

**TOWN OF CLINTON PLANNING BOARD MEETING  
FINAL MINUTES  
February 19, 2013**

**MEMBERS PRESENT**

Mike McCormack, Chairman  
Art DePasqua

Robert Marrapodi  
Paul Thomas  
Eliot Werner

**MEMBERS ABSENT**

Gerald Dolan  
Tracie Ruzicka

**ALSO PRESENT**

Arlene Campbell, Secretary

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

**VARIANCE APPLICATION:**

**Nancy Packes Variance** – property located at 37 Stissing View Drive , **Tax Grid No. 6469-00-070585.**

The applicant is seeking re-approval of the area variance that was granted in 2007.

Robert Dupont, property owner’s Architect, presented this application.

In 2006 Ms. Packes bought a 26.1-acre wooded parcel with significant sloping grades. The property is located in the “C” Zone. The property and its structures were in poor condition at the time of purchase and the process of rehabilitating them has been ongoing for the past seven years.

The property contained five structures at the time of purchase—namely, three separate residences, a storage shed, and a small barn for utility purposes. Mr. Dupont noted that these structures were pre-existing.

In 2007 Ms. Packes was granted an area variance that would allow her to demolish two of the structures (a two-story concrete block dwelling and the storage shed) and construct a new primary dwelling in the nearby barn located at the higher part of the property (see ZBA motion dated 9-25-07). The remaining two structures, including the original principal dwelling, were allowed to remain as accessory dwellings.

Mr. Dupont indicated that until a building permit was sought to start the construction, Ms. Packes wasn’t aware that the variance expired a year after its approval. Mr. Dupont noted that Ms. Packes had tabled this project to prioritize the other work on this property.

**TOWN OF CLINTON PLANNING BOARD MEETING**  
**FINAL MINUTES**  
**February 19, 2013**

Mr. Dupont indicated that they have Board of Health approval for the new principal dwelling. He also noted that the only change in this application is the design of the building.

Their intention is to expand/renovate the barn to create a new primary residence. The current primary dwelling will become the second accessory dwelling (a guesthouse). He noted that the barn was built in 1950. Mr. Dupont stated that he is now before the board to seek the same approval that was granted six years ago.

Mr. Marrapodi said that ultimately there will be a primary residential dwelling and two accessory dwellings on this property. Mr. Dupont agreed. Mr. Marrapodi remarked that this is a use variance.

Mr. Thomas agreed. He explained that the use variance is for the second accessory dwelling and an area variance is required to allow the current primary dwelling to become an accessory dwelling. The current primary dwelling is about 2400 square feet and the zoning law limits the size of an accessory dwelling to 1,000 square feet.

Mr. Thomas stated that a special use permit is necessary for the second accessory dwelling unit. There were originally two pre-existing non-conforming accessory dwellings on the property, but one was taken down. The non-conforming use of that structure therefore expired. The applicant needs to come back before the Planning Board to get a special use permit for the new accessory dwelling after getting the variance.

Mr. Thomas expressed his comments per his site visit. This property is isolated, beautiful, and all fixed up. He commented that he really doesn't have any issue about this case from a planning perspective. The only question is whether the ZBA will allow the use variance.

Mr. Werner stated that the property owner should be aware that this property will have two accessory dwellings if the variance is granted. Mr. Dupont agreed.

Mr. Marrapodi asked if the tennis court is considered an accessory structure. Chairman McCormack responded that it is. Mr. Dupont stated that there will be a primary residence and three accessory structures on this property (the tennis court, the pre-existing accessory dwelling and the new accessory dwelling).

Chairman McCormack asked Mr. Dupont if the property owner would be willing to subdivide this property to avoid the variance. Mr. Dupont responded that Ms. Packes has no intention of subdividing this property.

Mr. Dupont questioned the necessity of a use variance. He asked, "Is there a substantial change between now and six years ago when the variance was granted?"

Mr. Werner asked, "Is the situation the same as it was five years ago?" Mr. Dupont responded, "Yes." He reiterated that the only change is the design of the building.

**TOWN OF CLINTON PLANNING BOARD MEETING  
FINAL MINUTES  
February 19, 2013**

The board had a lengthy discussion about the decision that was made six years ago.

Mr. DePasqua commented that the applicant is making the nonconforming property less substandard. Planning Board members visited this site six years ago and the improvements that have been done are substantial.

Chairman McCormack agreed. He stated that the problem is the use variance, which is much harder to obtain than the area variance.

Mr. Werner remarked that this case wasn't considered a use variance six years ago.

Mr. Dupont noted that the ZBA allowed the change of location of the new building, which is next to the barn.

The board reviewed the minutes from 2007. Ms. Campbell noted that there was no discussion included in the minutes. This was before her time as clerk. She only included the proposal and the resolution since she wasn't at the meeting.

The board discussed the application on hand. Mr. DePasqua stated that he doesn't have a problem giving his vote. He likes the improvement on this property.

Chairman McCormack expressed his concern about this case. There will be two principal uses on this property. He noted that the board has turned down this kind of case before.

Mr. Werner questioned Chairman McCormack's concern. He asked, "How could there be two principal uses when there's only one primary dwelling?" He stated that the other dwelling is a guesthouse.

Chairman McCormack stated that these are two large dwellings. There will also be three dwellings on the property.

Mr. Marrapodi agreed. He opined that family members could easily move in to the other dwelling.

Mr. Thomas stated that the size of the accessory dwelling is 2,400 square feet, which is more than the zoning limit. Chairman McCormack opined that the owner's intent could change and this could be another home.

Mr. Marrapodi opined that this can easily be rectified through a subdivision process. This is really pushing the variance since there is an alternative.

The board reviewed the layout of the property to see if subdivision is possible. There is no other access because of the stream. Mr. Marrapodi stated that the other driveway doesn't have to be cut. They just have to show a potential or feasible driveway/access on the map. The board has to agree to the potential access.

**TOWN OF CLINTON PLANNING BOARD MEETING  
FINAL MINUTES  
February 19, 2013**

Mr. Dupont asked about the subdivision process. He asked, "Is this going to be just on paper? Does the driveway need to be really cut?" Mr. Dupont noted that Ms. Packes will strongly disagree about another access. She doesn't want to scar the property.

Mr. Marrapodi noted that the driveway doesn't have to be cut. This is just a theoretical driveway to show that there is access or an entrance to the property that is feasible.

Chairman McCormack stated that the Planning Board is only doing a recommendation and the ZBA has the final say.

The board discussed the need of a special permit if the variance is granted. Chairman McCormack suggested putting in the recommendation the necessity of special permits for the two accessory dwellings.

Mr. Thomas stated that the use of the original accessory dwelling is pre-existing. This structure has been used as an accessory dwelling for fifteen years or even before Ms. Packes acquired the property. The owner has a certificate of occupancy for the dwelling.

Mr. Werner remarked that pre-existing means "before zoning (1989) and not prior to owning the property." Mr. Dupont noted that this dwelling is both before zoning and prior to Ms. Packes's ownership.

Mr. Marrapodi stated that the property owner is changing the use (i.e. pre-existing) of this property. They are converting the barn into a primary residence. They are creating three accessory dwellings.

Mr. Dupont noted that the structure was demolished and the use was transferred to the barn. The number of accessory dwellings (i.e., three) is the same as before.

Mr. Thomas noted that you cannot transfer a nonconforming use. Once the use is gone, then it's gone.

Chairman McCormack indicated his concern about the change of hands of this property in the future. He stated that it's better to cover both dwellings for special permit. The board agreed.

Mr. Dupont asked about the square footage of the building. He asked, "Is it gross or floor square footage?" Mr. Marrapodi responded that there was a ruling in the past that it should be gross square footage.

Mr. Dupont stated that he wants to measure the size of the dwelling again based on the gross square footage.

The board agreed to issue a resolution.

**TOWN OF CLINTON PLANNING BOARD MEETING  
FINAL MINUTES  
February 19, 2013**

Mr. Thomas motioned the following resolution:

**BE IT RESOLVED** that the Town of Clinton Planning Board is making a **neutral** recommendation to the Zoning Board of Appeals with respect to the use and area variances requested by Nancy Packes from Sections 250-29B(1) and 250-29B(6) of the Town of Clinton Zoning Law to allow a second accessory dwelling of approximately 2400 s.f. on a 26.10 acre site located at 37 Stissing View Road, **Tax Grid No. 132400-6469-00-070585**, which is located in the Conservation Agricultural Residential (C) District in the Town of Clinton.

***WHEREAS:***

1. The applicant intends to convert the existing primary dwelling on the 26.10 acre site into an accessory dwelling of approximately 2400 s.f. and to convert an existing barn into a principal residence of up to 3200 s.f.
2. The site also contains a pre-existing non-conforming accessory dwelling of approximately 1080 s.f. for which the applicant may seek an area variance as it exceeds the size limitations set forth in Section 250-29B(6).
3. Section 250-29B(1) of the Zoning Law allows only one accessory dwelling unit per lot and Section 250-29B(6) provides that the size of an accessory dwelling unit shall contain no greater than 35% of the total habitable space of the existing principal structure or 1000 square feet of floor space, whichever is more restrictive.
4. A use variance is necessary to allow a second accessory dwelling and an area variance is necessary to allow an accessory dwelling greater than 1000 s.f.
5. There are no known outstanding zoning violations on the property per the Zoning Enforcement Officer.
6. The property is not in a CEA or in the Ridgeline, Scenic and Historical Overlay District.
7. The Planning Board has determined that the proposed variances are substantial, but will not have an adverse effect on the physical or environmental conditions or the character or quality of the neighborhood.
8. The alleged difficulty is self created.

**TOWN OF CLINTON PLANNING BOARD MEETING  
FINAL MINUTES  
February 19, 2013**

9. The applicant will be required to obtain a Special Use Permit from the Planning Board prior to issuance of a certificate of occupancy for the second accessory unit.
10. The application fee has been paid.

***NOW, THEREFORE, BE IT RESOLVED***, the Town of Clinton Planning Board is making a neutral recommendation to the Zoning Board of Appeals with respect to the applicant's request for the referenced use and area variances.

Seconded by Mr. Werner.

**Discussion**. Mr. DePasqua expressed his good comments about this property. He commented that the property owner had done a great job improving this property.

All Aye, Motion carried, 5-0.

**Halton Lot line Adjustment** – properties owned by Kevin and Marie Halton located at 32 and 54 West Halstead Road which is in an AR-3 zoning district in the Town of Clinton, **tax grids #132400-6366-00-936815-00 and 132400-6366-00-982772-00.**

Applicants propose to combine two lots to create a single lot. (Lot A - 4.48 acres and Lot B – 12.52 acres)

Kevin Halton and his daughter Shaena Halton along with his surveyor, Spencer Hall, appeared for this application. Mr. Halton explained his proposal as indicated above. He also stated that they addressed the comments that were recently received from Mr. Werner as shown on the revised site plan.

Per Mr. Werner's comments, there will be a total of four structures on the property when the lots are combined. The smaller lot has the gazebo, pool and the barn while the larger lot has the cabin/cottage. Mr. Halton noted that the gazebo will be demolished to reduce the number of accessory structures into three.

Mr. Halton stated that they recently purchased these properties. The pool, gazebo, and barn are intruding into the setback. He commented that eliminating the lot line will address the setback issue.

Mr. Werner asked about the little shed on the property. Mr. Halton responded that the little shed is also going to come down. Mr. Werner advised the applicant to make a notation on the map that both the gazebo and the shed are coming down.

Mr. Halton indicated that they are in the process of getting an Ag Exemption. This property is going to be a working farm. An application was already submitted to the Assessor's office and they were advised that the lot line adjustment needs to be done first

**TOWN OF CLINTON PLANNING BOARD MEETING  
FINAL MINUTES  
February 19, 2013**

before proceeding with the working farm process. Mr. Halton noted that they are in contract with the Hacket Hill Farm.

Mr. Werner asked if they are going to change anything on this property. Mr. Halton responded that the only change they are doing is about the demolition of the gazebo and the shed.

Mr. Werner asked about the cottage/cabin. Mr. Halton responded that he wants to keep the cabin.

Chairman McCormack asked for more questions and comments from the board.

Mr. Thomas asked what kind of farm is this going to be. Mr. Halton responded that they have sheep, goats, and are hoping to have pigs.

Mr. Werner asked Mr. Halton about his intention in subdividing this property in the future. Mr. Halton responded, "None."

Mr. Werner asked if there are any special permits given to these lots. Mr. Halton responded, "None."

The board agreed to accept the waivers. Mr. Marrapodi motioned to accept the requested waivers, seconded by Mr. Thomas, all Aye, Motion carried, 5-0.

The board passed a resolution, to wit:

Mr. Werner motioned that the Town of Clinton Planning Board grants conditional approval for a Lot Line Adjustment of the lands owned by **Kevin and Marie Halton**, located at 32 and 54 West Halstead Road which is in an AR-3 zoning district in the Town of Clinton, **tax grids #132400-6366-00-936815-00 and 132400-6366-00-982772-00.**

***WHEREAS:***

- 1) The intent of this action is to combine the 4.48 acres in Lot A with the 12.52 acres in Lot B, eliminating a parcel and creating one larger parcel, as shown in the Lot Line Adjustment plat created by Spencer S. Hall, L.S., NYS license #49138, dated 2/8/2013 and revised 2/19/2013.
- 2) As a result of the transfer of the property, a new tax grid number will represent the combined lands totaling approximately 17 acres.
- 3) The proposed lot line alteration does not thereby create a substandard lot, or render any lot more substandard than it may be.
- 4) The lands under consideration have not been granted a special permit or other permit that would be void as a result of this action.

**TOWN OF CLINTON PLANNING BOARD MEETING  
FINAL MINUTES  
February 19, 2013**

- 5) Since a Lot Line Adjustment is a Type II action under SEQRA, no further SEQRA review is required.
- 6) The lands involved are located in an Agricultural District. The applicant has submitted an Agricultural Data Statement in accordance with New York State Ag and Markets Law.
- 7) At its 2/19/2013 meeting, the Planning Board agreed to waive the following items from the Lot Line Adjustment Plat: contours; rock outcrops, wooded areas, and significant trees, stone walls, and significant trees; tabular data regarding soil characteristics from the USDA Soil Conservation Service soils survey; and the horizontal scale from 1 inch = 50 feet to 1 inch = 100 feet.
- 8) When the properties are combined, there will be five accessory structures on the new parcel. This is two more than the number allowed in the Town of Clinton Zoning Law and the applicant has agreed to remove two of the structures.
- 9) The applicant has no immediate plans for subdividing the new parcel.
- 10) The Town of Clinton does not consider a Lot Line Adjustment to be a subdivision.
- 11) All appropriate fees have been paid.

***NOW, THEREFORE, BE IT RESOLVED***, the requested Lot Line Adjustment is granted approval by the Town of Clinton Planning Board when the following **condition** is met.

The gazebo on Lot A and the shed on Lot B are dismantled.

Seconded by Mr. Thomas, All Aye. Motion carried, 5-0.

**Discussion.** Mr. Hall noted that the shed is on Lot B and the gazebo is on Lot A.

Mr. DePasqua commented that the little shed should not be counted as an accessory structure. Mr. Werner stated that the size of the shed is 140 square feet per parcel history.

All Aye, Motion carried, 5-0.

Mr. Marrapodi recused himself for the next application.

**Payson and Farman Special Use Permit** – property owned by Karin Payson and Michael Fasman located at 425 Lake Drive, **Tax Grid No. 6469-00-106349.**

The applicants are seeking a special use permit for the guest cottage.

**TOWN OF CLINTON PLANNING BOARD MEETING  
FINAL MINUTES  
February 19, 2013**

Mr. Marrapodi appeared on behalf of the property owners. He stated that his client who owns this property finally decided to build a primary dwelling, a studio/ guesthouse and a two bay garage on this property. This is a vacant 15.59-acre lot. The reason for this application is to get a Special Use Permit to convert the studio/guesthouse into an accessory dwelling. Mr. Marrapodi noted that the property owner wants to get this process done before filing all the building permits.

Mr. Marrapodi indicated the Board of Health approval on this property. He noted that the septic systems are all located.

Chairman McCormack asked for questions and comment from the board.

Mr. Werner asked if the property owners are going to live at the small cottage while the house is being built. Mr. Marrapodi responded, "No." The property owners are not going to live on this property until everything is built. He noted that they want to build everything at once.

Mr. Werner asked about the square footage of the house. Mr. Marrapodi responded that the house is 1,956 square feet and the accessory dwelling is 400 square feet.

Mr. DePasqua expressed his comments on this application. He stated that there is nothing to be changed on the site plan. Everything looks fine. He indicated the requested waivers that were received.

Mr. DePasqua motioned to accept the requested waivers, seconded by Mr. Thomas, all Aye, Motion carried, 4-0.

The board declared lead agency for SEQRA review process.

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

**Be it Resolved**, that the Town of Clinton Planning Board hereby declares itself lead agency for review of the project pursuant to Sections 617.6(2) and (3) of 6 NYCRR 617, in the matter of **Payson/Fasman Special Permit Application** for a guest house located at 425 Lake Drive **Tax Grid No. 6469-00-106349** for this Type II, unlisted, uncoordinated action.

**BE IT FURTHER RESOLVED**, the Planning Board hereby directs the copies of Special Permit Application, Part 1 of Long Form EAF and Site Plan be sent to the identified interested agencies as noted on Attachment "A".

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

**Attachment "A"**

**TOWN OF CLINTON PLANNING BOARD MEETING  
FINAL MINUTES  
February 19, 2013**

**INTERESTED AGENCIES**

West Clinton Fire District  
219 Hollow Road  
Staatsburg NY 12580

Dutchess County Department of Planning and  
Economic Development  
27 High St.  
Poughkeepsie NY 12601

The board reviewed the site plan. Mr. Marrapodi stated that the only issue on this property is the grade. There is a slope and it's all rocky. He noted that they are not disturbing the slope. They are going to build on the flat portion of the property.

Mr. Werner stated that this property is in the Ridgeline. He advised Mr. Marrapodi to add a notation on the map about this.

Mr. Werner asked about any working farm within 500 feet of the property. Mr. Marrapodi responded, "None."

Public hearing is set on March 5, 2013.

**APPROVAL OF MINUTES:**

No minutes were approved.

**ADJOURNMENT**

Chairman McCormack motioned to adjourn the meeting at 9: 30 pm, seconded by Mr. DePasqua, All Aye, Motion carried, 5-0.

Respectfully Submitted,



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

Cc: Carol Mackin, town clerk