

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
February 27, 2014**

MEMBERS PRESENT

Joseph Malcarne, Chairman

John Calogero
Charles Canham
Norma Dolan
Frank Kealty
Macy Sherow III
Arthur Weiland

MEMBERS ABSENT

Arlene Campbell, Secretary

ALSO PRESENT
Bob Fennell, ZEO

Chairman Malcarne called the meeting to order at 7:32 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:

Kevin and Nancy McDonald - property located at 110 Sodom Rd. **Tax Grid No. 6366-00-530940.**

The applicants propose re-approval of an area variance to Sec. 250 Attachment 2 (Area Bulk Regulations) of the Town of Clinton Zoning Law for a sideyard setback reduction from 50 feet to 32 feet 8 11/16 inches in order to construct a 328 feet storage building that was approved in October 2012.

Kevin MacDonald appeared and explained why he was back before the board. He needed a variance for a side yard setback in order to construct a 20' x 30' pole barn. He didn't realize that the variance expires after a year until a building permit was sought recently. He noted that there are no changes on this property.

Mr. Sherow read the Planning Board's recommendation to the Zoning Board of Appeals which is positive. No letters or communications were received from the adjoining property owners.

Chairman Malcarne asked for questions and comments from the board.

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Mr. Sherow asked about the outside lighting of the proposed structure. Mr. MacDonald responded that the lightings will be off at night. The use of this building is just for storage.

Mr. Sherow asked Mr. MacDonald about the type of building he is proposing. Mr. MacDonald responded that he is just proposing a pole barn/shed. It's basically a one door garage.

The panel discussed the layout of the proposed structure.

Mr. Canham asked about the driveway on this property. Mr. MacDonald responded that there is a shared-driveway on this property. He pointed out on the map how to access the proposed barn.

Mr. Weiland commented about the front yard setback. It is a few inches short of 100 feet although it is almost 100 feet. He stated that it should state 100 feet for the front yard setback.

Mr. Weiland suggested including "down lighting" in the resolution. Ms. Dolan added including the regulation about "No Storage in the setback". Mr. MacDonald agreed and indicated his recollection about the discussion regarding the storage in the setback from the original application.

The board agreed to open the public hearing. Chairman Malcarne motioned to open the public hearing, seconded by Mr. Calogero, All Aye, Motion carried, 7-0.

Richard Morse, 610 Hollow Road stated that he just wanted to make sure that the property owner is not trying to build a tennis court.

Ms. Dolan asked if the letter of authorization from the applicant's wife had been received. Ms. Campbell responded, "Yes, it was submitted at the meeting".

Mr. Calogero asked the applicant about his timeline in starting the proposed barn. Mr. MacDonald responded that he wants to start the construction as soon as the ground is not frozen.

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. Kealty, all Aye, Motion carried, 7-0.

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

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Mr. Sherow motioned that the Town of Clinton Zoning Board of Appeals grant an area variance to Section 250.16 Attachment 2 of the Town of Clinton Zoning Law to reduce the side yard setback from 50 feet to 32.8 feet for the construction of a storage building on property owned by **Kevin and Nancy MacDonald** located at 110 Sodom Road, **Tax Grid No. 6366-00-530940**.

FACTORS:

1. The applicant is requesting construction of a 24' x 30' storage building on a nonconforming lot to store personal items and equipment that is currently being stored outside.
2. This is 1.04 acre lot located in an AR3 Zoning District.
3. The benefit sought by the applicant cannot be achieved by any other feasible method.
4. The lot is on a designated Scenic or Historic Road.
5. The site is not within a CEA.
6. An area variance does not require an Ag Data Statement.
7. An area variance is a Type II action under SEQRA and requires no further action.
8. The site does not contain a NYSDEC wetland.
9. The property is not located within the Ridgeline, Scenic, or Historic Preservation Overlay District.
10. The requested variance is substantial.
11. There will be no adverse effect or impact on the physical or environmental conditions in the neighborhood.
12. The alleged difficulty is self created.
13. The application fee has been paid.
14. There are known violations on this property.

Condition:

1. Any installed lighting would be down-lighting on the exterior.

Notes:

1. No storage within the required setback.

Seconded by Mr. Kealty.

Discussion. Mr. Weiland commented about the statement in the resolution stating “There are no known violations on this property.” He stated that this variance is the remedy of the violation.

Ms. Dolan stated that the board normally includes a notation about the down lighting in the resolution.

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Mr. Canham commented about the Planning Board's recommendation. The condition seems reasonable. He suggested incorporating this item in the resolution.

Ms. Dolan remarked that there is a discrepancy in the Planning Board's recommendation. The recommendation states that the variance is not substantial. Ms. Dolan opined that the requested variance is substantial.

Mr. Weiland stated that the variance is 40%. The board agreed that the requested variance is substantial.

The board discussed the condition of the variance. Mr. Sherow read the condition about the clean up on the property.

Chairman Malcarne stated that the applicant needs to clean up the property prior to the issuance of the building permit.

Mr. Fennell noted that the issuance of the building permit is intended to remedy the violation on this property.

Ms. Dolan suggested putting a notation instead of a condition in the resolution.

The board agreed to include "storage in the setback" as a notation versus a condition in the resolution.

Mr. MacDonald asked if the measurement of the front yard setback starts from the center of the road.

Mr. Fennell responded that it should be measured from the nearest edge of the right of way per Sec. 250.23 A.

Sec. 250-23-A (Measurement and Use of yards) states that the front yard setback is measured from the nearest point on the center line of the road or right of way. Where the width of the right of way is greater than 60 feet, the front yard is measured from the nearest edge of the right of way.

All Aye, Motion carried, 7-0.

OTHER ITEMS:

Ms. Campbell stated that there are a lot of cases recently where property owners lose their approvals due to ignorance of the zoning regulations. She suggested putting an expiry date on the motion to spell out the validity of the variance.

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The board agreed to include Section 250.98 D-2 A-3 (Variance Expiry) in every motion.

Mr. Calogero informed the board about the upcoming first Zoning Committee meeting. Any input, suggestions or comments about the proposed zoning can be emailed to him.

APPROVAL OF MINUTES:

Mr. Canham motioned to accept the minutes of January 24, 2014 seconded by Mr. Weiland, all Aye, Motion carried, 7-0.

ADJOURNMENT:

Chairman Malcarne motioned to adjourn the meeting at 8:34 pm, seconded by Mr. Kealty, All Aye Motion carried, 7-0.

Respectfully Submitted By:



Arlene A. Campbell
Zoning Board of Appeals Secretary

Cc: Carol Mackin, Town Clerk