when their parking lot is full? Ms. Tubman answered that this is an enforcement issue for the police department. Minalex would have to give the township Title 39 permission to enforce the "no parking" on their property.

Amy Broidrick, 9 Tunis Cox Road wanted to know what system Mr. Bhatt would use to count the people. Mr. Bhatt answered through Mr. Desai that it has already been answered. Ms. Tubman interjected that when it appears that they are approaching 100 people, they will count.

Ms. Tubman asked Mr. Bhatt if he could give an estimate of a maximum number of people who might drop by on a single day that is not a Sunday. Mr. Bhatt answered through Mr. Desai between 15 and 25 people. Mr. Moore asked if Mr. Bhatt if he is willing to live with a maximum number and what would that number be. Mr. Bhatt answered through Mr. Desai 25 people.

Continued public comments:

Rakesh Saini, 6 Tunis Cox Road – Had questions again about if the number of people exceeded 150 people. Ms. Tubman answered that they will count the heads at the door.

Mr. Moore asked if only nursery school age children will stay on the ground floor during the services. Mr. Bhatt answered through Mr. Desai yes. Mr. Moore asked if there is a school on the ground floor. Mr. Bhatt answered through Mr. Desai no. Mr. Moore asked if there was a kitchen located on the first floor and that it's function would be only to heat the food prepared by the congregants and the food will be served to the gods and the congregants will share in it right after the services. Ms. Tubman stated that the ground floor is used for people to come in to gather prior to the service. There is also an office on the ground floor and a priest room and shower room for the priest.

Savita Saini, 6 Tunis Cox Road – was concerned about the increase in devotees pursuant to the transcript.

Bill Begosh, 10 Tunis Cox Road – Had only questions for the board which will be asked at a later date.

Andrew Kokinda, 5 Tunis Cox Road – Had religious questions. He also wanted to know if Mr. Bhatt would be amenable to having a deed restriction limiting the parcel to one building and 150 members at a time on the property. Ms. Tubman answered that the restriction would be in the board's resolution, if it would change, they would have to come back to the board.

Michael O. Renda – stated that he is appearing on behalf of Michael and Mary Renda of 11 Pearl Street. He had a question regarding the gate. Madam Chair stated that the gate would be addressed at the next meeting.

Michelle Jaunarajs 101 Pulaski Road wanted to know if the first floor congregational meeting room or offering room would be a restaurant serving offering. Madam Chair stated that they have to keep the questions to land use only. Mr. Bhatt answered through Mr. Desai, no.

Amy Broidrick, 9 Tunis Cox Road - asked again about the 150 total numbers. Mr. Bhatt answered through Mr. Desai that it will be 150.

Catherine Petrakis, 8 Tunis Cox Road – had a question for Mr. Mistry. She wanted to know details about the demarcation of the conservation easement on the plan. Mr. Mistry replied that Mr. Hill will have to answer this question.

The board took a 5 minute break and reconvened at 9:07 p.m.

Elizabeth McKenzie, Professional Planner stated her credentials for the record. She submitted a copy of her curriculum vitae.

Exhibit A-48 Elizabeth McKenzie's curriculum vitae.

Mr. Moore stated for the record that the board recognizes her as a licensed professional planner and that she has appeared before this board on numerous occasions. The board accepted her qualifications.

She testified that the property is located in the ROM-2 zone. This zone does not permit houses of worship. However, they are permitted in the RR and the R-1 zones that are adjacent to this property. Therefore the applicant is seeking a use variance. The application meets all of the bulk requirements for development in the ROM-2 zone, with 2 exceptions. They do not meet the height of the spires or domes and the height of the building itself. The tallest dome is 49.1 feet. The maximum that would be allowed is 42 feet in this district. Additionally they are seeking a variance for the setback of the free standing sign. The applicant must demonstrate special reasons to justify the granting of the variance and must satisfy that there will be no substantial detriment to the public good and no substantial impairment of the intent and purpose of the zone plan and zoning ordinance of the township. Churches have long been held by the courts to be a use that is considered inherently beneficial. The board would have to identify the detrimental effects that might ensue from the granting of the variance. The third step is there any conditions that can be imposed on the approval of the application that would mitigate those potential adverse impacts. If the use is determined to be unbalanced, more positive than negative, that would be the basis for approving the variance.

Ms. McKenzie referred to Exhibit A-36 which is an aerial photograph. She indicated the irregular shape to the property. There is a sewer line easement and also a JCP&L company easement that traverses the property. There is a stream corridor and wetlands that affect the rear portion of the property. Out of the 28 plus acres when you take out the environmental constraints, they are down to 19 net acres. Since the proposed temple is a low impact use that will cover less of the site than what the permitted use might need it's a beneficial asset.

Exhibit A-49 Portion of the Readington Township zoning map, sheet 2 is Google map 2007 image.

Ms. McKenzie spoke about the exhibit showing the surrounding zones and development. In her opinion there would be no adverse impact on the character of the rest of the ROM-2 zone or on the Master Plan objectives for the rest of the ROM-2 zone if this variance is granted. Additionally, it is not expected that this use would affect the township's COAH obligation. Currently, houses of worship are exempt from the calculation of the Growth Share.

Madam Fort asked if Ms. McKenzie took into account that there would be 150 congregants at the site when she prepared her analysis. Ms. McKenzie answered yes.

PUBLIC COMMENTS:

Michael Renda wanted to know if there was only one ROM-2 zone in the township. Ms. McKenzie answered yes. Mr. Renda stated that if this particular parcel has been re-zoned to R-1 or RR then there would be only 2 lots on Coddington Road that would remain in the ROM-2 zone. Ms. McKenzie answered yes. It would leave the Minalex site and the adjacent site which is used residentially.

Michelle Jaunaraajs, 101 Pulaski Road wanted to know if the second floor of the building could hold 300 worshippers. Ms. McKenzie answered that the architect designed the plan to accommodate the needs of the client.

Catherine Petrakis, 8 Tunis Cox Road wanted to know if the traffic study took into account the 25 people entering the site throughout the day. Ms. McKenzie answered yes it took this volume into account too.

Rakesh Saini, 6 Tunis Cox Road wanted Ms. McKenzie to explain the adverse impact and benefits of the local residents. Ms. McKenzie testified that the benefits need not only benefit the immediate neighborhood, the benefits can be to the larger region.

Michelle Jaunaraajs wanted to know if there was a distinction between children and adults in the head count. Ms. McKenzie answered no.

Charlotte Nijhuis, 24 Coddington Road wanted to know if in Ms. McKenzie's experience had she ever seen a house of worship that closed its doors. Ms. McKenzie answered no.

Amy Broidrick, 9 Tunis Cox Road had a hypothetically question. Ms. McKenzie stated that she cannot answer that type of question.

Charlotte Nijhuis wanted to know if Ms. McKenzie would return at a future date to accommodate Attorney Mark Wetter's request. Mr. Moore answered that it wasn't part of Mr. Wetter's request, in his letter he basically stated that their planner would not be available at the next meeting.

Madam Chair announced that the next meeting will be held on Tuesday, December 11, 2007. This matter has been carried on the record to that date.

I. ADJOURNMENT:

Ms. Hendry made a motion to adjourn. Mr. Denning seconded the motion. *Motion was carried with a vote of ayes, nays none recorded.*

Respectfully submitted,

Linda Jacukowicz