

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

MEMBERS PRESENT

Mike McCormack, Chairman
Art DePasqua
Gerald Dolan
Tracie Ruzicka
Robert Marrapodi

Eliot Werner

MEMBERS ABSENT

Paul Thomas

ALSO PRESENT

Arlene Campbell, Secretary

Chairman McCormack called the meeting to order at 7:35 p.m.

AREA VARIANCE APPLICATION:

Joseph Petrone – property on 106 Valley Stream Road, **Tax Grid No. 6369-00-025039** which is in the AR5 Zoning District.

The applicant proposes an area variance to Sec. 250.29 D-3 (Lot Size) for a reduction of the acreage required (double the acreage) in order to construct a detached accessory dwelling.

Warren Smith, an architect appeared on behalf of the applicant.

Mr. Smith explained his case. The Petrones obtained a building permit to construct a pavilion for recreation. They want to convert this pavilion to an accessory apartment to house the ailing mother. Since this property is only 9.90 acres as opposed to the zoning requirement of 10 acres (double the acreage), Mr. Smith stated that they are seeking a variance of .059 acres to meet the zoning requirement for a detached accessory dwelling.

Town of Clinton **Sec. 250.29 D-3** states that “the total acreage required for a single family dwelling unit with the detached accessory dwelling unit shall be twice the acreage required for a single family dwelling in the district in which it is located.”

Chairman McCormack asked questions and comments from the board.

Mr. DePasqua expressed his thoughts about this case. He wishes that this was a simple variance application. The proposed dwelling is located in a beautiful area. The architectural design of the building is well done and everything matches. The proposal doesn't interfere with the neighborhood since there's a lot of land. However, there is a minimum acreage requirement in our zoning regulations. Although the acreage needed

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seems minor, Mr. DePasqua suggested that he'd rather see the applicant obtain the extra acreage. As stated in the application form, there is a possibility of purchasing .059 acreage of land from the adjoining neighbor.

Mr. Smith explained the statement about the possibility of acquiring lands from the neighboring property owners. He noted that he simply answered the question in the application form (page 3 Item #2). He clarified that this statement is just theoretical and a possibility. He wasn't sure if there is an actual offer or anything.

Mr. DePasqua noted that the board is only doing a recommendation to the Zoning Board of Appeals whether it's positive, negative or neutral. The Zoning Board of Appeals still has the final say.

Mr. Marrapodi stated that the board can include Mr. DePasqua's suggestion in the recommendation. It's up to the Zoning Board of Appeals.

The board discussed the case. Ms. Ruzicka asked about the septic. Is there going to be a new septic system? Mr. Smith responded that they are going to use or tie up it up to the existing septic system.

Mr. Werner shared Mr. DePasqua's opinion. Mr. Werner opined that the board should give a negative recommendation. This case is setting precedence.

The board discussed a couple of alternatives to avoid the need of a variance. If the proposed accessory dwelling is attached, then the double-the-acreage requirement is eliminated. Chairman McCormack asked about the possibility of putting a breezeway to avoid the need of a variance. Mr. Smith responded that he is not in a position to make that decision.

Mr. Werner expressed his concern about this case setting precedence. He asked, "What if the board doesn't take action on this case? Does this application still go to the Zoning Board of Appeals?" Chairman McCormack responded, "No." The ZBA needs a recommendation whether it's positive, negative, or neutral.

The board discussed the possibility of acquiring additional acreage from the neighbor. This could be a straightforward lot line adjustment. Another option is to attach the accessory dwelling to the primary structure to eliminate the need of a variance. Again, Mr. Smith stated that he cannot make this decision.

Ms. Ruzicka stated that the concern about setting precedence is really ZBA's purview. The Planning Board is only doing a recommendation.

Mr. DePasqua motioned that the Town of Clinton provide a negative recommendation to the Zoning Board of Appeals on the above requested variance, seconded by Mr. Werner.

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Discussion. Chairman McCormack asked the applicant about the reason for getting a variance. Mr. Smith responded that the property owner needs to construct an accessory dwelling to house his ailing mother. Chairman McCormack opined that this objective facilitates financial hardship in some level on the part of the family. This is a unique situation.

Mr. Werner asked, “What happens to the accessory dwelling after? Will the accessory dwelling go away?”

Mr. Smith responded that he is not aware of any future plans of the Petrones.

Chairman McCormack expressed his opinion. This case is about a unique family situation. The variance is needed to house a family member. This is an example of a mortal variance.

Ms. Ruzicka shared the chairman’s opinion about this case.

Mr. Werner asked, “Is this variance an open-ended variance?” Chairman McCormack responded that it’s up to the Zoning Board of Appeals. The ZBA can include a condition about this concern.

Mr. Marrapodi stated that he feels that this variance is for a family member that needs it.

<u>Vote:</u> Chairman McCormack – Nay	Tracie Ruzicka - Nay
Art DePasqua - Aye	Robert Marrapodi - Abstained
Gerry Dolan - Nay	Eliot Werner - Aye

Motion failed.

Once again, the board discussed the case. The board agreed that the applicant should pursue acquiring additional lands or attaching the proposed dwelling to the house.

The board agreed to issue a neutral recommendation, to wit:

Mr. DePasqua made a motion that the Town of Clinton Planning Board provide a neutral recommendation to the Zoning Board of Appeals on the requested area variance to Sec. 250.29 D-3 which requires twice the acreage of the zoning district (AR5) - ten acres to create an accessory dwelling on a parcel of 9.941 acres owned by Joseph Petrone located at 106 Valley Stream Road, **Tax Grid No. 6369-00-025039** in the AR5 District.

WHEREAS:

1. The applicant is requesting a reduction of the acreage required by Sec. 250.29 D(3) -double the acreage requirement in the zoning district for construction of an accessory dwelling for this specific case – the acreage required is 10 acres

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(current acreage is 9.941) with a difference of .059 acres for the 588 square feet dwelling.

2. The alleged difficulty is self-created.
3. The requested variance is substantial, i.e., it lowers the minimum acreage requirement.
4. The proposition is not within the Ridgeline, Scenic, and Historic Protection Overlay District.
5. Property is not located in an Ag District or within 500 feet of an Ag District.
6. All fees have been paid.
7. Although the difference of .059 acres seems minor the gravity of the variance would require a change in an acreage requirement.
8. The applicant states that the purchase of the additional acreage may exist. The Town of Clinton Planning Board suggests this path be pursued in order to avoid the need for a variance or attach the accessory dwelling to the primary home.
9. The accessory dwelling (a current pavilion) would blend well with the current structures and would not produce nor negative effect on the neighboring properties.

NOW THEREFORE, BE IT RESOLVED, the Town of Clinton Planning Board is making a **neutral** recommendation to the Town on Clinton Zoning Board of Appeals with the strong suggestion of pursuing the purchase of additional property or attaching it to the main dwelling.

Seconded by Ms. Ruzicka.

Discussion. Mr. Marrapodi advised the applicant to include in their application form the hardship in obtaining this variance.

All Aye except Mr. Werner who Nay, Motion carried 5-1.

Michael and Nancy Ullman (Area Variance) – property on 7 Horseshoe Trail, **Tax Grid No. 6467-00-469145** which is in the AR5 Zoning District.

Applicants are seeking an area variance to Sec. 250.84 B for an expansion of nonconforming dwelling from 50% to 108%.

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Mr. and Mrs. Ullman appeared for their proposal. Mr. Ullman explained that they want to put up an addition to a nonconforming single-family dwelling of 2492 square feet. They want to increase the square footage to 2707, which is above the zoning limit of 50%.

Mr. Ullman stated that they need to construct this addition due to the health condition of his wife. They need to put in an elevator and connect the garage to the house.

Mr. Ullman presented the building plans of the proposed addition. This is a three-bedroom house with an additional bedroom.

Mr. Werner asked about the septic system. Mr. Ullman responded that they already submitted an application to the Department of Health. They are proposing a new well to accommodate a four-bedroom house.

Mr. Werner asked Mr. Ullman if the existing well is going to be moved. Mr. Ullman responded that they are still testing the water. They might tie it to the existing well; this way they don't have to dig a new well. He presented the septic design to the board.

Mr. Werner asked if this expansion is attached to the house. Mr. Ullman responded, "Yes." He noted that the requested variance is just for the expansion of the square footage of the house.

Mr. Marrapodi expressed his comments about this case. The setback is preexisting, nonconforming. The variance needed is for the area of the nonconforming dwelling. The applicant is not making this setback more nonconforming. Mr. Marrapodi stated that there was a discussion in the past about the definition of the aggregate area and habitable space.

The panel discussed the definition of habitable space.

Mr. Werner asked about the square footage of the existing house and the addition. Mr. Ullman responded that the existing house is 2,500 square feet and the addition is 2,700 square feet (including the garage of 667 sq. ft.).

Mr. Marrapodi noted that the garage is not habitable space. Utility rooms, closets, and pantries are not considered habitable space. As long as the space is not heated, then it's not habitable.

Mr. Marrapodi opined that this dwelling might not even in violation of the zoning law as much as it may seem. He advised the applicant to talk to their Architect and review the calculation of the square footage. He recommended recalculating the square footage of the existing structure and to check the zoning regulations about the habitable space.

The board discussed the application on hand. Chairman McCormack suggested giving a positive recommendation whether the applicant needs it or not, in order not to lose time.

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Mr. DePasqua asked, "What number (%) are they going to use in their recommendation?" Mrs. Ruzicka responded that she is going to use the number that the ZEO indicated in the denial letter.

Chairman McCormack suggested using as language "An increase of not more than 108%." The board agreed.

Mr. DePasqua asked if the expansion is near the pond. The applicant responded negatively.

The board agreed to pass a resolution, to wit:

Ms. Ruzicka motioned that the Town of Clinton Planning Board provide a positive recommendation to the Zoning Board of Appeals on the requested area variance to Section 250-84 B to allow more than a 50% increase in square footage to the main dwelling on the property belonging to Michael and Nancy Ullman of 340 West 57th St, New York, NY located at 7 Horseshoe Trail, Clinton Corners, NY **Tax Grid No. 6467-00-469145.**

WHEREAS:

1. The applicant is requesting a variance to Section 250-84 B to allow an increase from the original 2492 square feet for a proposed addition totaling 2707 square feet which is not more than 108% (58% more than the allowed 50%) expansion of the aggregate building area of the original dwelling on a defined non conforming corner lot as it existed when zoning was put into place.
2. This is 45-acre Corner Lot located in AR 5 zoning district determined to be a nonconforming corner lot by the ZEO in a letter dated 11/2/2011.
3. The NYS Environmental Quality Review Act has determined that an area variance for a single family, two family or three family residences is a type II action and therefore not subject to further review.
4. The property is not in the Scenic, Ridgeline, and Historic Protection Overlay District.
5. An Ag Data statement is not required for an area variance.
6. This property is not located in a Critical Environment Area.
7. The benefit being sought by the applicant is substantial.

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8. The requested variance to increase from the allowed 50% enlargement to not more than 108% is significant.
9. The alleged difficulty is self-created in order to expand the dwelling to suit the owners' needs.
10. Horseshoe Trail is a user road.
11. The proposed area variance will not have an adverse effect on the local community because the proposed addition is planned to maintain the architectural traits of the original house, it is on a large lot, and many of the older dwellings in our community are located very close to the road, so it will not appear out of place on this rural road.
12. All appropriate fees have been paid.

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

Seconded by Mr. DePasqua.

Discussion. Mr. DePasqua commented that this is a good project. The proposed addition is distant from everybody and the main road.

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

PUBLIC HEARING:

None

APPLICATION:

Robert Marrapodi recused himself for the next application.

Florence Ritter Site Plan and Special Permit – property on 249 E. Fallkill Road, Tax Grid No. 6266-00-891685.

Applicant wishes to convert an existing attached garage to an apartment to house his mother.

Mr. Marrapodi appeared on behalf of the applicant. He explained his proposal as indicated above. The septic and the well are all generated from the main house. The existing house (3 bedroom house) has a septic system designed to support a four-bedroom house and the water system is supplied by a private well. The addition of the

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one-bedroom apartment will be connected to the existing septic system of the main dwelling.

Mr. Marrapodi stated that there will not be any site work or disruption to the existing property.

Mr. Werner asked about the barn on the property. Mr. Marrapodi responded that is not part of his application.

Ms. Campbell indicated that the applicant is before the Zoning Board of Appeals for an Interpretation whether water is allowed in a barn. The applicant wishes to convert the barn into a studio.

The board agreed to declare lead agency.

Mr. Werner motioned that the Town of Clinton Planning Board declares itself lead agency for this unlisted, uncoordinated action with Short Form EAF, seconded by Mr. Dolan, All Aye, Motion carried, 6-0.

Public hearing is set on December 6, 2011.

Jeannine Ferrandi and Robert Wild Lot Line adjustment – properties on 40 Hollow Circle Road and 506 Hollow Road, **tax grid #132400-6367-00-167075** , **tax grid #132400-6367-00-242807, respectively.**

Applicants wish to do a lot line adjustment.

John Decker appeared on behalf of the applicants. Mr. Decker explained that Mr. Wild is buying 20 acres of the Ferrandis' land and wants to adjoin this piece to his land.

Chairman McCormack asked questions and comments from the board.

Ms. Ruzicka asked about Mr. Wild's driveway. Mr. Decker responded that the Wilds' driveway is on Hollow Road.

Mr. Dolan advised Mr. Decker to label the Ferrandis' property on the map as Lot 1 and the Wilds' property as Lot 2. Mr. Decker agreed.

The board agreed to accept the requested waiver about the area map.

Mr. Dolan motioned to accept the requested waiver, seconded by Mr. Marrapodi, All Aye, Motion carried, 6-0.

Ms. Campbell indicated that the letter of authorization from Ms. Ferrandi wasn't notarized. The board agreed to include this item as a condition to the approval.

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Mr. Werner brought out the issue about the violation on the property. Are these open permits taken care of?

Ms. Campbell responded that the Building Inspector verbally confirmed that these open permits were closed out. The ZEO or the Building Inspector needs to sign off the paperwork. The board agreed to include this as a condition to the approval.

The board agreed to issue a resolution.

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

BE IT RESOLVED, the Town of Clinton Planning Board grant conditional approval for a Lot Line Adjustment of the lands owned by Jeannine Ferrandi located at 40 Hollow Circle Road, **tax grid #132400-6367-00-167075 (Lot 1)** and Robert & Judith Wild located at 506 Hollow Road, **tax grid #132400-6367-00-242807 (Lot 2)**,

WHEREAS;

1. The intent of this action is to transfer 20.003 acres of land from Lot 1 to Lot 2 as shown on the Lot Line Adjustment plat created by John H, Decker, L.S. #050572, dated November 1, 2011 for the purpose of a land sale between neighbors.
2. As a result of the transfer of properties, the lands of tax grid #132400-6367-00-242807 (Lot 2) will increase in size from 11.329 acres to 31.332 acres, and the lands of tax grid #132400-6367-00-167075 (Lot 1) will decrease in size from 189 +/- acres to 169 +/- acres.
3. The lands under consideration have not been granted a special permit or other permit that would be void as a result of this action.
4. Since a lot line adjustment is a Type II action under SEQRA, no further SEQRA review is required.
5. The property is located within the Ridgeline, Scenic, and Historic Preservation Overlay District.
6. An Agricultural Data Statement was provided as this property is a farm within an agricultural district.
7. The proposed lot line adjustment does not create a substandard lot or render any lot more substandard than it may already be.
8. The properties involved are not in a CEA.
9. The existing violations on lots will be corrected per Zoning Enforcement Officer before granting of this request.
10. At its 11-15-11 meeting, the Planning Board agreed to waive one item from the Lot Line Adjustment as indicated in the minutes of the meeting.
11. The applicants' Lot Line Adjustment plat will meet all the requirements of the Town of Clinton's Subdivision and Lot Line Adjustment Regulations once the conditions are satisfied.
12. All appropriate fees have been paid.

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Now, therefore, be it resolved, the requested Lot Line Adjustment is granted approval by the Town of Clinton Planning Board when the following **conditions** are met:

- a. Proper authorization forms completed by both parties.
- b. Confirmation of correction of existing violations.
- c. Lot 1 (Ferrandi) and Lot 2 (Wild) labels as well as physical addresses of the properties are added to the plat.
- b. Owners of the properties sign off on the Lot Line Adjustment Map.

Seconded by Mr. Werner.

Discussion. Mr. Werner stated that the physical address of both properties needs to be included on the map. The board agreed to add this item as a condition.

All Aye, Motion carried, 6-0.

APPROVAL OF MINUTES:

Mr. DePasqua motioned to accept the minutes of 10-04-11 as amended, seconded by Mr. Werner, all Aye, Motion carried, 6-0.

ADJOURNMENT

Mr. DePasqua motioned to adjourn the meeting at 9:00 pm, seconded by Mr. Marrapodi All Aye, Motion carried, 6-0.

Respectfully Submitted,



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

Cc: Carol Mackin, town clerk