

**TOWN OF CLINTON PLANNING BOARD
FINAL MINUTES
November 19, 2013**

MEMBERS PRESENT

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

MEMBERS ABSENT

ALSO PRESENT

Arlene Campbell, Secretary

Dean Michael, Liaison Officer

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

VARIANCE APPLICATION:

Joseph and Shari Jordan Area Variance on property located at 84 Sunset Trail, **Tax Grid No. 6467-00-310312.**

The applicants propose an area variance to Sec. 250 Attachment 1 of the Town of Clinton Zoning Law for a side yard setback reduction from 50 feet to 20 feet in order to construct a 24' x 36' storage barn.

Joseph Jordan appeared for this application. He moved in to this property in 2007. He now wants to put a storage barn in the rear of the property. There is a 100-foot strip of vacant land adjacent to this property that he wishes he could buy. His neighbor wants to keep the strip of land so he is limited in terms of where he can locate the barn. Mr. Jordan explained why the proposed site is the best location. The driveway is already located and putting in another driveway will require taking down trees.

Mr. Jordan explained why he cannot put the proposed barn on the other since it also requires taking down trees.

Chairman McCormack asked for questions and comments from the board. Mr. DePasqua asked about the adjacent 100-foot strip of land. He asked, "Is this is a separate parcel?" Mr. Jordan responded, "Yes." He added that he doesn't know when the strip of land was created.

Mr. Marrapodi asked about the property in the back. He asked, "Is that property landlocked" Mr. Jordan responded, "No, but the 100 foot strip of land is the access towards the property in the back. This piece is included in the neighbor's land frontage."

Mr. Thomas asked about the configuration of the barn. Mr. Jordan explained the angle of the barn.

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Mr. Marapodi asked about the intended use of the proposed barn. Mr. Jordan responded that he wants to store his tractor, log splitter, etc. which are currently at the back of his property.

Mr. Thomas asked about the two little sheds on this property. Mr. Jordan responded that the two little sheds are pre-existing and are currently used for storing wood.

Mr. DePasqua indicated his comments per his site visit. Locating the proposed barn on other areas on this property will call for taking trees down. He opined that this is the best location for the proposed barn as long as the trees aren't cut down. He commented that he would use the same location if he were the owner of this property.

Mr. Marrapodi commented that given the strip of land as the buffer, there's not much room on this property to locate the barn.

After all the reviews are made, the board agreed to pass a resolution, to wit:

Mr. Thomas motioned the following resolution:

BE IT RESOLVED that the Town of Clinton Planning Board is making a **positive** recommendation to the Zoning Board of Appeals with respect to the area variance requested by Joseph and Shari Jordan from the Town of Clinton Zoning Law District Schedule of Area and Bulk Regulations for a side yard setback reduction to approximately 20 feet from the required 50 feet on a 5 acre site located at 84 Sunset Trail, **Tax Grid No. 132400-6467-00-310312**, which is located in the Agricultural Residential 5 (AR5) District in the Town of Clinton.

WHEREAS:

1. The applicants request an area variance to allow the construction of a 24' x 36' storage barn within the required 50 foot side yard setback set forth in the District Schedule of Area and Bulk Regulations of the Town of Clinton Zoning Law reducing the side yard setback from 50 feet to approximately 20 feet.
2. There are no known outstanding zoning violations on the property per the Zoning Enforcement Officer.
3. The property is not in a CEA.
4. The property is located in the Ridgeline, Scenic and Historic Protection Overlay.
5. An area variance is a Type II action under SEQRA and requires no further action.
6. The Planning Board has determined that the proposed variance will not have an adverse effect on the physical or environmental conditions in the neighborhood.

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7. The benefit sought by the applicants could be achieved by another method, but in making its recommendation the Planning Board has considered the applicants' comments concerning (1) the detrimental effect on the viewshed along Sunset Trail of placing the proposed building outside of the required setback; (2) the applicants' desire to avoid cutting and clearing of additional mature trees, which would be required if the building were placed outside of the setback; and (3) the presence of a buffer strip approximately 100' wide between the applicants' property line and the neighboring parcel to the east, the presence of which will significantly mitigate the effect of requested variance.
8. The alleged difficulty is self created.
9. The application fee has been paid.

NOW THEREFORE, BE IT RESOLVED, the Town of Clinton Planning Board is making a positive recommendation to the Zoning Board of Appeals with respect to the applicants' request for the referenced area variance.

Seconded by Mr. Marrapodi.

Discussion: None.

All Aye, Motion carried, 7-0.

Packes 2-lot subdivision (Sketch plan approval) - property owned by Nancy Packes located at 27-37 Stissing View Road.

The applicant wishes to subdivide a 26.1-acre lot into 2 lots. Lot 1 - 10.02 acres
Lot 2 - 6.08 acres.

John Andrews, property owner's engineer, appeared on behalf of the applicant. He explained what had transpired at the previous meeting dated September 3, 2013. One of the issues of this case is about the initial proposal of Ms. Packes, which was the variance. This variance was granted by the Zoning Board of Appeals with a condition stating "No Subdivision."

Moving forward to this application, a question was raised about the effect of the variance on the subdivision. Mr. Andrews remarked that the subdivision process was the Planning Board's idea to eliminate the need for a variance when the variance application was initially presented to the board. He indicated the town attorney's opinion about the above concern.

Mr. Andrews indicated the second issue about this application, which is about the potential driveway per subdivision regulations. DPW prefers not to have the second driveway. The 85 percentile speed for the road is 55 miles/hour. Mr. Andrews explained

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that in doing their sightline analysis, they will need a sight distance of 45 miles/hour but the County stated that the requirement is 55 miles/hour.

Mr. Andrews noted that they do not have adequate sight distance. In order to meet the requirement of 55 miles/hour, they will need almost 500 feet on one direction and over 600 feet in the other direction. According to DPW's letter, they do not have a problem with the subdivision as long as they maintain the existing common driveway and the cross access outlined in the Maintenance Agreement is reviewed. Mr. Andrews noted that the property owner also prefers to have only one driveway. He also indicated Morris Associates' comment about the driveway (see letter on file).

Mr. Andrews stated that Lot 1 was reconfigured to 10 acres as per the zoning requirement (double the acreage) due to the two dwellings on Lot 1.

Mr. Andrews asked the board how to reflect the 500 feet elevation on the site plan. Mr. Marrapodi responded that a notation about the elevation of the property should be fine.

Chairman McCormack asked for questions and comments from the board.

Mr. Marrapodi stated that the biggest issue about this case is the driveway. Per the subdivision regulations, the other lot needs to have potential access to the road that is doable.

The panel had a very long discussion about the above issue. Chairman McCormack asked, "What if there is a driveway that is only used to make a right-hand turn? What would be the speed requirement?" Mr. Andrews responded that he doesn't know since they didn't look into this possibility. He opined that the County will not entertain this proposition.

Chairman McCormack explained his query. He stated that maybe the County will change the speed limit of the road in the future if the Town Board petitions it. He stated that there was a case in the past wherein the County's speed limit was changed due to a petition from the Town Board.

Mr. Werner remarked that the driveway has to be doable at the time of application. You cannot give an approval for something that might not happen.

Ms. Ruzicka noted that the subdivision regulations state that there has to be a theoretical driveway that is doable.

Mr. Marrapodi stated that this case is different since the County doesn't allow the second driveway.

Mr. Andrews noted that DPW stated that the only way they could revisit this issue is if they go out to the property and get a full-blown sight analysis.

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Chairman McCormack made a follow-up question about his earlier comment. He asked, "Is there a sight distance for a right-hand turn only?" Mr. Andrews responded, "Yes, but it needs to be verified with a survey."

Chairman McCormack expressed his comment about the above issue. There is nothing in the ordinance that prevents "right-hand turn only driveway." He demonstrated how a right-hand turn driveway might work in this case.

Mr. Thomas asked, "Can you get a driveway permit that says "right hand turn only"?" Chairman McCormack and Ms. Ruzicka both responded, "Yes."

Chairman McCormack advised the applicant's engineer to ask the DPW if it is possible to have a right -hand turn only driveway on this property. Mr. Andrews agreed.

Mr. Thomas asked the board, "Does the driveway really need to be cut or is it just a matter of a driveway permit?" Chairman McCormack responded that the driveway doesn't need to be cut. It only needs the feasibility and availability of the driveway.

Mr. Andrews stated that he will bring this matter up to the DPW.

Mr. Werner asked about the exact location of the proposed driveway. The applicant pointed out the proposed site on the map. He noted that the existing driveway is at the corner of the lot. Mr. DePasqua asked about the apron on that site. He commented that maybe there was a driveway permit issued. Mr. Andrews responded that there is none. This was confirmed by DPW.

Mr. Andrews noted that the property owner doesn't want to build another driveway on this property. They want to use a common driveway.

The panel discusses on how to move forward. Mr. Werner asked the applicant's engineer how they want to proceed. Mr. Andrews responded that Ms. Packes wants to move ahead and implement her plan. Mr. Werner reminded the applicant about the cost and risk involved in moving forward, like expenses to be incurred with the subdivision process. The approval is not guaranteed. There is also a pending issue about the second driveway. Mr. Andrews agreed. He stated that if the subdivision application doesn't get approved, then they will have to go back to the original plan (site plan and special permit approval).

Mr. DePasqua noted that if the subdivision doesn't go through, then the variance is still in effect. Chairman McCormack agreed. If the applicant doesn't get the subdivision, the other approvals on this property stay.

Mr. Werner asked the applicant about the big hole that was dug up on top of the hill. He asked, "Is this for a foundation?" Mr. Andrews responded that the hole is for a construction of a pond. Mr. Werner commented that this is a decent -sized pond.

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Mr. Werner verified the site plan. He asked if the plan is still to expand the small building from 2,400 square feet to 3,200 square feet to become a main house. Mr. Andrews agreed.

Mr. Werner noted that the Zoning Enforcement Officer recommends a variance for the accessory structure on Lot 1 that exceeds the threshold (35% or 1,000 square feet, whichever is more restrictive). Mr. Werner stated that 35% of 2,400 square feet is 840 square feet. Mr. Andrews responded that he will verify the actual square footage of these dwellings with the architect. Ms. Ruzicka advised the applicant to make sure to compute the square footage based on the habitable space.

The board agreed that this variance can be done contingent with the subdivision approval.

The applicant asked the board whether sketch plan approval can be issued to move along the process.

Mr. Marrapodi asked what happens if the DPW turn the driveway application down. Mr. McCormack responded that the applicant then goes back to the original application where there was a variance granted.

The board declared lead agency for SEQRA review.

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

WHEREAS, the Town of Clinton Planning Board has received an application from Nancy J. Packes for property located at 27–37 Stissing View Road known as the **Packes Subdivision Application**.

WHEREAS, the application involves **Tax Grid #132400-6469-00-070585** located in a Conservation Zoning District, and

WHEREAS, the Planning Board has reviewed the application for the subdivision, the proposed subdivision plat, the Short Form Environmental Assessment Form (EAF), and other information provided by the applicant for the Packes application, and

WHEREAS, the Planning Board has determined the proposed Packes application is an unlisted action and that a coordinated review of the action will be undertaken,

THEREFORE BE IT RESOLVED, the Town of Clinton Planning Board hereby declares its intention to be the lead agency for review of the project pursuant to Sections 617.6(2) and (3) of 6 NYCRR 617.

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BE IT FURTHER RESOLVED, the Planning Board hereby directs that copies of the Subdivision Application, the Part I EAF, and the Subdivision Plat be sent to the following agencies, together with a notice seeking the consent of these agencies to the Planning Board assuming lead agency status.

INVOLVED AGENCIES:

Dutchess County Board of Health
Dutchess County Department of Public Works

INTERESTED

Dutchess County Department of Planning
Town of Clinton Scenic and Historic Roads Committee
West Clinton Fire Department

Seconded by Mr. DePasqua, all Aye, Motion carried, 7-0.

Mr. Werner indicated the technical issues on the site plan. The square footage of the dwellings need to be verified, notation about the Ridgeline, and list of surrounding property owners need to be listed on the map.

The board agreed to issue a sketch plan approval.

Mr. Werner motioned that the Town of Clinton Planning Board grant sketch plan approval to **Nancy J. Packes** for the purpose of subdividing lands on a 26.1-acre site located at 27–37 Stissing View Road, which is in a Conservation Zoning District in the Town of Clinton, **tax grid #132400-6469-00-070585**.

WHEREAS:

- 1) The applicant is requesting a two (2) lot subdivision as shown on the plat created by Rohde, Soyka & Andrews, Consulting Engineers, 40 Garden Street, Poughkeepsie, New York, dated 8/1/2013.
- 2) The acreage after the subdivision will be 10.02 acres for Lot 1 and 16.08 acres for Lot 2.
- 3) The property is located in the Ridgeline, Scenic, and Historic Protection Overlay District. The applicant has submitted a Long Form EAF.
- 4) The Town of Clinton Planning Board declared itself lead agency on 11/19/2013 for this unlisted coordinated action. Involved agencies are Dutchess County Board of Health and Dutchess County Department of Public Works. Interested agencies are Dutchess

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County Department of Planning, Town of Clinton Scenic and Historic Roads Committee, and West Clinton Fire Department.

5) The applicant has been advised that she will need approval from the Dutchess County Department of Public Works for the placement of a potential new driveway on the property.

6) The applicant has been further advised that the accessory dwelling unit on Lot 1 will require a variance for the square footage.

7) The applicant's attorney is in discussions with the Town Attorney regarding relinquishment of the 2007 and 2013 zoning variances issued by the Town of Clinton Zoning Board of Appeals.

8) All appropriate fees have been paid.

NOW, THEREFORE, BE IT RESOLVED, the Town of Clinton Planning Board grants sketch plan approval for the requested subdivision of lands when the following **conditions** are met.

a) The following items are included in the subdivision plat:

- Names of adjoining property owners and all property owners within 200 feet of the parcel, including across Slate Quarry Road.
- Location of the property within the Ridgeline, Scenic, and Historic Protection Overlay District.
- Square footage of the three existing structures.
- The address of the property should be **27-37 Stissing View Road**.

b) Having adequate access provided for the potential new driveway as approved by the Dutchess County Department of Public Works.

Seconded by Mr. DePasqua.

Discussion.

Mr. Marrapodi questioned the property address. He stated that it should state Stissing View Road instead of Stissing Drive. The board agreed to correct the property address to Stissing View Road.

All Aye, Motion carried, 7-0.

Public hearing is set on January 7, 2014.

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OTHER MATTERS:

Board Discussion:

1. Silver Lake Lots - Mr. DePasqua discussed the matter about Silver Lake Lots. These lots were recently sold in an auction. There are many restrictions on these lots and new property owners should be aware of these restrictions. The board agreed to send a memo to the Zoning Enforcement Officer and Building Inspector about this subject (see attached memo).

2. Proposed Power Line Expansion – The board discussed the recent town issue about power lines expansion in the town. This is detrimental to health issues and neighborhoods, and will hurt property values and create landscaping scars in the town.

The board agreed to send a memo to the town board appointing Art DePasqua as the Planning Board Liaison Officer for the above subject matter (see attached memo).

APPROVAL OF MINUTES:

Mr. DePasqua motioned to approve the minutes of October 15, 2013 as amended, seconded by Mr. Werner, All Aye, Motion carried, 7-0.

ADJOURNMENT:

Chairman McCormack motioned to adjourn the meeting at 10: 00 pm, seconded by Mr. DePasqua, All Aye, Motion carried, 7-0.

Respectfully Submitted,



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