

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
August 19, 2014**

MEMBERS PRESENT

Mike McCormack, Chairman
Art DePasqua

Tracie Ruzicka
Robert Marrapodi
Paul Thomas
Eliot Werner

MEMBERS ABSENT

Gerald Dolan

ALSO PRESENT

Arlene Campbell, Secretary

Dean Michael, Liaison Officer

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

VARIANCE APPLICATION:

Matthew Taney Area Variance – property located at 420 Browning Road, **Tax Grid No. 132400-6366-00-913923.**

The applicant is seeking an area variance to Section 250-105 of the Town of Clinton Zoning Law for the purpose of erecting a 40' by 60' pole barn and establishing a farm on a 4.59-acre parcel located adjacent to his residential property. This is in an AR-3 Zoning District in the Town of Clinton

Mr. Taney appeared and briefly explained his application. In November of 2013, he purchased a 4.59 -acre parcel on Browning Road that is adjacent to a 3.1 -acre parcel that he also owns and in which he resides. He wants to construct a barn on a vacant lot adjacent to his property for the purpose of operating an apiary and storage for farm purposes. He added that he also has over fifty chickens for egg production and also hopes to acquire goats in the future.

Mr. Taney commented that the requested variance is approximately four-tenths of an acre and he feels that the variance is not substantial.

Chairman McCormack joined the panel at 7:57 pm.

Mr. Marrapodi stated that the area variance is actually to create a farm. This is a three-acre Zoning District. Mr. Marrapodi commented that the property owner can build a house and it's not going to be a problem.

Mr. Thomas concurred with Mr. Marrapodi.

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The board exchanged opinion about this case. Mr. Marrapodi remarked that it doesn't make sense why you cannot build a barn on this vacant lot when you're allowed to build a house.

Mr. Werner read the letter from the Zoning Enforcement Officer dated August 18, 2014. The letter states, "An agricultural barn can be built on a farm parcel without a dwelling where farming is the principal use."

Sec. 250-105 of the Zoning Law defined Farm as "A parcel of land of not less than five acres used for the production of crops, livestock or livestock products . . . having an annual gross sales value of production of \$1,000 or more."

Mr. Thomas commented that if the property owners combine these lots, then there is no need for a variance. Mr. Werner agreed. He added that this will also give the property owner a tax break.

Mr. Taney noted that the town benefits from the amount of taxes that he's paying for keeping these lots separate.

The board exchanged opinions about the option of a lot line adjustment. Mr. Taney noted that he is seeking a variance because he wants to keep these lots separate.

The board explained to the applicant various alternatives that he could pursue instead of applying for a variance, but he expressed an interest in pursuing the latter approach.

After a lengthy discussion, the board agreed to give a variance recommendation, to wit:

Mr. Thomas motioned the following:

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 Matthew J. Taney from Section 250-105 of the Town of Clinton Zoning Law for the purpose of erecting a 40' by 60' pole barn and establishing a farm on a 4.59 acre parcel located adjacent to 420 Browning Road, **Tax Grid No. 132400-6366-00-913923**, which is in the AR3 District in the Town of Clinton.

WHEREAS:

1. The applicant proposes to erect a 40' by 60' pole barn and establish a farm on a 4.59 acre parcel located in the AR3 District.
2. Section 250-105 of the Town of Clinton Zoning Law defines a "farm" as "[a] parcel of land of not less than five acres used for the production of crops, livestock or livestock products. "

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3. The referenced parcel consists of 4.59 acres and the applicant has therefore requested an area variance of approximately .41 acre from the minimum requirement of five acres set forth in the Zoning Law for establishing a farm in the Town of Clinton.
4. There are no known outstanding zoning violations on the property per the Zoning Enforcement Officer.
5. The property is not in a CEA.
6. An area variance is a Type II action under SEQRA and requires no further action.
7. The requested area variance is substantial.
8. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.
9. The alleged difficulty is self-created.
10. In making this recommendation, the Planning Board has considered the importance of making land within the Town available for agricultural purposes as set forth in the Zoning Law, which provides that “farming is an essential activity within Clinton.”
11. The Board discussed with the applicant and asked him to consider the possibility of combining the parcel in question with the adjacent lot which he also owns by means of a lot line adjustment which would eliminate the necessity for an area variance in this case.
12. 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 applicant’s request for the referenced area variance.

Seconded by Ms. Ruzicka.

Discussion. Mr. Werner suggested making the recommendation negative instead of positive. He stated that the Zoning Enforcement Officer already made a determination in his letter that a farm cannot be less than five acres.

Mr. Marrapodi stated that the Zoning Enforcement Officer did not make a determination in his letter. The Zoning Enforcement Officer has to deny the building permit before the applicant can seek a variance.

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Mr. DePasqua suggested adding a notation about the alternative of a lot line adjustment to the resolution.

The board discussed whether the recommendation should be positive or negative. Ms. Ruzicka stated that it should be positive. Mr. Thomas commented that the board should encourage farming.

The board agreed to issue a positive recommendation.

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

PUBLIC HEARING:

None

Levin Special Permit Application - property located at 127-143 Browning Road, **Tax Grid 6366-00-517296.**

Applicant is seeking a Special Permit in order to demolish the existing barn and construct a new barn.

Richard Levin and his architect, Paul Pilon, both appeared for this application.

Mr. Levin explained his application. There is a barn on this property that was built in 1930. There is an existing apartment above the barn. Mr. Levin stated that they want to take the barn down and replace it with a new structure for the same use and in the same location. The proposed building will have a one-car garage and storage on the first level and a two-bedroom apartment upstairs. He stated that the Building Inspector advised him that the demolition approval process has to go before the Planning Board.

Chairman McCormack asked for questions and comments from the board.

Mr. DePasqua asked the applicant if the proposed building is going to be moved farther back. Mr. Levin responded, "No."

Ms. Ruzicka noted that the porch of the existing barn will be removed. There will be a difference in the setback.

Mr. Levin agreed. There will be a porch but this will just be a sitting porch. The back porch is going to be eliminated.

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Mr. Thomas asked about the details of the project. Mr. Levin stated that the building foundation is coming out but the footprints are going to be the same.

The board reviewed the setback. Mr. Marrapodi noted that the building will still need a variance. Ms. Ruzicka agreed. It needs a front yard setback since this is a nonconforming building.

The board discussed the Zoning Enforcement's memo dated August 5, 2014 regarding the demolition procedure per Sec. 250.93 D of the Town of Clinton Zoning Regulations.

Sec. 250.93 D of the Town of Clinton Zoning Regulation states that (Issuance of Demolition Permit) "The Building Inspector shall refer such application to the Planning Board. The Planning Board shall review such application within 45 days and approve such plans only if it finds that the demolition is in compliance with federal, state, and local regulations with regard to historical buildings, and that the demolition will not do harm to the character of the surrounding area and buildings."

The board expressed doubts about the above issue.

Mr. Marrapodi remarked that the board has never done this review before. This is all new to the board. Typically, the demolition process is you file a Demolition Permit Application and the Building Department issues the Demolition Permit.

The board discussed why this application is before the board. Mr. Werner raised the question about the significance of this building. The barn was built in 1930.

Mr. Marrapodi indicated the process of Demolition Permit Approval in the Village of Rhinebeck (only if the building is historical). He noted that the application is reviewed by the Historical Overlay District before coming before the Planning Board.

Mr. Werner opined that the Demolition Permit process needs to be addressed first. He noted that this case requires a Demolition Permit, Area Variance, and Special Permit. He asked, "Why process the Variance and Special Permit Applications if the Demolition Permit will not be approved?"

Mr. Werner thinks that it's best to consult an expert or a consultant to review the significance of the building.

The board reviewed the definition of "Demolition" in relation to Section 250.93 D of the Town of Clinton Zoning Law.

Sec. 250.105 of the Town of Clinton Zoning Law defines **Demolition** as "Any dismantling, intentional destruction or removal of building or structures, not including accessory structures defined in Sec. 250.22B."

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The board exchanged opinions about the above section. The requirement for a demolition permit does not apply to accessory buildings of 120 square feet and less per Sec. 250.22B. It applies to all other structures except for Agricultural buildings.

Chairman McCormack asked, “How will the board proceed? What are the steps to be taken? What are the standards for historical buildings?”

Mr. Thomas agreed, these questions are not addressed in the Zoning Regulations.

After a very long discussion, the board agreed to get the Town Attorney’s opinion.

Mr. Levin asked about the status of his application. The board explained to the applicant the its doubts about the new procedure. The variance application can be heard at the next meeting while waiting for the Town Attorney’s opinion. Special Permit and Demolition Permit approval can also be processed if the board hears from the Town Attorney before the next meeting.

No action taken.

Packes 2-Lot Subdivision (Extension of Final Approval) - located at 27-37 Stissing Avenue, **Tax Grid No. 6469-00-070585.**

Applicant wishes to subdivide a 26 -acre lot into 2 residential lots. Lot 1 – 10.02 and Lot 2 – 16.08 acres.

John Andrews, the property owner’s engineer, was back before the board. He explained that the conditional Final Approval of this subdivision expired on August 17, 2014. He indicated the reason about the delay in finalizing the approval.

The board discussed the application on hand. The request is about procedural process. The application can be done in one meeting. SEQRA is done and there were no changes on the application.

Chairman McCormack stated that the public hearing can also be waived. Application and maps can be re-dated.

No action taken.

OTHER MATTERS:

Board Discussion:

1. The board discussed the issue about the Demolition Approval process.
2. The board agreed to send a memo to the Town Board to adopt a local law regarding Lot Line Adjustments. It was agreed that simple removal of a lot line from two adjoining

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parcels can be done through the County by way of Deed Consolidation as practiced by other towns.

APPROVAL OF MINUTES:

No minutes were approved.

ADJOURNMENT:

Mr. DePasqua motioned to adjourn the meeting at 9:45 pm, seconded by Ms. Ruzicka, All Aye, Motion carried, 6-0.

Respectfully Submitted,



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