

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
December 5, 2013**

MEMBERS PRESENT

Joseph Malcarne, Chairman

John Calogero
Charles Canham
Norma Dolan

Arthur Weiland

Arlene Campbell, Secretary

MEMBERS ABSENT

Frank Kealty
Macy Sherow III

ALSO PRESENT

Chairman Malcarne called the meeting to order at 7:38 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:

Joseph and Shari Jordan – 84 Sunset Trail **Joseph and Shari Jordan** on property located at 84 Sunset Trail, **Tax Grid No. 6467-00-310312.**

The applicants propose an area variance to Sec. 250 Attachment 1 of the Town of Zoning Law for a side yard setback reduction from 50 feet to 20 feet in order to construct a 24' x 36' storage barn.

Joseph Jordan appeared and explained his application. He needed a barn for storage. He asked his neighbor if he can buy the adjoining piece of land (100 feet strip) to avoid the variance but the property owners turned him down. The Haggertys (property owners) want to keep the piece of land for future use. Mr. Jordan noted that the Haggertys indicated their lack of objection about this variance.

Mr. Jordan stated that they wanted to construct a 24' x 36' barn 20 feet east of the property. He explained why the proposed area is the best site to locate the barn. Putting the storage barn to the other areas of the property will obstruct the view to the Sunset Trail and will require taking down trees.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
December 5, 2013**

Chairman Malcarne asked questions and comments from the board.

Mr. Canham read the Planning Board recommendation (PB meeting dated 11-19-13) which is positive. No letters were received from the neighboring property owners.

Mr. Canham expressed his comments per his site visit. This seems to be a straight forward case. The property is effectively protected from the neighbor. The presence of the 100 feet strip helps a bit because of the setback. This case is exactly what variances are created for.

Mr. Canham asked the applicant about the exact amount of variance he is seeking. The Planning Board's recommendation indicates "approximately....". Mr. Canham stated that the board needs the exact number of variance to grant.

Mr. Jordan responded that they measure the setback from the property line to the corner of the structure. After reviewing the map, the board agreed that the variance needed is 20 feet which is to the corner of the overhang. Mr. Weiland suggested closing the overhang in the future.

Ms. Dolan gave her comments about this project. She indicated her positive stand about this case. However, there is a technical issue that needs to be addressed. She stated that the buffer could be incorporated to a 5 acre parcel. The buffer is a moot point. She opined that this could cease as a buffer at some point. She doesn't want to take the neighboring property owner's rights by granting a variance based on the buffer. She stated that it could be beneficial if there is a letter from the neighboring property owners.

Mr. Weiland remarked that the buffer issue will be reviewed by the Planning Board when a subdivision application is filed.

Ms. Dolan indicated her second concern about this application. The gravel driveway on this property didn't show up on the map based on the 2009 Dutchess County Aerial map. She asked if there was a driveway permit issued for this driveway.

Mr. Jordan responded, "None". This driveway had always been on this property. They recently put the gravel on this driveway due to the drainage issue. He noted that the Highway Superintendent was aware of this driveway.

Ms. Dolan remarked that they have to make sure that there is a permit for this driveway. This is the access to the barn. Ms. Dolan explained how this driveway could create a problem in the future if it doesn't have a permit or meet its guidelines as a driveway.

Chairman Malcarne stated that it is best to find out whether there is a permit for this driveway. He asked the applicant about the purpose of the gravel driveway. Mr. Jordan responded that this driveway had always been an access to the barn.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
December 5, 2013**

Mr. Calogero expressed his comments about this project. It seems that the variance is a small price for the Town to pay in relation to taking trees down. He indicated his favorable comments about the idea of saving the trees in relation to the variance.

The board agreed to open the public hearing.

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

Hearing no comments from the public, Chairman Malcarne motioned to close the public hearing, seconded by Mr. Calogero, all Aye, Motion carried, 5-0.

Mr. Weiland informed the applicant about “No Storage” in the side yards and down lighting issue. He suggested including these items in the conditions.

Chairman Malcarne noted that the “No storage in the side yards” is part of the zoning regulations.

The board agreed to pass a resolution, to wit:

Mr. Charles Canham motioned that the Town of Clinton Zoning Board of Appeals grant an area variance requested by **Joseph and Shari Jordan** with respect to the Town of Clinton Zoning Law District Schedule of Area and Bulk Regulations for a side lot setback reduction to 20 feet from the required 50 feet for the purposes of constructing a storage barn on their property at 84 Sunset Trail, **Tax Grid No. 132400-6467-00-310312**. The 5 acre property is located in the Agricultural Residential 5 (AR5) District in the Town of Clinton.

Factors:

1. The applicants request an area variance to allow construction of a 24’ x 36’ storage barn with 8’ open overhangs within 20’ of the side lot boundary. This is within the 50 foot side yard setback required by the District Schedule of Area and Bulk Regulations.
2. The property is located within the Ridgeline, Scenic and Historic Protection Overlay, and is located on a town-designated Scenic and Historic Road.
3. The requested variance is substantial, but allows construction of the storage barn in a site that minimizes impacts on scenic qualities and environmental conditions on the property.
4. There will be no adverse effect of the variance on physical or environmental conditions within the neighborhood. The proposed site for the storage barn is in a

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
December 5, 2013**

location that is buffered by an adjacent heavily forested lot approximately 100' wide.

5. The benefit sought by the applicant – construction of the storage barn - could only be achieved without a variance by significant clearing of trees on the property.
6. The alleged difficulty is self-created.
7. An area variance is a Type II action under SEQRA and requires no further action.

Conditions:

1. That all fees have been paid.
2. All exterior lighting be downward cast.
3. Subject to Highway Superintendent review of the access to the building site.

Seconded by Mr. Calogero,

Discussion. Mr. Weiland stated that the driveway issue should be included in the resolution. The board discussed the above issue. Mr. Weiland noted that this issue should be addressed before the variance can be granted. This property is in violation if the driveway doesn't have a permit. The board cannot grant a variance to a property that has a violation.

Mr. Canham noted that there is a sign off from the Zoning Enforcement Officer about no violation on this property.

After a long discussion about the issue, the board agreed to include this item as a condition. Mr. Canham asked the board how to phrase the driveway issue in the resolution to prevent the applicant from coming back before the board.

Ms. Dolan suggested putting "subject to review and recommendation or approval of the Highway Superintendent."

Chairman Malcarne commented that this is a Highway Superintendent's purview. If this driveway is not pre-existing, Mr. Tomkins will just order a driveway permit or state that the driveway can no longer be used.

Mr. Weiland stated that it is better to get a letter from the Highway Superintendent about this driveway.

All Aye, Motion carried, 5-0.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
December 5, 2013**

APPROVAL OF MINUTES:

Chairman Malcarne motioned to accept the minutes of September 24, 2013 seconded by Mr. Calogero, all Aye, Motion carried, 5-0.

ADJOURNMENT:

Chairman Malcarne motioned to adjourn the meeting at 8:56 pm, seconded by Mr. Canham, All Aye Motion carried, 5-0.

Respectfully Submitted By:



Arlene A. Campbell
Zoning Board of Appeals Secretary

Cc: Carol Mackin, Town Clerk