

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 27, 2016**

MEMBERS PRESENT

Joseph Malcarne, Chairman

John Calogero
Charles Canham

Macy Sherow III
Arthur Weiland

Arlene Campbell, Secretary

MEMBERS ABSENT

Norma Dolan
Frank Kealty

ALSO PRESENT

Chairman Malcarne called the meeting to order at 7:31 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:

Gilmore/Petti Area Variance - - properties owned by **William & Calvalena Gilmore** located at Sodom Road, **Tax Grid Nos. 6366-00-442732 and 496746** which are in the AR3A Zoning District.

The applicants requested the following area variances to allow the construction of a single family dwelling.

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

- Front Yard Setback reduction from 100' to 50.5'
- Side yard setback reduction from 50' to 34.5'
- Minimum Lot Width from 300' to 165'

The Gilmores and son-in-law John Petti appeared for this application.

Mr. Petti explained that he is currently in contract to buy these lots from the Gilmores.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 27, 2016**

In order to build a house, these lots will require variances due to the shape of the lots and the wetlands in the back. These are two existing nonconforming lots. They are very narrow.

Mr. Petti stated that these lots are getting combined. He noted all the wetlands on the property which also limits the possible location for a house.

Chairman Malcarne asked for questions and comments from the board.

Mr. Weiland read the Planning Board's recommendation dated October 16, 2016 which is positive.

Mr. Weiland asked about the proposed lot line combination. Mr. Petti responded that the lot line combination is currently in process. One tax map number is getting eliminated while the other tax map number is going to be retained.

Mr. Weiland questioned the genesis of pre-existing lots in the Town. Although he acknowledges that the County recognizes these lots, Mr. Weiland wonders about the origin of these lots or how they were created.

The board discussed the application on hand. Mr. Weiland questioned the lot width of the property. This lot is very narrow. It is a nonconforming lot. Mr. Weiland cited the typical confusion by many about the road frontage and the lot width.

The board reviewed the map and discussed whether an area variance to the lot width is required. Mr. Calogero stated that the Planning Board's recommendation indicates an area variance to the lot width.

Mr. Weiland asked if the variance to the lot width was part of the legal ad that was posted and circulated. Ms. Campbell responded, "Yes".

The panel had a lengthy discussion about the above issue. Mr. Canham suggested to address the concern about the lot width since the applicant is before the board anyway.

Mr. Weiland suggested tabling the application until the lots are combined. Ms. Campbell presented a document from the Assessor and the County Clerk's office stating that the lot consolidation is in process.

Mr. Weiland asked if the applicant has gone to the Planning Board's process approval. Ms. Campbell responded, "No" due to the recent Local Law that was adopted about the regulation in simple removal of lot line and combining two adjacent lots. This process can now be done by Deed Consolidation through the Assessor's Office and need not go before the Planning Board.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 27, 2016**

Chairman Malcarne stated that the concern about the lot line adjustment can be conditioned to the variance approval. The board agreed.

Mr. Canham indicated no objection about the above proposal. Moving the building envelope to the front yard makes sense. This is not a heavily trafficked road and staying out of the wetlands help protect habitats.

Mr. Weiland echoed Mr. Canham's view. He noted that one of objective of the Town Comprehensive Plan is about protecting the habitats.

Mr. Calogero asked if the NYS DEC has visited the property. Mr. Petti responded, "Yes". He noted that the DEC has delineated the wetlands on the property.

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

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

Mr. Canham asked if there are any comments or letters received from the neighboring property owners. Ms. Campbell responded, "None".

After all the reviews were made, the board passed a resolution.

Mr. Weiland moved that the Town of Clinton Zoning Board of Appeals grant to **William and Calvalena Gilmore** of 27 Sodom Road, Hyde Park, **Tax Grid No. 6366-00-442732** a variance from Section 250-16 (District Schedule of Area and Bulk Regulations) to reduce the front yard setback from the required 100' to 50.5' and to reduce the southern side yard setback from 50' to 34.5' and a variance from minimum lot width from 300' to $\pm 165'$.

Factors:

1. An undesirable change will not be brought about in the neighborhood nor will there be a detriment to nearby properties because this is adding a home in a neighborhood originally laid out for such housing and mostly built out.
2. The benefit sought by the applicant cannot be achieved by some other feasible method besides granting the variance, due to the wetlands towards to the rear of the property and the necessary separation between the wetlands and the septic leach-field.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 27, 2016**

3. The variance of 49.5% and 31% is substantial but reasonable considering the wetlands and original narrow lot.
4. The use of the lot for a home will not have an adverse effect on the physical or environmental conditions in the neighborhood which is currently residential. The front yard variance helps to protect the wetlands and thereby the water resources of the community.
5. The hardship was created when updated zoning regulations were overlaid on prior poorly designed subdivisions.
6. A residential area variance does not require an Ag Data Statement.
7. A residential area variance is a Type II action under SEQRA and requires no further action.
8. The site is not in a CEA District.
9. The site is on a Scenic or Historic Road – Sodom Road.
10. The area of development is not within the boundary or buffer of a wetland.
11. The site is not in the Ridgeline, Scenic or Historic Protection Overlay District.
12. There are no known outstanding zoning violations.

Conditions:

- These two lots are combined.

Seconded by Mr. Sherow.

Discussion. None.

All Aye, Motion carried, 5-0.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 27, 2016**

APPROVAL OF MINUTES:

Chairman Malcarne motioned to accept the minutes of September 22, 2016 as amended, all Aye, Motion carried, 5-0.

ADJOURNMENT:

Chairman Malcarne motioned to adjourn the meeting at 8:50 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