

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
August 18, 2015**

MEMBERS PRESENT

Art DePasqua

Tracie Ruzicka
Robert Marrapodi
Paul Thomas
Eliot Werner

Secretary – Arlene Campbell

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

VARIANCE APPLICATION:

Lynda Femenella, Sharon Carbis, and Martha Mashburn Area Variance - property on 262–278 Hollow Road, Tax Grid No. 6466-00-200341.

The applicants propose the following area variances for the purpose of 2 lot subdivision, to wit:

Sec. 250 Attachment 2 of the Town of Clinton Zoning Law:

- a) Front yard setback reduction from 100 feet to 60 feet.
- b) Side yard setback reduction from 50 feet to 45 feet.

Sec. 250-25 B(6) rear lot setback reduction from 50' to 0'

Mike Dalbo, Land Surveyor, and the property owners all appeared for this application.

Mr. Dalbo explained that they needed a variance to proceed with the subdivision application. The only parcel that is affected by this variance is Lot 1 (where the house is). Mr. Marshburn's house has been on this property since 1985. Mr. Dalbo noted that nothing is changed on this parcel and granting these variances will bring this property into compliance.

Mr. DePasqua asked for questions and comments from the board.

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Mr. Werner stated that there are three variances needed on Lot 1 as indicated above. He quoted that the Zoning Enforcement Officer doesn't have an issue with Lot 2 since there are no changes on that lot.

The board had a lengthy discussion about this application. There was a discussion about the necessity of a variance for the minimum lot width setback on Lot 1, since a new lot will be created as part of the subdivision.

Mr. DePasqua suggested that it is better to include this to their recommendation to cover the bases.

After a very lengthy discussion, the board agreed to pass a resolution, to wit:

Mr. Werner motioned that the Town of Clinton Planning Board provides a positive conditional recommendation to the Zoning Board of Appeals on the application for area variances to Section 250 Attachment 2, to reduce the front and side yard setbacks, and to Section 250.25.B.6, to reduce the minimum lot width setback, submitted by **Lynda Femenella, Sharon Carbis, and Martha Mashburn**, with respect to property located at 262–278 Clinton Hollow Road, **tax grid #132400-6466-00-200341**, as shown on the provided drawing.

WHEREAS:

- 1) This is a ±84.359-acre lot located in an AR-5 district that includes two principal dwellings. The applicants wish to undertake a two-lot subdivision of the property, which necessitates the granting of three area variances relating to the dwelling located on the proposed Parcel 1 to bring it into compliance with the Town of Clinton Zoning Law.
- 2) The applicants are requesting a reduction in the front yard setback on the proposed Parcel 1 from the required 100 feet to 60 feet, a reduction in the side yard setback from the required 50 feet to 45 feet, and a reduction in the minimum lot width setback from the required 50 feet to 0 feet, to allow them to proceed with their application for a two-lot subdivision.
- 3) The New York State Environmental Quality Review Act has determined that the granting of area variances for a single-family, two-family, or three-family residence is a Type II action and therefore this action is not subject to further SEQRA review.
- 4) Since the request is for area variances, an Agricultural Data Statement is not required.
- 5) 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 these area variances.
- 6) The benefit sought by the applicant cannot be achieved by some other method that will be feasible for the applicant to pursue.

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- 7) The requested area variances are substantial but this should not preclude their granting.
- 8) The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, since the structure on the proposed Parcel 1 is preexisting and the variances will legalize a nonconforming situation.
- 9) The Planning Board notes that the dwelling on the proposed Parcel 2 is also located within the front yard setback. If the Zoning Board of Appeals determines that a variance is required, the Planning Board supports the granting of said variance.
- 10) The alleged difficulty is self-created.
- 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) The applicants receive approval from the Planning Board for their proposed two-lot subdivision.

Seconded by Ms. Ruzicka.

Discussion: Mr. Dalbo remarked that there should be another variance—i.e., minimum lot width setback from 400 to 217 feet. He noted that the property doesn't need a rear lot setback variance. He reiterated that it needs a variance to the minimum lot width.

The panel reviewed the map and had a lengthy discussion about the fourth variance. The board agreed to include a notation (item #9) in the resolution to address this concern.

Mr. Werner indicated that the variance will be conditioned to the subdivision approval and the subdivision will be conditioned to the granting of the Certificate of Occupancy and Building Permit. The board concurred.

Mr. Thomas noted that the principal dwelling is nonconforming but the property (lot) is conforming. Mr. Marrapodi and Ms. Ruzicka concurred with Mr. Thomas.

All Aye, Motion carried, 5-0.

PUBLIC HEARING:

None

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APPLICATIONS:

Femenella et al. 2-lot subdivision – property on 262–278 Hollow Road, Tax Grid No. 6466-00-200341.

The applicants wish to subdivide the property into 2 lots.

Mr. Dalbo explained the subdivision application. He indicated what had transpired at the previous meeting.

Mr. Werner expressed his comments. Accordingly, the two lots that are separated by an intervening owner (e.g., county road) are naturally subdivided per the Town Attorney, according to the Zoning Enforcement Officer. An intervening owner creates a natural subdivision.

In this case Mr. Werner stated that the property owner can subdivide the lot on the north side of the road and leave the big vacant lot across the south side of the road. He was baffled on how one can have two separate lots under one tax grid number. He asked, “What happens to the fact that this is one big lot?”

Mr. Dalbo responded that the County will assign a parcel grid number once the subdivision is completed. The lots will have four different parcel numbers.

The board reviewed the map. There are four individual lots on this property. Mr. Werner asked if the parcel on the far side of the property meets the 5-acre threshold. Mr. Dalbo responded, “Yes.”

Mr. Werner commented that there are three lots right now. There will be a total of four lots once Lot 1 is subdivided. Mr. Dalbo disagreed. He noted that this application is only for a two-lot subdivision. The other lots were already done. In theory, the lot on the south and the lot on the right were already there.

The board agreed that the applicant should obtain individual parcel numbers for these lots as a condition to the approval.

The board agreed to amend the Sketch Plan that was issued previously.

Mr. Werner motioned that the Town of Clinton Planning Board grant **amended sketch plan approval** to Lynda Femenella, Sharon Carbis, and Martha Mashburn for the purpose of subdividing lands on a ±18.359-acre site located at 262–278 Clinton Hollow Road, which is in an AR-5 Zoning District in the Town of Clinton, tax grid #132400-6466-00-200341.

WHEREAS:

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- 1) The applicants are requesting a two-lot subdivision as shown on the plat created by Michael A. Dalbo, P.C., license #049311, dated 6/1/2015 and revised 8/10/2015.
- 2) The acreage after the subdivision will be ± 5.389 acres for Parcel 1 and ± 12.97 acres for Parcel 2.
- 3) The applicants have submitted a Short Form EAF.
- 4) At its 8/4/2015 meeting, the Planning Board agreed to waive the following items from the Sketch Plan: Vicinity Map; scale of Area Map from 1 inch = 400 feet to 1 inch = 600 feet; wooded areas and other significant physical features (e.g., rock outcrops, stone walls, significant trees) within the parcel and within 200 feet of the site.
- 5) As a result of the proposed subdivision, Parcel 1 will represent a new residential lot. As such, the applicants will be required to submit proof of Board of Health approval of the septic system and County DPW approval of the driveway access as conditions of final approval of the subdivision. In addition, the applicants will be required to cure all zoning violations and obtain any necessary permits from the Town Building Department.
- 6) All appropriate fees have been paid.

NOW, THEREFORE, BE IT RESOLVED, the Town of Clinton Planning Board grants sketch plan approval for the requested subdivision of lands.

Seconded by Mr. Marrapodi.

Discussion. None.

All Aye, Motion carried, 5-0.

The board declared itself lead agency for SEQR process.

Mr. Werner motioned that the Town of Clinton Planning Board grant 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 6 NYCRR 617, in the matter of the **two-lot subdivision** for the **Femenella et al.** property, tax grid #132400-6466-00-200341, located at 262–278 Clinton Hollow Road in the Town of Clinton, for this unlisted, uncoordinated action.

BE IT FURTHER RESOLVED the Planning Board hereby directs that copies of the Subdivision Application, the Short Form EAF, and the Sketch Plan be sent to the following agencies, together with a notice seeking the consent of these agencies to the Planning Board assuming lead agency status.

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INVOLVED

Dutchess County Board of Health
Dutchess County DPW

INTERESTED

Dutchess County Department of Planning
East Clinton Fire Department

Seconded by Ms. Ruzicka.

Discussion. Mr. Marrapodi commented that this application needs to be circulated to the Department of Health. They are creating a new lot. This will also needs a driveway approval.

Mr. Dalbo agreed. He noted that only Parcel 1 is affected by this review.

All Aye, Motion carried, 5-0.

The board agreed that Ag Data statement needs to be circulated. Public hearing is set to September 1, 2015. Mr. Dalbo needs to revise the Site Plan to reflect the above discussion.

OTHER MATTERS:

The board discussed the Solar Energy Moratorium.

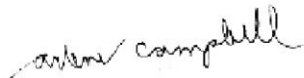
APPROVAL OF MINUTES:

Ms. Ruzicka motioned to accept the minutes of July 7, 2015 as amended, seconded by Mr. Werner, all Aye, Motion carried, 5-0.

ADJOURNMENT:

Mr. DePasqua motioned to adjourn the meeting at 8:45pm, seconded by Mr. Marrapodi, All Aye, Motion carried, 5-0.

Respectfully Submitted,



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