

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
January 26, 2017**

MEMBERS PRESENT

Joseph Malcarne, Chairman

John Calogero
Charles Canham

Arthur Weiland

Arlene Campbell, Secretary

MEMBERS ABSENT

Norma Dolan
Frank Kealty
Macy Sherow III

ALSO PRESENT

Chairman Malcarne called the meeting to order at 7:31 pm.

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

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

VARIANCE APPLICATIONS:

Danon Area Variance – property owned by Morris and Carole Danon located at 354 Nine Partners Road, **Tax Grid No. 6568-00-236717.**

The applicants are requesting area variances to Sec. 250 Attachment 2 for a sideyard setback reduction from 50 to 20 feet for an existing poolhouse that is less than 80 feet, and lot width from 400 feet to 272 feet.

Michael Hoffman appeared on behalf of the property owners. He indicated the lot line adjustment with the Danons that triggers these variances. Mr. Hoffmann stated that the Danons' lot is long and narrow. It currently has a lot width of 275 feet. He added that the existing poolhouse is currently in the setback.

Chairman Malcarne asked for questions and comments from the board.

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Mr. Weiland asked the applicant if he has a letter of authorization from Mrs. Danon. The letter of authorization on file only reflects Mr. Danons'. Mr. Hoffman responded that the wife is currently out of the country and promised to submit the document as soon as Mrs. Danon is back.

The board agreed to put this as a condition to the variance.

Mr. Canham read the Planning Board recommendation dated January 17, 2017 which is positive. There was no communication received from any of the adjoining property owners.

Mr. Canham commented about item no. 3 of the Planning Board's recommendation regarding the size of the lot width. The survey shows that the lot width is 271.7. It seems that the lot width will be narrower by more than 3 feet (275 down to 271.7 ft). The board agreed.

Mr. Canham expressed his views about the application on hand. This application is pretty straight forward. The Planning Board conditionally approves the Lot Line Adjustment. He opined that it is not uncommon to seek variances for properties that are long and narrow. It is almost 10 acres of land. He added that this will not impact the neighborhood due to the common sizes (long and narrow) of the lots in the area. Mr. Canham commented that the lot line adjustment will not change the total acreage of this property.

Mr. Weiland asked if the shed is the poolhouse. The applicant responded, "Yes". He stated that the poolhouse is also in the setback. The panel agreed.

Chairman Malcarne asked, "How long was the poolhouse on this property?" Mr. Hoffman responded that he believes that the poolhouse has been on the property for 5 years.

Mr. Weiland suggested adding another foot setback variance to the poolhouse setback. He also suggested adding a note on the resolution regarding the "No storage" regulations in the setback. He noted that the property owners should be aware of this. The board agreed.

Ms. Canham stated that although this property is in the Taconic Viewshed, no part of the property is visible from the Parkway.

The board agreed to open the public hearing.

Chairman Malcarne motioned to open the public hearing, seconded by Mr. Weiland, all Aye, Motion carried, 5-0.

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Carmino Amado, 366 Nine Partners Road stated that he doesn't have any objection about the application. However, he suggested that doing a lot line adjustment with the Danons can eliminate the requirement of a variance. This could make the poolhouse in compliance with the setback.

Mr. Amado made a long discussion about his intention to subdivide his property into two lots.

Mr. Canham noted that the Lot Line Adjustment and Subdivision process are Planning Board Board's purview. The Zoning Board of Appeals is only addressing the variance application on hand. He opined that Mr. Amado can always approach the Danons to discuss his intention.

Mr. Amado asked, "Since the Danon's property is currently on the market, will this stop the sale of the property if the variance is not granted?"

Mr. Hoffman responded that the poolhouse/shed can always be moved worst comes to worst. This is a very small shed and is just sitting on a slab

Mr. Weiland noted that this is a nonconforming property. He opined that it is actually the bank that can stop the sale.

Mr. Amado reiterated that the variance can be avoided if he does a lot swap with the Danons. Mr. Canham noted that the Danon's property will still need a variance to the lot width.

The panel had a very lengthy discussion about the application on hand.

Richard Amado, the son indicated that they have always wanted to subdivide this property. He asked the board about the possibility in subdividing their lot.

Chairman Malcarne asked how big their property is. Mr. Amado responded that they have 9.8 acres of land. Mr. Canham noted that they will need 10 acres of land to subdivide. This property is in the AR5 Zoning District.

Chairman Malcarne commented that shortage of acreage is a big hurdle in the subdivision process.

Mr. Weiland asked if there are wetlands at the back of the Danon's property. The applicant responded, "No". Mr. Amado stated that there is a portion of steep slopes back there.

Mr. Amado asked about the location of the proposed building on the Hoffman's lot. Mr. Hoffman pointed out on the map and explained his proposal to the Amados.

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Mr. Amado asked the board if they can postpone the determination of this application. He stated that he's hoping to bring his surveyor before the board to discuss his proposal.

Chairman Malcarne explained that Mr. Amado will need to discuss his proposition to a Surveyor, create a site plan and present this proposal to the Planning Board. Chairman Malcarne stated that the Planning Board can determine whether they will need a variance and how to proceed. Chairman Malcarne noted that the Zoning Board of Appeals is only addressing the application on hand.

Mr. Weiland remarked that the Amado's property is also narrow and long. This needs to comply with the lot width and acreage regulations in order to subdivide. Mr. Canham concurred.

Chairman Malcarne suggested that the Amados consult their Surveyor or Engineer and talk to the Town Zoning Enforcement Officer to discuss what variances are required.

The board agreed to close the public hearing.

Chairman Malcarne motioned to close the public hearing, seconded by Mr. Canham, all aye, Motion carried, 4-0.

The panel had a long discussion about the application. Mr. Hoffman indicated his concern about the potential house site where his currently building his house. He bought this land for privacy.

After all the reviews and comments were made, the board passed a resolution, to wit:

Mr. Canham moved that the Town of Clinton Zoning Board of Appeals grant the following two area variances requested by **Carole and Morris Danon** for property in an AR5 zoning district located at 354 Nine Partners Road, Clinton Corners, NY, 12515, **Tax Grid #132400-6568-00-236717-00:**

- A. A reduction in the minimum lot width from 400 feet to 271 feet
- B. A reduction in the side lot setback on the east side of the property from 50 feet to 19 feet for an existing accessory structure.

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Factors:

1. The applicants are pursuing a lot line adjustment with the neighboring property owner to the west and south that will reduce the applicants' lot width from 275 feet to slightly under 272 feet. The reduction in the width of the applicants' lot will be compensated by an equivalent amount of land acquired from the neighbor and added to the rear of the applicants' lot. Thus, neither the applicants' nor the neighbor's lot sizes will change.
2. An existing accessory structure (a small shed) currently exists within the side yard setback to the east of the residence.
3. The applicants have applied to the Town of Clinton Planning Board for the necessary lot line adjustment. The Planning Board has approved that application, subject to the granting of the two area variances by the Zoning Board of Appeals. Further, the Planning Board has recommended that the ZBA grant the requested area variances.
4. The granting of the variances will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties. The shed in the side yard setback is unobtrusive, and the lot line changes will not be visible in any meaningful way.
5. The benefit sought by the applicant cannot be achieved by other feasible means.
6. The requested area variances are both substantial. The lot is of a preexisting nonconforming width, and the change to the existing lot width is minimal.
7. The proposed variances will not have an adverse effect on the physical or environmental conditions in the neighborhood. The immediate neighborhood has many lots with substandard width, and the reduction in the side yard setback is reasonable given the relatively narrow width of the lot.
8. The alleged difficulty is self-created, but this does not preclude granting the variances.
9. The property is located within the Taconic Parkway Viewshed, but the property itself is not visible from any point along the Parkway, and the requested variances do not substantially change the existing configuration of the property.

Conditions:

1. All fees have been paid.
2. Letter of Authorization from Carole Danon is received.

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Seconded by Mr. Weiland.

Discussion. Mr. Calogero noted that this variance did not change anything in this property.

All Aye, Motion carried 4-0.

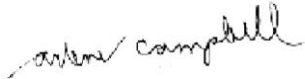
APPROVAL OF MINUTES:

Chairman Malcarne motioned to accept the minutes of October 27, 2016 as amended, all Aye, Motion carried, 4-0.

ADJOURNMENT:

Chairman Malcarne motioned to adjourn the meeting at 8:48 pm, seconded by Mr. Canham, All Aye Motion carried, 4-0.

Respectfully Submitted By:



Arlene A. Campbell
Zoning Board of Appeals Secretary

Cc: Carol Mackin, Town Clerk