

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
February 20, 2018**

MEMBERS PRESENT

Art DePasqua, Chairman
Gerald Dolan
Jack Auspitz
Tracie Ruzicka
Robert Marrapodi
Paul Thomas

MEMBERS ABSENT

ALSO PRESENT

Secretary – Arlene Campbell

Eliot Werner, Liaison Officer

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

VARIANCE APPLICATION:

Benedick Area Variance – property owned by Lorenzo Benedick and Suzana Apelbaum located at 77 Camp Dr. Tax Grid No. 6468-05-130792.

Applicants request the following area variances to Section 250 Attachment 2 of the Town of Clinton Zoning Regulations to permit construction of an attached wooden deck. This is a .359-acre nonconforming parcel in a C Zoning District.

Rear yard setback reduction from 75 to 56 feet

Side yard setback reduction from 50 to 26 feet

Joseph Villar, contractor, appeared on behalf of the property owners. He explained that they want to build a 684 square feet deck to the rear of the house. He explained why the proposed location is the most feasible site to build a deck due to the location of the septic and well. He opined that this will not impact the neighborhood since a majority of the surrounding properties have buildings and structures much closer to the lake. He noted that everybody has a deck in the neighborhood except for the Benedicks.

Chairman DePasqua asked for questions and comments from the board. Mr. Thomas asked about the proximity of the lake. Mr. Villar responded that the lake is around 60 feet from the proposed deck. He stated that the property drops down toward the deck.

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Mr. Thomas stated that house is already in the setback. This is a nonconforming property.

Mr. Auspitz opined that this application also requires a Water Law Permit. The proposed deck is within 100 feet of the lake. The proposed project also needs a 3rd variance. The proposed deck will go over the 7% limit of the lot coverage. Mr. Thomas asked about the size of the shed. Mr. Villar responded that the size of the shed is 8' x 8'.

After a lengthy discussion about the setback and calculation of the square footages of the house and the proposed deck, the board agreed to include the 3rd variance in the recommendation to the Zoning Board of Appeals.

Mr. DePasqua commented that this will also necessitate a DEC Permit. The board discussed whether this application is exempt from the Water Law Permit since this lake falls under DEC jurisdiction. Mr. Auspitz stated that based on his reading of the law, the Local Law Water Permit does apply. The board agreed to include the Water Law Permit and DEC permit as conditions to the approval.

The board passed a resolution.

Mr. Auspitz motioned that the Town of Clinton Planning Board provide a conditional positive recommendation to the Zoning Board of Appeals to the requested area variances to Sec. 250 Attachment 2 reducing the rear yard and side setbacks from 75 to 56 feet (rear) and 50 to 26 feet (right) respectively and granting an additional variance increasing the lot coverage for this location from 7% to 11% to permit an attached wooden deck as requested by Lorenzo Benedick for property located at 77 Camp Drive, tax grid 132400-6468-05-130792 in a C Zoning District.

WHEREAS:

1. The applicant requests area variances on the rear and side setbacks to construct a cedar deck in the rear of the house
2. The lot is 0.359 acres. Adjoining properties are also pre-existing non-conforming lots
3. The lot is in a C zoning district. The applicant proposes to reduce the rear setback from 75 to 56 feet and the right side setback from 50 to 26 feet.
4. Applicant states that because of existing well and septic locations there is no other place to put the deck.
5. The size of the deck would be 684 square feet. This would make the lot coverage 1770 sq. ft. or approximately 11%, which is in excess of the permitted 7%.

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6. It is our judgment that the variances required to construct this deck would not adversely affect the physical or environmental conditions in the neighborhood. All of the lots in this area are pre-existing, substandard lots, many with similar setback variances.
7. The benefit sought by the applicant cannot be achieved in any other way.
8. The alleged difficulty is self created.
9. The New York State Environmental Quality Review Act has determined that the granting of an area variance for a single-family, two-family, or three-family residence is a Type II action and therefore this action is not subject to further review.
10. The requested area variance is substantial but this should not preclude its granting.

NOW THEREFORE, BE IT RESOLVED that the Town of Clinton Planning Board is making a positive recommendation to the Zoning Board of Appeals for an area variance and a coverage variance PROVIDED THAT any necessary Water Law permit and any necessary DEC approval are obtained.

Seconded by Ms. Ruzicka.

Discussion. None.

All Aye, Motion carried, 6-0.

Tompkins Area Variance - property owned by **Dana Tompkins** located at 20 Fourth Avenue, **Tax grid # 6469-10-281650** in the C Zoning District.

Applicant requests the following area variances to Sec. 250 Attachment 2 in order to correct the violations on the property, to wit:

Dana Tompkins appeared and briefly explained his application as indicated above.

Chairman DePasqua asked for questions and comments from the board.

Mr. Dolan stated that there are four variances (three setbacks and a building coverage variance) required per the Zoning Administrator.

Mr. Dolan commented that the front and setback variances refer to the house rather than to the addition made to the house.

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Mr. Thomas stated that he believed that the addition made by this applicant was the second floor. This is a mobile home that was converted to a one-family dwelling. He asked the applicant if he's the one made the previous renovation.

Mr. Tompkins responded, "No." He showed on the picture the portion of the house that was a mobile home.

Ms. Campbell stated that the previous owner made the renovation and the addition without a building permit. Mr. Tompkins bought this property several years ago and constructed a second-floor addition on top of the addition made by the previous owner. Mr. Tompkins did not obtain a building permit.

Mr. Dolan stated that parcel access listed this property as a 40-foot mobile home purchased in 2012 for \$70,000. This property is now on the market for \$330,000. The value increased significantly when the Town assessment is for a mobile home. He remarked that there were substantial renovations made without a permit.

Mr. Thomas commented that the variances will make the property in compliance.

Mr. Tompkins noted that the size of the mobile home is 33 feet instead of 40 feet.

The board discussed the application.

Ms. Ruzicka stated that the mobile home was built in 1955. The current owner bought this property as one-family dwelling. He asked if the applicant paid cash when he bought the property. Mr. Tompkins responded, "Yes." Nobody knows when the renovation or when the conversion from the mobile home took place. She asked, "Why does it need a variance?"

Ms. Campbell remarked that pre-existing means properties before the zoning regulations and not prior to the ownership of the property.

Mr. Thomas stated that the mobile home is pre-existing and nonconforming. The renovations and the additions made to the structure that made this a one-family dwelling is not.

Mr. Marrapodi asked if there was a Certificate of Occupancy issued to this property. Ms. Campbell responded, "None." The Town does not have records of any permits or C of O for this property. It's recorded as a mobile home. It is a pre-existing and nonconforming property. She indicated the history of this property. The Town Assessor questioned the conversion of the mobile home to a one-family dwelling. That's how the Building Department discovered the violation on this property. This is also a .07-acre lot in the C Zoning District.

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Mr. Dolan opined that the building permit and the variances will address the violations on this property. Mr. Marrapodi doesn't think that this property needs variances. It is pre-existing and nonconforming property.

Mr. Thomas disagreed. The mobile home is pre-existing but not the addition and the renovation that makes this building now a contemporary home. These renovations were done after the zoning.

Chairman DePasqua stated that Mr. Tompkins only did the second addition. The previous owner made the previous renovation and conversion of the mobile home. It is better to address these issues now since this property is for sale.

After all the deliberations and discussions were made, the board passed a resolution.

Mr. Dolan motioned that the Planning Board approve the following resolution:

BE IT RESOLVED, the Planning Board is making a positive recommendation for approval to the Town of Clinton Zoning Board of appeals on the requested area variance to Section 250 Attachment 2, for 3 setback violations, and a building coverage violation. The variances are required in order to issue a building permit for renovation and expansion of the total structure of a pre-existing, nonconforming building for property owned by **Dana J. Tompkins** located at 20 Fourth Ave, Rhinebeck, NY 12572, **tax grid number 132400-6469-10-281650-0000** in the "C" zone.

WHEREAS;

1. The applicant wishes to obtain a building permit for a complete pre-existing nonconforming structure with major renovations on the first level and the addition of a 12'x12' second level.
2. Violations for 3 setbacks and building coverage must be resolved by variance.
3. This is a 0.07 acre parcel in the "C" zone..
4. A Front Yard setback variance is required from 100' to 11'.
5. A Side Yard setback variance is required from 50' to 26'
6. A Rear Yard setback variance is required from 75' to 12'
7. A Building Coverage variance is required from 7% to 79%
8. The lot is not in an Ag District.
9. It is noted that an area variance is a Type II action under SEQRA and requires no further action.
10. The site is on a Clinton Scenic/Historic Road, that being Fourth Ave, and must conform to Local Law #3 of 2001.
11. The site does not contain Federal wetlands.
12. An undesirable change will not be produced in the character of the neighborhood or be a detriment to nearby properties.
13. Alternatives to the benefit sought by the applicant have not been considered or investigated.

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14. The requested variance is substantial.
15. There will be no potential adverse effect or impact on the physical or environmental condition in the neighborhood.
16. The alleged difficulty is self-created.
17. The application fee has been paid.

NOW THEREFORE, BE IT RESOLVED, the Town of Clinton Planning Board provides a positive recommendation for approval of 4 variances to the Town of Clinton Zoning Board of Appeals when the following condition is met:

- An updated building permit application for the complete structure, including major renovation of the first level and a 12'x12' addition to the second level, is submitted to the Town of Clinton Building Department.

Seconded by Mr. Marrapodi.

Discussion. None.

All Aye, Motion carried, 6-0.

PUBLIC HEARING:

None

APPLICATIONS:

Benedick Wetlands Permit – property owned by Lorenzo Benedick and Suzanna Apelbaum located at 77 Camp Dr. **Tax Grid No. 6468-05-130792.**

The applicant is seeking Water Law Permit to Section 250.78 of the Town of Clinton Zoning Law to construct a deck within 100 of Long Pond Lake on a 0.359 acre lot.

Mr. Villar was back before the board for the above application.

The board declared lead agency.

Mr. Auspitz motioned the following resolution, to wit:

BE IT RESOLVED, THAT 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 the NYCRR 617, in the matter of the Benedick Wetlands Permit on property located at 77 Camp Dr. **Tax Grid No. 6468-05-130792.**

INTERESTED

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Not applicable

INVOLVED

Not applicable

Seconded by Mr. Thomas, all Aye, Motion carried, 6-0.

The board reviewed the Short Form EAF and issued the following resolution.

Mr. Auspitz motioned the following:

BE IT RESOLVED the Town of Clinton Planning Board has determined that the Benedikt Wetlands Permit, tax grid no. **132400-6468-05-130792**, will not have a significant impact on the environment; and

BE IT FURTHER RESOLVED the Town of Clinton Planning Board hereby issues a Negative Declaration pursuant to the requirements of the State Environmental Quality Review Act 6 NYCRR 617.6 (g) and in accordance with Article 8 of the Environmental Conservation Law.

Seconded by Ms. Ruzicka, all Aye, Motion carried, 6-0.

After all the reviews were made, another resolution was passed.

Mr. Auspitz motioned that the Town of Clinton Planning Board provide a conditional approval of a Permit pursuant to Section 250.78 of the Town of Clinton Zoning Law to **Lorenzo Benedick** to construct a deck within 100 of Long Pond on a 0.359 acre site located at 77 Camp Drive in a C District in the Town of Clinton **Tax Grid No. 132400-6468-05-130792-0000**.

WHEREAS:

1. At its Feb. 20, 2018 meeting, the Planning Board approved a recommendation to the Zoning Board of Appeals to grant applicant area and coverage variances for construction of the deck in question.
2. If the Zoning Board of Appeals grants approval of the variances, the new deck will be within 100 of Long Pond, an area meeting the definition of a “controlled area” pursuant to Section 250.105 of the Zoning Law. Section 250-78 prohibits construction of any structure within a controlled area unless a permit has been issued by the Planning Board pursuant to that section.
3. Section 250-78(H) of the Zoning Law allows the Planning Board to waive the information and other requirements set forth in that section. A short form

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environmental assessment form under SEQRA has been submitted by the applicant.

4. The Planning Board hereby concludes that waiver is appropriate regarding this application because the proposed deck will be above the height of the pond and use of the controlled area will be limited to part of the deck itself. Accordingly, the Planning Board has concluded that the proposed structure will not have a significant effect on the ecology of the pond, the public health and welfare, flood hazards or water supply in the area.
5. At its Feb. 20, 2018 meeting, the Planning Board declared itself lead agency for this unlisted, uncoordinated action and has issued a negative declaration of significance.

NOW, THEREFORE, BE IT RESOLVED, the Town of Clinton Planning Board grants the requested controlled area permit PROVIDED the following conditions are met:

- a. The applicant's request for an area variance to reduce the rear and side setback and a coverage variance for the construction of the proposed deck is approved by the Zoning Board of Appeals, failing which this permit will become null and void.
- b. All appropriate fees are paid.
- c. The applicants will obtain any required DEC approvals or permits for this structure.

Seconded by Mr. Dolan.

Discussion. None.

All Aye. Motion carried, 6-0.

Lack Site Plan and Special Permit for an Accessory Dwelling – 126 Coyote Ridge Road, Tax Grid No. 6267-00-631950

Applicant is seeking a Site Plan and Special Permit for an Accessory Dwelling for family use.

Jack Auspitz recused himself.

David Sauers and Nathaniel Gange from Optimus Architecture were present for this application. Mr. Sauers explained that this is 61.55-acre property in the AR5 Zoning District. The Lacks wish to build an 1,955 square foot one-story building to house their daughter who is suffering from chronic Lyme disease. The proposed structure will not be visible from any of the neighboring properties. An area variance was granted by the Zoning Board of Appeals dated January 25, 2018. He noted that the ZBA determined that

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a variance to the number of accessory structures is not required. He also indicated about the deed restriction prohibiting subdivision.

Mr. Sauers stated that although the property is in the Ridgeline, the proposed site is below that elevation (less than 500 feet). They are now back before the board to finalize their application.

Chairman DePasqua asked for questions and comments from the board.

Mr. Marrapodi stated that the board needs to declare lead agency and set the public hearing.

The board discussed whether to review Short form or Long Form EAF. Mr. Thomas stated that this application needs a Long Form EAF since the property is in the Ridgeline, Scenic, and Historical Protection Overlay District. The board agreed.

Mr. Marrapodi motioned 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 the NYCRR 617, in the matter of the Site Plan/SUP for the Lack property, tax grid # 6267-00-831950, located at 126 Coyote Ridge Road in the Town of Clinton, for this unlisted coordinated action.

INTERESTED AGENCIES

Dutchess County Planning
Conservation Advisory Commission
Town of Clinton Fire Department -Western District

INVOLVED AGENCIES

Dutchess County Health Department
Seconded by Mr. DePasqua.

Seconded by Mr. Dolan, All Aye, Motion Carried 5-0.

Public hearing is set to April 3, 2018.

Mr. Auspitz joined the panel back.

Daly Demolition Plan Approval – 115 Creek Road, Tax Grid No. 6267-00-280805

Applicant wishes to remove a portion of a 1780 circa house and demolish two outbuildings and remove an above-ground pool due to disrepair.

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Ms. Daly was back before the board. She indicated what had transpired at the previous meeting. She met with the members of the Clinton Historical Society Committee and agreed to renovate the historical portion of the building instead of tearing the building down. She noted that Warren Smith will be working with her on the plans. She is now before the board seeking Demolition Plan approval to remove the portion of the main house that is not salvageable, and the above-ground pool and two sheds due to disrepair.

The board passed a resolution, to wit:

Ms. Ruzicka motioned that the Town of Clinton Planning Board grants approval of a Demolition Permit to Denise C. Daley for removal of a portion of a 1780 circa house deemed in too much disrepair for refurbishment, two out buildings and an above ground pool on a 2.038-acre site located at 115 Creek Road, Staatsburg, which is in an RH1 Zoning District in the Town of Clinton, **tax grid #6267-00-280805**

WHEREAS:

1. The applicant has consulted with the Clinton Historical Society members, Cynthia Koch and Norene Collier and also architect Warren Temple Smith. Based on this review of the structural unsoundness of this dwelling, a plan has been devised to renovate and keep the history of this home intact whilst removing the portion that is not salvageable.
2. The two outbuildings and above ground pool will be removed
3. A short form Environmental Assessment has been provided.
4. The demolition will not harm the character of the surrounding area and the portion of the building to remain.

NOW BE IT RESOLVED THAT The Town of Clinton hereby grants Demolition Plan approval.

Seconded by Mr. Marrapodi.

Discussion. Chairman DePasqua thanked the property owner for saving one of the historical buildings in the Town.

All Aye, Motion carried, 6-0.

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Shad Hill Farm/Brookside 2 -Lot subdivision (Sketch Plan) – 31-39 Nine Partners Road, Tax Grid No. 6468-00-541541

Applicant wishes to subdivide a 23.82 -acre parcel into two parcels. Lot 1 consists of ±13.7 acres and Lot 2 is ±10.12 acres which is the AR5 Zoning District.

Brian Franks, Surveyor, along with Dennis Gendron appeared for this application. Mr. Gendron explained that he wishes to buy 10 acres of land from his neighbor for tree farming purposes.

Chairman DePasqua asked Mr. Gendron if he is already farming this land. Mr. Gendron responded, “No”.

The board discussed the application. Mr. Thomas asked if there are working farms within 500 feet of the property. Mr. Gendron responded, “None, except for him.”

Mr. commented that he doesn’t have any problem with the proposal. A potential driveway should be shown on the map as part of the process. Ms. Ruzicka agreed. The driveway doesn’t need to be constructed but needs to be shown on the map.

Mr. Marrapodi asked about the wetlands on the property. Mr. Franks responded that these are not Federal Wetlands. Mr. Thomas opined that he doesn’t think that the Town Wetlands Permit is required since there is no building proposed on this area. He noted that wetlands and the proposed driveway still need to be depicted on the map as part of the subdivision process.

Mr. Thomas suggested that the Town Engineer reviews the proposed site to ensure that a driveway is feasible on the proposed location due to the ponds and wetlands in that area. The Highway Superintendent also needs to sign off the location of the proposed driveway. The board agreed.

The board passed a resolution, to wit:

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

**Town of Clinton Planning Board
Resolution Granting Sketch Plan Approval**

Matter of Shad Hill Farms Subdivision

Whereas, the Town of Clinton Planning Board has received an Application for Subdivision from Dennis Gendron on behalf of Brookside and Brookstone LLC (the”LLC”) for the purpose of subdividing a +/-23.82 acre parcel located at 31-39 Nine

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Partners Road in the Town of Clinton into two lots consisting of 13.7 acres (Lot 1) and 10.12 acres (Lot 2), as shown on a “Subdivision Plat Prepared for Shad Hill Farms” prepared by Brian W. Franks (License #49852) dated October 17, 2017 (the “Map”); and

Whereas, Dennis Gendron has represented that he is authorized by the LLC to make this application on its behalf; and

Whereas, the application involves tax parcel number 6468-00-541541-0000, which parcel is located in the AR-5 Very Low Density Agricultural Residential District; and

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

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

Whereas, all applicable fees have been paid;

Now, Therefore Be It Resolved, the Planning Board hereby grants Sketch Plan Approval for the Shad Hill Farms Subdivision; and

Be It Further Resolved, that the applicant will be required to depict a feasible driveway providing access to Lot 1 on the Preliminary Plat and obtain approval for same from the Town Engineer and Town Highway Department prior to approval of the plat by the Planning Board; and

Be It Further Resolved, that the Planning Board hereby grants the following waivers from the Submission Requirements set forth in Appendix C to the Town of Clinton Subdivision and Lot Line Adjustment Regulations: Part I, Submission Requirements for Sketch Plans, Item 6 (general location of existing structures, wooded areas, streams and other significant physical features) and Part II, Submission Requirements for Preliminary Plats, Item 1.e. (depiction of utility structures), Item 1.f. (contours), Item 1.h. (location of rock outcrops, wooded areas and significant features),

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Item 1.i. (tabular data regarding soils characteristics) and Item 2.b. (survey tie-in to road or official monuments); and

Be It Further Resolved, that the Planning Board will require establishment of an escrow account in the amount of \$500 payable by the applicant.

Motion:

Paul Thomas

Second:

Jack Auspitz

VOTE:

Arthur DePasqua, Chairman	<u>Aye</u>
Jack Auspitz	<u>Aye</u>
Tracie Ruzicka	<u>Aye</u>
Gerald Dolan	<u>Aye</u>
Paul Thomas	<u>Aye</u>
Robert Marrapodi	<u>Aye</u>

Seconded by Mr. Auspitz.

Discussion. None.

All Aye, Motion carried, 6-0.

\$500 Escrow was established.

No other action taken.

BOARD DISCUSSION:

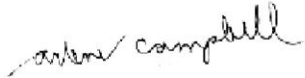
Mr. Werner, Liaison Officer, stated that the Town Board approved Morris Associates as the Town Planner and Town Engineer for this year.

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ADJOURNMENT:

Mr. motioned to adjourn the meeting at 9:405 pm, seconded by Mr. Auspitz, All Aye,
Motion carried, 6-0.

Respectfully Submitted,



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