

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
May 28, 2015**

MEMBERS PRESENT

John Calogero

Norma Dolan
Frank Kealty

Arthur Weiland

Arlene Campbell, Secretary

MEMBERS ABSENT

Joseph Malcarne, Chairman

Charles Canham

Macy Sherow III

ALSO PRESENT

Bob Fennell, ZEO

Acting Chairman Calogero called the meeting to order at 7:33 pm.

Acting Chairman Calogero asked the secretary if the application on the agenda was properly advertised and adjoining neighbors were notified. Ms. Campbell responded positively.

Acting Chairman Calogero noted that the meeting was being recorded for record keeping purposes.

VARIANCE APPLICATIONS:

Metcalf Area Variance – property owned by **James and Lisa Metcalfe** located at 359 Nine Partners Rd, **Tax Grid No. 6668-00-230824.**

The applicants propose the following area variances to Section 250 Attachment 2 (Area Bulk Regulations) of the Town of Clinton Law for the purpose of construction of a 1,296 square feet garage.

- a) Front yard setback reduction from 100 feet to 84 feet.
- b) Side yard setback reduction from 50 feet to 29.3 feet.

Kevin Halton appeared on behalf of the property owners. He explained that the Metcalfes wish to put the garage in an area of a pre-existing foundation. The Metcalfe's need a variance since this site is closer to the property line. He explained why the proposed garage cannot be located on any other location of the property without disturbing the existing house, shed, driveway and picket fence.

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Mr. Halton indicated what had transpired at the Planning Board meeting. They originally requested to put the proposed garage 70 feet of the road. The Planning Board recommended moving the proposed garage back in line with the main dwelling. He noted that he agreed to the Planning Board's recommendation and the property owner didn't have a problem with it. However, Mr. Halton noted that the adjoining property owner has a problem with the new lay out of the proposed garage and would prefer the original application.

The board discussed the application. Mr. Calogero asked about the original proposition. Mr. Halton responded that the original application is for a front yard setback reduction from 100 feet to 75 feet and side yard setback reduction from 50 to 30 feet. The Planning Board asked if the property owner will be willing to move it back to not be in front of the main house.

Mr. Halton noted that he agreed to the Planning Board's recommendation and the property owners are willing to go with that direction i.e. putting the garage 84 feet of the front yard and in line with the porch. The house itself is in the front setback.

Mr. Halton indicated the benefits of staying with the original application. Putting the garage closer to the road will make the property look better and would be more in keeping with the neighborhood. The original proposal is much better aesthetically and will not block the neighbor's view.

Ms. Dolan questioned item #13 of the Planning Board's recommendation. She commented that the Planning Board probably meant side yard setback instead of front yard setback.

Ms. Dolan read the Planning Board's recommendation dated 5-6-15 which is positive. One letter was received from the adjoining property owner, Laurel Kerr, 367 Nine Partners Road favoring the original application.

The board reviewed the map. Ms. Dolan asked about the door to the garage. He responded that the door will be facing the house. Ms. Dolan commented that the swimming pool is not showing on the map. This affects the number of structures on the property. She remarked that it would be better if the sizes of the structures are labeled on the map.

Mr. Halton responded that they recently obtained the building permit for the swimming pool. He noted that the pool house is less than 80 square feet.

Mr. Weiland asked if the pool house is within the setback. Mr. Halton responded, "Yes".

Ms. Dolan asked about the existing porch. The application mentioned about a demolition permit. Mr. Halton responded that there is a demolition permit obtained to replace this porch. He commented that it will match the house.

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Looking at the aerial view of the property, Mr. Weiland stated that it looks like there is an existing garage that needs to be demolished. Mr. Halton responded that the structure that is shown on the aerial view is the garden shed. This will remain on the property.

Ms. Dolan asked if the proposed garage has a second floor. Mr. Halton responded that this is a 1 & ½ story structure. There would be a loft. You cannot walk up there but it can be used as a storage.

In terms of what's facing the neighbor, Mr. Weiland asked, "Are there any windows facing the next door's neighbor?" Mr. Halton responded, "None, it is just an open shed".

Mr. Weiland asked a question in terms of lighting in the shed shining on the neighbors' house. Mr. Halton responded that there will be lights that you can see underneath but not a flood light. There are not blue prints yet, so it's hard to tell what they are going to use. Mr. Halton opined that there wouldn't be lights from the interior shining to the neighbor since this is a solid wall.

Mr. Weiland suggested including a notation to the variance resolution stating that the back wall of the garage is a solid wall. This will address any lights shining to the neighbor.

Mr. Kealty asked why the Planning Board recommended to move the proposed garage in line with the porch. Ms. Campbell indicated the zoning rules about accessory structure being in front of the main dwelling per Sec. 250.22 A-3. She noted that the Planning Board recommended 84 feet to make the garage in line with the principal dwelling and to avoid the 3rd variance (Sec.250.22 A-3). Mr. Halton agreed with Ms. Campbell.

Sec. 250.22 A-2 (Accessory Structures) states that "No such structure shall project closer to the fronting street than the principal building on the lot, or the required front yard setback for the district, whichever shall be less restrictive."

Mr. Weiland asked if the application needs to be advertised before the board can act on the variance. The panel had a lengthy discussion on how to move forward with this application.

Mr. Halton noted that he doesn't have a problem of going to another meeting if the ZBA will agree to their original application.

Ms. Dolan expressed her opinion about this case. The proposal is consistent with the neighborhood. It looks nice with the setting. However, there are procedures that need to be followed.

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Ms. Dolan suggested acting on the variance application on hand so that the applicant can move forward. If the 70 feet variance doesn't work out, then at least, the applicant has something to work on.

Mr. Kealty agreed. He stated that this way the only issue left will be the 3rd variance.

The board had a lengthy discussion about the above issue. If the board acts on this variance and the applicant decided to do the original variance, then the applicant will need to re-apply. It will need Planning Board recommendation and advertising of the application.

Mr. Weiland opined that the applicant can amend the application to save an application fee.

Mr. Halton expressed his concern about re-doing the application. Since Planning Board recommended a variance of 84 feet, Mr. Halton stated that the Planning Board might give them a negative recommendation. He asked the ZBA if they will support his original application.

Ms. Dolan responded that the board cannot give an opinion to something that's not on the table.

The board agreed to open the public hearing. Mr. Weiland motioned to open the public hearing, seconded by Mr. Kealty, all Aye, Motion carried, 4-0.

Laurel Kerr, 367 Nine Partners Road, spoke and expressed her opinion favoring the original application. She noted that the proposed garage affects her since this will block her view. She wanted to see the barn pushed forward to 75 feet.

Mr. Halton suggested re-staking the property to make sure everybody will be comfortable about the location of the proposed garage. Mr. Calogero agreed. It's better to move it where the neighboring property owner will support it. The applicant needs to see Mr. Fennell again.

Mr. Fennell advised the applicant to get a letter from the neighboring property owner before going to the Planning Board. Mr. Halton agreed.

Sucheela Nanekrangan of 373 Nine Partners Road asked about the timeline of the construction of the garage. Mr. Halton responded that it will take approximately 2-3 months once the construction starts.

Carl Jay Diesing of 64 Bowmans Glen Lane stated that he was in attendance at the meeting to support his neighbor. He added that he is also supporting the original application of the Metcalfs as well.

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The board agreed to adjourn the public hearing. Mr. Kealty motioned to adjourn the public hearing, seconded by Mr. Weiland, All Aye, Motion carried, 4-0.

Mr. Fennell questioned the procedure. He asked if the application is withdrawn. Mr. Calogero responded that it will be an amendment.

Mr. Halton explained his original application. He asked how he can move forward. Mr. Weiland stated that the original application lacks the 3rd variance (Sec. 250.22-A-3). He suggested consulting the Town Attorney on how to proceed with this application.

Mr. Calogero agreed that this is a very grey area. He opined that another opinion will be helpful to avoid issues in the future.

The applicant needs to see Mr. Fennell and as the Zoning Enforcement Officer he will determine whether this will be a new application. Public hearing remains open.

No action taken.

APPROVAL OF MINUTES:

Acting Chairman Calogero motioned to accept the minutes of March 26, 2015 seconded by Mr. Kealty, all Aye, Motion carried, 4-0.

ADJOURNMENT:

Acting Chairman Calogero motioned to adjourn the meeting at 9:15 pm, seconded by Mr. Weiland, All Aye Motion carried, 4-0.

Respectfully Submitted By:



Arlene A. Campbell
Zoning Board of Appeals Secretary

Cc: Carol Mackin, Town Clerk