

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
February 3, 2015**

MEMBERS PRESENT

Mike McCormack, Chairman

Gerald Dolan

Paul Thomas
Eliot Werner

Arlene Campbell, Secretary

MEMBERS ABSENT

Art DePasqua

Tracie Ruzicka
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:

None

APPLICATION:

Perseley Water Law Permit – property owned by Jack and Nancy Persely located at 18 Schoolhouse Road, **Tax Grid No. 6467-03-066342.**

The applicants are requesting Water Law Permit for a 12' x 24' deck that was constructed in 1997.

The applicants were not present for the discussion. It was noted that the board tabled the application dated 1-20-15 to talk to the Zoning Enforcement Officer on how to proceed with this application.

Per January 28, 2015 letter from the Zoning Enforcement Officer, since the deck was constructed over an existing retaining wall and since the Zoning Board of Appeals granted an area variance for this deck, the Zoning Enforcement Officer determined that a Freshwater Permit is not required.

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Chairman McCormack asked for questions and comments from the board.

Mr. Werner raised his concern about the DEC permit. Chairman McCormack responded that this will be up to the DEC. With regards to the Water Law Permit, the board does not have to take action on it since Zoning Enforcement Officer has signed off on this permit.

Klopping Competition 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 an auto recycling operation.

Ernie Klopping, along with his lawyer Stephen Habiague and friend John Kwak, appeared for this application.

Mr. Habiague submitted a letter of proposal on how to proceed with their application regarding the Lot Line Adjustment issue. Mr. Habiague expounded that the site plan will only become effective for the purpose of obtaining a building permit upon delivery to the Town of a consolidation deed for the two Klopping parcels, in proper form for recording.

Chairman McCormack asked if the Town Attorney had seen a copy of this letter. Mr. Habiague responded, “No since the Town Attorney wants \$3,000.00 in escrow.” He noted that Mr. Klopping already used up most of his funds to construct the building. He stated that this is a thirty-minute discussion. The board can rule on this application without the Town Attorney’s opinion. The concept is that the approval becomes effective only upon the delivery of the deed for consolidation and for the purpose of recording.

The panel had a lengthy discussion about the procedural process for this application. Mr. Thomas commented that the issue here is about the timing in reference to Article 78. The applicant is worried that there will be challenge to stop the project.

Mr. Habiague agreed. The building permit cannot be issued until such time that the lands are consolidated by deed. Mr. Klopping noted that he’s hoping to start building as soon as the snow on the ground melts.

Chairman McCormack asked why the applicant doesn’t want to merge the lots before the Site Plan approval. Mr. Klopping responded that he doesn’t want to combine these lots if he cannot build the proposed building.

The board exchanged opinion on how to proceed with this application. Chairman McCormack stated that the applicant does not have to come before the board to combine these lots. This can be done by way of Deed Consolidation.

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Mr. Dolan noted that the Town Board is in the process of approving the Local Law Amendment about the Lot Line Adjustment. After a very lengthy discussion, the board agreed that the building permit cannot be issued until the lots are combined.

The board reviewed the site plan. Mr. Kwak presented a comment letter that he recently obtained from Morris Associates's office dated January 7, 2009. (It was noted that the board wants the Town Engineer to review this project. The applicant questioned the escrow and the money that they already spent about this case.)

The board reviewed the comments from Morris Associates dated January 7, 2009. Mr. Thomas stated that some of these comments were already addressed. Mr. Werner stated that the board had never seen these comments. Ms. Campbell noted that she had never seen or received this letter. These are draft comments and it seems that the final copy never made it to the board or the town. Mr. Kwak remarked that the only reason that this comment showed up is because he asked for it.

The board reviewed the details of the comments. Chairman McCormack asked who flagged the wetland on this property. Mr. Klopping responded that Heather Gierloff from DEC came to the site and flagged the wetlands. Chairman McCormack responded that this addresses item #16 of Morris's comments.

With regards to item #17 and #18, the driveway that was on the buffer has already been removed. The fence does not touch the buffer. Chairman McCormack advised the applicant to get a work permit from DEC if they disturb a buffer.

Mr. Werner asked about the letter from the DEC dated November 17, 2012. Chairman McCormack responded that the issue in said letter is already addressed since the applicants are not disturbing any buffer. The driveway has been removed.

Mr. Werner indicated that the variance needs to be a condition. Mr. Klopping noted that the variance doesn't expire until February 21, 2015. They are scheduled before the Zoning Board of Appeals for the variance extension this month.

The board agreed to pass a resolution, to wit:

Mr. Werner motioned that the Town of Clinton Planning Board grants conditional approval of a Site Plan and Special Permit to **Ernest Klopping** for the purpose of constructing an automotive repair and storage garage on a combined 3.91-acre site located at 377 Ruskey Lane, which is in an AR-3 Zoning District in the Town of Clinton, **tax grid #132400-6366-00-256522**.

WHEREAS:

1) The applicant wishes to construct an approximately 3200 square foot "agricultural style metal sheeted pole building" as shown on the site plan created by Thomas P.

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Cummings, Licensed Professional Engineer, NYS license #064821, dated 10/5/2012 and revised 8/30/2014.

- 2) At its 9/24/2010 meeting, the Town of Clinton Zoning Board of Appeals granted the applicant three variances from the Town of Clinton Zoning Law: (a) from Section 250.17.A to allow the existence of more than one principal structure and more than one principal use per lot; (b) from Article 250, Attachment 2 to allow for a reduction in the front yard setback from 100 to 40 feet; and (c) from Section 250.22.A.3 to allow for the placement of an accessory structure closer to the road than the principal dwelling on the lot.
- 3) These variances expired on 5/1/2013 and were extended by the ZBA on 8/22/2013 for a period of one year.
- 4) The extended variances expired on 8/22/2014 and were extended by the ZBA for an additional period of six months.
- 5) The current extension expires on 2/22/2015 and the applicant has applied to the ZBA for an additional extension for a period of one year.
- 6) The text of the above-cited ZBA variance resolution is reproduced as part of the site plan. The approval of a special permit by the Planning Board is predicated on the applicant's agreement to meet the nine stipulations outlined in Paragraph 3 of the ZBA variance resolution, which are incorporated into this resolution by reference, as well as on the applicant's agreement to combine what are now two lots on the site into one parcel and to record the deed consolidating the lots with the Dutchess County Clerk.
- 7) The Town of Clinton Planning Board declared itself Lead Agency on 10/16/2012 for this unlisted, coordinated action. Appropriate referrals to the interested agencies were made.
- 8) In accordance with Section 250.96.B.3 of the Town of Clinton Zoning Law, a Public Hearing was held on 7/16/2013.
- 9) A SEQRA review of this unlisted, coordinated action (and the public hearing held on 7/16/2013) has resulted in a negative declaration being prepared and declared in accordance with the New York State Environmental Quality Review Act on 7/16/2013.
- 10) At its 2/3/2015 meeting, the Planning Board agreed to waive the following items from the site plan: the location of single trees eight or more inches in diameter, and the topography and proposed grading at two-foot contour intervals extending 50 feet beyond the property.

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11) When the above-cited waivers are taken into account, this application conforms with the provisions of Section 250.96 of the Town of Clinton Zoning Law pertaining to “Site Plans.”

12) This special permit is contingent on the applicant’s continued ownership of the property. The permitted use provided by the special permit ends upon deed transfer by the applicant or the applicant’s death and does not run with the property.

13) The applicant has been advised that per Section 250.96.B.3.i of the Town of Clinton Zoning Law, approval of the Site Plan will expire within 18 months unless extended by the Planning Board. The Special Permit shall expire in 12 months from the date of issuance unless the permitted use is commenced within that time.

14) A building permit shall not be issued for this action until a deed referencing the lot line consolidation has been filed with the Dutchess County Clerk’s office, and a copy of the Receipt issued by the County Clerk and a copy of the deed consolidation with evidence of recordation has been provided to the Town of Clinton building inspector.

NOW, THEREFORE, BE IT RESOLVED, the Town of Clinton Planning Board grants approval of the requested Site Plan and Special Permit when the following **conditions** are met.

a) The following items are included in the site plan.

- The missing part of the note in the lower left corner.
- The following demolition note to reflect recommendations by EcoSystem Strategies, Inc.

Demolition shall be conducted in accordance with applicable regulations. Suspect materials should be tested for asbestos, or lead, or in absence of data, be treated as though it contains asbestos or lead.

- OPEN WIRE FENCE should be changed to **TWO-BOARD POST AND BOARD HORSE FENCE**.

b) All appropriate fees have been paid.

Seconded by Mr. Dolan.

Discussion. The board agreed to include item #19 (missing note...) of Morris Associates’ comment to be a condition to the approval.

Vote:

Chairman Michael McCormack	<u>Aye</u>	
Art DePasqua		<u>Absent</u>
Gerald Dolan	<u>Aye</u>	
Robert Marrapodi		<u>Absent</u>

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Paul Thomas
Eliot Werner
Trazie Ruzicka

Aye
Aye

Absent

All Aye, Motion carried, 4-0.

The board acted on the Lot Line Adjustment.

Mr. Werner motioned that the Town of Clinton Planning Board grant conditional approval for a **Lot Line Adjustment** of the lands owned by **Ernest Klopping**, located at 377 Ruskey Lane which is in an AR-3 zoning district in the Town of Clinton, tax grid #132400-6366-00-256522.

WHEREAS:

- 1) The intent of this action is to combine the 1.82 acres in Lot 1 with the 2.09 acres in Lot 2, eliminating a parcel and creating one larger parcel, as shown in the Lot Line Adjustment plat created by Thomas P. Cummings, Licensed Professional Engineer, NYS license #064821, dated 8/30/2014.
- 2) As a result of the lot line consolidation, the acreage of the new parcel will total 3.91 acres.
- 3) At its 9/24/2010 meeting, the Town of Clinton Zoning Board of Appeals granted the applicant three variances from the Town of Clinton Zoning Law: (a) from Section 250.17.A to allow the existence of more than one principal structure and more than one principal use per lot; (b) from Article 250, Attachment 2 to allow for a reduction in the front yard setback from 100 to 40 feet; and (c) from Section 250.22.A.3 to allow for the placement of an accessory structure closer to the road than the principal dwelling on the lot.
- 4) The proposed lot line alteration does not create a substandard lot, or render any lot more substandard than it may already be.
- 5) Since a Lot Line Adjustment is a Type II action under SEQRA, no further SEQRA review is required.
- 6) At its 2/3/2015 meeting, the Planning Board agreed to waive the following items from the site plan: the location of single trees eight or more inches in diameter, and the topography and proposed grading at two-foot contour intervals extending 50 feet beyond the property.
- 7) The Town of Clinton does not consider a Lot Line Adjustment to be a subdivision.

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NOW, THEREFORE, BE IT RESOLVED, the requested Lot Line Adjustment is granted approval by the Town of Clinton Planning Board when the following **condition** is met.

All appropriate fees have been paid.

Seconded by Mr. Thomas.

Discussion. None.

Vote:

Chairman Michael McCormack	<u>Aye</u>	
Art DePasqua		<u>Absent</u>
Gerald Dolan	<u>Aye</u>	
Robert Marrapodi		<u>Absent</u>
Paul Thomas	<u>Aye</u>	
Eliot Werner	<u>Aye</u>	
Trazie Ruzicka		<u>Absent</u>

All Aye, Motion carried, 4-0.

OTHER MATTERS:

1. Local Law Amendment on Lot Line Adjustment – As noted, the board passed a recommendation at the previous meeting recommending that the Town Board adopt the proposed Local Law No. 1 of 2015 entitled “A Local Law Amending Chapters 206 and 250 of the Town Code Regarding the Approval of Certain Lot Line Adjustments.”

The board agreed to modify the recommendation to the Town Board.

Chairman McCormack motioned to amend the resolution that was voted on January 20, 2015 to eliminate subsection H-(4) of Section 250.89, seconded by Mr. Thomas, all Aye, Motion carried, 4-0.

2. Solar Panels permit – the board discussed the moratorium about the solar panels. A public hearing will be held at the March Town Board meeting.

3. Mr. Werner discussed the Central Hudson proposal on Schultsville Road regarding poles and wires modification (see letter dated January 28, 2015). Chairman McCormack noted that this is not the board’s purview. It would be Town Board or Scenic and Historic Roads.

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4. Chairman McCormack asked Ms. Campbell to send an email to the Town Engineer asking why the draft or final comment letter dated January 2009 regarding Klopping Site Plan never made it to the Board.

APPROVAL OF MINUTES:

Mr. Thomas motioned to accept the minutes of January 20, 2015 as amended, seconded by Mr. Dolan, all aye, motion carried, 4-0.

ADJOURNMENT:

Mr. Dolan motioned to adjourn the meeting at 9:45 pm, seconded by Mr. Thomas, All Aye, Motion carried, 4-0.

Respectfully Submitted,



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