

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
May 21, 2019**

MEMBERS PRESENT

Art DePasqua, Chairman

Jack Auspitz
Justin Carroll
Sara Love
Paul Thomas
Tracie Ruzicka

MEMBERS ABSENT

Gerald Dolan

Secretary – Arlene Campbell

ALSO PRESENT

Eliot Werner, Liaison Officer

Chairman DePasqua called the meeting to order at 7:30 pm.

VARIANCE APPLICATION:

None

PUBLIC HEARING:

None

APPLICATIONS:

Richard and Elizabeth Ruggiero - property located at 546 Browning Road, **Tax Grid No. 6367-00-979175** which is in the Hamlet.

The applicants requested the following area variances for the front and rear decks that encroach the setback.

Sec. 250 Attachment 2 (District Schedule of Area and Bulk Regulations) of the Town of Clinton Zoning Regulations:

- Front Deck – side yard setback reduction from 48’ to 45’
- Rear Deck – side yard setback reduction from 48’ to 47’

Mr. Ruggiero appeared for his application. He explained that he’s in the process of selling his house. It turns out that the two decks that were built in 1981 need Certificates of Occupancy. He is now before the board to correct the issue.

Ms. Ruzicka stated that these decks were built without building permits. They are in the setbacks.

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES**

May 21, 2019

The board discussed the application. Ms. Ruzicka asked if the required setback is 50 feet. Mr. Thomas stated that this property is in the Hamlet. The denial letter from the Zoning Administrator indicates 48 feet (1/3-2/3 ruling per Note 4 of Schedule of Area and Bulk Regulations).

Mr. DePasqua said that the current owner bought the property with the deck already constructed. Mr. Ruggiero is basically cleaning it up. Ms. Campbell noted that the violation was discovered via municipal search from the title company.

Ms. Ruzicka asked if this property is also in the CEA. Mr. Thomas responded, "Yes."

The board passed a resolution.

Ms. Ruzicka motioned the following resolution:

Be it Resolved that the Clinton Planning board makes a positive recommendation to the Zoning Board of Appeals on the requested area variances to Sec. 250 Attachment 2 reducing the side yard setback from 50 feet to 45 feet for the front deck and from 50 feet to 47 feet for the rear deck as requested by Richard and Elizabeth Ruggiero on property located 546 Browning Rd., Salt Point, NY , **Tax Grid No. 6367-00-979175-00 in an H Zoning District.**

WHEREAS:

1. The applicant is requesting a reduction in the side yard setback from 50 feet to 45 feet for the front deck and from 50 feet to 47 feet for the rear deck Both decks have been installed since approximately 1981, the applicants are bringing the property into compliance with this variance, as both the front and rear decks have been in place since 1981.
2. The property is not in an Ag District.
3. The property is not within the Ridgeline, Scenic and Historic Protection Overlay District
4. The property is in a CEA(Critical Environmental Area)
5. The variance requested is not substantial, as the decks are both in place on the house which is situated on the edge of the lot making any decks encroach on the setback areas.
6. An undesirable change in the neighborhood will not occur since the decks have been in place for almost 40 years.
7. The alleged difficulty is self-created, as the applicants wish to bring their property into zoning compliance.

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
May 21, 2019**

8. No adverse effects will be created because the decks are already built
9. There is a letter of authorization in the file for Richard to act on behalf of his wife, Elizabeth

NOW THEREFORE, BE IT RESOLVED, the Planning Board is making a positive recommendation for approval to the Town on Clinton Zoning Board of Appeals.

Seconded by Mr. Auspitz.

Discussion. None.

All Aye, Motion carried, 6-0.

Joe and Diane Eramo - property located at 586 Clinton Hollow Road, **Tax Grid No. 6462-00-124105** which is in the AR3 Zoning District.

The applicants request an area variance to Section 250 Attachment 2 (District Schedule of Area and Bulk Regulations) of the Town of Clinton Zoning Regulations for a side yard setback reduction from 50 feet to 25.7 feet in order to construct a 2-car attached garage to the north side of the house.

John McKhee from McKhee Construction appeared on behalf of the property owners. He explained that the Eramos wish to build a two-car garage. Due to the shape of the lot that is pretty narrow, putting the proposed garage on either side of the house will trigger a variance.

Ms. Campbell indicated the area variance that was granted in the year 2000. The property owner lost the variance for failing to construct the garage at that time.

Mr. Carroll expressed his comments per his site visit. The property to the left which is close to the proposed site is wooded and quite steep. There are lots of cars on the property so putting up a garage is definitely a great idea. Mr. Carroll also indicated the topography of the property. This is a nonconforming lot in an AR3 Zoning District.

Chairman DePasqua asked Mr. Carroll where the wooded area is. Mr. Carroll pointed out on the map the wooded area and the proposed location of the garage.

Chairman DePasqua asked about the height of the proposed garage. Mr. McKhee responded that the garage will not be taller than the house. It will probably be two feet lower than the ridge of the house.

Mr. Thomas asked about the rationale of the chairman's question. Chairman DePasqua responded that he hates to see the garage sticking out and higher than the house. He

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
May 21, 2019**

commented that the Zoning Board of Appeals might need more details of the proposed garage.

The board passed a resolution.

Mr. Carroll motioned the following resolution:

Resolution of the Town of Clinton Planning Board Making a Positive Recommendation to the Zoning Board of Appeals on the requested area variances to Sec. 250 Attachment 2 reducing the side yard setback from 50 feet to 25 feet 7 inches to build a 20' x 30' attached garage as requested by Joe and Diane Eramo on property located at 586 Clinton Hollow Road, Salt Point NY, Tax Grid No. 132400-6467-00-124105-0000 in an AR3 Zoning District.

WHEREAS:

1. The Applicant is requesting a reduction in the side yard setback on the north side of the house from 50 feet to 25 feet 7 inches to build a 20' x 30' attached garage on a 2.4-acre non-conforming lot.
2. The property is in an AR3 Zoning District.
3. The property is not within the Ridgeline, Scenic, and Historic Protection Overlay District.
4. The property is not in a Critical Environmental Area.
5. The variance requested is substantial, however, the lot is very narrow and appears to have been established before the Town's zoning requirements.
6. An undesirable change will not be produced in the character of the neighborhood or be detrimental to nearby properties as this non-conforming lot is among others in the neighborhood.
7. There is no other location to place the garage given the lot configuration, and the benefit sought by the applicant can not be achieved by some other method.
8. The proposed variance should not have an adverse effect or impact on the physical and environmental conditions of the neighborhood.
9. The alleged difficulty is self-created but should not necessarily preclude the granting of the area variance, considering the surrounding conditions.
10. There is a letter of authorization on file for John McKee to act on behalf of Joe and Diane Eramo.

NOW, THEREFORE, BE IT RESOLVED, the Planning Board is making a positive recommendation for the approval to the Clinton Zoning Board of Appeals for this requested variance.

Seconded by Ms. Ruzicka.

Discussion. None.

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
May 21, 2019**

All Aye, Motion carried, 6-0.

Doniger Wetlands Permit – property on 221 Hollow Road, **Tax Grid No. 132400-6267-00-740492.**

The applicant wishes to construct a driveway from Browns Pond Road and install an electric service that will access from Hollow Road that is within the 100-foot buffer of the wetlands per Sec. 250.78.

William Cornwell from Windmere Properties was back before the board. This is a 47.44-acre parcel in an AR5 Zoning District. They are looking to construct a 4-bedroom house, septic field, and well on this property. Mr. Cornwell stated that they designed the plans to stay outside the wetlands buffer; however, in order to access the proposed homesite, there will be a 2400-square foot driveway and possible disturbance to the 100-foot wetland buffer. This driveway access will be off Browns Pond Road.

He recapped what had transpired at the previous meeting. He indicated the town engineer's comments per letter dated May 6, 2019. The newly submitted plans reflect the additional silt fence to manage the erosion control.

Mr. Thomas explained the details of the proposed project. There are basically two things going on in here. The applicant proposes an underground electric running from Hollow Road to the homesite by the lake which is also within the buffer of 100 feet. The second proposition is the driveway from Browns Pond Road which is also within the 100 feet buffer of the controlled area. Mr. Thomas noted that the town engineer has signed off on this project.

Mr. Thomas indicated the Scenic and Historic Roads Committee comment about the mature trees by the driveway entry.

Mr. Cornwell expressed no objection as long as the emergency vehicles can get in there. Ms. Campbell noted that the Highway Department also has to sign off on the driveway.

Chairman DePasqua noted that the applicant already obtained their DEC permit. The applicant added that they also received the Board of Health approval.

The board agreed that public hearing is not necessary for this application.

The board passed a resolution after the review of the Short Form EAF.

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

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES**

May 21, 2019

BE IT RESOLVED, that the Town of Clinton Planning Board approves the Doniger Controlled Area Permit on property located at 221 Hollow Road.

WHEREAS:

1) The Town of Clinton Planning Board has received an application from Michael Doniger for a Controlled Area Permit pursuant to Section 250-78 of the Zoning Law allowing the construction of a driveway and installation of underground electrical service on a 47.5 acre parcel located at 221 Hollow Road, which is located in the Residential Hamlet (RH) District in the Town of Clinton, Tax Grid No. 132400-6267-00-740492.

2) The proposed underground electric line will be installed along an existing gravel road extending from Hollow Road to the site of the proposed residence, a distance of about 2185 feet. A section of the electric line about 540 feet in length will be located within 100 feet of the shore of Fiddler's Quarry, a lake as defined Section 250-105 of the Zoning Law and, accordingly, would entail excavation and construction in a "Controlled Area" for purposes of Section 250-78 of the Zoning Law.

3) The proposed driveway will be 12 feet wide and will follow an existing path from Browns Pond Road to the residence site. A section of the proposed driveway about 145 feet in length will be built within 100 feet of NY DEC Wetland SP-7, also a "Controlled Area" under Section 250-78.

4) The applicant has obtained a permit from NYSDEC relating to the proposed activity.

5) Section 250-78 of the Town of Clinton Zoning Law prohibits construction or installation of any driveway or utility corridor within a Controlled Area unless a permit has been issued by the Planning Board.

6) Section 250-78H(1) of the Zoning Law allows the Planning Board to waive the information and other requirements set forth in Section 250-78F(4) and the Planning Board has determined to waive the following items in Section 250-78F(4) given the nature of the proposed activity: (d) (vegetative cover of the area) and (e) (description of soil types). The Planning Board did not conduct a public hearing.

7) The Town Engineer has inspected the applicant's submission and, in a memorandum to the Planning Board dated May 6, 2019, noted that 1) an NYSDEC permit has been obtained relating to the proposed activity; and 2) the electric service will be installed along an existing path and, if erosion control is provided, will have little or no impact on the adjacent lake. The applicant has revised his submission in accordance with the Town Engineer's comments and the Town Engineer has indicated that the application may proceed to final approval.

8) The Town of Clinton CAC has reviewed the application and did not provide any recommendations or comments.

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
May 21, 2019**

9) Accordingly, the Planning Board has concluded that the proposed driveway and the electric line will not have a significant effect on the ecology of the lake and wetlands, the public health and welfare, flood hazards or water supply in the area.

10) The applicant has obtained a driveway permit from the Town of Clinton Highway Department authorizing the construction of the driveway from Browns Pond Road. The Scenic and Historic Roads Advisory Committee has recommended placement of the driveway entrance between two existing mature trees, thereby eliminating the need for their removal, and the Planning Board agrees with the recommendation and directs the applicant to site the driveway entrance accordingly.

11) The applicant submitted a short form EAF. At its May 7, 2019 meeting, the Planning Board declared itself lead agency for this unlisted, uncoordinated action. At its May 21, 2019 meeting, the Planning Board reviewed the EAF and related submissions by the applicant, as well as the Town Engineer's report, and issued a negative declaration of significance.

NOW, THEREFORE, BE IT RESOLVED, the Town of Clinton Planning Board grants the requested Controlled Area Permit provided the following conditions are met:

- a) All appropriate fees have been paid.
- b) The map shall include a notation indicating Dutchess County Board of Health approval for the sewage disposal system.

Seconded by Mr. Auspitz.

Discussion. None.

Aye, Motion carried, 6-0.

BOARD DISCUSSION:

Michael Whitton gave an overview of the proposed solar law. The board had a lengthy discussion about the proposed Tier 3 (Solar Farm).

Mr. Werner discussed the proposed events moratorium.

APPROVAL OF MINUTES:

Mr. Auspitz motioned to accept the minutes of May 7, 2019, seconded by Mr. Carroll, all Aye, Motion carried, 6-0.

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
May 21, 2019**

ADJOURNMENT:

Ms. Love motioned to adjourn the meeting at 9:45 pm, seconded by Mr. Thomas, All Aye, Motion carried, 6-0.

Respectfully Submitted,



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