

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
February 15, 2011**

**MEMBERS PRESENT**

Mike McCormack, Chairman  
Art DePasqua  
Gerald Dolan  
Tracie Ruzicka

Eliot Werner  
Robert Marrapodi

Arlene Campbell, Secretary

**MEMBERS ABSENT**

Paul Thomas

**ALSO PRESENT**

Michael Dean, Liaison Officer

Chairman McCormack called the meeting to order at 7:30 p.m.

The board welcomed back Robert Marrapodi, a previous board member who replaced Ms. Veitia, whose term expired in 2010.

The board members expressed their recognitions and thanked Ms. Veitia for all her contributions to the town.

**Allan & Barbara Harper (Area Variance and Special Permit Renewal)** – property located 264 Nine Partners Road, **Tax Grid Nos. 6568-00-046661.**

Applicants are seeking a renewal of an area variance to **Sec. 250.59 B of the Town of Clinton Zoning Law** that was granted in April 27, 2006 which requires that no kennel shall be located within 250 feet of any property line.

Mr. Harper appeared and explained his proposal. He received a variance in 2006 that has a term of 5 years to operate a kennel. There were no changes on this application. Mr. Harper wished that he doesn't have to keep coming back before the board for a renewal of the variance and permit not unless there are changes on the application.

Mr. Harper submitted on file a copy of Boarding Agreement with his clients in taking care of these dogs. He presented photos of the property showing happy dogs under his care. He noted that he never received any complaints from the neighboring property owners.

Chairman McCormack opened comments and questions to the board.

Mr. DePasqua stated that nothing is changed on this application. The Harpers followed the zoning regulations and the town never received any complaints from the neighboring property owners.

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
February 15, 2011**

The board discussed whether to put a term on the variance recommendation. Ms. Ruzicka suggested including a note about “no time limit” specified in the variance recommendation to the Zoning Board of Appeals since no complaints were received for the past 5years. The board agreed.

After a brief discussion about this application, the board passed a resolution, to wit:

Mr. Dolan motioned that the Town of Clinton Planning Board approves the following resolution:

***BE IT RESOLVED*** that the Town of Clinton Planning Board provide a **positive** recommendation to the Zoning Board of Appeals on the requested area variances to **Sec. 250.59 B** of the Town of Clinton Law which requires that “No kennel shall be located within 250 feet of any property line.” as requested by Allan and Barbara Harper property located at 264 Nine Partners Road, **Tax Grid Nos. 132400-6568-00-046661** as shown on the provided drawing.

***WHEREAS;***

1. The applicants are requesting a renewal of an area variance to Sec. 250.59 B of the Town of Clinton Zoning Law that was granted by the Zoning Board of Appeals on April 27, 2006 and which is due to expire on April 27, 2011.
2. This is a ±28.04 acre lot located in an AR 5-A Zoning District.
3. The New York State Environmental Quality Review Act has determined that the granting of an area variance for a single-family, two-family, or three-family residence is a Type II action and therefore this action is not subject to further review.
4. Since the request is for an area variance, an Agricultural Data Statement is not required.
5. An undesirable change will not be produced in the character of the neighborhood, and a detriment to nearby properties because the Harpers already have two dogs in a spacious (nearly one acre) outdoor, fenced in yard. Comments from neighbors were positive during the original application process and there have been no complaints in the subsequent 5 years.
6. The benefit sought by the applicant cannot be achieved by a feasible alternative to the variance because the applicant is seeking to provide an alternate form of care for dogs which could be described as day care or home care where dogs are not caged and would be considered members of the family.

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
February 15, 2011**

7. The requested area variance is substantial, reducing the front setback to 90 feet from the required 250 feet, which is well over 50%.
8. The proposed setback variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood because the Harpers already have two dogs and the property is very well kept. Also, the Harpers are maintaining the upkeep for the dogs in an appropriate way and the house will muffle any barking.
9. The alleged difficulty is self-created by the Harper's desire to provide this service to the town.

***NOW, THEREFORE, BE IT RESOLVED***, the Planning Board is making a **positive recommendation for approval** to the Town of Clinton Zoning Board of Appeals with the additional recommendation:

- That there is no time limit on this variance.

Seconded by Ms. Ruzicka.

**Discussion**. None.

All in favor, Aye, Motion carried 6-0.

The board acted on the Special Permit renewal.

Mr. Dolan motioned that the Town of Clinton Planning Board grants renewals of the Site Plan and Special Permit approvals that were issued on July 11, 2006 and as shown on the Site Plan dated 7-11-06.

Seconded by Mr. DePasqua.

**Discussion**. Chairman McCormack noted that public hearing needs to be done first.

Chairman McCormack motioned to stay the above motion, seconded by Mr. Werner, All Aye, Motion carried, 6-0.

The board agreed to waive the public hearing.

Ms. Ruzicka motioned to waive the public hearing, seconded by Mr. Marrapodi, All Aye, Motion carried, 6-0.

Chairman McCormack motioned to grant the motioned that was stayed, seconded by Mr. Dolan.

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
February 15, 2011**

**Discussion.** The board discussed the Special Permit application. Ms. Ruzicka indicated that the Special Permit that was granted in 2006 also has a term of 5 years. It goes with the variance. The Planning Board put a term on the special permit approval because of the conditional approval that was granted by the Zoning Board of Appeals in 2006.

The board agreed not to put any term on the Special Permit renewal. The special permit becomes void if the variance is not granted.

All Aye, Motion carried, 6-0.

**PUBLIC HEARING:**

**Leslie Pearl (Steep Slopes and Water Law Permit)** – property located at 350 Schultz Hill Road, **Tax Grid No. 6268-00-960723.**

Applicant wants to demolish the existing dwelling on the property and construct a new 3 bedroom house on a new foundation. The applicant is also requesting a wetland permit to build within 100 feet buffer of the pond. The property is a 3.64 acre lot.

Gary MacDonald of MacDonald Builders appeared on behalf of the applicant. He explained their proposition as indicated above. The requested area variances for the septic and the house were granted on December 2, 2010. Driveway permit was recently obtained and is on file. Mr. MacDonald stated that he's currently working on the Board of Health approval.

Ms. Ruzicka motioned to open the public hearing, seconded by Mr. Werner, All Aye, Motion carried, 6-0.

Jennifer Cavanaugh of CAC expressed her comments per CAC letter dated January 15, 2011. She indicated their concerns about the wetlands, area of disturbance, steep slopes, and soil erosion and sediment control. She noted that GIS county map indicates that this property has a significant area of archeological site. She strongly suggested that the applicant contact NYSHPO for a letter of archeological determination.

Norene Collier from CAC discussed more of CAC's comments. She stated that the stream appears to discharge from the south side of Pond A and not the north as currently depicted on the site plan. She asked that the stream locations be identified on the map for further evaluation.

Ms. Collier asked the board to express her comments as a town resident. This site is uphill. There are two steep slopes on this area (1} going down to the north and {2} upper to the south. This property is difficult to develop.

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
February 15, 2011**

Ms. Collier indicated the 3 parcels (with a total acreage of 6 acres) that Mr. Pearl owns. She suggested that these parcels should be combined and that a house should not be constructed on this site. She noted that this is a 5 acre zoning district.

Hearing no more comments from the public, Ms. Ruzicka motioned to close the public hearing, seconded by Mr. Dolan.

**Discussion**. Mr. DePasqua suggested leaving the public hearing open until all comments are received. The board agreed.

Mr. DePasqua motioned to stay the motion of public hearing until all comments are heard, seconded by Mr. Werner, All Aye, Motion carried, 6-0.

The town engineer expressed his comment per Morris Associates letter dated January 28, 2011. Given the Board of Health setback regulations, it appears that this is the only viable location for the house and septic system. The adjoining SDS on other lands of Mr. Pearl limits the location of the new well on this lot due to setbacks thereby limiting the location of the new sewage disposal system.

Mr. Setaro asked if the board and the applicant would consider a different house layout that has a side loaded garage and moving the house closer to the road. This will take the house away from the pond. He noted that it will be helpful to get the house farther away from the pond configuration. Mr. Setaro also recommended moving the silt fence by the pond closer to the actual limit of disturbance.

Chairman McCormack motioned to open the discussion for the motion to stay the public hearing, seconded by Mr. Marrapodi, All Aye, Motion carried, 6-0.

**Discussion**. The board discussed whether to close the public hearing or leave it open.

Mr. DePasqua stated that based on the above discussions, the town engineer and CAC will still have to look at this project. It is best if the public hearing remains open.

The board called for a vote.

Chairman McCormack motioned to close the public hearing, seconded by Mr. Werner, All Nay, Motion failed, 0-6.

Public hearing remains open.

**APPLICATIONS:**

**Leslie Pearl (Steep Slopes and Water Law Permit)** – property located at 350 Schultz Hill Road, **Tax Grid No. 6268-00-960723.**

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
February 15, 2011**

Applicant wants to demolish the existing dwelling on the property and construct a new 3 bedroom house on a new foundation. The applicant is also requesting a wetland permit to build within 100 feet buffer of the pond. The property is a 3.64 acre lot.

The panel discussed different configurations on where to situate the house. Mr. MacDonald noted that Mr. Pearl prefers the proposed location. He wants the house facing the pond.

Mr. Marrapodi suggested about the possibility of putting the house all the way in the back by the wooded area. Mr. MacDonald responded putting the house all the way in the back wooded area will create more disruption to the site. He noted that more trees will be taken down on this site as compared to the front site. There is also rock, outcrop, etc. on this area. He remarked that they already checked out this option.

The board talked about using the same footprints of the house to avoid disturbance of steep slopes and wetlands. Chairman McCormack asked if they are using the same foundation. Mr. MacDonald responded negatively since there is no place to put a new septic system. He stated that repairing the old system needs a lot of work. The new location of the septic is a much better location.

Ms. Ruzicka favored the town engineer's suggestion, i.e. moving the house closer to the road and away from the pond. This will alleviate pressure to the pond.

Mr. DePasqua commented that this concept alleviates a couple of issue but if the applicant is not willing to move the house, the board cannot force the applicant to put the house closer to the road.

Mr. Werner commented that the placement of the driveway will also change with this kind of layout. The driveway will be closer to the old house. There is enough sight distance.

Mr. MacDonald remarked that if the board is more comfortable with this layout then he doesn't have a problem moving the house closer to the road and away from the pond.

Chairman McCormack asked the applicant, "What's on the other parcels (3) of Mr. Pearl?" Mr. MacDonald responded that the middle parcel has a house. The other parcel has a dilapidated house which is right next to the parcel of Mr. Pearl. Mr. MacDonald noted that Mr. Pearl bought this property since he was tired of seeing the dilapidated house and pile of garbage next to his property.

The board reviewed the possibility of merging these parcels. It was noted that these lots cannot be combined due to the number of dwellings on these properties.

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
February 15, 2011**

The board advised the applicant to get a letter from NYSDEC and make a follow up with SHPO regarding the archeological review of this property.

**Wowaka 4 lot subdivision (Forever Ivy Acres)** – property owned by Stephen and Rhonda Wowaka and is located at East Fallkill Road, **Tax Grid No. 6266-00-935470**.

Applicants proposed to subdivide a ±37.5 acre lot into 4 lots which is in the AR3 and AR5 Zoning District.

Michelle Zerfas, Mr. Berger from Berger Engineering and the Wowakas were all back before the board. Also present for this case are the town engineer, Pete Setaro and town planner, Neil Wilson.

Mr. Berger explained that they recently came up with the plan of a 4 lot subdivision with one common driveway access. Three of the lots would be defined as Rear Lots per Town of Clinton Zoning Law and will have 3 accessways. These 3 abutting accessways are adjacent to an existing accessway on an adjacent lot (Swenson’s property). The 3 rear lots would share a common driveway and the 4<sup>th</sup> lot would have its own driveway. The common driveway will be within 80 feet of the existing adjacent property driveway.

Mr. Berger stated that they think that this is a much better configuration. Originally proposed as 7 lot subdivision, Mr. Berger remarked that they reduced it to 6 lots and cutting it down now to 4 lots. Mr. Berger noted that this 4-lot design eliminates the town road and associated town maintenance. He is now before the board to get everybody’s comment about the new proposed subdivision.

Chairman McCormack opened questions to the board.

Mr. Wilson expressed his comments per his letter dated 2-15-11. As depicted on the map, the applicants discarded the previous layout of a 6 lot subdivision with a proposed town road in favor of a 4 lot configuration. Three of the four lots are configured as rear lots serviced by a common driveway. Lot 1 would have a frontage on East Fallkill Road and its own driveway. (Note that Lot 1 is not classified as rear lot.) Lots 2, 3, and 4 would be configured as Rear Lots.

Mr. Wilson stated that the code has a restriction on the location of flag lots driveway (access portion to the driveway). If you’re going to have rear lots, the code allows 80 feet between adjacent driveways unless the board allows 2 abutting accessways to a rear lot.

**§250.25 B-4** of the Town of Clinton Zoning Law states that “A driveway entrance must be a minimum of eighty (80) feet, at its closest point, from another existing or proposed adjacent driveway on the same side of the road, except where two (2) abutting accessways have been allowed by the Planning Board....”

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
February 15, 2011**

In this case, Mr. Wilson explained that the applicants propose to create 3 lots with 3 abutting accessways in addition to the existing rear lot accessway for the adjoining property owner (Swenson), thus making 4 abutting rear lot accessways. In order to allow 4 abutting accessways, Mr. Wilson stated that a variance would be needed. The Planning Board can grant 2 abutting accessways and the other 2 accessways would be a variance.

The town planner noted **that §250.25 B-3** of the Town of Clinton Zoning Law sets limit on the number of abutting rear lot accessways to no more than two.

**§250.25 B-3** of the Town of Clinton Zoning Law states that “No two (2) accessways to rear lots may abut. The Planning Board may waive this requirement and allow no more than two (2) abutting accessways to rear lots, ....”

Mr. Werner questioned item #3 of the town planner’s memo dated 2-15-11. Item #3 states that “No two (2) accessways to rear lots may abut. The Planning Board may waive this requirement and allow no more than two (2) abutting accessways to rear lots, ....”. Mr. Werner commented that this item states that you can only have 2 abutting accessways.

Mr. Wilson noted that the applicant needs to go before the ZBA to get a variance. Planning Board is allowed to grant 2 abutting accessways.

Mr. Wilson opined that the presented configuration makes sense (4-lots with 1 common driveway). This is now a question of getting the variance needed.

The board reviewed the number of abutting accessways. Mr. Berger stated that there are 4 abutting accessways because of Swenson’s accessway. The applicant noted that they need to do a lot line adjustment with the Swensons.

Chairman McCormack solicited the board’s thoughts about this layout.

Mr. DePasqua and Ms. Ruzicka favored the layout of the 4 lot subdivision. The rest of the board concurred.

The board agreed to send a recommendation to Zoning Board of Appeals.

Mr. Werner made a motion that the Town of Clinton Planning Board approves the following resolution:

***BE IT RESOLVED*** that the Town of Clinton Planning Board provide a **positive conditional** recommendation to the Zoning Board of Appeals on the requested area variances to **Sec. 250.25 B-3** (requirements for non-abutting accessways) **and Sec. 250.25 B-4** of the Town of Clinton Zoning (“Rear Lots – A driveway entrance must be a minimum of eighty (80) feet at its closest point , from another existing or proposed adjacent driveway on the same side of the road, except where two (2) abutting

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
February 15, 2011**

accessways have been allowed by the Planning Board...”) in order to have 4 adjoining accessways as requested by Stephen and Rhonda Wowaka on property located on East Fallkill Road, **Tax Grid Nos. 132400-6266-00-935470** as shown on the provided drawing.

***WHEREAS;***

1. The applicants are requesting a variance to construct three (3) abutting accessways to Rear lot as part of a proposed 4-lot subdivision.
2. This is a ±37.5 acre lot located in an AR3 (front) and AR5 (back) Zoning District.
3. The New York State Environmental Quality Review Act has determined that the granting of an area variance for a single-family, two-family, or three-family residence is a Type II action and therefore this action is not subject to further review.
4. Since the request is for an area variance, an Agricultural Data Statement is not required.
5. An undesirable change will not be produced in the character of the neighborhood, and a detriment to nearby properties will not be created, by granting this area variance.
6. The benefit sought by the applicant cannot be achieved by some other method that will be feasible for the applicant to pursue.
7. The requested area variance is substantial but this should not preclude its granting since granting the variance will allow a better subdivision plan.
8. The proposed setback variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
9. The alleged difficulty is self-created.

***NOW, THEREFORE, BE IT RESOLVED,*** the Planning Board is making a **positive recommendation for approval** to the Town of Clinton Zoning Board of Appeals when the following condition is met:

- All fees have been paid.

Seconded by Mr. Dolan.

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
February 15, 2011**

**Discussion.** Mr. Dolan asked whether this is an area variance or use variance. Mr. Wilson responded that this is considered an area variance. This is a setback variance allowing 80 feet driveway entrance.

All in favor, Aye, Motion carried 6-0.

Ms. Ruzicka left at 9:00 pm.

**RV Interlake** (Renewal of Annual Permit) – property located at 428 Lake Drive, **Tax Grid #132400-6469-00-218434-00.**

Applicant wishes to renew the campground annual permit.

The board reviewed the renewal application. There were no changes on this application or violations on the property.

The board agreed to renew the permit, to wit:

Mr. Werner motioned that the Town of Clinton Planning Board approve the annual renewal of a special permit for the operation of **Interlake RV Park, Inc.** (Steven R. Dumais, President) located at 428 Lake Drive, **Tax Grid #132400-6469-00-218434-00.**

**WHEREAS:**

- 1) The applicant has stated, in a letter dated 1-5-11, that there are no changes in the operation of the park since the previous renewal.
- 2) The Zoning Enforcement Officer has inspected the site and confirms, by memo to the Planning Board dated 1-10-11, that (a) the number of sites remains at 159; (b) there are 80 trailers being “wintered over”; and (c) the site is “clean and well maintained.”
- 3) The Zoning Enforcement Officer further confirms that there are no known zoning violations on the property.
- 4) A site plan of the campground is on file with the Town of Clinton Zoning Office.
- 5) Interlake RV Park, Inc., has a current Dutchess County Health Department approval to operate the campground, which expires on 3-31-11.

**NOW, THEREFORE, BE IT RESOLVED,** the Planning Board recommends the approval of the annual renewal of a special permit to the Town Clerk with the following conditions:

- Health Department approval for 2011 is granted.

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
February 15, 2011**

Seconded by Mr. DePasqua,

**Discussion.** None.

All Aye, except for Ms. Ruzicka who left earlier, Motion carried 5-0-1.

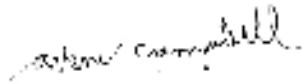
**APPROVAL OF MINUTES:**

Mr. Werner motioned to accept the minutes of January 4, 2011 as amended, seconded by Mr. DePasqua, all aye, except for Ms. Ruzicka who left earlier, Motion carried, 5-0-1.

**ADJOURNMENT**

Mr. DePasqua motioned to adjourn the meeting at 9:30 pm, seconded by Mr. Dolan, All Aye except for Ms. Ruzicka, Motion carried, 5-0-1.

Respectfully Submitted,



Arlene A. Campbell, Clerk  
Planning & Zoning Board of Appeals

Cc: Carol Mackin, town clerk