

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
September 16, 2014**

MEMBERS PRESENT

Mike McCormack, Chairman
Art DePasqua
Gerald Dolan
Tracie Ruzicka

Paul Thomas
Eliot Werner

Arlene Campbell, Secretary

MEMBERS ABSENT

Robert Marrapodi

ALSO PRESENT

Dean Michael, Liaison Officer

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

VARIANCE APPLICATION:

None

PUBLIC HEARING:

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

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

Paul Pilon, Architect, appeared on behalf of the property owner. He explained that Mr. Levin needs a Special Permit to re-build an existing accessory dwelling on this property. The proposed building is 990 square feet in size and will have the same use, location, driveway, and septic.

Mr. DePasqua motioned to open the public hearing, seconded by Ms. Ruzicka, all Aye, Motion carried, 6-0.

Hearing no comments from the public, Mr. DePasqua motioned to close the public hearing, seconded by Mr. Thomas, all Aye, Motion carried, 6-0.

Packes 2-Lot Subdivision - located at 27-37 Stissing View Drive, **Tax Grid No. 6469-00-070585.**

The applicant is seeking re-approval of the subdivision that was granted on February 2014. The proposal is 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 applicant's engineer, explained why they lost their subdivision approval. He noted that nothing is changed in this application.

Mr. Andrews stated that the purpose of the subdivision is to bring the lot into compliance. He indicated the number of variances that were granted on this property. There are two accessory dwellings on the property and the objective is to convert one of the accessory dwellings into a primary dwelling. They will be using the same driveway, which will become a shared driveway.

Mr. Andrews indicated the potential driveway that was approved by the Department of Public Works and Highways. He noted that they received an approval from the DPW with the requirement that Lot 2 will include the common driveway. There will also be a Common Driveway Easement Agreement that will be approved by the Town Attorney. Mr. Andrews expressed his hope to finalize the subdivision process.

Mr. DePasqua motioned to open the public hearing, seconded by Mr. Werner, all Aye, motion carried, 6-0.

Hearing no comments from the public, Mr. DePasqua motioned to close the public hearing, seconded by Ms. Ruzicka, all Aye, motion carried, 6-0.

APPLICATIONS:

Packes 2-Lot Subdivision (Preliminary and Final Re-Approval) - located at 27-37 Stissing View Drive, Tax Grid No. 6469-00-070585.

Applicant is seeking re-approval of the subdivision that was granted on February _____, 2014.

The board discussed the application on hand.

Chairman McCormack asked for questions and comments from the board.

Mr. Werner noted that all the issues and concerns were already addressed.

The board agreed to pass a resolution, to wit:

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

WHEREAS:

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- 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) The Town of Clinton Planning Board granted conditional sketch plan re-approval on 9/2/2014.
- 5) 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.
- 6) In accordance with Section 250.95.C.1 of the Town of Clinton Zoning Law, a Public Hearing for this re-approval was held on 9/16/2014.
- 7) The applicant has been advised that per Section 206.49.E of the Town of Clinton Subdivision Regulations, re-approval of the subdivision expires on 3/1/2015 unless extended by the Planning Board.
- 8) The applicant has been further advised that the area variance granted by the Zoning Board of Appeals for the size of the accessory dwelling unit on Lot 1 will expire on 3/27/2015.
- 9) All appropriate fees (including recreation fees) have been paid.

NOW, THEREFORE, BE IT RESOLVED, the Town of Clinton Planning Board grants Preliminary and Final Plat re-approval for the requested subdivision of lands.

Seconded by Ms. Ruzicka.

Discussion: None.

All Aye, motion carried, 6-0.

Levin Demolition Permit Approval - property located at 127-143 Browning Road, Tax Grid 6366-00-517296.

The applicant proposes to demolish an existing 912 square feet barn and replaces it with a 990 square feet new accessory dwelling unit. The footprints will be the same and will make use of the existing well, septic, driveway and electric service.

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Mr. Pilon was back before the board. He stated that the existing structure will be cost effective to repair so it is feasible to take it down and build a new one. Everything else will remain the same.

Chairman McCormack solicited comments from the board.

The board reviewed the verbiage of the regulation per Section 250-93 C of the Town of Clinton Zoning Law.

Section 250-93 C of the Town of Clinton Zoning Law states that “the Building Inspector must then refer the application to the Planning Board for review and approval. The requirement for a demolition permit does not apply to these small 120 sq. ft. structures but it applies to all other structures except AG buildings.”

The board exchanged opinions about the demolition process approval.

Chairman McCormack noted that the Planning Board is only approving the demolition plan approval. The Building Inspector issues the demolition permit.

After all the reviews were made, the board passed a resolution.

Ms. Ruzicka motioned the following:

Be it Resolved, that the Town of Clinton Planning Board issues a Demolition Plan Approval to the Building Inspector for the accessory dwelling structure belonging to Richard and Kathleen Levin on property located at 127-143 Browning Road, Tax Grid No. 6366-00-517296.

Seconded by Mr. Dolan.

Discussion. Mr. Thomas noted that the existing barn is in bad shape per his site visit. He commented that this building doesn't have historical designation.

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

Levin Special Permit Approval - 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 accessory dwelling unit.

The board discussed the Special Permit application. Ms. Ruzicka noted that the square footage on the map was revised to reflect the habitable space.

After a lengthy discussion, the board passed another resolution.

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The board passed a resolution.

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

Be it Resolved, that the Town of Clinton Planning Board has determined that **Levin Special Permit** on property, **tax grid #132400-6366-00-517296**, located at 127-143 Browning Road, will not have a significant impact on the environment; and;

BE IT FURTHER RESOLVED, that the Town of Clinton Planning Board hereby issues a Negative Declaration pursuant to the requirements of the State Environmental Quality Review Act 6 NYCRR 617.6 (g) and in accordance with Article 8 of the Environmental Conservation Law.

Seconded by Mr. Thomas.

Discussion. None.

All Aye, Motion carried, 6-0.

After all the reviews are made, the board passed another resolution, to wit:

Ms. Ruzicka motioned that the Town of Clinton Planning Board grants Conditional Approval of a Site Plan and Special Permit to **Richard and Kathleen Levin**, 239 Central Park West, New York New York for the purpose of establishing an accessory apartment on a 46.5-acre site located at 127-143 Browning Rd., which is in an AR-5 Zoning District in the Town of Clinton, **tax grid #6366-00-517296**.

WHEREAS:

1) The applicant wishes to demolish and reconstruct an accessory dwelling unit. The new structure would consist of 990 habitable square feet. It will be a 2 story structure with the lower level being used for a single bay garage and mechanical space and the upper level will be a 2 bedroom dwelling unit.

2) The property borders a working farm in an Agricultural District. The applicant has submitted Ag Data Statement.

3) The Town of Clinton Planning Board declared itself Lead Agency on 08/19/2014 for this unlisted, uncoordinated action. Appropriate referrals to the interested agencies have been made.

4) In accordance with Section 250-96B(3) of the Town of Clinton Zoning Law, a Public Hearing was held on (9/16/2014)

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5) A SEQRA review of this unlisted, uncoordinated action has resulted in a negative declaration being prepared and declared in accordance with the New York State Environmental Quality Review Act on (9/16/2014).

6) This application conforms with the provisions of Section 250-96 of the Town of Clinton Zoning Law pertaining to "Site Plans." The site plan has been prepared by S & P Architects, P.C. dated 07/31/2014.

7) With the granting of the area variance by the Zoning Board of Appeals, this application conforms with the provisions of Section 250-29 of the Town of Clinton Zoning Law pertaining to "Accessory Dwelling Units."

8) This special permit is contingent on the applicant's continued occupancy of the property.

9) All appropriate fees have been paid.

NOW, THEREFORE, BE IT RESOLVED, the Town of Clinton Planning Board grants approval of the requested Site Plan and Special Permit when the following condition is met:

The Zoning Board of Appeals grants an area variance/variances as deem appropriate for this application.

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

Discussion. Mr. Pilon suggested using "Accessory Dwelling Unit" instead of Accessory Apartment. This is not a rental. The board agreed.

The board also agreed to include a condition about a variance/s as deemed appropriately needed.

All Aye, motion carried, 6-0.

Klopping Kompetition Site Plan Approval – property on 377 Ruskey Lane, Tax Grid No. 6366-00-256522

The applicant is seeking a Site Plan approval to construct an automotive repair and storage garage in order to enclose auto recycling operation.

Ernie Klopping and his lawyer, Stephen Habiague, were back before the board.

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Mr. Habiague recapped what had transpired at the previous meeting. The public hearing was closed and SEQRA was done. He also indicated the modifications that were done to the site plan. The area variance was recently extended for another six months.

Mr. Habiague discussed the requirement of a Lot Line Adjustment on these lots. He stated that the Lot Line Adjustment can be conditioned to the issuance of Certificate of Occupancy of the building by establishing an escrow.

Mr. Werner questioned the notion about the Lot Line Adjustment. He remarked, "Then the building is already completed at that time!"

Mr. Habiague explained why they want to do the Lot Line Adjustment after the completion of the building. Something unforeseen could happen. What if they don't get site plan approval?

Mr. Habiague stated that the Town is in control of the situation. There will be no Certificate of Occupancy if the Lot Line Adjustment is not done. Once the lot line is removed, the lots consolidation will take effect immediately upon filing of the Deed in the County Clerk's Office.

The panel had a lengthy discussion about the issue.

Chairman McCormack stated that right now this property is not in conformance with the zoning law. The applicant is asking the board to have the lot line removal take effect after the building is built. This is not good. He noted that the Lot Line Adjustment needs to be done prior to obtaining the Building Permit. He asked, "What triggers the removal of lot line?"

Mr. Klopping responded that he wants to make sure that he will not go out of business.

Chairman McCormack stated that if the building is built and the lot line is not removed, then the building needs to come down or there will be a building on a nonconforming lot.

Mr. Thomas asked if the board can issue a special permit with a condition that the lot line be extinguished.

Chairman McCormack stated that the Lot Line needs to be extinguished or the building will come down.

Mr. Klopping noted that the building cannot be demolished until the new building is built.

Mr. Werner asked, "The special permit will be issued so why not do the lot line removal now?" Mr. Thomas responded that the applicant didn't want to do the process since there

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can be a challenge in the future. The applicant doesn't want to combine these lots if they don't get their objective.

Mr. Klopping stated that he needs some protection. What if the building doesn't get built? He doesn't want to combine these lots if the building doesn't get built.

Chairman McCormack expressed his concern about the above notion. What if the Town issues the building permit and there's no lot line removal, then there will be an open building permit?

Mr. Habiague noted that the ultimate goal of this project is to eliminate the nonconforming use of the property.

Mr. Stephen asked why the lot line needs to be eliminated before the issuance of the building permit. Chairman McCormack responded that the big issue is about the issuance of the building permit on a nonconforming lot. Mr. Habiague noted that they received variances about all these concerns. These variances can no longer be challenged. (It was noted that there was an Article 78 on this case a couple years ago).

Mr. Habiague stated they are concerned about an unforeseen matter that will prevent them from putting the building up.

Ms. Ruzicka suggested doing segmentation on this case.

After a very long discussion, the board agreed to consult the Town Attorney about the issue. Mr. Habiague will discuss the issue with the Town Attorney. The Town Engineer also needs to get involved with this case and review the site plan. Escrow funds are needed.

The panel discussed the Site Plan. The proposed building roof is white, lights are 75 watts and downlights, parking will be gravel, outside lights will be on a timer, and proposed driveway by the water buffer will be removed.

No action taken.

VERIZON WIRELESS CELLTOWER— property located at 90 Germond Rd, **Tax No. 6567-00-209058.**

As requested by the applicant, the board passed a resolution regarding the escrow account.

Mr. DePasqua motioned that the Town of Clinton Planning Board establish a \$10,000 escrow account for the Town Consultants in the matter of Orange County Poughkeepsie Limited Partnership d/b/a/ Verizon Wireless Cell Tower Special Permit application on property located at 90 Germond Road, **Tax Grid No. 6567-00-209058.**

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Seconded by Mr. Thomas, All Aye, Motion carried, 6-0.

OTHER MATTERS:

1. The board discussed cell tower matters.
2. Mr. Michael, Liaison Officer, gave updates about the zoning revision process.

APPROVAL OF MINUTES:

Mr. DePasqua motioned to approve the minutes of August 19, 2014 as amended, seconded by Ms. Ruzicka, All Aye, motion carried, 6-0.

ADJOURNMENT:

Mr. DePasqua motioned to adjourn the meeting at 9:59 pm, seconded by Mr. Dolan, All Aye, Motion carried, 6-0.

Respectfully Submitted,



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