

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
December 19, 2017**

**MEMBERS PRESENT**

Mike McCormack, Chairman  
Art DePasqua  
Gerald Dolan  
Alexander Kari  
Tracie Ruzicka  
Robert Marrapodi  
Paul Thomas

**MEMBERS ABSENT**

**ALSO PRESENT**

Secretary – Arlene Campbell

Eliot Werner, Liaison Officer

Chairman McCormack called the meeting to order at 7:32 pm.

**VARIANCE APPLICATION:**

**Lack Area Variance** – property located at 126 Coyote Ridge Road, **Tax Grid No. 6267-00-631950.**

The applicants requested an Area Variance to allow the construction of a 1,955-square-foot accessory dwelling unit, when the maximum allowable size is 1,000 s.f. floor space or 35% habitable space of the existing principle dwelling whichever is more restrictive per Sec. 250-29 (6) of the Town of Clinton Zoning Regulations.

David Souers and Nathaniel Gange from Optimus Architecture appeared on behalf of the property owners.

Mr. Souers explained that the property owners wish to build an accessory dwelling for family use. They want their grown children and their family who live in NYC to have a comfortable place in the country every time they come up for a visit. The Lacks own a 61.55-acre property in a 5-acre Zoning District. The main house is less than ten years old and is sited on the highest point of the ridge. They are proposing to build a 1,955-square-foot accessory dwelling unit to be located off the existing driveway which is approximately 400 feet from the main house. The proposed dwelling will be a single-story wood frame house and will be raised on columns with a partial basement in order to minimize excavation and re-grading. The proposed site is wooded and sloped. He added that the applicants are willing to work with the town about the design of the house to fit in the character of the neighborhood. He also explained the concern about the trees and the slopes on the property. They intend to locate the structure within the slopes of 10-20% and outside of the steep slopes.

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Mr. Souers noted that this property is a flag lot. It is a part of an approved subdivision and has a shared driveway. The access to the site will remain as it is from Route 9G and a common driveway (Coyote Ridge Road). The house is located on the highest point of the ridge. He pointed out the location of the proposed accessory dwelling on the map. The goal is to have the house on stilts and elevated in the woods.

Mr. Souers explained why they need a variance. Sec. 250.29 B-6 of the Town of Clinton Zoning Law states that the accessory unit shall contain no greater than 35% of the total habitable space of the existing principal structure or 1,000 square feet of floor space, whichever is more restrictive. Mr. Souers stated that they are seeking a variance of 955 square feet of the restricted floor space of 1,000 square feet per the zoning regulations.

Chairman McCormack asked for questions and comments from the board.

Mr. Marrapodi asked about the size of the basement. Mr. Souers responded that the size of the basement is 700 square feet. It will have utility room and storage spaces. He underscored that this basement will not be a living space.

Mr. Marrapodi expressed his concern about this application. The code calls for 35% of the habitable space. The habitable space of the main house is not defined. The Building Code defines habitable space as spaces or areas for eating, sleeping, and cooking except for toilets, bath, closet, hallway, garage, and storage and utility rooms. Parcel Access indicates a total square footage of 5,588 (3,296 square feet on the main floor and 1,092 square feet on the second floor.). He presumes that the difference is probably the non-habitable space. The listed total square footage is most likely gross floor space. He stated that the board needs to know the habitable square footage of the main house to calculate the 35% as stated in the code.

Mr. Souers amended that the main house has three floors instead of two.

Mr. Thomas opined that the variance should be based on 1,000 square feet of floor space since this is more restrictive. The applicant is noting that the proposed size is still within the 35% of the habitable space of the main house which is 1,955 square feet (35% of 5,588). Mr. Thomas questioned the necessity to calculate the habitable space square footage. He remarked that the floor space is more restrictive.

Mr. Marrapodi accentuated that the requested variance is 35% of the habitable space. The board needs to know the habitable space square footage.

Mr. Marrapodi discussed the necessity of the second variance per Sec. 250.22 A-4. There are currently three structures on the property such as pool and poolhouse, carport, and walkway. The proposed accessory dwelling will be the fourth one.

After reviewing the code and an exchange of opinions, the board agreed that the walkway is defined in the code as an accessory structure.

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The board discussed Sec. 250-22 (Accessory Structures). Mr. Souers commented about Sec. 250-22 A-3 (No such structure shall project closer to the the fronting street than the principal building on the lot.) He stated that it is very difficult to define the front road on this property. This is a flag lot. Chairman McCormack stated that Coyote Ridge is the right of way and Route 9G is the main road.

Mr. DePasqua expressed his strong concern about this application. The requested variance is significant. It is almost double the allowed size. It's like building another house. This is setting a precedent! He asked the applicant if there is another way to do this without getting a variance.

Mr. Thomas echoed Mr. DePasqua's concern.

Chairman McCormack commented that this is a flag lot. The applicant will have to acquire more lots from the adjoining property owners in order to subdivide this lot. He added that this variance is also up to the Zoning Board of Appeals. The board is only doing a recommendation.

Mr. Souers commented that this is a unique situation. This property has 60 acres of land. The code calls for double the acreage. In this case, it is 10 acres (AR5A). He underscored that the proposed dwelling will not be visible from any neighboring properties.

Ms. Ruzicka stated that the option about the subdivision is also not an alternative since this is a flag lot. The board discussed whether to issue a positive, negative, or neutral recommendation to the Zoning Board of Appeals.

The board agreed to vote. Mr. Marrapodi motioned to issue a neutral recommendation tot the Zoning Board of Appeals, seconded by Ms. Ruzicka, All Nay, except for Chairman McCormack and Ms. Ruzicka who voted Aye, Motion failed.

The board agreed to pass another resolution.

Mr. Marrapodi motioned the following resolution:

***BE IT RESOLVED***, that the The Town of Clinton Planning Board provide a negative recommendation to the Zoning Board of Appeals on the James & Theresa Lack requested Area Variance to allow the construction of a **1,955 square foot accessory dwelling unit**, while the maximum allowable size is 1,000 S.F. Or 35% of the existing principle dwelling. (As per Sec. 250 -29 (6).)

A Second Variance will be required. The addition of the accessory dwelling, walkway bridge and roofed carport along with the existing pool/pool house will exceed the maximum number of accessory structures allowed, that being (3) three. (As per Sec. 250-22 (4))

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The requested variance(s) is on a 61.55-acre site located on 126 Coyote Ridge Road, Tax grid # 6267-00-831950 which is in the AR5 Zoning District in the Town of Clinton.

***WHEREAS;***

1-The applicant requests the variance to increase the maximum allowable square footage to 35% of the principle dwellings gross **Habitable Square Footage**. Which they claim is **5,588 S.F. but not documented**. The planning board has determined that a second variance is required to allow one additional accessory structure on the property.

2- The addition of the accessory dwelling will be self-sufficient with its own Septic system and water well.

3- The property is in the Ridgeline, Scenic and Historic Protection Overlay District. The principle dwelling is located at a topography greater then 500' above mean sea level. The proposed accessory dwelling will be sited below the principle dwelling.

4- The area variance requires an Ag Data Statement.

5- The site is not in a NYS DEC Wetland.

6- The site is not on a designated Scenic or Historic road.

8- There are no outstanding zoning violations.

9- The property is not in a CEA district.

10- It is noted that an area variance is a type II action under SEQRA and requires no further action.

11- It is our judgment that the proposed variance will not have an adverse effect on the physical or environmental conditions in the neighborhood therefore the impact of the area variance on the neighborhood is minimal. However the variance is substantial in its self because it would increase the maximum square footage of an accessory dwelling by 955 S.F..

12. The alleged difficulty is self-created.

13. All fees have been paid.

15. The applicant has submitted a consent letter by James Lack allowing David Souers to represent the owner of the property on all Planning Board and Zoning board matters.

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***NOW THEREFORE, BE IT RESOLVED, THAT*** the Town of Clinton Planning Board is making a **Negative** recommendation for a conditional approval to the Clinton Zoning Board of Appeals once the following condition is achieved.

1. DCDOH approval of the Septic system and Water well.

Seconded by Mr. DePasqua.

**Discussion.**

Ms. Thomas expressed his concern about setting a precedent. Mr. Souer solicited the board's thoughts. He underscored that he understands the board's concern about the lot size and setting precedence. He asked, "What would be more reasonable in terms of size? Is there a difference if the lot size is smaller and the allowed is 1,000 square feet? What would be the basis of the request on 955 square feet and there's 65 acres of land?" He asked, "Does it mean they need a variance if this is a 10-acre lot?" He asked for clarity about the issue.

Chairman McCormack explained that this is a 5-acre zoning district so they will need at least 10 acres to have an accessory dwelling unit. This is the reason why he doesn't have a problem with the requested variance due to the size of the lot. He also stated that he understands the board's concern about setting a precedent. He stated that the board never had this kind of case in the past where the lot size is significant and the requested variance is almost double. This is unique situation but noted that the board is only giving a recommendation. It is up to the Zoning Board of Appeals.

Mr. Dolan asked about the contour of the land. The board reviewed the map and agreed that the disturbance is within the limit of the threshold.

Mr. DePasqua feels that the applicant should apply for the second variance if the other variance is required. Mr. Thomas disagreed, "Why does the applicant need to come back? The board already knows the application."

Mr. Marrapodi stated that they have done this in the past where in the board included in their recommendation another variance that they found necessary. It is up to the Zoning Board of Appeals to agree or not. The board agreed with Mr. Marrapodi.

All Aye, except for Mike McCormack and Tracie Ruzicka who voted Nay, Motion carried 5-2.

**PUBLIC HEARING:**

None

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**APPLICATIONS:**

**Daly Demolition Plan approval** –property owned by Denise Daly located at 115 Creek Road, Tax Grid No. 6267-00-280808.

Applicant wishes to demolish all the existing buildings and clear the site for construction of a new energy efficient home.

Ms. Daly appeared for her application. She explained that she bought this property in August of 2017 at auction. The house had been vacant for 4 years. It seems that there are multiple dwellings on this property. There are two kitchens, two oil tanks, and separate electric meters on the main house. The shed studio apartment has a bathroom and kitchen with gas lines for cooking. She wasn't sure whether the multiple dwellings on this property are legal. It seems that this was a single-family dwelling that became a 3-family compound. Based on the review of several professionals, Ms. Daly stated that the safest course is to demolish and rebuild the house.

Mr. Kari asked about the history of the house. Ms. Daly responded that the original portion of the house was built in 1780 and had several additions over the years. The 17<sup>th</sup> century portion of the house was phenomenal. She characterized the wood floors and the details of the house. The whole downstairs seems to be new construction. The idea is to build a small net zero-home that will bring this property into compliance. Ms. Daly noted that she purchased this house with the intention of renovating it.

Mr. Kari asked the applicant is she's planning to save the 1780 portion of the house or gut it. Ms. Daly responded that the permit that she requested and the plan is to take the whole building down and replace with a new house.

Mr. Thomas asked Ms. Daly if she will consider saving a portion of the older house and take the rest down. He expressed his concern about the historic value of the 1780 portion of the home.

Ms. Daly stated that she is seeking total demolition based on the cost to renovate. She also thinks that replacing the buildings will update everything in the house and bring it to compliance.

Mr. DePasqua asked if she ever consulted a professional or structural engineer to assess the building to ensure that nothing is valuable or of significance. Ms. Daly responded that she spoke with two contractors and both contractors felt that the building needs to come down. Ms. Daly explained the inspection report that she received from the Modular Company. She also gave the details of the ridge roof of the house which she thinks will not pass the Building Code. Based on the cost that was gathered to renovate the buildings, Ms. Daly stated that it will be feasible to take the whole house down. The cost to renovate will be cheaper than interior renovation.

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Mr. Marrapodi stated that this is really not an issue about the building code. Unless this building is registered as a historic building, then there is a hardship on the applicant. This is an argument about the hardship on the property owner to maintain the building versus the cost to renovate or a strong argument is demolition.

Mr. Kari stated that this is also about the preservation of historic building in the Town.

Cynthia Koch and Noreen Coller from the Historical Society expressed their willingness to help the property owner. Ms. Koch stated that maybe they can look into a plan that will preserve the integrity of the house and work with their contractor rather than putting up a modular home. Ms. Koch expressed her concern in preservation of one of the 43 historical buildings in the Town. She indicated that this house is one of the fewest homes that were listed in the most recent survey of historic buildings in the Town of Clinton. The list may not be registered or historic landmarks but it's a list of historic houses in the Town that they're willing to preserve what could be preserved. She explained the history of this property. She reiterated that the Historical Society is also committed to work with the applicant about this project.

Ms. Daly was surprised to find out that the house that she recently bought is one of the historic buildings on the list.

Chairman McCormack expressed his comments. Looking at the pictures that were submitted to the board, it seems that the house is in bad shape.

Mr. Marrapodi suggested having a plan about which section to remove and retain. The board had a very lengthy discussion about the concern. Mr. Marrapodi feels that the applicant should have a plan about the details of the demolition before the board can act on it.

Mr. Kari asked the board if they want to issue a resolution regarding the demolition plan for the outbuildings. Chairman McCormack responded that it is up to the board. He asked the applicant about her timeline. Ms. Daly responded that they are hoping to start the project this spring.

After all the discussions and reviews were made, the applicant agreed to put off the application for now.

No action taken.

**Hart 4 Lot Subdivision (Sketch Plan) - 188-192 Schultz Hill Road, Tax Grid Nos. 6368-00-285540, 268584, 259657.**

Applicant wishes to subdivide three adjacent parcels to make them into 4 buildable lots.

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Mr. and Mrs. Hart along with their architect, Joe Valdina from Synergy Design Architecture and Engineering PLLC, and Tim Martin were all back before the board.

Mr. Valdina explained the items on the list (crops, outcrops, scale) that he wanted to waive. He opined that the recent comments that were received from the Town Engineer do not impact or affect the layout or scale of the project. He was hoping that they can move forward with condition as approved to resubmission of everything.

Mr. Valdina discussed the comments that were received from the Town Engineer. Mr. Setaro recommended for the board's consideration that this is an unlisted uncoordinated review. The comment letter also expressed concern about the contour of the land or the steep slopes area. Mr. Valdina said that he thinks that the steep slope is only 10% but this needs clarity with the Town Engineer. He added that he also needs to discuss the soil erosion and metes and bounds with the Town Engineer. He showed the metes and bounds on the map but labeled it as concepts. He wasn't sure what the Town Engineer is referring to in his comment about the metes and bounds.

Mr. Valdina stated that the common driveway needs a maintenance agreement that will be submitted for final approval. The Highway Superintendent has signed off on the driveway location.

Mr. Valdina stated that there is a substantial distance between the buffer disturbance and the DEC wetlands. He also discussed the engineering aspect of the proposed project in response to the Town Engineer's comment such as swale, drainage, monuments, limits of disturbance, etc.

Mr. Valdina questioned the requirement of a Site Plan for the location of the new barn that is currently being installed. He noted that this is a farm use in an Ag district. An Ag Data Statement was also filled out and sent to the Town Engineer.

Mr. Thomas stated that there is precedence in requiring a Site Plan but not a Special Permit in cases like this. There is a checklist for the requirements of a Site Plan but not everything needs to be submitted. Mr. Thomas feels that what's on the map is sufficient. He asked the applicant to submit a letter of request for items that they want to waive.

Mr. Thomas asked about Lot 3. He thinks that Lot 3 will need variance to the width. It needs to have 400 feet from the building line. The board reviewed the map. Mr. Valdina stated that he will check if he can slide the lot line or work it out.

After reviewing the map, the board agreed that there is 360 feet from the building line. The applicant agreed to adjust the lot line to accommodate the lot width.

The board agreed to schedule the public hearing to January 16, 2018. Mr. Thomas stated that the board can also issue the Preliminary approval next meeting. Site Plan application is required.

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Mr. Thomas motioned that the Town of Clinton Planning Board approves the following resolution, to wit:

***BE IT RESOLVED THAT***, the Town of Clinton Planning Board approves the following resolution in the matter of Hart Subdivision:

**Whereas**, the Town of Clinton Planning Board has received an Application for Subdivision from Donald and Kyla Hart for the purpose of turning three existing adjacent parcels comprising a total of +/-107.49 acres, two of which are developed and one undeveloped, into four residential building lots located at 188-192 Schultz Hill Road, as shown on a “Site Plan for Hart Property” prepared by Synergy Design Architecture & Engineering PLLC dated December 8, 2017 (the “Map”); and

**Whereas**, the Town of Clinton Planning Board previously granted Sketch Plan approval for the application on July 18, 2017;

**Whereas**, the application involves tax parcel numbers 6368-00-285540-0000, 6368-00-268584-0000 and 6368-00-259657-0000, which parcels are located in the AR-5 Very Low Density Agricultural Residential District; and

**Whereas**, the Planning Board determined that the applicant will be required to submit an application for Site Plan approval with respect to the proposed barn and accessory dwelling on proposed Lot 3; and

**Whereas**, the applicant will be required to address the comments of the Town Engineer as set forth in his memorandum dated December 15, 2017 and provide such information and revisions as the Town Engineer may require prior to final subdivision approval; and

**Whereas**, a Short Form EAF Part 1 has been received; and

**Whereas**, the parcel is located within 500 feet of a working farm in an Agricultural District and an Agricultural Data Statement has been submitted; and

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**Whereas**, all applicable fees have been paid; and

**Whereas**, the Planning Board has determined the proposed project is an Unlisted Action and that an uncoordinated review of the action will be undertaken;

**Now, Therefore Be It Resolved**, that the Planning Board determines that the applicant's submission is sufficient for purposes of commencing the selection of a Lead Agency pursuant to 6NYCRR 617; and

**BE IT FURTHER RESOLVED**, that the Planning Board hereby declares its intent to be the Lead Agency pursuant to Sections 617.6(2) and (3) of 6 NYCRR 617; and

**BE IT FURTHER RESOLVED**, that the Planning Board hereby directs that the identified involved and interested agencies as listed below be notified of the Board's intent to be the lead agency, and that a copy of the Part 1 EAF, the application form, and the Map be

delivered to said agencies seeking their consent to the Planning Board acting as the Lead Agency:

Involved Agencies: Town of Clinton Highway Department

Interested Agencies: New York State Department of Environmental Conservation; Dutchess County Health Department; Dutchess County Department of Planning; Town of Clinton Conservation Advisory Council; Town of Clinton Scenic Roads Committee; and West Clinton Fire District.

**BE IT FURTHER RESOLVED**, that the Planning Board will hold a public hearing on this application at its meeting scheduled for January 16, 2018;

Motion: Paul Thomas Second: Art DePasqua

Michael McCormack, Chairman Aye

Arthur De Pasqua Aye

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Tracie Ruzicka	<u>Aye</u>
Alexander Kari	<u>Aye</u>
Gerald Dolan	<u>Aye</u>
Paul Thomas	<u>Aye</u>
Robert Marrapodi	<u>Aye</u>

Seconded by Mr. DePasqua.

**Discussion.** None.

All Aye, Motion Carried 7-0.

**BOARD DISCUSSION:**

Chairman McCormack declared he is stepping down as Chairman and member of the board after more than two decades of service. He wishes the board good luck. The board members expressed their gratitude to Mr. McCormack and extended their wishes for continued success.

Mr. Kari also gave his resignation due to relocation. The board thanked him for his service and dedication.

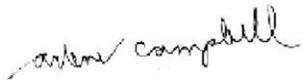
**APPROVAL OF MINUTES:**

Mr. Kari motioned to approve the minutes of July 18, 2017 as amended, seconded by Mr. Marrapodi, all Aye, Motion carried, 7-0.

**ADJOURNMENT:**

Mr. Dolan motioned to adjourn the meeting at 9:45 pm, seconded by Mr. Kari, All Aye, Motion carried, 7-0.

Respectfully Submitted,



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