

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
July 17, 2018**

**MEMBERS PRESENT**

Art DePasqua, Chairman

Jack Auspitz  
Tracie Ruzicka  
Robert Marrapodi  
Paul Thomas

**MEMBERS ABSENT**

Gerald Dolan

**ALSO PRESENT**

Secretary – Arlene Campbell

Eliot Werner, Liaison Officer

Chairman DePasqua called the meeting to order at 7:30 pm. He explained the two-step process of the variance application to the applicant.

**VARIANCE APPLICATION:**

**O’Brien Area Variance** – properties owned Joseph and Janet O’Brien located at 203 Silver Lake, Tax Grid No. 6470-00-349027.

Applicants request an area variance to Sec. 250-22 A-3 of the Town of Clinton Zoning Law for the placement of an accessory structure (garage) closer to the fronting street than the principal building. The property is in the C Zoning District.

Mr. O’Brien appeared and explained his application. He stated that they needed a garage and wishes to place it by the driveway.

Chairman DePasqua asked for questions and comments from the board.

Mr. Auspitz opined that he doesn’t think that this application triggers a variance per the section of the code. The proposed location of the garage is less restrictive.

**Sec. 250-22 A-3 states that no structure shall project closer to the fronting street than the principal building on the lot, or the required front yard setback for the district, whichever shall be less restrictive.**

Chairman DePasqua stated that the denial letter from the Zoning Administrator states that the proposed garage is in front of the main dwelling, the “or” part is not included with the denial.

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Mr. Marrapodi commented that the proposed garage will be outside the building envelope. This parcel is part of the Silver Lake subdivision and the Planning Board has the power to amend it.

The board exchanged opinions about the above application and agreed that the board is only doing a recommendation. The Zoning Board of Appeals has the final say.

The board passed a resolution, to wit:

Mr. Auspitz motioned that the That the Town of Clinton Planning Board provide a positive recommendation to the Zoning Board of Appeals on the application of **Joseph and Janet O'Brien** for an area variance from the requirements of Zoning Law Sec. 250-22(A)(3) to permit the building of an accessory garage in front of the principal structure at 203 Silver Lake Road in the Town of Clinton, **tax grid #132400-6470-00-349027**.

**WHEREAS:**

1. Applicant wishes to build a garage on an existing driveway on an approximately 20 acre property. The garage would be in front of the principal residence, which is farther up the same driveway.
2. At the outset, it should be pointed out that it is far from clear that a zoning variance is required. The section of the Zoning Code cited, Sec. 250-22(A)(3) states that an accessory structure shall not project closer to the fronting street than the principal building on the lot “or the required front yard setback for the district, whichever is less restrictive.” The applicant states, and the accompanying drawing shows, that the proposed garage is more than 100’ from the fronting street, Silver Lake Road, and thus more than the front setback required by Sec. 250, Attachment 2. Because 250-22(A)(3) permits the use of the less restrictive of front yard setback or principal structure location, the garage would appear to be permitted where proposed.
3. If a variance is required, it is our recommendation that it be granted. The proposed site is at a point on the driveway well away from Silver Lake Road, which is substantially wooded in this area. The garage may not be visible from the road. It is our judgment that the variance requested will not adversely affect the physical or environmental conditions of the neighborhood.
4. Applicant states that the garage cannot be built adjacent to the home because of a steep slope and location of the existing well. Thus, the variance sought cannot be achieved in any other way. The proposed location, applicant states, is at least 750 feet from the nearest neighbor.
5. The alleged difficulty is self-created.

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6. The New York State Environmental Quality Review Act has determined that the granting of an area variance for a single-family residence is a Type II action that therefore this action is not subject to further review.

***NOW THEREFORE, BE IT RESOLVED*** that the Town of Clinton Planning Board makes a positive recommendation to the Zoning Board of Appeals for an area variance.

Seconded by Ms. Ruzicka.

**Discussion.** Mr. Thomas asked about the septic, the submitted plan shows a bathroom. Mr. O'Brien responded that there will be no bathroom.

All Aye, Motion carried, 5-0.

**Milea Site Plan** – property owned by Barry Milea located at Hollow Road, **Tax Grid No. 6366-00-120767.**

Applicant wishes to build two agricultural structures (connected via breezeway) for winery and vineyard purposes.

Tim Lynch, Engineer, appeared on behalf of the property owner. He explained that they are proposing to build 25 x 42 and 22 x 18 structures for wine tasting. One structure may be used for direct marketing of vineyard products. He noted that this property has Agricultural Exemptions.

Chairman DePasqua solicited questions and comments from the board.

Mr. Thomas expressed his comments. Based on his reading of the code, it doesn't seem that the proposed action requires Site Plan Approval. This is a farm and farms are subject to Ag and Markets ruling.

Mr. Marrapodi asked, "How close is the proposed structure to the setback?" Mr. Lynch responded that they are beyond the required setback. This is a big parcel.

The board has a lengthy discussion about the proposal. This will be a winetasting barn and vineyard and will also be used commercially. The board reviewed the code and found nothing on the section that triggers Site Plan approval. The board agreed that there is no Site Plan approval needed. This is a farm and is under Ag and Markets jurisdiction.

The board passed a resolution.

Mr. Thomas motioned that the Town of Clinton Planning Board determined that the **Milea Estate Winery Agricultural Barn**, property on Hollow Road, Tax Grid No. 6366-00-120767 does not require a Site Plan Approval and is under the jurisdiction of Ag and Markets ruling.

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Seconded by Mr. Marrapodi.

**Discussion.** None.

All Aye Motion carried, 5-0.

**OTHER MATTERS:**

Mr. Werner gave an update about the zoning revision. The committee is done with their review and amendment. The draft copy of the zoning law with redlines can be found on the website.

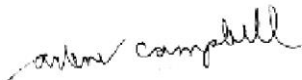
**APPROVAL OF MINUTES:**

Mr. Marrapodi motioned to approve the minutes of June 5, 2018, seconded by Ms. Ruzicka, all Aye, Motion carried, 5-0.

**ADJOURNMENT:**

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

Respectfully Submitted,



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