

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
June 18, 2013**

MEMBERS PRESENT

Art DePasqua

Tracie Ruzicka
Robert Marrapodi
Paul Thomas
Eliot Werner

Arlene Campbell, Secretary

MEMBERS ABSENT

Mike McCormack, Chairman

Gerald Dolan

ALSO PRESENT

Dean Michael, Liaison Officer

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

VARIANCE APPLICATION:

Virginia Scianna Variance – property on 713 Slate Quarry Road, Tax Grid No. 6469-09-200588.

The applicant requests an area variance from Sec. 250-19 of the Town of Clinton Zoning Law to allow a lot to be reduced to less than the minimum lot size in the zoning district, in order to sell the northeast corner of her lot (a 50' x 50' piece) to the adjoining property owner.

Ms. Scianna appeared and explained her proposition. This property is T-shaped and the adjoining neighboring property owner wishes to buy a portion of her lot (50' x 50'). She presented pictures of the property.

Mr. DePasqua asked questions and comments from the board.

Mr. Thomas stated that the applicant needs to do a lot line adjustment if the requested variance is granted.

Mr. Marrapodi asked about the detail of this application. Mr. Thomas responded that this is a pre-existing nonconforming lot in a 5-acre zoning district. He added that there is also an issue about the building coverage, which is currently over the maximum limit. Currently, the building coverage is also pre-existing but will require a variance due to the application on hand.

Mr. Marrapodi asked the applicant if she is planning to build an addition. Ms. Scianna responded, "No." She noted that her neighbor wishes to put up a garage/barn on that site.

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
June 18, 2013**

The board discussed the building coverage. Mr. DePasqua stated that the building coverage of the Scianna's property will exceed the maximum coverage if the variance is granted.

Mr. Thomas concurred with Mr. DePasqua. Based on his computation, the building is currently 2,336 square feet, which is over the 7% zoning limit. He noted that this is not an issue right now since this is a pre-existing condition.

Mr. DePasqua expressed his comment about this case. The issue here is whether the board is allowed to make this lot more substandard. The zoning does not allow the lot to be more substandard.

Mr. Thomas agreed. This is also setting a precedent. Mr. Thomas feels that they should give a neutral recommendation to the Zoning Board of Appeals. The ZBA still has the final decision on a variance application.

Mr. Marrapodi shared the same thoughts with Mr. Thomas and Mr. DePasqua.

Ms. Scianna noted that this variance will increase the value of her neighbor's property. She noted that small-sized properties are common on this area.

Mr. Thomas commented that the issue here is about the application of the zoning code with regards to the adverse effect on the neighborhood. He opined that this application doesn't have a negative effect on the neighborhood since the lot size is consistent with the neighborhood.

The board agreed to pass a resolution, to wit: (Note: This resolution reflects the amended resolution after all the discussions.)

Mr. Thomas motioned the following resolution:

BE IT RESOLVED that the Town of Clinton Planning Board is making a **negative** recommendation to the Zoning Board of Appeals with respect to the area variance requested by **Virginia Scianna** from Section 250-19 of the Town of Clinton Zoning Law and the District Schedule of Area and Bulk Regulations for the purpose of subdividing a 50' by 50' portion of a .49 acre parcel located at 713 Slate Quarry Road, **Tax Grid No. 132400-6469-09-200588**, which is located in the Conservation Agricultural Residential (C) District in the Town of Clinton.

WHEREAS:

1. The applicant requests an area variance to allow the subdivision of a 50' by 50' parcel located on the northeast corner of a .49 acre lot located in the Conservation Agricultural (C) District for the purpose of conveying said parcel to a neighbor by means of a lot line adjustment.

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
June 18, 2013**

2. The minimum lot size permitted in the C District is 5 acres and the applicant's lot consists of .49 acres. The lot and the improvements thereon are pre-existing, non-conforming with respect to the requirements of the Zoning Law.
3. The applicant has requested an area variance from Section 250-19 of the Zoning Law which provides that "a residential lot of required or greater than required area as set forth in this chapter shall not be reduced in area for transfer of ownership if such lot so divided will form any lot which shall be less than the minimum lot area required in that district or for the existing use."
4. The current building coverage on the parcel is approximately 2336 square feet, which exceeds the maximum building coverage of 7% of lot area permitted in the C district.
5. The Planning Board has determined that the proposed reduction in the size of the applicant's lot will also require an area variance from the requirements of the District Schedule of Area and Bulk Regulations with respect to the maximum building coverage limits.
6. There are no known outstanding zoning violations on the property per the Zoning Enforcement Officer.
7. An area variance is a Type II action under SEQRA and requires no further action.
8. The requested area variances are substantial.
9. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.
10. The alleged difficulty is self-created.
11. The Planning Board is concerned about the precedential effect of a positive decision on this application.
12. The application fee has been paid.

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

Seconded by Mr. Marrapodi.

Discussion. Ms. Scianna asked about the calculation of the building coverage. Mr. Thomas responded that the calculation was based on the house and the garage.

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
June 18, 2013**

Mr. Werner asked the town consultant, “What happens if the board doesn’t vote on the recommendation?”

Mr. Wilson responded that the rule is that the board has to make a recommendation—whether positive, negative, or neutral—to the Zoning Board of Appeals; otherwise the application is just going to be bumped to another meeting. It will prolong the application process. The applicant will not be able to proceed to the Zoning Board of Appeals without a recommendation.

Ms. Campbell noted that the legal ad about the public hearing was already posted in the newspaper. The neighboring property owners were already notified via certified mail about the Zoning Board of Appeals meeting.

Mr. Werner explained his hesitation in voting for this application. He noted that he is not comfortable in giving his vote. This variance is setting a precedent.

Mr. Marrapodi suggested doing a negative recommendation so that the applicant can move along the process. The Zoning Board of Appeals still has the final say.

The board agreed to amend the motion. Mr. Thomas motioned to amend the resolution to a negative recommendation, seconded by Mr. Marrapodi.

Discussion. Mr. Werner suggested including the reason why the recommendation is negative. Mr. Wilson agreed. He stated that this will make the ZBA understand the vote.

Mr. Thomas opined that this is not so much of a precedence issue. This is more on planning perspective since this is just a recommendation to the Zoning Board of Appeals.

Mr. DePasqua stated that his problem is the board never issued a resolution about making a lot more substandard. He stated that he doesn’t even know if the board can do this legally.

Mr. Werner stated that he cannot find anything in the zoning law that addresses the above issue. It doesn’t state whether the board can make the lot more substandard.

Mr. Marrapodi indicated that the reason why this is not addressed in the zoning law is because the only way around this is through a variance.

All Aye, Motion carried, 4-0.

Ms. Ruzicka joined the panel at 7:53 pm.

Daniel and Dawn Harkenrider Variance – property located at 12 Friends View, Tax Grid No. 6566-00-364475.

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
June 18, 2013**

The applicants propose an area variance from Sec. 250 attachment 2 of the Town of Clinton Zoning Law for a side yard setback reduction from 17' to 10' in order to construct a 10' x 12' shed on property.

Mr. Harkenrider appeared and explained his project. He is currently putting up in an in-ground pool and needs a shed for storage purposes. Due to the size of this lot, he needs a variance to build the shed in the setback. Mr. Harkenrider presented pictures of the site where the shed is going to be.

Mr. Harkenrider submitted a letter from the adjoining property owner who is supporting his project.

Mr. Werner stated that the proposed shed will maximize the number of accessory structures (pool, existing shed, and proposed shed) on this property. The applicant needs to get a variance if he decides to put up another shed.

Mr. Marrapodi asked about the size of this property. Mr. Harkenrider responded that this is a 1.1-acre lot.

Mr. Marrapodi asked about the building coverage. Mr. Werner responded that the building coverage is okay since it is within the zoning limit (10%).

Ms. Ruzicka expressed her comments about this application. It seems pretty straightforward. She quoted that the 1/3, 2/3 rule applies to this application since this is a triangular lot per the Zoning Enforcement Officer.

Mr. DePasqua stated that the proposed shed will also block the shed of the neighbor, which is also on the property line.

The board agreed to issue a recommendation.

Ms. Ruzicka motioned 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 variance to Section 250 Attachment 2 in note 4 (ZBA Interpretation of side yard requirement 1/3-2/3 Rule) in order to achieve for property owned by **Daniel and Dawn Harkenrider** at 12 Friends View Clinton Corners NY, **Tax Grid #6566-00-364475.**

WHEREAS:

1. The applicant is requesting a variance from the required 17 feet side yard setback 10 feet to Section 250 Attachment 2 in note 4 to build a 10'x 12' shed.

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
June 18, 2013**

2. This is 1.1 acre lot located in the CR 1 zoning district
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, is not subject to further review.
4. An Ag data statement is not required for an area variance.
5. This property is located in a Critical Environmental Area as per Resolution of the Town Board 12/11/01.
6. The benefit being sought by the applicant can be achieved no other way due to the triangle shape of the lot.
7. The requested variance is substantial.
8. The alleged difficulty is self created.
9. The next door neighbors have provided a letter indicating acceptance of the project.
10. The proposed area variance will not have an adverse effect on the local community because there are many small lots in the neighborhood with sheds and garages within the setback areas and no further structures are proposed.
11. All appropriate fees have been paid.

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

Seconded by Mr. Thomas,

Discussion. None.

All Aye, Motion carried, 5-0.

PUBLIC HEARING:

Forever Ivy Acres 4 lot Subd – property located at East Fallkill Road, **Tax Grid No. 6266-00-935470.**

The applicant is requesting re-approval of the 4-lot subdivision that was originally granted on April 17, 2012.

Joe Berger of Berger Engineering and the Wowakas were back before the board. Also present for this application were the town consultants, Neil Wilson and Pete Setaro.

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
June 18, 2013**

Mr. Berger briefly explained his application.

Ms. Ruzicka motioned to open the public hearing, seconded by Mr. Thomas, all aye, Motion carried, 5-0.

Hearing no comments from the public, Ms. Ruzicka motioned to close the public hearing, seconded by Mr. Marrapodi, all Aye, Motion carried, 5-0.

APPLICATION:

Forever Ivy Acres 4 lot Subd (Preliminary and Final Re-approval) – property located at East Fallkill Road, Tax Grid No. 6266-00-935470.

The applicant is requesting re-approval of the 4-lot subdivision that was originally granted on April 17, 2012.

The board discussed the application. Sketch approval was re-issued at the last meeting (June 4, 2013).

Mr. Wilson explained the resolution that he drafted. The Negative Declaration is being reissued. The conditions of the Preliminary approval are the same as the Final approval. All the technical issues were resolved except for #2, which is about the variance for the driveway. He stated that he is aware that the driveway was cut in and the work is in place. He stated that he doesn't think that the variance has expired.

Mr. Thomas agreed. He indicated the board discussion about this issue at the last meeting. The variance was utilized since the driveway was cut in. He suggested that maybe the Zoning Enforcement Officer can sign off on this issue. The board agreed.

Mr. Wilson indicated the three conditions that can be carried forward to Final Approval.

Mr. Setaro noted that all the engineering issues were already addressed.

The board passed a resolution.

Mr. Thomas motioned that the Town of Clinton Planning Board grants approval of the attached resolution as prepared by the town consultant, Neil Wilson, seconded by Ms. Ruzicka.

Discussion. Mr. Werner questioned the resolution about the Preliminary and Final Approval. He stated that the board normally incorporates in one resolution Preliminary and Final approval. Mr. Wilson explained that it is better to do it this way so that it is sequential.

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
June 18, 2013**

Mr. Werner asked about the property owner's signature on the map. The applicants agreed to sign the Mylar.

All Aye, Motioned carried, 5-0.

Moving on to the Final approval, Mr. Wilson explained the resolution that he drafted. He stated that the condition about the fees will be conditions of Final Approval.

The board passed another resolution.

Mr. Thomas motioned that the Town of Clinton Planning Board grants approval of the attached resolution as prepared by the Town Planner, Neil Wilson, seconded by Mr. Marrapodi.

Discussion. None.

All Aye, Motion carried, 5-0.

Stewarts Shop (Amendment of Approved Site Plan) - property located at 2300 Salt Point Turnpike, Tax Grid No. 6566-00-331547.

The applicant wishes to do the following changes on the approved site plan.

1. Relocating the freezer to the exterior (rear) of the shop.
2. Building addition of 834 square feet.
3. Replace the existing cedar shakes on the building with slate.
4. Replace the underground storage tanks.
5. Upgrade all exterior lighting to LED.
6. Remove existing canopy and replace with a 20 x 90 canopy with three gas dispensers.
7. Relocate eastern most curb out.
8. Adding LED light poles.
9. Replace and upgrade landscaping.

The town consultants joined the panel for this application.

Chuck Marshall was back before the board. He made a recap of what had transpired at the last meeting.

Mr. Marshall went over the town engineer's comments per letter dated June 3, 2013. He discussed why they are proposing angled pumps. He also explained why they have to maintain a distance of 30 feet from the gas canopy. He remarked that their biggest concern is about people backing up from an existing space to the gas canopy. He noted that there has to be 22 feet between gas pumps for turning purposes.

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES**

June 18, 2013

Mr. Setaro questioned the proposed angle pumps. He asked, “Why can’t you keep the same size canopy and turn the angle pump if the concern is about spacing?” The town engineer commented that the angle pump works best with the one way in and out access. He stated that gas stations with angle pumps usually have one way in and out.

Mr. Werner indicated the discussion in the past about having a one way in and out driveways.

Ms. Ruzicka expressed her preference for proposed angle pumps. She opined that she just doesn’t know how these pumps will work with the existing driveways.

Mr. Wilson agreed with Ms. Ruzicka. It’s easier to approach gas stations with angle pumps. You don’t have to do a 90-degree turn. Mr. Wilson indicated his concern about the gas pumps being too close to the building in relation to the people coming in and out of the store.

Mr. DePasqua shared his experience about this gas station. This is a very busy site. The activity on this property can be really hazardous. Expanding the gas pumps from three to four pumps could create turmoil. He commented that it is already dangerous on this site. He also cited the Stewarts gas station on Route 9 in Red Hook that has one way in and out driveways. He noted that the one way in and out access works for that station.

Mr. Marshall remarked that they never received any comment or letter from the county that the existing driveways are creating hazardous situations. He asked to leave the driveways as they are.

Mr. Marrapodi stated that this issue creates problems for the town residents. He shared his experience about avoiding this gas station due to the above concern. He remarked that there is a significant concern about the ingress and egress on this property.

Ms. Ruzicka asked if this is about enforcement issue. Mr. Marrapodi responded, “Yes.”

Mr. Wilson expressed his comment about the issue. He opined that he doesn’t know how the proposed angle pumps will work with the existing driveways. There are all sorts of movements on this property. He stated that he agreed with the town engineer that angle pumps work best with one way in and out driveways.

The panel discussed different configurations of the driveway access in relation to the gas pump. Different opinions were exchanged and heard—for example, “Which driveway comes in and which goes out?” Coming in from the driveway next to the Taconic Parkway can create a traffic jam at the entrance.

Mr. Setaro noted that this is under the jurisdiction of Department of Public Works and Highways. This needs to be reviewed and approved by the Dept of Public Works and

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
June 18, 2013**

Highways. He suggested sending an email to DPW to look at this issue. The board agreed.

The board discussed lighting. Mr. Marshall stated that they are using the existing poles. They will use soft lighting to match the canopy and the building lights. He also indicated the lighting candle of the store. He noted that you cannot really see these lights from the Taconic Parkway.

Mr. Marshall presented the landscaping plan. Mr. Setaro commented that it is up to the board to decide on this issue. He stated that he doesn't have a problem with the proposed landscaping but that he is not a landscaping expert.

Mr. Marshall explained the drainage to the panel. Mr. DePasqua suggested that the applicant meet with the town engineer to address the engineering issues.

The applicant responded to the town consultant's comment about extending the hours of operation. Mr. Marshall noted that they haven't submitted a formal application about this but that their intention was discussed at the previous meeting. Mr. Marshall stated that he thought that they could extend the hours operation since part of the condition of the resolution was about the hours of operation. He noted that he didn't know that the store hours were based on the zoning regulation. He stated that he is now aware that they are prohibited from extending the hours of operation since Stewart's Shop is classified as a retail store.

Mr. Wilson agreed. He also raised the issue about the need of an area variance due to the size of the building (proposed bathroom addition). This case needs to be circulated to the Zoning Board of Appeals as part of the SEQRA process. The ZBA is an involved agency. This case needs thirty days before the public hearing can be done.

The board agreed to issue another resolution.

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

Be it Resolved that the, Town of Clinton Planning Board hereby approves to include additional involved agency for review of the project pursuant to Sections 617.6(2) and (3) of 6 NYCRR 617 in the matter of Stewart's Shop Corporation.

BE IT FURTHER RESOLVED, the Planning Board hereby directs that copies of the Site Plan Application, the Part I EAF, and the Site Plan Map be sent to the additional involved agency.

INVOLVED AGENCY

Zoning Board of Appeals

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
June 18, 2013**

Town of Clinton
1215 Centre Road
Rhinebeck NY 12572

Seconded by Ms. Ruzicka, All Aye. Motion carried, 5-0.

Mr. Marshall expressed his frustrations about the timeline. He noted that they were hoping to start this project by September. He indicated the series of meetings that he had been through since he filed the application.

Mr. Setaro noted that the driveway still needs to be approved by the Department of Public Works. He suggested that the applicant bring this matter up to the DPW as soon as possible since the processing might take awhile.

Mr. DePasqua suggested that the applicant meet with the town consultants to discuss and resolve the issues about the site plan before coming back before the board.

No action taken.

OTHER MATTERS:

The board had a discussion about submission deadlines of application documents. The board agreed that applications need to be received two weeks before the scheduled meeting.

APPROVAL OF MINUTES:

Ms. Ruzicka motioned to accept the amended minutes of June 4, 2013 seconded by Mr. Thomas, all aye, motion carried, 5-0.

ADJOURNMENT:

Chairman McCormack motioned to adjourn the meeting at 9: 45 pm, seconded by Mr. DePasqua, All Aye, Motion carried, 5-0.

Respectfully Submitted,



Arlene A. Campbell, Clerk

Planning & Zoning Board of Appeals