MEMBERS PRESENT

MEMBERS ABSENT

Art DePasqua, Chairman Jack Auspitz

Gerald Dolan

Tracie Ruzicka Robert Marrapodi Paul Thomas

ALSO PRESENT

Secretary – Arlene Campbell

Eliot Werner, Liaison Officer

Chairman DePasqua called the meeting to order at 7:30 pm. He explained the two steps of the variance application process to the applicant.

VARIANCE APPLICATION:

Robertshaw Area Variance – property owned by John and Elizabeth Robertshaw located at 43 Field Road, Tax Grid No. 6569-00-162839,

The applicants request an area variance to Sec. 250 Attachment 2 reducing the rear yard setback from 75 feet to 25.5 feet in order to remove a current addition of 621 square feet and then construct a two-story 40' x 50' addition.

Robert Nielsen, the applicant's contractor, appeared for this application. Mr. Nielsen explained that they needed a variance to do an addition to an existing house. He noted that the Robertshaws are now full-time residents.

Built in 1850, Mr. Nielsen stated that there was an addition made to the house in the 80s. They are proposing to remove this addition and build a new addition that extends out more towards the back. They feel that putting the addition on the back will not destroy the aesthetic of the house. There is only one outbuilding on this property which is a 10" x 11" potting shed. The proposed addition will be designed to mimic the woodwork and details of the house. Mr. Nielsen explained that the way the house sits on this property makes it the only feasible area to locate the proposed addition. He also discussed the septic design that they are currently working on with the Department of Health.

Mr. Neilsen stated that the proposed addition will have no impact on the abutting property since the Robertshaws also own the big parcel (183 acres) to the rear.

Chairman DePasqua echoed that the applicant is bordering their own property. He asked for questions and comments from the board.

Ms. Ruzicka asked the applicant about the structure shown on the map that is impacted by this variance. Mr. Nielsen responded that the said structure is a two-car garage with a tank inside.

Mr. Marrapodi asked if they are proposing to use the existing septic system or install a new one. He commented that this is a significant addition and might have an impact on the site plan.

Mr. Nielsen responded that this is a pump system. They are planning to have an engineer review the septic design. They need to know what's under the ground or they might need to start fresh due to the age of the house. The septic is located to the front of the property. There is also an area to the front and right -hand side of the driveway to the north that can be used for an expansion of the septic area.

Chairman DePasqua suggested to the applicant to show the existing septic system and the available septic expansion area on the map before going to the Zoning Board of Appeals. The applicant agreed.

Mr. Thomas stated that the house is already intruding into the setback (52' as opposed to 75'). The proposed project is adding encroachment to the pre-existing encroachment. Mr. Neilsen stated that the house is a nonconforming building.

Ms. Ruzicka stated that there was a lot line adjustment made in 2009 to increase the acreage to five acres to make the property a conforming lot. Ms. Ruzicka questioned the encroachment in the rear yard. "How come this wasn't addressed with the lot line adjustment?"

The board agreed that the requested variance will address the encroachment. The board discussed whether the property is in a CEA and agreed that it is not. The property is also in the Ag District.

The board discussed the proposed variance. The applicant is removing a 621-foot portion of the dwelling and is proposing a 2,000 square foot addition (4,000 square feet of habitable space).

Mr. Auspitz asked about the intention for the proposed addition. Mr. Nielsen responded that the addition is for family and extended family use.

Ms. Ruzicka motioned the following resolution:

Be it Resolved that the Clinton Planning board makes a positive recommendation to the Zoning Board of Appeals on the requested area variances to Sec. 250 Attachment 2 reducing the rear yard setback from 75 feet to 25.5 feet for the construction of an 40' x 50' addition as requested by Robert Nilsen on behalf of **John and Elizabeth**

Robertshaw on a 5.47 acre lot located at 43 Field Rd., Clinton Corners , NY , **Tax Grid No. 6569-00-162839**, in an AR 5 Zoning District.

WHEREAS:

- 1. The applicant is requesting a reduction of the rear yard setback from 75 feet to 25.5' in order to remove a current addition of 621 square feet and then construct a new addition of 2000 square feet.
- 2. The applicant is proposing to place the addition in the setback area for the best aesthetic look for the old main structure which is set close to the edge of the lot.
- 3. The property is in an Ag District.
- 4. The property is within the Ridgeline, Scenic and Historic Protection Overlay District.
- 5. The property is not in a CEA (Critical Environmental Area).
- 6. The variance requested is substantial because the reduction in the setback being asked for is 49.5°.
- 7. An undesirable change in the neighborhood will not occur, as this addition will be planned to conform to the architecture of the house and will not be visible to neighboring homes. The applicants also own the substantial tract of land bordering the variance area.
- 8. The alleged difficulty is self created, as the applicants wish to change the foot print of the house on the current lot encroaching into the setback area.
- 9. No adverse effects will be created by the building of this structure, except during construction as there is a high fence that blocks the view from the road and the addition will be to the back of the house.
- 10. There is a Consent of Authorization to Act for the Robertshaws on file for Robert Nilsen.

NOW THEREFORE, BE IT RESOLVED, the Planning Board is making a <u>positive</u> recommendation for approval to the Town on Clinton Zoning Board of Appeals.

Seconded by Mr. Marrapodi.

Discussion. None.

All Aye, Motion carried 5-0.

PUBLIC HEARING:

Hart 4 Lot Subdivision – property owned by Donald and Kayla Hart located at 188 and 192 Schultz Hill Road, Tax Grid Nos. 6368-00-268584, 259657 & 285540.

Applicant wishes to subdivide three adjacent parcels to make them into four buildable lots.

Mr. and Mrs. Hart and Jordan Valdina from Synergy Engineering all appeared for this application.

Mr. Valdina explained the proposed layout of the lots to the public. There are three existing adjacent lots, two of which have new single- family residences and drive access, the other lot is undeveloped totaling 107 acres in an AR5 Zoning District. They are proposing three lots to become four lots.

Mr. Thomas motioned to open the public hearing, seconded by Mr. Marrapodi, all Aye, Motion carried, 5-0.

June Sanderson, 227 Deer Ridge Drive, asked about the building envelope on the proposed lots. Mr. Valdina pointed out and explained the building envelopes on the map.

Carol Hues, 220 Deer Ridge Drive, questioned the barn that is currently being built on the undeveloped lot. She asked, "I thought that they need to go before the Planning Board to start the process before building? How is the building under construction when subdivision is not yet approved?"

Mr. Valdina responded that there is a building permit for the building that is currently being built on the undeveloped lot. This is a barn for agricultural use. He noted that there is an Ag Exemption for this lot.

Ms. Hues remarked, "The map shows a one-bedroom unit on the undeveloped lot!" Mr. Valdina noted that the building that is currently being built is just a plain barn right now. This will require Department of Health approval to make it to a one-bedroom dwelling. Mr. Valdina added that they are also proposing a site plan approval for this barn to become a one-bedroom unit as part of the subdivision process.

Ms. Hues expressed her concern about the location of the building enveloped on Lot S1. She's worried about the impact on her property due to the location of the septic system.

She indicated the poor quality of her water right now and she's worried that this might get worse. She also expressed her concern about the water runoff to her property.

Mr. Marrapodi commented that the proposed septic design needs to be Board of Health Approved. The Department of Health will not approve a location that will cause water runoff to the neighboring properties.

Mr. Valdina concurred with Mr. Marrapodi. The Department of Health will not approve a design that will impact anybody's well or water.

Mrs. Hart stated that this soil is very rocky. They will most likely do a pump system.

Ms. Hues asked the property owners about their intention with the proposed lots. Ms. Hart responded that they will be selling this lot in the future.

Ms. Sanderson expressed her concern about clear cutting. They were very happy about the forestry on every side of this area up to this point. She noted that she dedicated her 56 acres of land to the Land Conservancy to preserve these trees.

Mr. Valdina said that they are not proposing substantial clearing to these lots. Ms. Sanderson noted that she is concerned about the future property owners of these lots.

Mr. Marrapodi stated that the Planning Board can designate a buffer area on the map to address this concern. Mr. Thomas indicated the enforcement issue about this easement. It would be great if the property owner is willing to put this notation on the map. The board cannot mandate this restriction.

The Harts expressed their willingness and indicated no objection about designating a buffer area to preserve forestry. Ms. Hart stated that they love the country and want to maintain the character of the neighborhood. This is the reason why they moved up here.

Norene Coller from the CAC indicated her concern about rare species and wild habitats in the area. There are rare wildlife habitats and Blanding turtles throughout the area. Although she's not sure whether this particular area has these habitats, Ms. Coller remarked that they are around!

Mr. Hart replied that they walked through the property and haven't seen one. Mr. Thomas stated that there is a disclosure on the EAF that there are no rare species in this area. DEC expressed no concern since there are no state-listed species within or near the project site per the DEC letter dated January 11, 2018. A SPDES Permit is required if project activities will disturb over 1 acre of land.

Ms. Coller stated that the CAC can review the site better in the spring when the species are out. She suggested having a professional biologist check the property to ensure that there's no rare species or habitat in the area.

Mr. Hart commented that the building sites are all dry and rocky. The building site is not near the wetlands.

Chairman DePasqua remarked that the board cannot stop the process of approval. Maybe the property owner can invite the CAC members to the property during the spring to check for habitats.

Mr. Thomas agreed there is a timeline in doing the approvals. There are no indications of habitats in this area and DEC expressed no concern. Mr. Thomas opined that there is no necessity to hold the process of approval. He appreciated the concern but noted that it is not fair to the applicant to hold the process through spring. The applicant can map the habitat on the Final Plat if any species are found.

The board had a lengthy discussion about the above concern.

Mr. Thomas stated that the board is not issuing a Final Approval that night. The board is only acting on the Preliminary Approval on the current plan. The Preliminary Approval can include these comments or concerns that can be contingencies to the Final Approval.

Mr. Hart noted that the property owners can also check with the DEC about any necessary permits once they are ready to build.

Tim Martin, 187 Schultz Hill Road and who is a good friend of the Harts, remarked that there are no wetlands on this area.

Chairman DePasqua noted that the board can also add verbiage to the Final Approval that rare species are checked before the house is built.

Ms. Coller stated that as long as the property is aware of the concern.

Chairman DePasqua said that they need to get more information about this issue and hopefully this can be addressed at the Final Approval to make everybody happy.

Tim Martin, 187 Schultz Hill Road, said that he lives across from the property where the barn is being built and expressed no concern about the proposal. He also noted that he grew up in this area and hasn't seen any habitat around.

Ms. Sanderson indicated her concern about the lighting once this land is developed. She's hoping that these lights will be downward lightings. Mr. Hart concurred with that suggestion.

The board agreed to close the public hearing. Mr. Auspitz motioned to close the public hearing, seconded by Ms. Ruzicka, all Aye, Motion carried 6-0.

APPLICATIONS:

Hart 4 Lot Subdivision (Preliminary Approva) – 188 and 192 Schultz Hill Road, Tax Grid Nos. 6368-00-268584, 259657 & 285540.

Applicant wishes to subdivide three adjacent parcels to make them into 4 buildable lots.

Mr. and Mrs. Hart along with their Architect, Joe Valdina from Synergy Design Architecture and Engineering PLLC, were back for the discussion of the application.

Mr. Thomas explained the resolution that he drafted about the Preliminary Approval. He stated that the applicant needs to address some of these concerns with the Town Engineer. The board agreed.

Mr. Thomas thinks that Short Form EAF is sufficed for this Unlisted, Uncoordinated Action. The board agreed to review the Short Form EAF.

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

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

BE IT RESOLVED THAT the Town of Clinton Planning Board approves the following resolution:

WHEREAS, the Town of Clinton Planning Board has received an Application for Subdivision from Donald and Kyla Hart for the purpose of turning three existing adjacent parcels comprising a total of +/-107.47 acres, two of which are developed and one undeveloped, into four residential building lots located at 188-192 Schultz Hill Road, as shown on a "Site Plan for Hart Property" prepared by Synergy Design Architecture & Engineering PLLC dated January 2, 2018 (the "Map"); and

WHEREAS, the Planning Board has reviewed all available information regarding the proposed action, and

WHEREAS, the Planning Board has acted as Lead Agency in the uncoordinated review of this unlisted action, and,

WHEREAS, the Planning Board has reviewed the environmental impacts that may be associated with this action, and

WHEREAS, the Planning Board has referred the matter to the Town Engineer, who has determined that there will be no significant adverse environmental impacts from the proposed subdivision:

NOW THEREFORE BE IT RESOLVED, that the Town of Clinton Planning Board has determined that the proposed action will not result in any significant adverse environmental impacts and that a Draft Environmental Impact Statement will not be required, and

FURTHER BE IT RESOLVED, that the Town of Clinton Planning Board cites the following reasons in support of this determination of non-significance.

- The proposed subdivision contemplates the conversion of three parcels comprising some 107 acres into four lots, resulting in the net addition of one new lot. The resulting lots all well exceed the minimum lot size in the AR5 zoning district.
- 2. Any land disturbance associated with constructing driveways and residences will not affect any wetlands or other protected portions of the lots. Accordingly, the project is not expected to cause a substantial adverse change in existing ground or surface water quality or quantity. Erosion control measures and driveway drainage facilities have been approved by the Town Engineer and will utilize infiltration practices. These measures will ensure that there will be minimal erosion or drainage impacts from the subdivision.
- 3. The locations of the new driveways have been approved by the Fire Department, the Town Highway Superintendent, and the Town Engineer. Construction of the driveways as approved will provide safe and adequate all-weather access to the lots for passenger and emergency vehicles. Maintenance of the common driveway will be subject to a Common Driveway Easement and Maintenance Agreement that will obligate the owners of the lots to maintain the common driveway.
- 4. One or more species of rare, endangered, threatened or special concern flora or fauna were identified on or near the site. However, the Planning Board has concluded that the subdivision would not result in the removal or destruction of large quantities of vegetation or fauna, and would not substantially interfere with the movement of any resident or migratory fish or wildlife species. No disturbance to or a substantial adverse effect on any identified significant habitat areas, threatened or endangered species of animal or plant, the habitat of such a species, or other natural resources, has been identified.
- 5. The proposed subdivision improvements will avoid areas of steep slopes.

- 6. The subdivision of land in the manner proposed is permitted under the Town Zoning Law and Town Subdivision Regulations. The proposed use of the land for residential purposes is also allowed under local zoning and building codes. The proposed activity is consistent with all current development plans and goals as officially approved and adopted, and will not result in a substantial change in the use, or intensity of use, of land devoted to agricultural, open space, or recreational use.
- 7. There are no sites or districts listed on the state or national registers of historic places reported on the property. Accordingly, the proposed project would have no known adverse impact on historic or pre-historic cultural resources of local, state or federal significance.
- 8. The project is a low density residential development that is consistent with the low density rural residential character of the area. The proposed activity will occur in a rural, low density, residential/agricultural area and is not expected to impair the character or quality of important historical, archaeological, architectural, or aesthetic resources or the existing community or neighborhood character.

Motion: Paul Thomas Second: Jack Auspitz

Vote:

Arthur De Pasqua, Chairman Aye

Tracie Ruzicka Aye

Gerald Dolan Absent

Paul Thomas Aye

Robert Marrapodi Aye

Discussion. None.

Jack Auspitz

Motion carried, 5-0.

The board passed another resolution.

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

Aye

BE IT RESOLVED THAT the Town of Clinton Planning Board approves the following

resolution:

Town of Clinton Planning Board Resolution Granting Preliminary Plan Approval Matter of Hart Subdivision

Whereas, the Town of Clinton Planning Board has received an Application for Subdivision from Donald and Kyla Hart for the purpose of turning three existing adjacent parcels comprising a total of +/-107.47 acres, two of which are developed and one undeveloped, into four residential building lots located at 188-192 Schultz Hill Road (the "Hart Subdivision"), as shown on "Subdivision Site Plan Drawings for Hart Property" prepared by Synergy Design Architecture & Engineering PLLC dated January 2, 2018 (the "Map"); and

Whereas, the Town of Clinton Planning Board previously granted Sketch Plan approval for the application on July 18, 2017; and

Whereas, the application involves tax parcel numbers 6368-00-285540-0000, 6368-00-268584-0000 and 6368-00-259657-0000, which parcels are located in the AR-5 Very Low Density Agricultural Residential District; and

Whereas, the applicants have submitted an application for Site Plan approval with respect to the proposed barn and accessory dwelling on proposed Lot 3; and

Whereas, a Short Form EAF Part 1 has been received; and

Whereas, the Planning Board previously determined that the proposed project is an Unlisted Action and that an uncoordinated review of the action would be undertaken; and

Whereas, the Planning Board previously declared its intent to be Lead Agency pursuant to Sections 617.6(2) and (3) of 6 NYCRR 617; and

Whereas, the Planning Board, as Lead Agency, has determined that the Hart Subdivision would not result in any large or important impact(s) and has issued a

"Negative Declaration" on February 6, 2018 pursuant to the requirements of the State Environmental Quality Review Act (ECL 8-0101 et seq.); and

Whereas, the parcel is located within 500 feet of a working farm in an Agricultural District and an Agricultural Data Statement has been submitted; and

Whereas, after review of the Map, the Planning Board has determined the proposed subdivision is in compliance with the requirements of the Town Zoning Law, the Subdivision Regulations and the Town Master Plan and further that:

- 1) That the proposed subdivision will be of such design and configuration that it may be safely used for building purposes; and
- 2) That proper provisions have been made for drainage, water supply, and sewage; and
- 3) That access to the proposed lots will be of such width, grade and location as to accommodate prospective traffic and afford adequate light and air, and facilitate fire and police protection; and
- 4) That the proposed lots will be laid out so as to be in harmony with the development pattern of the neighboring properties; and
- 5) That open space of suitable location, size and character will be maintained; and
- 6) That pursuant to \$277(4)(b) of the NY Town Law, the Planning Board has determined that a proper case exists for requiring that a park suitably located for playgrounds or other recreational purposes within the town be required for this development. However, pursuant to \$277(4)(c) of the Town Law, the Planning Board has determined that a suitable park or parks of adequate size to meet the additional requirement cannot be properly located on the proposed site, and that at the time of Final Subdivision Approval, the applicant shall pay a sum of money in lieu thereof, in an amount established by the Town Board; and

Whereas, the Planning Board has granted the following waivers from the Submission Requirements set forth in Appendix C to the Town of Clinton Subdivision and Lot Line Adjustment Regulations: Part II, Submission Requirements for Preliminary

Plats, Item 1.h. (location of rock outcrops, wooded areas and significant features), Item 2.d. (lengths, angles, bearings and other information pertaining to proposed roads) and Item a.a. (location and design of monuments); and

Whereas, the Planning Board held a public hearing on February 6, 2018 concerning the application and closed said public hearing on February 6, 2018 and has considered the comments received during the hearing in its deliberations on this matter; and

Whereas, all applicable fees incurred to date have been paid;

Now Therefore Be It Resolved, that the Town of Clinton Planning Board hereby grants preliminary subdivision approval for the Hart Subdivision as set forth on the Map, including Plan Set Sheets C through C-7 and related submissions; and

Be It Further Resolved, that the Planning Board will consider an application for Final

Subdivision Approval for the Hart Subdivision after the applicants have complied with the following conditions:

- 1. Resolved any remaining technical issues listed in the Town Engineer's letter dated January 11, 2018 and addressed any further questions or concerns raised by the Town Engineer or the Planning Board.
- 2. Obtained approval of the Town Attorney for the language and form of the Common Driveway Easement and Maintenance Agreement for proposed Lots 3 and 4.
- 3. Obtained Site Plan approval with respect to the proposed barn and accessory dwelling on proposed Lot 3 prior to construction of same.
- 4. Completed the modifications to the existing driveways on Lots 2 and 3 as depicted on the Map to create separate driveways serving these lots.
- 5. Arranged for inspection and approval by the Town Engineer of the already built driveway sections and any other completed subdivision improvements on the

parcels. Prior to further construction of the driveways, the applicants' contractor and consulting engineer shall meet with the Town Engineer to discuss the phasing of the construction work, the placement of erosion control measures, implementation of required mitigation, prior approval of field changes, and periodic field inspections by the Town Engineer.

- 6. Complied with the requirements set forth in the comment letter dated January 11, 2018 from NYSDEC Division of Environmental Permits, Region 3 and obtained any other required federal, state or local permits as may be necessary in connection with the application.
- 7. Paid all fees including accrued Planning Board escrow fees.
- 8. Submitted an application for Final Subdivision Approval prepared in accordance with the requirements of the Town Zoning Law and Town Subdivision Regulations.

This preliminary approval shall become void after six months if the applicants have not submitted a complete Application for Final Subdivision Approval and Final Plat, unless such time is extended by the Planning Board.

Motion: Paul Thomas Second: Robert Marrapodi

Vote:

Arthur De Pasqua, Chairman Aye

Tracie Ruzicka <u>Aye</u>

Gerald Dolan Absent

Paul Thomas <u>Aye</u>

Robert Marrapodi Aye

Jack Auspitz <u>Aye</u>

Discussion. Mr. Thomas stated that the public hearing can be waived for the Site Plan approval application. This application can be addressed at the same time with the Final Approval process. The applicant will need to submit a separate Site Plan application for the barn.

All aye, motion carried, 5-0.

Wolcott 3-Lot subdivision (Sketch Plan Approval) - 205 E. Fallkill Road, Tax Grid No. 6266-00-819678

Applicant wishes to subdivide a 38.7-acre parcel into 3 buildable lots in the AR 5 Zoning District.

Albert Wolcott, property owner, appeared and explained his proposal. They bought this property and totally redid the farm with the idea of reselling it. He noted that the goal is to do something to get the cost plan so that he can sell the property.

Mr. Wolcott explained that he has a 38.7-acre parcel that he wishes to subdivide into three buildable lots, Lot 1-21.00 acres, Lot 2-5.36 acres, and Lot 3-12.34 acres. Lot 1 contains house, barns, and pond.

Mr. Wolcott indicated the contour of the property. He opined that the slopes are under 10%.

Chairman DePasqua asked which lot is the flag lot. Mr. Wolcott responded that Lot 2 is the flag lot.

The board discussed the application. Mr. Marrapodi commented that he doesn't have a problem with the proposed layout. However, Lot 2 should meet the lot width requirement of 400 feet.

Mr. Thomas stated that the minimum lot width is measured at the front building line for a rear lot and at the front setback for a regular lot. The proposed lot needs 400 feet at the front setback for a regular lot and 400 feet from the building line for a rear lot.

Mr. Marrapodi stated that the proposed lots have to be in compliance with the subdivision regulations.

The board reviewed the proposed lay out. Mr. Marrapodi suggested moving the lot line to make Lot 2 in compliance.

After a very lengthy discussion, the board determined that the proposed layout need to be reconfigured to meet the code. The applicant should meet with his surveyor to ensure that each lot is in accordance with the code.

No action taken.

BOARD DISCUSSION:

Mr. Werner gave an update about the ongoing zoning revision.

APPROVAL OF MINUTES:

Mr. Marrapodi motioned to approve the minutes of December 19, 2017 as amended, seconded by Mr. Thomas, all Aye, Motion carried, 5-0.

ADJOURNMENT:

Mr. Thomas motioned to adjourn the meeting at 9:25 pm, seconded by Mr. Auspitz, All Aye, Motion carried, 5-0.

Respectfully Submitted,

Arlene A. Campbell, Clerk

Planning & Zoning Board of Appeals