

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
April 19, 2011**

MEMBERS PRESENT

Mike McCormack, Chairman
Art DePasqua
Gerald Dolan
Robert Marrapodi
Tracie Ruzicka
Paul Thomas
Eliot Werner

MEMBERS ABSENT

Arlene Campbell, Secretary

Chairman McCormack called the meeting to order at 7:34 p.m.

AREA VARIANCE APPLICATION:

None

PUBLIC HEARINGS:

Genie Polower Site Plan and Special Permit – property located at 167-169 Allen Road, Tax Grid No. 6466-00-455464.

The applicant is seeking a Site Plan and Special Permit approval in order to construct an accessory apartment to an existing two-family dwelling.

Richard Olson and Mike Dalbo, applicant's attorney and land surveyor, respectively, appeared on behalf of Ms. Polower.

Mr. Werner motioned to open the public hearing, seconded by Mr. DePasqua, All Aye, Motion carried, 7-0.

Mr. Olson briefly explained Ms. Polower's proposition. Ms. Polower has nonconforming uses and nonconforming lots. There are 8 dwelling units on this property (4 units in the red house and 4 units in the brown house). The brown house, which is a four-family house with 4 units currently occupied, received an interpretation from the Zoning Board of Appeals that this is a legal two-family house with two boarders. Since two boarders cannot have kitchens and in order to preserve Ms. Polower's income, Mr. Olson indicated that they seek a variance to Sec. 250-29 of the Town of Clinton Zoning Law (criteria for the Special Permit prohibiting the construction of an accessory apartment in a two-family dwelling or on a nonconforming property with multiple dwellings). This variance was granted. Mr. Olson noted that a lot line adjustment was also granted on this property in order to meet the zoning acreage requirement. Lastly, he stated that nothing is going to

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change outside of the property. They are now back before the board to pursue the application for a special permit.

Chairman McCormack opened the meeting for questions from the public.

Hearing none, the board agreed to close the public hearing. Mr. DePasqua motioned to close the public hearing, seconded by Mr. Dolan, All Aye, Motion carried, 7-0.

Sacks 3-lot subdivision – property located at 350 Schultz Hill Road, **Tax Grid No. 6268-00-961540.**

The applicant wishes to subdivide a ±51.66 acre lot into 3 residential building lots consisting of ±15.73 acres (lot 1), ±13.37 acres (lot 2), ±22.56 acres (lot 3).

Michael Sacks and Dan Wheeler from D.F. Wheelers Engineers appeared for this application.

Also present for this application was the town engineer.

Ms. Ruzicka motioned to open the public hearing, seconded by Mr. DePasqua, All aye, motion carried, 7-0.

Mr. Wheeler explained that they want to subdivide this property into 3 lots. This application originally started in 2007. They were originally granted Preliminary approval back in May 2010. Unfortunately, this approval expired and they have to start the process over again. The only change in this application is the driveways. Mr. Wheeler noted that they “uncombined” the common driveway.

Mr. Wheeler indicated that Sketch approval was re-issued at the last meeting. They are now back before the board to continue the subdivision process.

Mr. Wheeler noted that they didn't get the chance to address Morris Associates comments dated 4-18-11 since they just recently received this letter.

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Chairman McCormack invited questions from the public.

Conrad Cultraro of 378 Browns Pond Road expressed his confusion about this application. They received a legal notice about this case a year ago. They haven't heard anything in awhile. Recently, property owners received another legal notice.

Chairman McCormack explained what happened to this application. The applicant's previous approval expired. This case is now considered a brand new application. The applicant has to start the process again. Property owners recently received another legal notice because this application has to go through the public hearing process again.

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June Sanderson 227 Deer Ridge Drive questioned the verbiage of the legal notice stating "...further notice that the environmental significance will be reviewed at the said meeting." She asked, "What do you mean by this statement?"

Chairman McCormack responded that that this statement means that the board is also doing SEQR at this meeting.

Mr. Setaro indicated that the applicant split the driveways in Lots 1 and 2. (One driveway on Schultz Hill Road and two driveways on Browns Pond Road)

Mr. Cultraro expressed his concern about the driveways that are coming thru Browns Pond Road. He noted that this is a very narrow road. He asked, "Are they going to widen this road? Who is going to be responsible for this?"

Chairman McCormack responded that the board can ask the Highway Superintendent about this concern.

Mr. Setaro stated that he will meet with Mr. Tompkins the next day and will discuss this concern. Mr. Setaro commented that typically, when the Highway Superintendent looks at the road, the first thing that he wants to see is that there is an adequate sight distance on the road. There are lots of roads in the town that are narrow and narrower. When property owners wish to develop their lands, the Highway Superintendent makes sure of the greenery and sight distance on the road.

Mr. Setaro noted that there is already an existing driveway on this property. The applicant is just adding one extra driveway on this land.

Mr. Cultraro asked about the location of the proposed driveway. Is this next to the icehouse? Mr. Sacks responded, "Yes."

Mr. Cultraro remarked that if two driveways are coming out from that particular area, then something needs to be done. These driveways are too close together on a very narrow road. He remarked that you can't even make a turn on the narrowest part of this road. He pleaded that something needs to be done, like widening this road.

Mr. Setaro questioned the above comment. He asked, "How do other people get out of their driveways then?"

Mr. Cultraro responded that you have to step on your brake and let the other cars pass.

Mr. Setaro asked, "Don't you do the same thing on other roads?"

Mr. Cultraro responded "No." You can have two cars pass on other roads without stopping or slowing down. This part of the road is very narrow (13 to 14 feet wide) and only one car can pass.

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Mr. Cultraro stated that this was the same concern expressed when a single driveway was supposed to be constructed. Now that the proposal is 2 driveways, then this will create more problems.

Chairman McCormack stated that the board will have the town engineer and the Highway Superintendent look into this matter. Mr. Setaro agreed to check this out.

Mr. Setaro explained his comments per letter dated 4-18-11.

Item #1 of his letter was about the driveway. Mr. Setaro stated that the proposed layout now indicates separate driveways for lots 1 and 2. Lot 1 will use the existing driveway. The Highway Superintendent should be contacted to review the new driveway configuration. Also, the proposed driveway pipes at Browns Pond Road do not have the proper cover and there may be roadside swale improvements to accommodate the pipes. These improvements should be shown on the plan.

Mr. Marrapodi noted that there is a driveway approval on file received from the Highway Department dated 3-21-11. Mr. Setaro noted that he hasn't seen the driveway approval yet.

Mr. Setaro stated that item #2 is about whether the cottage on Lot 1 will have any parking facilities. Mr. Wheeler noted that this matter was already taken care of.

Mr. Setaro explained that these comments per letter dated 4-18-11 were based on the updated Site Plan. He added that Morris Associates Engineering had already issued comments before on this project. He noted that most of their previous comments had been taken care of.

Mr. Setaro went over his comments to the panel (see letter on file dated 4-18-11).

The town engineer stated that his office met with Dana Veith, the adjoining property owner, regarding drainage concerns. Based on the recent storm, there was a tremendous amount of water that drains onto Ms. Veith's property. Mr. Setaro stated that there have been always concerns about the natural flow of water that's coming down thru Ms. Veith's property. In terms of working with the applicant's engineer throughout the process, Mr. Setaro noted that D.F. Wheelers Engineers have shown two stormwater retention basins on Lot 1, which will help the issue.

Based on the last storm and heavy rains in the past, there was significant water on Ms. Veith's property. To ensure that this property is protected, Mr. Setaro suggested that the applicant's engineer do a slight modification to the pipes that will go underneath the driveway between the two retention basins to hold the water back a little but longer. He also asked D.F. Wheeler's Engineers to cut a drainage swale from the outlet of the pond to the north of the Veith property in order to avoid actual damage on this property. With

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all the improvements shown on the site plan, Mr. Setaro stated that this will mitigate the issue on Ms. Veith's property.

Ms. Sanderson questioned about the Veith property. Mr. Setaro responded that Ms. Veith bought this property within the last year.

Ms. Sanderson asked Mr. Setaro if his comment was related to the last year's concern about the Veith's property. Mr. Setaro responded positively.

Ms. Sanderson expressed her experience on Schultz Hill Road due to road conditions after trees were disturbed. She remarked that the minute you cut trees down, then you amplify the drainage. Mr. Setaro responded that the driveway on Shultz Hill Road has not changed since the original approval.

Chairman McCormack stated that Highway Superintendent and the town engineer will look at the condition of this road.

Mr. Cultraro expressed the concerns of the Lionels' (property owners who weren't present at the meeting). The Lionels are concerned where the driveway is entering Schultz Hill Road. There is a blind spot area coming up Schultz Hill Road. Mr. Cultraro noted that this issue was also raised by the Lionels in the previous public hearing.

Mr. Setaro responded that the Highway Superintendent looked at this road before and made sure that there is adequate sight distance.

Mr. Cultraro asked if the Highway Superintendent is aware of the public's concern when reviewing these driveways? These concerns need to be taken into consideration.

Chairman McCormack noted that the town engineer will discuss these concerns with the Highway Superintendent.

Ms. Sanderson discussed the value of retaining trees. She pleaded that an escrow be established just in case things weren't done right on this property. It is not the taxpayer's responsibility to fix the road if anything goes wrong during the construction process.

Mr. Wheeler addressed the comments of the town engineer. When it comes to separation of the common driveway, Mr. Wheeler stated that there is no significant difference between the original application (common driveway) and the recent proposal (splitting the common driveway). The original proposal has 2 driveways coming into one entrance. Mr. Wheeler noted that there is still the same number of cars coming out of these driveways. After splitting this driveway, Mr. Wheeler stated that half of the number of these cars was going to one house and the other half goes to the other house. Mr. Wheeler opined that the separation of these driveways is not significant. There is just a little difference.

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Mr. Wheeler responded to Morris Associates' comment item #6. The Vieth property has a big flood problem right now and Ms. Veith is looking at the applicant to fix this problem. Mr. Wheeler remarked that they haven't done a single thing on this property. They already accommodated this issue by putting a retention pond (drainage). Mr. Wheeler stated that it is not their responsibility to fix Ms. Veith's problem.

Mr. Wheeler addressed the issue about trees. He noted that they already addressed this issue with the town consultants and the board in the original application. They had identified areas of disturbance, wetlands, property lines, setback, etc to capture a reasonable house location. He pointed out on the map the lines of disturbance. Mr. Wheeler noted that you can only work around the house.

Mr. Setaro noted the public that this is a 3-lot subdivision on a 51.56-acre lot (3 houses and 3 driveways).

In response to the earlier comment about who is responsible for the road (that it should be the applicant and not the taxpayers), Mr. Wheeler stated that the Highway Superintendent is responsible for the road.

Mr. Cultraro remarked that the elevation of this property is higher than the road. Anything you do on this property affects the road. This is not just the town or Highway Superintendent's responsibility. It is also the applicant's responsibility to make corrections so that it doesn't affect the road.

Mr. Wheeler explained his earlier response. The board, town consultants, and highway superintendent review an application according to the zoning law. The Highway Superintendent wouldn't want to see a run off on any road that will cause ice or treacherous roads. The town consultants, Highway Superintendent, and the applicant's engineer meet and address how to mitigate any issues. In this case, Mr. Wheeler commented that these driveways were already reviewed to make sure that they don't interfere with the road conditions.

Mr. Wheeler expressed his frustrations about the above concerns that had already been addressed in the original application. He noted that this application has been going on for so many years.

Ms. Sanderson commented about the separation of driveways. The problem with the separation of driveways is you can see the other driveway. They look like RV trucks next to each other. It looks like a city. Ms. Sanderson expressed her hope that the separation of these driveways will not cause tree damage.

Once again, Ms. Sanderson reiterated her strong concern about the trees and forever green. Since the town doesn't have anybody on the site to make sure that the plan is being followed, she stated that this project needs constant aerial photographs every developmental process in order to prevent mistakes.

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Ms. Sanderson stated that this property is loaded with trees. The board should make sure that “no extra trees are cut.” She asked the Chairman, “How will you enforce this, Mr. Chairman?”

Chairman McCormack responded that the only way to do this is by way of Conservation Easement. Mr. Sacks voluntarily enters into an agreement with the town.

Mr. Setaro noted that there are already disturbance lines shown on the map. Ms. Sanderson remarked that these lines do not mean anything. Mr. Setaro expressed his understanding about the concern for policing.

Chairman McCormack cited as an example that Mr. Sacks or any property owner can cut one or more trees on their property the next day or any day. This is in accordance with the zoning ordinance. The board can always ask the applicant to put “Forever Wild” into an agreement but the board cannot force the applicant to do it. This is up to the applicant.

Ms. Sanderson disagreed. This won’t address the enforcement issue. Ms. Sanderson stated that what this needs is two aerial photographs (before and after the development of this land).

Chairman McCormack cited an instance about the Crimson Hill Estate Subdivision’s violation. The owner of this subdivision was asked to re-plant the trees after doing clear cutting on the property.

Mr. Cultraro suggested getting an arborist to identify the trees (which trees can be saved and can be salvaged) on a particular area instead of opening the whole area. This will also enhance the property value.

Chairman McCormack responded that the board can always ask the applicant. He noted that the applicant is not obliged to do it.

The panel had a lengthy discussion about tree preservation. Ms. Sanderson and Mr. Cultraro vocalized their strong opposition to tree cutting.

Ms. Sanderson indicated her concern about the probability of cell tower on this property. She stated that Mr. Sacks was approached by a cell tower company three times. She pleaded for a “No Cell Tower” restriction on these lots. There should not be any cell tower on this property due to environmental issues.

Mr. Setaro stated that the applicant will have to come back before the board for a cell tower application. There will be a public hearing and the public will be notified.

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Chairman McCormack stated that the board can always ask the applicant to put a deed restriction. It is up to the applicant whether he will do it or not. There is nothing in the ordinance to make the applicant do all these restrictions.

Ms. Sanderson commented that developers are not aware of the consequences of these actions, like the effects on water that you drink.

Again, the Chairman noted that they can always ask the applicant but they cannot force the applicant to put a restriction on the deed.

The board agreed to close the public hearing. Ms. Ruzicka motioned to close the public hearing, seconded by Mr. DePasqua, All Aye, Motion carried, 7-0.

APPLICATIONS:

Genie Polower Site Plan and Special Permit – property located at 167-169 Allen Road, Tax Grid No. 6466-00-455464.

The applicant is seeking a Site Plan and Special Permit in order to construct an accessory apartment to an existing two-family dwelling.

Mr. Olson and Mr. Dalbo were back before the board for continuing discussion of this application.

The board discussed the application. Mr. Olson indicated the required state variance on both buildings that they need to get prior to issuance of Certificate of Occupancy. He stated that once the board grants the special permit, then their engineer can do the layout of the accessory apartment.

The board agreed to review the short form EAF.

After reviewing the said form, the board agreed to pass a resolution, to wit:

Mr. Werner motioned the following resolution:

Be it Resolved, that the Town of Clinton Planning Board has determined that **Genie Polower Site Plan and Special Permit application** on property located at 167-19 Allen Road, **tax grid nos. 6466-00-455464 and 6466-00-414459** will not have a significant impact on the environment; and;

BE IT FURTHER RESOLVED, that the Town of Clinton Planning Board hereby issues a Negative Declaration pursuant to the requirements of the State Environmental Quality Review Act 6 NYCRR 617.6 (g) and in accordance with Article 8 of the Environmental Conservation Law.

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Seconded by Ms. Ruzicka.

Discussion. None.

All Aye, Motion carried, 7-0.

Mr. Werner discussed the requested waiver letter dated 4-19-11.

The board agreed to accept the waiver. Ms. Ruzicka motioned to accept the waiver, seconded by Mr. Marrapodi, All Aye, Motion carried, 7-0.

Ms. Ruzicka discussed BOH approval that was tied up with the variance. The board agreed to put condition stating “verification of Board of Health approval since there is no new septic system.”

After all the discussions and review, the board passed a resolution, to wit:

Mr. Werner motioned that the Town of Clinton Planning Board grants conditional approval of a Site Plan and Special Permit to **Genie Polower** for the purpose of establishing an accessory apartment on a newly created 10.77-acre site located at 167–169 Allen Road, which is in an AR-5 Zoning District in the Town of Clinton, formerly **tax grids #132400-6466-00-455464-00 and #1342400-6466-00-414459-00.**

WHEREAS:

- 1) The applicant wishes to construct an accessory dwelling unit on the property as shown on the site plan created by Michael A. Dalbo, Licensed Land Surveyor, NYS license #049311, dated 4-5-11 and revised 4-12-11
- 2) The property borders a working farm in an Agricultural District. The applicant has submitted an Ag Data Statement.
- 3) At its 1-27-11 meeting, the Zoning Board of Appeals granted the applicant an area variance from Section 250-29B of the Town of Clinton Zoning Law, to allow an accessory apartment with a nonconforming two-family dwelling on the property.
- 4) At its 4-5-11 meeting, the Planning Board approved the applicant’s application for a Lot Line Adjustment removing the lot line between the previously existing Lot 1 and Lot 2, creating a new lot of approximately 10.77 acres.
- 5) The Town of Clinton Planning Board declared itself Lead Agency on 4-5-11 for this unlisted, uncoordinated action. Appropriate referrals to the interested agencies have been made.

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6) In accordance with Section 7.9.B.3 of the Town of Clinton Zoning Law, a Public Hearing was held on 4-19-11.

7) A SEQRA review of this unlisted, uncoordinated action (and the public hearing held on 4-19-11) has resulted in a negative declaration being prepared and declared in accordance with the New York State Environmental Quality Review Act on 4-19-11.

8) At its 4-19-11 meeting, the Planning Board agreed to waive the items from the Site Plan as requested by Richard J. Olson in his letter dated 4-19-11.

9) This application conforms with the provisions of Section 7.9 of the Town of Clinton Zoning Law pertaining to "Site Plans."

10) This application conforms with the provisions of Section 5.3 of the Town of Clinton Zoning Law pertaining to "Accessory Dwelling Units."

11) The special permit and the variance granted by the Zoning Board of Appeals are contingent on the applicant's continued occupancy of the property.

NOW, THEREFORE, BE IT RESOLVED, the Town of Clinton Planning Board grants approval of the requested Site Plan and Special Permit when the following **conditions** are met:

a) The applicant produces verification that the septic system meets Board of Health standards for the proposed occupancy prior to the issuance of a building permit.

b) The applicant's attorney must provide adequate language in the new deed to satisfy the Town Attorney that the permitted use provided by this variance ends upon deed transfer or Ms. Polower's death and does not run with the land.

c) The applicant will secure variances from the New York State Building Code prior to the issuance of a building permit.

d) The applicant satisfactorily addresses any substantive comments received from the interested agencies prior to the issuance of a building permit.

e) All appropriate fees are paid.

Seconded by Ms. Ruzicka.

Discussion.

Chairman McCormack asked about condition #d (comment from East Clinton Fire Department and other interested agencies). Mr. Werner responded that he included this condition just in case the board receives a comment or concern from the interested

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agencies. Ms. Ruzicka agreed with Mr. Werner since this is a multi-family dwelling. Chairman McCormack suggested putting a condition stating “any future comments will be incorporated or be a part of building permit process.” The board agreed.

Mr. DePasqua verified if the resolution states that this dwelling should be owner occupied. Mr. Werner responded that this is already included in the resolution.

All Aye, Motion carried, 7-0.

Sacks 3-lot Subdivision (Preliminary Re-Approval) – property owned by Michael Sacks located at Browns Pond and Schultz Hill Road, **Tax Grid No. 6268-00-961540.**

Applicant wishes to subdivide a 51.66 lot into 3 residential lots to wit, Lot 1 – 15.73 acres, Lot 2 – 13.37 acres and Lot 3 – 22.56 acres in an AR 5 District.

As noted earlier, the Preliminary approval that was issued in May 18, 2010 lapsed and the applicant is back to re-do the subdivision process.

Michael Sacks along with his engineer, Dan Wheeler of D.F. Wheeler Engineering Company, appeared for this application.

The panel discussed the common driveway that is now separated. Mr. Wheeler stated that these driveways are 100 feet apart.

Mr. Werner asked Mr. Setaro if he’d seen the CAC comments. Mr. Setaro responded positively. He noted that some of the comments are not applicable to this project since the applicant is not disturbing more than 5 acres. He stated that he is going to write a letter to the CAC in response to these comments.

Chairman McCormack asked the board for any questions or comments.

Mr. Marrapodi commented that the issue here about a single lane road is all over the town. There’s not much that they can do about it. As long as the sight distance is met, then it should be okay.

Mr. Wheeler concurred with Mr. Marrapodi. As you drive through the town, there’s a variety of conditions with respect to the roads. He noted that Mr. Tompkins walked with D.F. Wheelers Engineers checking this site.

Mr. Marrapodi asked about the terrain of the driveway. Mr. Wheeler responded that the driveway is pretty flat. He indicated that Mr. Tompkins had asked them to remove a ski monk of the bank on one side of the road. Mr. Setaro stated that this will be part of the driveway permit conditions.

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Mr. Setaro asked about the dry wells at the end of the driveway. The map that was previously approved showed three drywells at the end of the driveway. He stated that he cannot locate them on the new map. In response to Ms. Sanderson's concern about the issue of water coming down the road, Mr. Setaro stated that he remembers that they already dealt with this concern before by putting drywells at the end of the driveway to try intercepting whatever water run off and whatever water that cannot be handled by the drywells.

Mr. Wheeler responded that he is going to look into this. They may have been taken off the map as they went along the process or perhaps the town engineer might have approved taking them off. He needs to go back and review all the previous comments.

Mr. Wheeler discussed the driveways. He pointed out where the common driveway used to be and the existing driveway where it will be used as a second driveway. These driveways are 100 feet apart.

Mr. Werner asked if this is where the existing cottage is. Mr. Wheeler responded yes. They split the common driveway by using the existing driveway.

Mr. Werner asked about the steep slopes permit application. Chairman McCormack asked the applicant if they are going to work on the steep slopes now or are they going to wait until the lots are sold.

Mr. Sacks responded that the only work that they need to do prior to subdivision approval is the grading that the Highway Superintendent has requested prior to issuance of a driveway permit. They are not going to do anything beyond this area, just the access to the lot which is the driveway.

Ms. Ruzicka asked if the new owner of the property receives a copy of the site plan. Chairman McCormack responded yes.

Mr. DePasqua raised his concern about this application. The applicant is going to sell lots and somebody else will do the work on the property. Mr. DePasqua stated that future property owners can just clear cut the property or disturb the slopes.

Chairman McCormack disagreed. The new property owner needs to get a building permit before building a house on the property. If the property owner intends to disturb the slope, then he needs to get a Steep Slope Permit.

Mr. DePasqua stated that the significant feature of a subdivision is a Steep Slopes Permit. Applicant subdivides a land, sells the lot, and the applicant is gone. New property owner who knows nothing about the regulations comes in and develops the lot.

Ms. Ruzicka stated that the board normally puts a note on the map stating that if steep slopes are disturbed then a steep slope permit is required. Mr. Sacks agreed to put this

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notation on the map. Chairman McCormack noted that this note should be in the resolution and on the map.

The board agreed that the applicant doesn't need to get a Steep Slopes Permit since the applicant is not disturbing slopes. Mr. Sacks is only selling lots.

With regards to the cell tower issue, Chairman McCormack asked Mr. Sacks if he is willing to do a Deed Restriction about "No Cell Tower on these lots." Mr. Wheeler remarked that the board is trying to impose zoning by way of Deed Restriction. Mr. DePasqua disagreed. The board is only asking. They are not imposing or forcing the applicant to do it.

Mr. Sacks asked about the process of this restriction. Chairman McCormack edified the applicant. This note is going to be on the plat and on the deed. This restriction is another way of protecting the neighborhood. Chairman McCormack noted that it is up to the applicant to say "yes" or "no" to this restriction. The board is only asking and not enforcing this restriction.

Mr. Sacks noted that he is going to think about this.

Ms. Ruzicka asked Mr. Setaro regarding his opinion about CAC's comment. Mr. Setaro stated that the letter indicated a lot about soil and erosion control measures. He noted that there are already a lot of soil erosion control measures shown on the map. Also, the letter indicates disturbance of greater than 5 acres. Mr. Setaro commented that this project is only disturbing a total of 4.5 acres. He added that the applicant is only doing a 3-lot subdivision on a 51-acre lot. Mr. Setaro stated that these are good comments but are not applicable to this project.

With regards to the CAC's erosion concern, Mr. Setaro stated that an escrow could be established to make sure that soil erosion is proper.

The board agreed to review the Long Form EAF. After reviewing the form, the board agreed to issue a Negative Declaration.

Ms. Ruzicka motioned that the Town of Clinton Planning Board accepts the Negative Declaration that was prepared by the town planner dated 4-19-11.

Seconded by Mr. Marrapodi.

Discussion. None.

All in favor, Aye, Motion carried, 7-0.

The board agreed to grant a Preliminary Approval with conditions.

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Ms. Ruzicka motioned that the Town of Clinton Planning Board approves the following resolution:

Whereas, the Town of Clinton Planning Board has received an application for Preliminary Subdivision Approval from Michael Sacks for the purpose of subdividing a ±51.66 acre lot into three lots of ±15.73 acres (Lot 1), ±13.37 acres (Lot 2), and ±22.56 acres (Lot 3); and

Whereas, said subdivision is located on Browns Pond Road and Schultz Hill Road as shown on a preliminary plat map prepared by D.F Wheeler Engineers, P.C. dated November 2007 and last revised March 1, 2011 entitled “Sacks Subdivision – Preliminary Subdivision Plat” (hereinafter “Sacks Subdivision”); and

Whereas, the Sacks Subdivision is identified as **tax parcel number 6268-00961540-0000**, is located in the AR-5 Zoning District; and

Whereas, the Planning Board had issued Preliminary Subdivision Approval for this project on May 18, 2010 and said preliminary approval lapsed six months thereafter due to the failure of the applicant to obtain an extension of said approval; and

Whereas, the current proposal is for the same project with the exception of the reconfiguration of the driveways for lots 1 and 2 which are now individual private driveways rather than a single shared driveway; and

Whereas, the Planning Board, as the Lead Agency, has determined that the proposed Sacks Subdivision would not result in any large impact(s) and has issued a “Negative Declaration” pursuant to the requirements of the State Environmental Quality Review Act (ECL 8-0101 et seq.); and

Whereas, after review of the preliminary subdivision plat the Planning Board has determined:

- 1) That the proposed subdivision will be of such character that it may be safely used for building purposes without danger to health, or peril from fire, flood, or other menace; and
- 2) That proper provisions have been made for drainage, water supply, and sewage; and

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- 3) That access to the proposed lots will be of such width, grade and location as to accommodate prospective traffic and afford adequate light and air, and facilitate fire and police protection; and
- 4) That the proposed lots will be laid out so as to be in harmony with the development pattern of the neighboring properties; and
- 5) That open space of suitable location, size and character will be maintained; and
- 6) That pursuant to §277(4)(b) of the Town Law, the Planning Board has examined the recreational facilities of the Town and has determined that: a) based on increases in the town-wide population growth as evidenced by data from the 2000 Census and preliminary estimates from the 2010 Census; and b) potential increases to the local population attributable to the project; and c) the need for additional recreational lands as documented in Chapter 6 of the “Town of Clinton Master Plan”, that a proper case exists for requiring that a park suitably located for playgrounds or other recreational purposes within the town be required for this development. However, based on the limited accessibility of the site, and the overall environmental constraints represented by on-site wetlands and steep slopes, pursuant to §277(4)(c) of the Town Law the Planning Board has determined that a suitable park or parks of adequate size to meet the additional requirement cannot be properly located on the proposed site, and that at the time of Final Subdivision Approval the applicant shall pay a sum of money in lieu thereof, in an amount established by the Town Board; and
- 7) That the proposed subdivision is in compliance with the requirements of the Town Zoning Law and the Town Master Plan; and

Whereas, after review of the application the Planning Board has agreed to waive the information ordinarily required by Appendix C.I.6 of the Subdivision and Lot Line Adjustment Regulations; and

Whereas, the Planning Board held a public hearing on the preliminary subdivision plat and closed said public hearing on April 19, 2011;

Now Therefore Be It Resolved, that the Town of Clinton Planning Board hereby grants preliminary subdivision approval for the Sacks Subdivision for the following:

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1. *Preliminary Subdivision Plat Map prepared by D.F Wheeler Engineers, P.C. dated November 2007 and last revised March 1, 2011 entitled "Sacks Subdivision – Preliminary Subdivision Plat" consisting of the following:*

- a. *Sheet CS1 – "Cover".*
- b. *Sheet S1 – "Preliminary Plat.*
- c. *Sheet S2 – "Lots 1 & 2".*
- d. *Sheet S3 – "Lot3".*
- e. *Sheet S4 – "Site Plan".*
- f. *Sheet S5 – "Profiles".*
- g. *Sheet S6 – "SDS Details".*
- h. *Sheet S7 – "Details".*
- i. *Sheet S8 – "Details & Notes".*
- j. *Sheet S9 – "Lot Cross Sections".*
- k. *Sheet S10 – "Proposed No-Cut Zone".*

Be It Further Resolved, that the Planning Board will consider an application for Final Subdivision Approval for the Sacks Subdivision after the applicant has completed the following **conditions**:

1. *Resolution of any technical issues of the Town Engineer.*
2. *Respond to the comments of the Clinton Conservation Advisory Council dated March 16, 2011.*
3. *Approval of the Town Attorney, the Town Engineer and the Town Planner of the language and form of the restrictive covenants (conservation easement) for the preservation and protection of the designated open space areas (i.e. "Proposed No-Cut Zone").*
4. *Approval of the Town Highway Superintendent for the three new driveways.*

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5. *Approval by the Dutchess County Department of Health for the on-site water supply and sewage disposal systems.*
6. *Payment of all fees including Planning Board escrow fees.*
7. *Add the following notes to the final plat:*
 - a. *“It is the responsibility of the owner/applicant to submit to the Planning Board proof that the conditions of Final Subdivision Approval have been completed, and the signature of the Planning Board Chairman shall be withheld pending receipt of a written memoranda from the Planning Board’s consulting Planner and Town Engineer verifying that the conditions of this approval have been completed.”*
 - b. *“Prior to commencement of any site work, and prior to issuance of any Building Permit, the owner of any lot proposed for construction, together with their representative(s), shall meet with the Town Engineer and Town Highway Superintendent to discuss the phasing of the construction work, the placement of erosion control measures, requirements for certification from the applicant’s professionals, implementation of required mitigation, prior approval of field changes, and periodic field inspections by the Town Engineer.”*
 - c. *“At the completion of construction, and prior to issuance of a Certificate of Occupancy for any building, the lot owner shall provide to the Building Inspector an “as built” survey of the completed site work including associated storm water management facilities and any easements on the lot.”*
8. *Pursuant to §206-48(G) of the Town Code within six months of the approval of the preliminary plat, the applicant must submit the plat in final form. If the final plat is not submitted within six months, approval of the preliminary plat shall be considered to have been revoked by the Planning Board unless a mutual extension has been agreed to in writing by the Planning Board and the applicant. Extensions of six months' duration may be granted, at the end of which, if not renewed, the approval shall be considered to have been revoked by the Planning Board.*

Seconded by Mr. Marrapodi.

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Discussion.

Mr. Marrapodi commented on condition #7-b and 7-c. These paragraphs are referring to the applicant who is the one doing the subdivision process. He remarked that the applicant is not the one who is going to do the work on the site in the future.

Mr. DePasqua agreed. This is a sensitive situation. If nobody's watching this site, there could be a disaster in one day. Clear cutting can be done and anything could happen on steep slopes. Mr. DePasqua stated that these conditions need to be tightened. There should be a reference on the map. This has nothing to do with the applicant or the applicant's engineer.

The panel discussed enforcement about the issue to protect steep slopes, etc., in order to avoid a situation like the Crimson Hill case.

The board agreed to use "property owner" instead of "applicant." Mr. DePasqua noted that the property owner is the one who will also be responsible for the well since the applicant is not going to be around once the lots are sold. The applicant is not building; he is only selling lots.

All in favor, Aye, Motion carried, 7-0.

OTHER MATTERS:

Clinton Alliance Church Site Plan – It was recalled that the ZEO had issued a memo on December 1, 2010 stating that this property is in violation due to discrepancies between the approved site plan and what was built. The church owner was asked to come back before the board for an amendment of the Site Plan.

The board recently received another memo from the Zoning Officer (see letter on file) asking for input on the current status of this property.

After reviewing the Approved Site Plan with the town engineer and as indicated in the Site Plan Modification condition #3 dated 9-1-09, the ZEO determined that this property is in compliance with the site plan approval.

APPROVAL OF MINUTES:

Mr. Werner motioned to accept the minutes of March 15, 2011 as amended, seconded by Mr. DePasqua, all aye, Motion carried, 7-0.

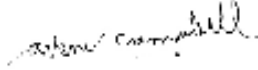
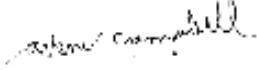
ADJOURNMENT

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Mr. DePasqua motioned to adjourn the meeting at 10:40 pm, seconded by Mr. Werner,
All Aye, Motion carried, 7-0.

Respectfully Submitted,



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

Cc: Carol Mackin, town clerk