

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
August 5, 2014**

MEMBERS PRESENT

Mike McCormack, Chairman
Art DePasqua
Gerald Dolan
Tracie Ruzicka
Robert Marrapodi
Paul Thomas
Eliot Werner

MEMBERS ABSENT

ALSO PRESENT

Arlene Campbell, Secretary

Dean Michael, Liaison Officer

Chairman McCormack called the meeting to order at 7:30 p.m.

VARIANCE APPLICATION:

Harding Area variance – property owned by John and Diane Harding located at 62 Camp Dr. Tax Grid No. 6468-00-180766.

The applicants are requesting an area variance to Sec. 250 Attachment 2 of the Town of Clinton Zoning Law to reduce the size of a pre-existing and non-conforming parcel for the purpose of selling part of it to the adjoining property owner. The property is in the C Zoning District.

Mr. and Mrs. Harding both appeared for their application. Also present for this application were the adjoining property owners, the Bamfords.

Mr. Harding explained why they were before the board. This is a 2.24-acre lot. They bought this property in September of 2013. They didn't realize that the adjoining property owner is over their property line until they had a survey done. The Bamfords put landscaping and a stonewall on their property, thinking that the area was part of their land.

Mr. Bamford stated that he owned his property for twenty-two years and made numerous improvements since 1993. He never cut down any trees and commented that this property is well maintained. He added that this is a simple lot line adjustment process.

Mr. Bamford remarked that nobody came to see his property. He asked the board to come to his property to see all the improvements that he has done. Chairman McCormack responded that several board members visited his property.

The Hardings stated that they wouldn't have known that the Bamfords went over the boundary line if not for the survey.

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Chairman McCormack stated that the property owners need to see the Zoning Enforcement Officer if there is a boundary line dispute or any issue with the zoning. He noted that the Planning Board is only doing a variance recommendation to the Zoning Board of Appeals and the final decision lies with the ZBA.

Ms. Ruzicka asked for clarity about the requested variance. The other lot will become more non-conforming but will make the other lot less non-conforming. Mr. Marrapodi added that these are two substandard lots. Mr. Werner affirmed.

After a lengthy discussion, the board agreed to pass a resolution.

Mr. Thomas motioned the following, to wit:

BE IT RESOLVED that the Town of Clinton Planning Board is making a **positive** recommendation to the Zoning Board of Appeals with respect to the area variance requested by **John F. and Diane M. Harding** from Section 250 Attachment 2 of the Town of Clinton Zoning Law the (“District Schedule of Area and Bulk Regulations”) for the purpose of reducing the size of a preexisting, nonconforming parcel located at 62 Camp Drive, **Tax Grid No. 132400-6468-09-180766**, which is located in the Conservation Agricultural Residential (C) District in the Town of Clinton.

WHEREAS:

- 1) The minimum lot size permitted in the C District is 5 acres and the applicants’ lot consists of 2.24 acres. The lot is preexisting, nonconforming with respect to the requirements of the Zoning Law.
- 2) The applicants wish to sell 0.30 acres to their neighbor to the east, leaving them with a 1.94-acre lot. The applicants request an area variance to allow them to convey said parcel to the neighbor by means of a lot line adjustment.
- 3) There are no known outstanding zoning violations on the property per the Zoning Enforcement Officer.
- 4) An area variance is a Type II action under SEQRA and requires no further action.
- 5) The requested area variance is substantial, but this should not preclude its granting due to the highly unusual circumstances associated with this application.
- 6) The benefit sought by the applicant cannot be achieved by some other method that will be feasible for the applicant to pursue.

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7) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.

8) The alleged difficulty is self-created.

9) The Planning Board is concerned about the precedential effect of a positive decision on this application (i.e., the reduction in the minimum lot size for the district). Therefore the Planning Board suggests that the Zoning Board of Appeals—if it approves the requested variance—note in its resolution that this decision is unique, based on extraordinary circumstances, and should not be construed as establishing a precedent for any other application.

10) The applicants will be required to submit to the Planning Board an application for a lot line adjustment if the requested variance is granted. The applicants will remove the shed located in the side yard adjacent to the Bamford property prior to submission of an application for a lot line adjustment.

11) The application fee has been paid.

NOW THEREFORE, BE IT RESOLVED, the Town of Clinton Planning Board is making a **positive** recommendation to the Zoning Board of Appeals with respect to the applicants' request for the referenced area variance.

Seconded by Mr. Werner.

Discussion. Mr. Thomas advised the applicant that the shed is in side yard violation. He needs to get another variance if he chooses to leave the shed on the same site.

Mr. Harding remarked that the shed came with the sale of the house. The board explained that the shed will be in violation of the setback after the variance.

The panel discussed the above issue. Mr. Harding asked about his options. He asked if he will also need a variance if he moves this shed to a different location of his property. The board responded, "Yes, if it is in the setback."

Mr. Harding asked a follow-up question. How will he know that he is not intruding on the neighboring property line and whether he is violating a setback regulation? Mr. DePasqua advised Mr. Harding to see the Zoning Enforcement Officer for guidance in moving the shed to a different location. He doesn't need a variance if the shed comes down.

Mr. Harding asked if there is a deadline in removing the shed. Mr. Thomas responded that as long as he removes it before the Lot Line Adjustment application.

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Mr. DePasqua expressed his comments. The neighboring property owners (Bamfords) have done a tremendous job on that site. This property is well maintained and this action is not going to change anything.

All aye, motion carried, 7-0.

PUBLIC HEARING:

None

APPLICATIONS:

Rouda 2 -lot subdivision (Sketch Plan approval) – property owned by Mitchell and Andrea Rouda and Ira Rosenfeld located at 404 Pumpkin Lane, Tax Grid No. 6568-00-340232.

Applicants wish to subdivide the 26.85 acre lot into 2 buildable lots. Lot 1 – 10.79 acres and Lot 2 – 16.06 acres.

Ira Rosenfeld appeared on behalf of the other property owners.

Mr. Rosenfeld explained their proposal. Together with other two friends, Mitchell and Andrea Rouda, they bought this property 10 years ago. They want to sell the property with the house and hold on to the 16-acre vacant lot that is on the south side of Pumpkin Lane. He noted that they are not interested in making two lots on the south side. They simply want to separate the two properties, which are bisected by Pumpkin Lane.

Chairman McCormack asked for questions and comments from the board.

Mr. Marrapodi questioned the role of Mr. Rosenfeld as a part owner. The property card listed Roudas as property owners.

Mr. Rosenfeld responded that all their names are listed on the survey as owners of this property. Mr. Rouda and his wife refinanced the property years ago and Mr. Rosenfeld is not sure why his name is not showing up on the property card. Mr. Rosenfeld noted that his name is on the Deed.

Mr. Marrapodi asked the applicant if he has a Letter of Authorization from the other property owners. Mr. Rosenfeld responded, “Yes.” Mr. Werner suggested getting a copy of the deed showing Mr. Rosenfeld’s name as one of the owners.

The board reviewed the map. Mr. DePasqua corrected the acreage of the vacant lot. It should be 17.05 acres.

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Mr. Werner asked the applicant to submit a revised sketch map to reflect what's on the property. The survey shows a basketball court when there is really none. The map needs to be labeled Preliminary and Final Approval. All the structures on the map need to be labeled as well.

Mr. Thomas stated that the potential driveway also needs to be shown on the map. Mr. Rosenfeld asked if the driveway needs to be constructed for the future property owners.

Ms. Ruzicka responded that he only needs to show the potential driveway on the map. It doesn't need to be built. He needs to see the Highway Superintendent to locate the potential driveway on this property.

Mr. Rosenfeld asked the board about other items that need to be on the map. Chairman McCormack advised the applicant to check the Subdivision Regulations about the checklist requirements.

The board declared itself lead agency.

Mr. Werner motioned that the Town of Clinton Planning Board approves the following resolution:

BE IT RESOLVED the Town of Clinton Planning Board hereby declares its intention to be the lead agency for review of the project pursuant to Sections 617.6(2) and (3) of 6 NYCRR 617, in the matter of the two-lot subdivision for the **Rouda/Rosenfeld property, tax grid #132400-6568-00-340232**, located at 404 Pumpkin Lane in the Town of Clinton, for this unlisted, coordinated action.

BE IT FURTHER RESOLVED the Planning Board hereby directs that copies of the Subdivision Application, the Part I EAF, and the Subdivision Plat be sent to the following agencies, together with a notice seeking the consent of these agencies to the Planning Board assuming lead agency status.

Seconded by Mr. DePasqua, all Aye, Motion carried, 7-0.

ATTACHMENT A

INVOLVED AGENCIES:

Dutchess County Board of Health
Town of Clinton Highway Department

INTERESTED

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Town of Clinton CAC
Dutchess County Department of Planning
Town of Clinton Scenic and Historic Roads Committee
East Clinton Fire Department
NYS Department of Transportation

After declaring lead agency, the board passed another resolution, to wit:

Mr. Werner motioned that the Town of Clinton Planning Board approves that the Town of Clinton Planning Board grant conditional sketch plan approval to Ira S. Rosenfeld, Mitchell Rouda, and Andrea Rouda for the purpose of subdividing lands on a ±26.85-acre site located at 404 Pumpkin Lane, which is in an AR-5 Zoning District in the Town of Clinton, **tax grid #132400-6568-00-340232**.

WHEREAS:

- 1) The applicant is requesting a two (2) lot subdivision as shown on the plat created by Daniel F. Wheeler, Engineers, 37 West Market Street, Red Hook, New York, dated September 2006.
- 2) The acreage after the subdivision will be ±10.79 acres for the lot north of Pumpkin Lane (Lot 1) and ±16.06 acres for the lot south of Pumpkin Lane (combined Lots 2 and 3).
- 3) The applicant has submitted a Long Form EAF.
- 4) The Town of Clinton Planning Board declared itself lead agency on 8/4/2014 for this unlisted, coordinated action. Involved agencies are Dutchess County Board of Health and Town of Clinton Highway Department. Interested agencies are Town of Clinton CAC, Dutchess County Department of Planning, Town of Clinton Scenic and Historic Roads Committee, East Clinton Fire Department, and New York State Department of Transportation.
- 5) The applicants have been advised that they will need approval from the Town of Clinton Highway Superintendent for the placement of a new driveway on the lot south of Pumpkin Lane.
- 6) All appropriate fees have been paid.

NOW, THEREFORE, BE IT RESOLVED, the Town of Clinton Planning Board grants sketch plan approval for the requested subdivision of lands when the following condition is met.

The following items are included in the subdivision plat:

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1. Location of the property within the Ridgeline, Scenic, and Historic Protection Overlay District.
2. Names of all three property owners.
3. The address of the property should be changed to “Town of Clinton, Dutchess County, New York.”

Seconded by Mr. Marrapodi.

Discussion. Mr. Marrapodi noted that the acreage should be 16.05 based on the computation.

All Aye, Motion carried, 7-0.

The board agreed not to set the public hearing yet. SEQR needs to be circulated. Preliminary and Final approval can be done in one meeting.

Furman Steep Slopes Permit – property owned by Kenneth Furman located at 196 Long Pond Rd, **Tax Grid No. 6468-00-243963.**

The applicant is seeking a Steep Slopes Permit to provide access to the property by putting in a driveway and to pre-grade the SDS absorption area in preparation for construction at some future date.

Kenneth Furman and his wife Debbie Furman appeared for this application. In June 2004, the town received a complaint from one of the neighbors regarding activity on this property. The Zoning Enforcement Officer ceased the operation and asked him to get the necessary approvals from the Planning Board. Due to personal issues, Mr. Furman never finalized the project. The property has sat idle all these years.

Mr. Furman discussed what had transpired at the Planning Board meeting on September 10, 2004. He indicated the driveway permit that was issued by the Highway Department and is still good through September 25, 2014.

The board reviewed the application. Mr. DePasqua stated that the board needs to establish an escrow so that the town engineer can review this project.

Mr. Furman noted that there was an escrow established in 2004. He submitted a check of \$1,000 back in 2004 and believed that the money had not been spent.

Mr. DePasqua asked if this application was ever submitted to the town engineer for review. Mr. Furman responded that he doesn't know the answer to this question.

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Mr. Werner asked about the issue regarding the mining. Mr. Furman responded that there was a letter from the NYSDEC to the Zoning Enforcement Officer letter dated September 23, 2004 in response to this issue.

The board discussed the application. Chairman McCormack asked Ms Campbell to verify that the check was remitted in 2004 and find out if there is still money in the escrow account and whether this application has ever been submitted to the Town Engineer. The board needs to declare lead agency and a public hearing needs to be done.

No action taken.

Kurten & Levin Lot Line Adjustment – properties located at 87 Browning Rd & 127-143 Browning Rd, **Tax Grid Nos. 6366-00-350305 & 517296.**

The Kurtens wish to sell a 11.10-acre parcel to the Levins that is to become part of the Levins' property.

Owen Clark appeared on behalf of the Kurten's 2010 Family Land Trust. Tom Sanford, who is representing both parties, was also present for this application.

Mr. Sanford explained their proposal. The Levins wish to buy 11.10 acres of the Kurten's lot. There is no road frontage on this area and it's all wooded. He pointed out on the map how the lines are going to move.

The board reviewed the map. The Levins' property increases while the Kurtens' property decreases. It's a pretty straightforward proposition.

Ms. Ruzicka stated that a delta chart needs to be on the map. Mr. Werner questioned the various spellings of the property owner's name, Elizabeth Kurten Salisbury. They're all spelled out differently. The physical address of the subject properties also need to be added on the map.

Ms. Ruzicka motioned to accept the requested waivers, seconded by Mr. Marrapodi, All Aye, Motion carried, 7-0.

Mr. DePasqua asked the applicant if there are any restrictions on this property. Mr. Sanford responded, "None".

The board agreed to approve the lot line request.

Ms. Ruzicka motioned that the Town of Clinton Planning Board grants approval for the Lot Line Adjustment between the lands of **Richard Levin and Kathleen Levin, Tax Grid No. 6366-00-517296** and the lands of **Owen T. Clarke Jr. and Elisabeth Kurten Salsibury, trustees for the Kurten 2010 Family Land Trust, Tax Grid No. 6366-00350305** located at 87 Browning Road, Staatsburg NY 12580 for the purpose of

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conveying 11.10 acre parcel from the Kurten Family Land Trust to Richard and Kathleen Levin. This lot is not a separate building lot and is to become part and parcel with Levins existing 46.554 acre parcel, thereby creating a 57.644 acre parcel. The Kurten Family Trust parcel will then be 64 + acres.

Whereas:

1. All fess have been paid.
2. All Consent of Authorization to Act has been filed for Thomas Sanford and Brian Franks to act on behalf of Richard and Kathleen Levin, dated June 18, 2014.
3. The Planning Board has received and granted a written request for waivers on the plat submission.
4. The parcel is in an Ag District and an Ag Data Statement is on file.
5. The property is not in a CEA.
6. The property is not in a Scenic Ridgeline Historic District.
7. Lot Line Adjustments are Type II under SEQR, no further action is required.
8. The Planning Board does not require a public hearing on this action.
9. There are no variances on either parcel.

Now, therefore, be it resolved, the requested Lot Line Adjustment is granted approval by the Town of Clinton Planning Board when the conditions are met:

1. A delta chart is placed on the map.
2. Spelling corrections of the property owners' names are made.
3. Addresses for the subject properties will be added to the plat.

Seconded by Mr. Werner.

Discussion. Mr. Sanford corrected the address of the property. It should be in the city of Hyde Park and not Staatsburg.

All Aye, Motion carried 7-0.

Sutter & McCauley Lot Line Adjustment – properties on Silver Lake Rd & 719 Slate Quarry Rd , **Tax Grid Nos. 6469-09-232621 & 221605**

The Sutters wish to sell a portion of their lots (Second Ave) and all of the First Avenue lot to the McCauleys.

Both parties appeared for this application.

Mr. Sutter explained that they own First and Second Avenue. This is a separate strip of land with a total of 1.15 acres. The McCauleys wish to buy a portion of Second Ave (.228 acres) and the whole piece of First Ave (.261 acres). The McCauleys are already using

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First Avenue as their driveway and said portion of Second Avenue borders the easterly boundary line of the McCauleys' property.

Mr. Sutter indicated the reason for their proposal. It makes more sense to sell this piece of property to the McCauleys since it has no use to them. The First, Second, and Third Avenue lots are just right of ways and are under one tax parcel.

Mr. Sutter noted that they only want to convey part of the Second Avenue lot since Second Avenue runs to Center Street.

The board had a very lengthy discussion about the application. Mr. McCauley stated that he wants to combine this portion of land with his existing land.

Ms. Ruzicka asked the Sutters about their intentions regarding the remaining portion of Second Avenue. Ms. Sutter responded that they want to keep the remaining portion of Second Avenue as a separate lot. They don't want to combine this piece with their land. Ms. Sutter noted that their house is all the way at the back.

Mr. Dolan stated that the Sutters' property will decrease from 1.15 acres to .661 acres. The McCauleys' property will then increase from 1.3 acres to 1.79 acres.

The panel reviewed the map. The McCauleys and Rouches have deeded rights to use this lot as their driveways. They are currently maintaining the driveway.

The board has a lengthy discussion about the proposal. Mr. McCauley noted that right now the Rouches can get in the driveway. There is no easement. It is currently a public use. He noted that he will establish an easement for the Rouches to address the use of the driveway.

The board indicated their concern about the other property owner's use of First Avenue. Mr. McCauley noted that he will address the Rouches' access by way of an easement.

Ms. Sutter stated that with regards to ingress and egress, they have the right to use the road by deed. Mr. McCauley stated that these roads do not really exist except for driveways.

Mr. Thomas asked if there are any lake associations on this area. Mr. Sutter responded, "Yes."

Ms. Sutter stated that there are two small parcels between Second Avenue and Silver Lake that have rights to First, Second, Third, and Fourth Avenue. These parcels haven't been used in 12 years. Trees are overgrown on this area.

Mr. Thomas asked if the rights are on the deed. Ms. Sutter responded, "Yes."

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Mr. Thomas asked if the Rouches are part of the deeded access. Both the McCauleys and the Sutters responded, "Yes."

Mr. Thomas analyzed the situation. There is currently no easement on this lot. It is a public use and privately maintained road. With the proposal, the public use is going away and the McCauley will establish an easement for the Rouches. Mr. Thomas opined that this needs to be verified.

Chairman McCormack stated that the Sutters are getting rid of the small lot to make the McCauleys' lot less nonconforming. The McCauleys affirmed.

Mr. Sutter indicated the variance that he received on his property. Mr. DePasqua noted that variances are common on this area due to the size of the properties.

After a very long discussion, the board agreed that this application needs a legal opinion. Chairman McCormack also expressed his concern about the remaining portion of Second Avenue. It will be creating a more nonconforming lot. Dean Michael suggested that the applicants talk to the Town Assessor about the deed.

Mr. Dolan indicated the technical items that are needed on the map, such as complete names of the property owners, address of the subject properties, and property grid numbers. The map should also be labeled "Lot Line Adjustment."

Mr. Dolan motioned to establish a \$500 escrow for the Town Attorney, seconded by Mr. De Pasqua, all Aye, Motion carried, 7-0.

APPROVAL OF MINUTES:

Mr. DePasqua motioned to approve the minutes of July 15, 2014, seconded by Ms. Ruzicka, all aye, Motion carried, 7-0.

ADJOURNMENT:

Mr. Werner motioned to adjourn the meeting at 9:58 pm, seconded by Mr. Marrapodi, All Aye, Motion carried, 7-0.

Respectfully Submitted,



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