

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
July 7, 2015**

**MEMBERS PRESENT**

Mike McCormack, Chairman

Gerald Dolan

Tracie Ruzicka

Robert Marrapodi

Paul Thomas

Eliot Werner

**MEMBERS ABSENT**

Art DePasqua

**ALSO PRESENT**

Arlene Campbell, Secretary

Dean Michael, Liaison Officer

Acting Chair Werner called the meeting to order at 7:30p.m.

Chairman McCormack joined the panel at 7:33 pm.

**VARIANCE APPLICATION:**

**Wild Area Variance-** property owned by **Robert and Judith Wild** located at 506 Hollow Road, **Tax Grid No. 6366-00-242807.**

The applicants propose to reduce the side yard setback from 50 feet to 11 feet (Sec. 250, Attachment 2 – Area Bulk Regulations) and increase the number of accessory from three to four per Sec. 250.22.A.4 of the Town of Clinton Zoning Law to allow placement of a generator.

Mike Conway from Conway Lawn and Power Co., Inc. and Michael Hericourt, property owner's contractor, appeared for this application.

Mr. Conway explained their application. The Wilds want to install a generator close to the property line for the purpose of keeping it close to the electric meter. The unit will not be visibly to anyone except the Wild family. The generator will be set on a cement slab and the 500-gallon propane tank will be in the **tree line**. Chairman McCormack asked for questions and comments from the board.

Mr. Hericourt submitted a document (Boundary Line Agreement) to the board. It was noted that there is a shed sitting on the property line (at least 5 feet of the shed is on the neighbor's property). Mr. Hericourt noted that there is an easement between the Wilds and the Bieries (adjoining property owner of 534 Hollow Road).

The panel discussed the application. Mr. Conway stated that the cable will be underground from the meter to the house.

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The board reviewed the map.

Chairman McCormack asked about the dimensions of the generator. Mr. Conway responded that the dimensions of the generator are 45" tall, 76" long, and 33.5" wide. He added that it takes twelve seconds to start this generator.

The board discussed the noise level of the proposed generator to determine the impact to the neighboring properties.

**Sec. 250-28 (A-2) (Noise) of the Town of Clinton Zoning Law states that** "No person, firm, or corporation shall allow the emission of sound which as measured at the property lines, has a sound level in excess of:

- (a) Sixty decibels on the A-weighted scale between the hours of 7:00 am and 8:00 pm; and
- (b) Fifty decibels on the A-weighted scale between the hours of 8:00 pm and 7:00 am."

After a lengthy discussion about the above matters, the board agreed that this project is exempt from this regulation per Section 250-28 A-5.

**Sec. 250-28 (A-5)** states that "These noise regulations are meant to limit habitual, long-term noise violations. The Zoning Administrator and the Zoning Board of Appeals may exempt temporary or infrequent noises."

Mr. Werner stated that there is a pool, pool house, and shed on this property. The proposed generator will be the fourth accessory structure.

The panel discussed the number of accessory structures on this property. It was noted that the Zoning Enforcement Officer made a determination effective July 1, 2015 that the pool and the pool house are counted as one accessory structure.

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

Mr. Werner motioned that the Town of Clinton Planning Board provides a positive conditional recommendation to the Zoning Board of Appeals on the requested area variance to Section 250.22.A.4, to increase the number of accessory structures, and Section 250 Attachment 2, to reduce the side yard setback, as requested by Robert and Judith Wild, on property located at 506 Hollow Road, tax grid #132400-6366-00-242807, as shown on the provided drawing.

**WHEREAS:**

- 1) This is a 31.33-acre lot located in an AR-3 district.

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- 2) The applicant is requesting permission to have four accessory structures on the property. The maximum number permitted by the Town of Clinton Zoning Law is three. [Variance to Section 250.22.A.4.]
- 3) The applicant is requesting permission to reduce the side yard setbacks from 50 feet to 11 feet to allow for the placement of a generator. [Variance to Section 250 Attachment 2, "District Schedule of Area and Bulk Regulations."]
- 4) The New York State Environmental Quality Review Act has determined that the granting of an area variance for a single-family, two-family, or three-family residence is a Type II action and therefore this action is not subject to further review.
- 5) Since the request is for an area variance, an Agricultural Data Statement is not required.
- 6) An undesirable change will not be produced in the character of the neighborhood, and a detriment to nearby properties will not be created, by granting this area variance.
- 7) The benefit sought by the applicant cannot be achieved by some other method that will be feasible for the applicant to pursue.
- 8) The requested area variance is substantial but this should not preclude its granting.
- 9) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, since the generator will be set back approximately 0.25 miles from the road and not visible from the neighboring parcel to the north.
- 10) The alleged difficulty is self-created.
- 11) The Zoning Enforcement Officer agrees that the shed is not part of this application and does not represent a violation on the property.
- 11) All appropriate fees have been paid.

**NOW, THEREFORE, BE IT RESOLVED**, the Planning Board is making a positive recommendation for approval to the Town of Clinton Zoning Board of Appeals when the following condition is met.

- a) If the Zoning Board of Appeals approves this application, it grants relief to the applicant on the level of noise that can be emitted by the generator between the hours of 8:00 PM and 7:00 AM (Section 250.28.A.2 of the Town of Clinton Zoning Law).

Seconded by Mr. Marrapodi.

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**Discussion.** None.

All Aye, Motion carried, 6-0.

**PUBLIC HEARING:**

None

**APPLICATIONS:**

**Kliros Steep Slopes Permit** – property owned by Hilary Kliros located at 434 Hibernia Road, **Tax Grid No. 6566-00-646093**.

The applicant is seeking Steep Slopes Permit in order to allow installation of a ±130-foot temporary road for equipment access related to the removal of a failed dam.

Rodney Morrison from LRC, applicant's engineer, was back before the board. Also present for this application was Andy Learn, Town Engineer from Morris Associates.

Mr. Morrison made a recap of what had transpired at the previous meeting (see minutes dated 6-16-15). The submitted plans to remove the existing dam have been approved by the DEC. The proposed temporary access road enters the property from the westerly side of the East Branch of the Wappinger Creek. This access road will be constructed first for equipment access related to the removal of the dam.

Chairman McCormack asked for questions and comments from the board.

Mr. Learn explained his comments per Morris letter dated 7-1-15 (letter on file). He noted that Hibernia Road is a Town road and the applicant should contact the Highway Department to determine if a driveway permit is required. He also discussed the erosion and sediment control plan required per Sec. 250-72 of the Town of Clinton Zoning Law. A Performance Bond is needed to ensure full restoration of the area upon completion of the project. He also suggested having a plan for maintenance and traffic control on this area while the work is in progress. He stated that other items not included on the map can be waived.

The panel discussed the procedural process of this project. Mr. Thomas stated that the Town Planner suggested waiting 30 days before setting the public hearing date just in case the DEC wants to be the lead agency.

Per his conversation in the past, Mr. Morrison noted that the DEC doesn't have a problem about the Town being the lead agency for this project.

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The board had a lengthy discussion about the timeline for this project. Chairman McCormack asked if the DEC signed off on this project. Mr. Morrison responded, "Yes."

The board agreed to set the public hearing on July 21, 2015. Time is the major constraint. It still needs 30 days to circulate lead agency. Mr. Morrison will follow through with the involved agencies regarding their comments.

The board agreed to declare lead agency.

Mr. Thomas motioned that the Town of Clinton Planning Board approves the following resolution drafted by the Town Planner in the matter of Kliros Steep Slopes Permit application on property located at 434 Hibernia Road.

**Discussion.** None.

All Aye, Motion carried, 6-0.

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Town of Clinton Planning Board  
Lead Agency Declaration

Matter of Kliros Property Shapp Pond Dam Removal  
Steep Slope Permit and Special Permit Application

**Whereas**, the Town of Clinton Planning Board has received an application from Hilary Kliros for Steep Slope Permit and Special Permit approvals to allow the installation of a ±130 foot temporary road for equipment access related to the removal of a failed dam located on the East Branch of the Wappinger Creek on a site located at 434 Hibernia Road in the Town of Clinton ("Kliros Dam Project"); and

**Whereas**, the application involves tax parcel 6566-00-646093 located in the Residential Hamlet (RH) District and is also mapped as being located in the Ridgeline, Scenic and Historic Protection Overlay District; and

**Whereas**, due to the location of the proposed site within the Ridgeline, Scenic and Historic Protection Overlay District and within the boundary of a Critical Environmental Area designated by the Town the application is automatically deemed a Type I Action pursuant to §250-15(B)(2) and (4) of the Town Code therefore requiring designation of a lead agency; and

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**Whereas**, the Planning Board has reviewed the application for Steep Slope Permit and Special Permit Approval, the proposed site plan map, the Long Form Environmental Assessment Form (EAF), and other information provided by the applicant for the Kliros Dam Project application and has determined that it has the greatest capability for providing the most thorough environmental assessment of the proposed action and therefore should serve as the lead agency;

**Therefore Be It Resolved**, the Planning Board hereby declares its intent to be the lead agency for review of the project pursuant to Sections 617.6(2) and (3) of 6 NYCRR 617.

**Be It Further Resolved**, the Planning Board hereby directs that copies of the Special Permit Application, the Part 1 EAF, and the Site Plan Map be sent to the identified involved and interested agencies as noted on Attachment "A" hereto, together with a notice seeking the consent of the involved agencies to the Planning Board assuming Lead Agency status.

**Be It Further Resolved**, the Planning Board sets a public hearing in this matter for July 21, 2015 at 7:30 p.m.

Motion:      Paul Thomas                  Second:      Eliot Werner

Michael McCormack, Chairman                  Aye

Arthur De Pasqua                  Absent

Tracie Ruzicka                  Aye

Eliot Werner                  Aye

Paul Thomas                  Aye

Robert Marrapodi                  Aye

Gerald Dolan                  Aye

**Attachment "A"  
Identified Involved & Interested Agencies**

**INVOLVED AGENCIES**

New York State Department of Environmental Conservation  
Region 3 Office  
Division of Regulatory Affairs

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21 South Putt Corners Road  
New Paltz, New York 12561-1696

Highway Department  
Town of Clinton  
1215 Centre Road  
Rhinebeck, New York 12572

**INTERESTED AGENCIES**

Dutchess County Department of Planning & Economic Development  
27 High Street  
Poughkeepsie, New York 12601

Conservation Advisory Commission  
Town of Clinton  
1215 Centre Road  
Rhinebeck, New York 12572

Dutchess County Soil and Water  
Farm and Home Center  
2715 Route 44  
Suite 3  
Millbrook, New York 12545

East Clinton Fire District  
219 Hollow Road  
Staatsburg, NY 12580

Clinton Scenic and Historic Roads Committee  
Town of Clinton  
1215 Centre Road  
Rhinebeck, New York 12572

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

The Town Engineer and Highway Superintendent will visit the site to review the project.  
A couple of board members will also join the site review.

No other action is taken.

**Dourdis Steep Slopes Permit** – property owned by William Dourdis located at 1525 Centre Road, Tax Grid No. 6469-00-404361.

The applicant is seeking Steep Slopes Permit in order to install a driveway and develop the lot for a new home.

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Anthony Scotti from Custom Construction appeared on behalf of Mr. Dourdis. Andy Learn, Town Engineer, joined the panel for this project.

Mr. Scotti explained that they need to excavate and clear the property to install driveway and develop the land for a future home. In order to accomplish this, they will have to disturb the steep slopes on the property. He also indicated the new physical address of this land (1525 Centre Road).

Mr. Scotti explained that the DPW rejected the original proposed location. The new proposed driveway will be on the other end of the property (bottom left on the site plan). He indicated the Board of Health approval that was issued on this property. Brian Dingi from the Town Highway Department reviewed and approved the proposed site. Mr. Scotti also stated that the Town Engineer is also aware about the changes in their proposal and is just waiting for their engineer to redraw the plans.

Chairman McCormack asked for questions and comments from the board.

Mr. Werner asked, "How long is the Board of Health approval good for?" Mr. Scotti responded that the Board of Health approval is good for five years.

Mr. Learn explained Morris Associates' comments per letter dated May 21, 2015 (letter on file). He suggested that this application be treated as an unlisted uncoordinated action for SEQRA purposes.

Mr. Werner indicated the items that need to be on the map.

The board agreed to pass a resolution, to wit:

Mr. Werner motioned that the Town of Clinton Planning Board approves the following resolution:

***BE IT RESOLVED*** the Town of Clinton Planning Board hereby declares its intention to be the lead agency for review of the project pursuant to Sections 617.6(2) and (3) of the NYCRR 617, in the matter of the **Steep Slope Permit for the Dourdis property**, tax grid #132400-6469-00-404361, located at 1525 Centre Road in the Town of Clinton, for this unlisted uncoordinated action.

***BE IT FURTHER RESOLVED*** the Planning Board hereby directs that copies of the Site Plan and Special Permit Application, the Part I EAF, and the Site Plan Map be sent to the following agencies, together with a notice seeking the consent of these agencies to the Planning Board assuming lead agency status.

**INVOLVED**  
Dutchess County DPW

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**INTERESTED**

East Clinton Fire Department  
Dutchess County Department of Planning  
Town of Clinton CAC  
Town of Clinton Scenic and Historic Roads Committee

Seconded by Mr. Thomas.

**Discussion.** None.

All Aye, Motion carried, 6-0.

Public hearing is set on July 21, 2015. No other action is taken.

**Meer and Whan Lot Line Adjustment (Board Discussion)** – property owned by Melanie Meer located at 231 Zipfelsburg Road, **Tax Grid No. 6369-00-116439** and Barbara Whan on 238 Zipfelsburg Road, **Tax Grid No. 6369-00-131394**.

Applicants wish to get an opinion from the board on how to proceed with their application.

Ms. Meer appeared and discussed her proposition. Her neighbor, Ms. Whan wishes to sell her barn and  $\frac{1}{4}$  acre of land. This small parcel is directly across the street from her property and was originally part of the farm they used to own. Registered in 1900, Ms. Meer stated that the barn is a historic barn and adjusting the lot line would restore it to the farm property to which it originally belonged. She noted that they planned to restore this barn.

Ms. Meer stated that Zipfelsburg Road is a user road. She asked if combining this portion of land to her property that is across the road is feasible.

Chairman McCormack asked for questions and comments from the board.

Mr. Werner asked about the lot width regulation once the portion of the Whan's lot is taken out. Mr. Thomas and Mr. Marrapodi responded that the lot width doesn't play a role here.

The board reviewed the map and exchanged opinion.

After a lengthy discussion about this project, the board agreed that it will need variances (side yard and rear yard). The applicant needs to see the Zoning Enforcement Officer. She also needs a letter of authorization from the Whans.

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No action taken.

**BOARD DISCUSSION:**

Dean Michael, Liaison Officer, discussed the status of the review about solar panels regulations.

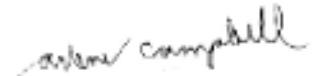
**APPROVAL OF MINUTES:**

No minutes were approved.

**ADJOURNMENT:**

Mr. Dolan motioned to adjourn the meeting at 9:55 pm, seconded by Mr. Thomas, All Aye, Motion carried, 6-0.

Respectfully Submitted,



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