

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 23, 2014**

MEMBERS PRESENT

Joseph Malcarne, Chairman

Charles Canham

Frank Kealty

Arthur Weiland

Arlene Campbell, Secretary

MEMBERS ABSENT

John Calogero

Norma Dolan

Macy Sherow III

ALSO PRESENT

Bob Fennell, ZEO

Chairman Malcarne called the meeting to order at 7:34 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:

William and Janet Boyer Area Variance - property on 31 Long Pond Road tax grid #132400-6469-00-273503.

The applicants are seeking an area variance to Section 250 Attachment 2, to allow for the creation of a nonconforming 4.40-acre lot with a substandard minimum lot width of approximately 378 feet, on a 5.32-acre site in a Conservation zoning district.

Mr. Boyer was back before the board. He recapped what had transpired at the previous meeting dated 9-25-14. He explained the new configuration of the lot lines as shown on the map. They eliminated the request for another variance as indicated on the original application by moving the lot line to reduce the lot width. Lot 17 (vacant lot) will have 5.00 acres remaining after combining .32 acres to Lot 16 where the house is. The new layout is Lot 17 from 5.32 acres to 5.00 acres and Lot 16 – from 3.94 acres to 4.26 acres.

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Chairman Malcarne asked for questions and comments from the board.

Mr. Canham commented about the building envelope on Lot 17 (vacant lot) that is shown on the map. Lot 17 is like a flag lot where the lot opens up. The surveyor drew a proposed building envelope on the map where it doesn't make sense. The purpose of the building envelope is irrelevant for what this application is all about. The minimum lot width should be 400 feet. It's hard to tell the setbacks measurement due to the scale of the map.

Mr. Weiland noted that the surveyor normally illustrates the building envelope on the map to show the setbacks. He suggested not showing the proposed building envelope on the survey since this might give the future property owners a wrong idea about the property setback.

Mr. Canham stated that the relevant thing about this application is about the requested variance (reduction of lot width from 400 feet). He commented that the zoning regulation is ambiguous since the law states that the minimum lot width should be 400 feet from the building line. The building line is 100 feet back. Mr. Canham thinks that the variance should be 356 feet. He commented that it is hard to tell due to the zoning code.

Chairman Malcarne agreed. He stated that the board can grant the variance from 400 to 356 feet. If the line came in a little more, then he's not too concern about it.

Mr. Weiland commented that he didn't really look at this aspect. He opined that if the situation is really critical then the board will normally seek an interpretation.

Mr. Weiland indicated the advantage of showing the building envelope on the survey i.e. storage in the setback.

Mr. Boyer questioned the above discussion. He asked if he needs another variance.

Chairman Malcarne explained the variance needed for the lot width. Based on the previous discussion regarding the evasion of the acreage variance, the configuration about moving back the lot line will open up to a flag lot i.e. within the 400 feet lot width. This requires no variance. The lay out that is before the board is 356 feet and this needs a variance.

Mr. Weiland noted that in terms of procedural process, the legal ad that was posted on the paper indicates the request for the two variances and therefore the lot width reduction is covered on this posting.

Mr. Canham expressed his comments about this application. Going below the acreage threshold is a major issue since this will create a nonconforming lot. The revised configuration will address the Planning Board's recommendation and zoning issue. He stated that he is relieved that this is no longer an issue.

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Chairman Malcarne opened questions to the public. It was noted that the public hearing was opened at the previous meeting and remains opened.

Dorothy Lenore, 785 Fiddlers Bridge Rd asked about the building envelope as shown on the map. Chairman Malcarne responded that the building envelope on the map is irrelevant for the purpose of discussion of this application.

Lenore Maroney also from 785 Fiddlers Bridge Road asked about the setback from the neighboring property lines. Mr. Canham indicated the zoning setback on this area. Mr. Weiland noted the storage regulation in the setback. These areas are supposed to be an open space. Most of the property owners are not aware of this regulation.

Mr. Boyer noted that the purpose in showing the proposed building envelope on the map is the location of the septic.

Ms. Maroney asked, "How old is the septic? Since the house was built in 1973, was this the same septic that was put in 1973? The vacant lot's BOH approval was done in 1973. Ms. Lenore asked if it is hard to get Board of Health approval on a land.

Chairman Malcarne noted that Board of Health approval expires after five years. He explained that in order for a land to have a septic system, the land has to be in compliance with the regulations of the Department of Health.

Ms. Lenore indicated her strong opposition about the requested variance (lot width reduction) due to the neighboring properties. Ms. Maroney echoed the same opinion though she was glad that the variance about the acreage was eliminated.

Chairman Malcarne noted that the neighboring property is a buildable lot.

Mr. Canham read the Planning Board's recommendation which is positive. One letter was received from the neighboring property owners, 785 Fiddler's Bridge Road, expressing strong objection of the proposal.

Ms. Lenore indicated that there was another property owner who was supposed to attend the public hearing but did not make it.

Hearing no more comments from the public, the board agreed to close the public hearing.

Chairman Malcarne motioned to close the public hearing, seconded by Mr. Weiland, All Aye, Motion carried, 4-0.

Mr. Weiland responded to the concern about the dilapidated building on this area that was discussed from the previous meeting. He noted that this matter was brought to the Building Department's attention.

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After all the discussions were made, the board agreed to pass a resolution, to wit:

Mr. Charles Canham motioned that the Town of Clinton Zoning Board of Appeals grant the area variance requested by **William and Janet Boyer** to Section 250 Attachment 2 to reduce the minimum lot width to 356 feet on a 5.32 acre site in a Conservation zoning district located at 31 Long Pond Road in the Town of Clinton, **tax grid 132400-6469-00-273503**.

Factors:

1. The applicants propose a lot line adjustment that would reduce the size of the lot from 5.32 acres to 5 acres, the minimum lot size in the C district. The lot line adjustment would result in a reduction in minimum lot width beyond the building line to approximately 356 feet, below the minimum lot width of 400 feet at the building line required for properties in the C district.
2. The applicants own and reside in the adjacent lot, and the intent of the change is to transfer to the adjacent lot portions of the yard which have historically been used as part of their residence.
3. The requested area variance is substantial, and the alleged difficulty is self-created.
4. The variance will be consistent with the General Standards listed in Section 250-10 Subsection C for the Conservation Agricultural Residential District.
5. There will be no adverse effect of the variance on physical or environmental conditions within the neighborhood. The variance will simply allow the applicants to continue to use the transferred land for a garden, and will reduce the nonconformity of the size of the adjacent lot.
6. An area variance is a Type II action under SEQRA and requires no further action.

Conditions:

1. That all fees have been paid.

Seconded by Mr. Kealty,

Discussion. Mr. Weiland asked about the dimension of the lot before the lot line modification. Chairman Malcarne responded that the lot width was 400 feet. If this was the previous configuration then there is no need for a lot width variance. He opined that this lay out is more convenient to the property owner.

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All Aye, Motion carried 4-0.

APPROVAL OF MINUTES:

No minutes were approved.

ADJOURNMENT:

Chairman Malcarne motioned to adjourn the meeting at 8:40 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