

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
June 7, 2011**

**MEMBERS PRESENT**

Mike McCormack, Chairman  
Art DePasqua

Paul Thomas

Robert Marrapodi

Arlene Campbell, Secretary

**MEMBERS ABSENT**

Gerald Dolan  
Tracie Ruzicka

Eliot Werner

**ALSO PRESENT**

Chairman McCormack called the meeting to order at 7:33 p.m.

**AREA VARIANCE APPLICATION:**

None

**PUBLIC HEARING:**

None

**APPLICATION:**

**Trusz and Auspitz Lot Line Adjustment** – properties on 29 Deer Ridge Drive, **Tax Grid No. 6367-00-194970** and 297 Fiddlers Bridge Road, **Tax Grid No. 6367-00-117965** owned by Paul and Sheri Trusz and Jack and Marion Auspitz, respectively.

The applicants wish to swap a 0.29-acre piece of their property with no changes in the lot acreage.

Paul and Sheri Trusz appeared and represented the Auspitzes for this application.

Mr. Trusz briefly explained their proposition. He pointed out on the map how the lines are going to move. He noted that this will make the boundary lines straight. There are no changes in the lot sizes of either property.

Chairman McCormack opened questions to the board.

Mr. Marrapodi verified the total acreage of the property. This is just about land swapping of 0.29 acres. The total acreage of each property remains the same. The Truszes agreed.

Chairman McCormack asked if there will be any issues about the setback. Mr. Trusz responded, "None."

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Mr. Marrapodi asked if there will be any disturbance to the land. Mr. Trusz responded negatively. This application is about merely swapping land.

The board agreed to declare lead agency.

Mr. DePasqua motioned that the Town of Clinton Planning Board approve the following resolution:

**BE IT RESOLVED**, that the Town of Clinton Planning Board hereby declares lead agency for review of the project pursuant to Sections 617.6(2) and (3) of 6 NYCRR 617, in the matter of **Paul and Sheri Trusz** of 29 Deer Ridge Drive, Tax Grid No. 6367-00-194970 and **Jack and Marion Auspitz** of 297 Fiddlers Bridge Road Tax Grid No. 6367-00-117965, for this uncoordinated, Type II action.

Seconded by Mr. Marrapodi, All Aye, Motion carried, 4-0.

Chairman McCormack asked if anybody else has any more questions or comments.

Mr. DePasqua responded, "None. Everything else is on the map."

The board agreed to pass another resolution, to wit:

Mr. DePasqua motioned that the Town of Clinton Planning Board grants the following resolution:

**BE IT RESOLVED**, that the Town of Clinton Planning Board grants conditional approval for a lot line adjustment of lands owned by **Paul and Sheri Trusz** of 29 Deer Ridge Drive, Tax Grid No. 6367-00-194970 and **Jack and Marion Auspitz** of 297 Fiddlers Bridge Road Tax Grid No. 6367-00-117965, map dated May 31, 2011 supplied by Kevin Cunningham License #49417.

**WHEREAS:**

1. The intent of this action is to transfer  $\pm 0.29$  acres from the Trusz property to the Auspitz property and  $\pm 0.29$  acres from the Auspitz property to the Trusz property, thus creating a straight property line. Lot sizes remain the same (Trusz =  $\pm 4.86$  acres and Auspitz =  $\pm 33.63$  acres).
2. The lands under consideration have not been granted a special permit or other permit that would be void as a result from the action.

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3. The Planning Board has declared lead agency on 6/7/11 for the purpose of SEQRA process. Since a lot line adjustment is a type II action under SEQRA, no further SEQRA review is required.
4. The lot line adjustment does not create a substandard lot or render any lot more substandard.
5. Letters of authorization are on file.
6. There are no known violations on lots per Zoning Enforcement Officer that would prevent granting of this request.
7. Applicants confirm that there are no existing or proposed restrictions that would prevent granting of this request.
8. All appropriate fees have been paid.

***BE IT RESOLVED***, the requested lot line alteration is granted when the following condition is met.

- Both landowners sign the map.

Seconded by Mr. Marrapodi.

**Discussion.**

Mr. Marrapodi asked, “What’s the zoning district on this area?” Mr. Trusz responded that this property is in AR5 Zoning District. Mr. Marrapodi noted that this property is still a substandard lot (4.86 acres) after the lot line adjustment. However, he noted that this will not make a difference since there is no change in the lot size. The board agreed. Chairman McCormack noted that they are not making this lot less substandard.

Chairman McCormack asked about the letter of consent from the other property owner (Auspitz). Mr. DePasqua responded that the said letter is on file.

Chairman McCormack noticed that the map wasn’t signed by the property owners. The board agreed to put this as a condition to the approval.

All in favor, Aye, Motion carried 4-0.

**AVILA subdivision** (Board Discussion) – property owned by Jorge and Linda Avila on 2497 Salt Point Turnpike, **Tax Grid No. 6566-00-473897.**

The applicants are seeking to uncombine two parcels of land that were illegally combined in 1997.

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Patrick Moore, applicants' attorney, appeared on behalf of the applicant.

Mr. Moore explained his case. In 1997, the Avilas approached the Town Assessor and had two parcels of land combined into one tax lot. The Avilas are currently looking to sell these properties. They are now proposing to uncombine the lots and re-establish the prior property lines.

Mr. Moore noted that they just recently found out that these lots were illegally combined. He stated that he asked the town attorney if he can uncombine these lots legally without getting a lot line adjustment. They want to undo what was done. Per the town attorney's opinion, they have an alternative of seeking an interpretation from the Zoning Board of Appeals or proceed directly to the Planning Board for approval of the resubdivision. Mr. Moore stated that he wants to get the board's opinion on what process he needs to go through.

The board discussed the case.

Town of Clinton Subdivision and Lot Line Adjustment regulation (Local Law No. 2 of 1995) states that "All applications for Lot Line Alteration must be submitted to the Planning Board for review and approval."

Or page 8 of the Subdivision Regulations (Sec. 13 BN-7 Approval of Lot Line Adjustment states that "Any merger of lots by deed **requires approval** by the Planning Board for the Lot Line Adjustment and subsequent filing of such approval with the County Clerk."

Mr. DePasqua asked, "What's the zoning district on this area?" Mr. Moore responded that this is a Hamlet (1-acre zoning).

Mr. Thomas asked about the number of deeds. Were there originally two deeds and after combining the lots resulted to one deed? Mr. Moore responded that there was never one deed since there was no new deed created. These lots still have two deeds under one grid number.

Mr. Marrapodi expressed his thoughts about this case. The combining of these lots was done for tax purposes. There are still two deeds of record but one separate tax grid number. He commented that he would think that legally two separate deeds means two separate properties.

The board discussed the number of structures on this property. There are three accessory structures on one lot. The applicant indicated that these structures are pre-existing.

The board exchanged thoughts about this application. Mr. Moore stated that he's not creating a new lot. He just wants to establish the same boundary lines.

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Chairman McCormack noted that you are creating a lot when you're doing a subdivision.

After all the discussions and opinions were made, the board advised the applicant to see the ZEO and ask for his determination about the illegal combination of these lots (whether this is now considered one or two lots). The applicant can go to the Zoning Board of Appeals to get an Interpretation if he disagrees with the determination of the ZEO. Chairman McCormack noted that there is nothing in the ordinance whereby the Planning Board can give the applicant a relief. He needs to see Bob Fennell and see what he says. Mr. Moore agreed.

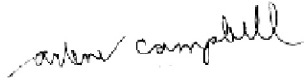
**APPROVAL OF MINUTES:**

Mr. DePasqua motioned to accept the minutes of April 5, 2011 as amended, seconded by Mr. Marrapodi. All aye, Motion carried, 4-0.

**ADJOURNMENT**

Mr. Marrapodi motioned to adjourn the meeting at 8:30 pm, seconded by Mr. DePasqua All Aye, Motion carried, 4-0.

Respectfully Submitted,



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

Cc: Carol Mackin, town clerk