

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
June 16, 2015**

**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

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

Chairman McCormack joined the meeting at 7:32 pm.

**VARIANCE APPLICATION:**

**Metcalf Area variance** – property owned by **James and Lisa Metcalfe** located at 359 Nine Partners Road, **Tax Grid No. 6568-00-230824.**

The applicants propose the following area variances for the purpose of constructing a 1,296 square foot garage.

Section 250 Attachment 2 (Area Bulk Regulations) of the Town of Clinton Law

- a) Front yard setback reduction from 100 feet to 70 feet.
- b) Side yard setback reduction from 50 feet to 28.5 feet.

Section 250 -22 A-3

Accessory Structure (garage) to be constructed in front of the main dwelling.

Kevin Halton was back before the board for this application. They received a positive recommendation from the Planning Board on May 6, 2015. Part of the recommendation was to move the proposed garage back inline with the main dwelling to eliminate the 3<sup>rd</sup> variance (Sec. 250.22 A-3). Mr. Halton noted that the Metcalfes were willing to go forward with the Planning Board's suggestion. However, the adjoining property owner appeared at the ZBA meeting and indicated her strong objection about moving the proposed garage back inline with the main house since this will block her picture window. Mr. Halton also indicated the number of people who attended and spoke at the ZBA meeting supporting their original application.

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Mr. Halton commented that it is not unusual for a garage to be closer to the road on this neighborhood including the property next door. The Zoning Board of Appeals felt that he needs to go back before the Planning Board to get the recommendation for the 3<sup>rd</sup> variance.

Chairman McCormack asked for questions and comments from the board.

Mr. DePasqua indicated the rationale of moving the proposed garage back inline with the house. The board is trying to reduce the number of variance.

Mr. DePasqua stated that he perfectly understands the neighbor's concern about their view. The neighbor's house is practically almost on the road which is common on this area. He stated that he doesn't have a problem with the original application.

Mr. Werner suggested drawing the neighbor's house on the map to underscore the issue before going to the Zoning Board of Appeals meeting. Mr. Halton agreed.

Mr. DePasqua motioned that the Town of Clinton Planning Board provides a positive recommendation to the Town of Clinton Zoning Board of Appeals on the requested area variances of front yard setback from 100 feet to 70 feet and a side yard setback from 50 to 28.5 feet on Sec. 250 Attachment 2 of the Town of Clinton Zoning Regulations for the purpose of construction of a garage and additional variance to Sec. 250.22 A-3, Accessory Structure (garage) to be constructed in front of the main dwelling. The property of **James and Lisa Metcalfe** is located at 359 Nine Partners Road in the AR5 Zoning District with **Tax Grid No. 6568-00-230824**.

***Whereas:***

1. The applicants wish to construct a 1,296 square feet garage thereby reducing the front yard setback from 100 feet to 70 feet and side yard setback from 50 to 28.5 feet (Sec. 250 Attachment 2).
2. House built in 1857 (pre-zoning) exists within the 100 feet front yard setback.
3. Construction of the garage will be similar to adjoining neighbor which is also within the 100 feet setback and will be conforming to the character of the neighborhood in proposed location.
4. Site is not within the Ridgeline and Historic Overlay District.
5. An area variance is a Type II action under SEQRA and requires no further action.

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6. The property is not within a CEA.
7. There are no known violations per the Zoning Enforcement Officer.
8. The alleged difficulty is self created.
9. The requested variance is substantial.
10. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.
11. Letter of authorization is on file.
12. All fees have been paid.

*Now Therefore*, the Town of Clinton Planning Board makes a positive recommendation to the Town of Clinton Zoning Board of Appeals.

Seconded by Mr. Dolan.

**Discussion.** Chairman McCormack asked if this is a new application. Mr. Halton responded, “Yes, per the ZEO.” The board agreed to issue a new recommendation instead of amending the resolution that was adopted in May 6<sup>th</sup> meeting.

Mr. Werner suggested using the words “is in-conforming to the neighborhood”. He stated that the garage is not nonconforming. Ms. Ruzicka suggested using “in keeping with...”.

All Aye, Motion carried 6-0.

**Kilros Property Shapp Pond Dam Removal** (Discussion) – property owned by Hilary Kliros located on 434 Hibernia Road, **Tax Grid No. 6566-00-646093.**

The applicant wishes to know how to proceed with this project.

Neil Wilson and Andy Learn, Town Planner and Town Engineer respectively joined the panel for this application.

Rodney Morrison from LRC Group appeared on behalf of the applicant. He noted that the company that he is associated with has no relation with the Town Consultant.

Mr. Morrison explained that there were plans of removing this dam since 2012. Apparently there were Town procedures that were missed out during the process. In order to remove the dam, they need temporary access for the use of the equipment. The access

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road enters the property from the westerly side of the East Branch of the Wappinger Creek and must be constructed first to allow access and then removed last to restore the site to the original condition. The temporary drive to the work area traverses slopes that falls into the Town regulatory consideration and necessitate the Steep Slopes Permit.

Mr. Morrison stated that they studied the property to see if there is another way of accessing the dam. After reviewing the site, Mr. Morrison stated that they concurred with the DEC that this is the only feasible area to get to the dam.

Mr. Morrison noted that the State put everything on hold to get the necessary approvals from the Town. Ms. Kliros already has a contractor ready to get to work on this project. He asked if the board can possibly work with their timeline with regards to DEC's issuance of permit.

It was noted that the CAC came before the board in April regarding the Hibernia Dam removal. Per Wade Silkworth's Engineer's letter to the DEC dated March 3, 2015, there was a sign off from the Town Zoning Enforcement Officer to allow this project to go forward without any further action from the Town (see letter on file).

Mr. Marrapodi asked, "How long do you think will it take to finish it?". Mr. Morrison responded, "Two weeks". Mr. Wilson asked if that includes the construction of temporary access. Mr. Morrison explained the details of their project.

Mr. Werner asked, "What's the purpose of this?" Mr. Morrison responded that it is a safety issue. He illustrated the condition of the dam. There is already a large section of debris that's already down. The alternative is to do nothing or to let it collapse on its own. When it comes to the environmental damage, Mr. Morrison stated that he doesn't know the answer to this. He knows that debris will sit in a stream. Since the Kliros's own the property, Mr. Morrison stated that the property owner is responsible for the dam.

Mr. Werner asked, "How is it that letting it collapsing on its own differs from removing it?" He remarked, "It's going to be gone anyway".

Mr. Morrison responded that letting it collapse on its own will leave debris in the stream and will cause it to back up. Removing it properly will able them to collect concrete materials, debris, etc. Mr. Marrapodi stated that the State likes to do procedural solution than natural state.

Mr. Thomas asked if this project was initiated by the DEC. Mr. Morrison responded, "Yes." There was a letter from the DEC.

Mr. Wilson indicated the history of this project. When it comes to dam, DEC is the sole regulatory. They go around and do their periodic inspection. They will say either repair it or take it down. They write a letter to the property owner to do something about it. With regards to this case, Mr. Wilson noted that the ultimate decision is to take it down.

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Mr. Werner asked if the DEC can mandate the property owner to do this application. Mr. Wilson responded, "Yes."

Mr. Wilson expressed his comment. He was unclear what the DEC knew about the local jurisdiction about this access road. He got three answers when he asked them about local jurisdiction.

Mr. Wilson stated that the DEC classified this project as unlisted action and subsequently undertook an uncoordinated review. DEC then adopted a Negative Declaration dated March 25, 2015 and that's how this project got the attention of the CAC.

Mr. Wilson stated that based on our Town Regulation, since this property is bordering the Taconic Parkway and is in the CEA, this project calls for a Type I action for SEQRA purposes. The State has the jurisdiction over the dam but the Town has regulatory over the access road.

Mr. Wilson indicated his discussion with the DEC about the lead agency intent on this project once SEQRA is circulated. Mr. Wilson noted that the DEC's response is they will allow other agency to be the lead agency. He asked DEC if they will leave the Negative Declaration on the table or rescind it. Mr. Wilson noted that he received no response.

The panel had a very lengthy discussion about this project. Chairman McCormack asked if this project will need demolition process permit approval. Mr. Wilson stated that the applicant will have to comply with all the necessary Town approvals.

Chairman McCormack stated that the road comes out as soon as the dam comes out. This will need a restoration bond. Mr. Wilson agreed.

Mr. Learn asked about the area of disturbance. Mr. Morrison responded, ".25 acres".

Mr. Thomas asked about an option of rebuilding the dam. Mr. Rodney responded that it will need a very large amount of insurance. It will be very costly for the property owner.

Norene Coller of CAC noted that this property is in the Critical Environmental Area. She indicated her meeting with Rebecca Crist of DEC.

Mr. Morrison stated that he submitted a Steep Slope Permit application. He asked the board if they can work a timeline to meet their schedule with DEC in removing the dam.

Mr. Morrison indicated the comment that was received from SHPO stating no historic properties will be affected by this undertaking (letter dated March 2, 2015).

Chairman McCormack advised the applicant to find out what other permits are needed aside from the Steep Slopes Permit such as (water law permit & demolition permit). The

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applicant also needs to talk to the Highway Superintendent to see whether Hibernia Road is a County or Town road.

After all the discussions were made, the board agreed to establish an escrow.

Mr. Werner motioned to establish an escrow in the amount of \$2,500 in the matter of Schap Pond Dam Removal, seconded by Mr. Dolan, all Aye, Motion carried, 7-0.

Mr. Wilson will review the packet and will draft a resolution about lead agency. No other action was taken.

**OTHER MATTERS:**

The board agreed to send a memo to the Building Inspector and Zoning Enforcement Officer about a formal interpretation of a Demolition Permit process approval (letter on file).

**APPROVAL OF MINUTES:**

No minutes were approved.

**ADJOURNMENT:**

Chairman McCormack motioned to adjourn the meeting at 9:26 pm, seconded by Ms. Ruzicka, All Aye, Motion carried, 7-0.

Respectfully Submitted,



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