

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
September 2, 2014**

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

VARIANCE APPLICATION:

Boyer Variance – property owned by William and Janet Boyer located at 31 Long Pond Road, **Tax Grid No. 6469-00-273503.**

The applicants are seeking an area variance to Section 250 Attachment 2, to allow for the creation of a nonconforming 4.40-acre lot with a substandard minimum lot width of approximately 378 feet, on a 5.32-acre site in a Conservation zoning district.

Mr. Boyer appeared and explained his application. He owned these properties since 1985. His house sits on a 3.94-acre lot. Next to his residential lot is a 5.32-acre vacant lot. Mr. Boyer stated that he wants to move the line of the property to make the residential lot bigger and sell the other lot. He's proposing to take .92 acres of land from the vacant lot (5.32 acres)

Mr. Boyer explained that he's 64 years old and his wife is a cancer survivor. He commented that if anything happens to him or his wife, the State might take his property.

Mr. Marrapodi stated that the applicant is trying to make a buildable lot non-buildable. It will be harder to sell the vacant lot.

Mr. Boyer disagreed. He remarked that this lot is a substandard lot. Mr. Marrapodi noted that the variance will make the lot substandard.

Mr. Boyer was adamant about his proposal. This will benefit him in the future. He noted that this is not going to affect any of his neighbors. He added that if the vacant lot next to him is sold, his residential lot will be harder to sell in the future since the property line is too close to the other property.

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Mr. Werner concurred with Mr. Marrapodi. This will affect the sale of the property since the lot will become non-buildable.

Mr. Boyer indicated his understanding that this is a five-acre zoning district. He noted that this is the reason why he is seeking a variance.

Mr. Marrapodi reiterated that the variance will make the lot substandard.

Mr. Boyer indicated that the Zoning Enforcement Officer advised him that there should not be any problem with his application. He asked the board to visit his property to see where the property lines are.

Mr. Werner and Mr. Marrapodi noted that the board visited this property. They know where the property lines are.

Mr. Marrapodi expressed his opinion about this case. The applicant can do whatever he wants. The board can only advise the applicant what is best for his interest.

Mr. Boyer reiterated that the Zoning Enforcement Officer advised him that his proposal is okay and there should not be any problem. Whoever buys the vacant lot (assuming the variance is granted) will have a nonconforming lot of 4.40 acres. This will also benefit the next property owner of this parcel.

Mr. Marrapodi noted that the problem is about the conforming lot of 5.32 acres (residential lot) that will become a nonconforming lot due to the variance. This is a five-acre Zoning District.

Mr. Boyer asked, "How come he was told that there shouldn't be any problem with this application?" He was told that the variance is okay.

Mr. Marrapodi opined that the variance will make the vacant lot non-buildable due to the variance. It will make the situation worse.

Mr. Thomas and Mr. DePasqua agreed. The board is not allowed to create a substandard lot per Zoning Regulations.

Ms. Ruzicka commented that this is the variance that the board doesn't grant. Mr. Thomas stated that the issue here is about creating two substandard lots as opposed to one.

Mr. Werner stated that per his conversation with the Zoning Enforcement Officer, the way he understands this is the new vacant lot will become buildable if the variance is granted by the Zoning Board of Appeals.

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Mr. Marrapodi asked, “How can the town create a nonconforming lot and allow it to be a buildable lot? It doesn’t make sense. The board can make a recommendation to the Zoning Board of Appeals and the ZBA can make the final decision.”

After a lengthy discussion, the board agreed to issue a recommendation.

Mr. Werner motioned the following resolution:

BE IT RESOLVED THAT the Town of Clinton Planning Board provide a negative recommendation to the Zoning Board of Appeals on the area variance requested by **William and Janet Boyer** to Section 250 Attachment 2, to allow for the creation of a nonconforming 4.40-acre lot with a substandard minimum lot width of approximately 378 feet, on a 5.32-acre site in a Conservation zoning district, located at 31 Long Pond Road in the Town of Clinton, **tax grid #132400-6469-00-273503**, as shown on the provided drawing.

WHEREAS:

- 1) The minimum lot size required in the C District is five acres. The applicants also own the neighboring property to the north and wish to transfer 0.92 acres to the adjoining parcel, leaving them with a 4.40-acre lot. The applicants request an area variance to allow them to convey said parcel to the adjoining parcel by means of a lot line adjustment.
- 2) The transfer of property would also result in a decreased minimum lot width of approximately 378 feet, whereas the minimum lot width required for properties in the C district is 400 feet.
- 3) There are no known outstanding zoning violations on the property.
- 4) An area variance is a Type II action under SEQRA and requires no further action.
- 5) The requested area variance is substantial, in that it will result in the creation of a substandard lot.
- 6) Although the proposed area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood, the Planning Board feels there is no compelling reason for the creation of a substandard lot in this case and that granting the requested area variance will establish an unwelcome precedent.
- 7) The alleged difficulty is self-created.
- 8) All appropriate fees have been paid.

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

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Seconded by Ms. Ruzicka,

Discussion. Mr. DePasqua noted that the Planning Board is just giving a recommendation to the Zoning Board of Appeals. The ZBA might or might not agree with the board's recommendation.

All Aye, Motion carried, 7-0.

Chairman McCormack joined the panel.

Levin Area Variance – property owned by Richard and Kathleen Levin located at 127-143 Browning Road **Tax Grid No.132400-6366-00-517296,**

The applicants are requesting the following area variances in order to replace an existing accessory dwelling unit with a new accessory dwelling unit, to wit:

Sec. 250 Attachment 2 – Front yard setback reduction from 100 feet to 82.3 feet

Sec. 250-29D-1 which requires that an accessory dwelling in an existing barn must meet the minimum setback requirements for the zoning district.

Paul Pilon, the applicants' architect, appeared on behalf of the property owner. He explained that the Levins have an existing structure on the property that they're proposing to demolish. The building is in poor condition. They wish to replace this structure with a new building with the same purpose at the same location. The lower level will be garage and mechanical. The upstairs will continue its use of a two-bedroom accessory dwelling.

Mr. Pilon indicated the approval process required for this project. They need to get a Demolition Permit Approval recommendation from the Planning Board and a Special Permit.

In order to build the structure on the same exact location with the same existing septic, this project will need an area variance for the front yard setback, which is currently 80 feet from the center line of the road.

Chairman McCormack asked for questions and comments from the board.

Ms. Tracy asked about the third variance regarding the Bulk Regulations. She asked, "Is the size of the new barn going to be larger because the building is nonconforming?"

Mr. Pilon responded that it's not going to be nonconforming based on the size of the building. The proposed building is slightly bigger. He noted that it will have the same setback.

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Section 250.29 D1 of the Town of Clinton Zoning Law requires that an accessory dwelling in an existing barn must meet the minimum setback requirements for the zoning district.

Mr. Marrapodi commented that it's not like something is preventing them from moving the building farther back in order to comply with the setback regulations.

Mr. Thomas noted that the septic is behind the structure so they cannot move the building. Mr. Pilon concurred.

The board agreed to include the third variance. It's better if it is included in the recommendation.

Mr. DePasqua asked if this application is going to be hand in hand with the Demolition Permit and Special Permit.

Mr. Werner indicated the Town Planner's opinion that it is not fair to hold the applicant up. The board can act on the Demolition while the town is trying to develop a procedure.

The board agreed to pass a resolution, to wit:

Ms. Ruzicka motioned the following resolution:

Be it Resolved that the Clinton Planning board makes a positive recommendation to the Zoning Board of Appeals on the requested area variances to Sec. 250 Attachment 2 reducing the front yard setback from 100 feet to 82.3 feet for the rebuilding of a nonconforming barn with an accessory use apartment, Section 250-83-A requiring all alterations or extensions of non conforming building comply with the area and bulk regulations and Section 250-29 D.1 that requires that an accessory dwelling in an existing barn must meet the minimum setback requirements for the zoning district. as requested by Richard and Kathleen Levin on property located at 127-143 Browning Road, **Tax Grid No. 6366-00-517296 in an AR5 Zoning District.**

WHEREAS:

1) The applicant is requesting a reduction of a front yard setback from 100 to 82.3 feet (Sec. 250 Attachment 2) and that an accessory dwelling in an existing barn must meet the minimum setback requirements for the zoning district (Sec. 250-29 D.1) on a ±46.5 acre lot.

2) The applicant is proposing to increase the size of the new nonconforming building from the replaced nonconforming building from 912 sq feet to 990 sq feet.

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- 3) The property is not in an Ag District.
- 4) The property is not within the Ridgeline, Scenic and Historic Protection Overlay District
- 5) The property is not in a CEA(Critical Environmental Area)
- 6) The variance requested is substantial because rebuilding the barn would allow the setback requirements to be taken into consideration, however re positioning the building would be an economic hardship on the applicant because new well, septic and driveway would be required.
- 7) An undesirable change in the neighborhood will not occur, as this building has been in place for many years, pre-dating zoning and the plans for the new building show all efforts have been made to retain the same barn look of the new structure.
- 8) The alleged difficulty is self created, as the applicants wish to demolish and rebuild their current barn with accessory apartment because the repairs needed to upgrade are too substantial.to repair the current barn and apartment.
- 9) The applicants own a large parcel including the property across the street which is a registered NYS wetlands, so no neighbors will ever be directly looking at the barn and effected by its proximity.
- 10) No adverse effects will be created by the rebuilding of this structure except during construction.

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

Seconded by Mr. Werner.

Discussion. None.

All Aye, Motion carried, 7-0.

APPLICATIONS:

Levin Special Permit Application - property owned by Richard and Kathleen Levin located at 127-143 Browning Road **Tax Grid No.132400-6366-00-517296**,

The applicants are seeking a Special Permit to replace an existing accessory dwelling unit with new accessory dwelling unit.

Mr. Pilon was back before the board for his application.

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The board agreed to declare lead agency.

Ms. Ruzicka motioned that the Town of Clinton Planning Board approves the following resolution:

BE IT RESOLVED 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 the **Levin Special Permit** on property, **tax grid #132400-6366-00-517296**, located at 127-143 Browning Road in theTown of Clinton, for this unlisted, uncoordinated action.

BE IT FURTHER RESOLVED the Planning Board hereby directs that copies of the Special Permit Application, Short Form EAF, and the map be sent to the agencies listed on Attachment A.

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

ATTACHMENT A

INTERESTED

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

Mr. Marrapodi suggested using the habitable space for the calculation of the square footage of the proposed barn. The size of the structures on the map needs to be revised to show the square footage of habitable space.

Ms. Ruzcika motioned to set the public hearing on September 16, 2014, seconded by Mr. Werner, all Aye. Motion carried, 7-0.

No other action taken. Demolition Permit can be done on September 16 with the Special Permit.

Packes 2 -Lot Subdivision (Sketch Re-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.

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John Andrews, the property owner's engineer, was back before the board. He briefly recapped what happened at the previous meeting. He is now before the board to re-start the subdivision process. The maps were re-dated August 20, 2014.

Chairman McCormack asked for questions and comments from the board.

Mr. Werner raised the question about the necessity of having a public hearing as part of the re-approval process. He noted that according to the town planner, looking back at the previous emails, the board can only waive the public hearing of the Final Approval. He noted that both public hearings (Preliminary and Final) cannot be waived. He noted that in the case of the Smyth subdivision, the board had redone the public hearing. He noted that this is considered a brand new application.

Mr. DePasqua noted that nothing is changed on this application. SEQRA is also done.

The board agreed to grant re-approval of Sketch plan.

Mr. Werner motioned that the Town of Clinton Planning Board grant conditional sketch plan re-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 John V. Andrews, Jr., L.P.E., license #065955, dated 8/20/2014.
- 2) The acreage after the subdivision will be 10.02 acres for Lot 1 and 16.08 acres for Lot 2.
- 3) A Long Form EAF is on file.
- 4) For purposes of SEQRA review, the Town of Clinton Planning Board declared itself lead agency on 11/19/2013 for this unlisted, uncoordinated action and issued a negative declaration of environmental significance on 2/19/2014.
- 5) All appropriate fees have been paid.

NOW, THEREFORE, BE IT RESOLVED, the Town of Clinton Planning Board grants sketch plan re-approval for the requested subdivision of lands.

Seconded by Ms. Ruzicka.

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Discussion. None.

All Aye, Motion carried, 7-0.

Mr. DePasqua motioned to set the public hearing on September 16, 2014, seconded by Mr. Marrapodi, All Aye, Motion carried, 7-0.

APPROVAL OF MINUTES:

Mr. Werner motioned to approve the minutes of August 19, 2014 as amended, seconded by Ms. Ruzicka, All Aye, motion carried, 7-0.

ADJOURNMENT:

Mr. DePasqua motioned to adjourn the meeting at 8:20 pm, seconded by Mr. Dolan, All Aye, Motion carried, 7-0.

Respectfully Submitted,



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