

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
March 28, 2019**

MEMBERS PRESENT

Joseph Malcarne, Chairman

John Calogero
Charles Canham
Norma Dolan

Virginia Morrow
Arthur Weiland

Arlene Campbell, Secretary

MEMBERS ABSENT

Chris Juliano

ALSO PRESENT

Eliot Werner, Liaison Officer

Chairman Malcarne called the meeting to order at 7:30 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.

The board welcomed the new board member, Virginia Morrow.

VARIANCE AND INTERPRETATION APPLICATIONS:

Petti Area Variance - property owned by John Petti located at 39 Sodom Road, **Tax Grid Nos. 6366-00-442732** which is in the AR3A Zoning District.

The applicant requests an area variance to Sec. 250 Attachment 2 (District Schedule of Area and Bulk Regulations) of the Town of Clinton Zoning Regulations for a side yard setback reduction from 50' to 20' to allow the construction of a 22' x 24' detached garage.

Mr. Petti appeared for his application. He indicated the variances that were granted to this property in 2016 before the house was constructed. He underscored that the two non-conforming lots were combined to satisfy the variance condition. Due to the shape and topography of the lot, Mr. Petti stated that he needs a variance to construct a detached garage/barn to the north side of the property.

Chairman Malcarne asked for questions and comments from the board.

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Mr. Canham read the Planning Board's recommendation dated March 19, 2019, which is positive. There was no correspondence received from any of the neighboring property owners.

Mr. Canham expressed his comment per his site visit. This is a very unusual neighborhood. Parcels in this area are long and narrow. He indicated the history of the two nonconforming parcels that were consolidated two years ago. This is now a 3.24-acre parcel in an AR3 District Zone.

Ms. Dolan commented that some of the documentation submitted indicated a barn while other paperwork states a "garage". She asked if the proposed garage has an electric. Mr. Petti responded, "Yes".

Mr. Weiland remarked that there is already a garage on this property so this will be a second garage on the property.

Chairman Malcarne asked the applicant about the proposed use of the building. Mr. Petti responded that this building will be used for storage for yard stuff. The board agreed to call the proposed structure a "barn".

Mr. Canham asked about the height of the proposed building. It looks pretty tall based on the scale of the map. He indicated his concern about the neighboring property. Mr. Petti responded that the height of the barn will actually give the neighbor more privacy. Mr. Canham asked if the door will be facing his house. Mr. Petti responded, "Yes".

Ms. Morrow asked if there will be a door at the back of the building. Mr. Petti responded, "No".

Mr. Weiland indicated his concern about any lighting that shines towards the neighboring property. Chairman Malcarne asked the applicant if there will be windows proposed on this building. Mr. Petti responded that there will be none. Chairman Malcarne noted that any lighting should be downlighting.

Mr. Canham commented that the proposed door is massive. This is a 22-foot wide door as supposed to the standard door of 16 feet wide and 12 feet high. The board discussed and exchanged opinion about the dimension of the proposed building.

Ms. Dolan asked about the siding of the building. Mr. Petti responded that it will be vinyl siding. Ms. Dolan asked if there will be water or plumbing in the barn. The applicant responded negatively.

Chairman Malcarne motioned to open the public hearing, seconded by Ms. Morrow, all Aye, Motion carried, 6-0.

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There being no comments, the board agreed to close the public hearing. Chairman Malcarne motioned to close the public hearing, seconded by Mr. Weiland, all Aye, Motion carried, 6-0.

Mr. Canham commented that it is a very distinctive neighborhood with narrow lots. An area variance is typical due to the shape of the lots in the neighborhood.

Ms. Dolan reiterated the concern about the height of the proposed barn. After reviewing the scale of the map, Chairman Malcarne stated that the height of the barn is 24 feet.

The board discussed the concern about the height of the building and the impact on the neighborhood.

Mr. Calogero opined that he doesn't have a problem with the proposal as long as the barn is in harmony with the house or as long as the barn doesn't go higher than the house. Mr. Petti noted that he is going to make the barn nice.

Ms. Dolan wanted to see a screening in that area. The board agreed.

Ms. Morrow asked if there are any vegetations around that area. Mr. Petti responded that there is none. There is only one bush.

After all the reviews and opinions were made, the board agreed to pass a resolution.

Mr. Canham moved that the Town of Clinton Zoning Board of Appeals grant an area variance requested by **John Petti** to Section 250 Attachment 2 reducing the side yard setback from 50 feet to 20 feet for construction of a 20 foot by 24 foot barn on his property located at 39 Sodom Road, Hyde Park, NY, **Tax Grid No. 6366-00-4422732-00** in an AR3 Zoning District.

Factors:

1. The applicant wishes to construct an accessory structure – a 22 foot by 24-foot barn - on his 3.45-acre parcel in an AR3 Zoning District. His lot, like a number of neighboring parcels, is narrow and deep, with a maximum width of only approximately 165 feet. The back of the parcel is heavily wooded and contains a pond and protected the wetland.
2. Construction of the house on the property required a side yard setback reduction to 34.5 feet on the south side of the house. The proposed accessory structure would be on the north side of the house, which already abuts the 50-foot side yard setback.
3. Granting the requested area variance will not cause an undesirable change in the neighborhood, or be a detriment to nearby properties, and will not change the character of the neighborhood, since many of the neighboring properties face similar constraints, with houses and accessory structures clustered at the front of

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the properties.

4. Given the configuration of the lot, the benefit sought by the applicant cannot be achieved by other means.
5. The requested area variance is substantial, but this does not preclude granting the variance.
6. The requested area variance will not have an adverse effect on the physical and environmental conditions of the neighborhood or district.
7. The alleged difficulty is self-created, and due to the deep, narrow configuration of this and other lots in the neighborhood, and shall not preclude from granting.
8. The parcel is not in an Ag District, is not within the Ridgeline, Scenic, and Historic Protection Overlay District, and is not within a Critical Environmental Area.
9. An area variance is a Type II action under SEQRA and requires no further action.

Conditions:

1. That the applicant provides screening between the accessory structure and the adjacent parcel.
2. All lights should be down lighting.
3. That all fees have been paid.

Seconded by Mr. Weiland.

Discussion. Mr. Weiland stated that the downlighting should be included as a condition. Ms. Dolan asked about adding a notation about the no storage in the setback. Mr. Weiland responded that is already a part of the zoning regulation.

Chairman Malcarne advised the applicant about the no storage in the setback.

Mr. Weiland indicated that you cannot put this barn at the back of the house because of the leach field. You cannot drive over the leach field to get back there. Mr. Calogero agreed. There is also a pond at the back of the property.

Mr. Canham added that the lot is pretty narrow. Anything you do on this property will be in the setback.

All Aye, Motion carried, 6-0.

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Mayer Variance – property owned by **Susan and Jeff Mayer** on property located at 140 Willow Lane, **Tax grid # 6567-00-259864** which is in the AR5A Zoning District.

Applicant requests an area variance to Sec. 250 Attachment 2 (Area Bulk and Regulations) of the Town of Clinton Zoning Law for a rear yard setback reduction from 75' to 49 feet in order to install a 20' x 40' Gunite in-ground pool.

Michael Todd from Rainbow Pools appeared and explained that they want to install a 20' x 40' gunite pool at the rear of the property where it intrudes the setback. The pool will be heated with a propane-fueled heater and will include a salt system instead of the traditional chlorine system. He explained the topography of the property which goes up and drops down towards the back of the property.

Mr. Todd explained why this is the best location for the proposed project. The water and waste utilities are in the front yard. The property owner also wanted the pool to be in the back yard for privacy purposes.

Ms. Dolan read the Planning Board's recommendation dated March 19, 2019, which is positive. There were no letters or correspondences received from the neighboring property owners.

Chairman Malcarne asked how accurate the setback measurement is. He wanted to make sure that the requested variance will suffice for the intended use. He explained that they hate to see the applicant come back before the board for another variance (pool equipment).

Mr. Todd responded that they have a survey and he's pretty confident about the proposed measurement. He measured it from the edge of the pool.

Mr. Canham asked clarity about the measurement. What constitutes the edge of the pool? What is the measurement to?

Mr. Todd asked if the patio is considered a structure and can be in the setback. Chairman Malcarne responded that the patio is considered landscaping and not a structure.

The board discussed the issue and agreed to issue 45 feet to give enough room for the requested pool.

Ms. Morrow asked about the area where the jungle gym is and next to the garage. Mr. Todd responded that the area is rocky. He added that they picked the proposed site since it is completely hidden. It is also a safety issue since the owner just had a baby.

Mr. Canham added that the neighbors to the back are also farther back.

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Chairman Malcarne motioned to open the public hearing, seconded by Mr. Calogero, all Aye, Motion carried, 6-0.

There being no comments, the board agreed to close the public hearing. Chairman Malcarne motioned to close the public hearing, seconded by Ms. Dolan, all Aye, Motion carried, 6-0.

The board passed a resolution.

Ms. Dolan motioned to approve the area variance to Section 250 Attachment 2 of the Town of Clinton Zoning Regulations, reducing the rear yard setback from 75' to 45' for the construction of a 20'x40' pool for property owned by **Susan and Jeff Mayer-** Parcel Number **132400-6567-00-259864** located at 140 Willow Lane which is a pre-existing, non-conforming 2.87 acre parcel located in the AR5A Zoning District in the Town of Clinton. The applicant wishes to construct the pool within the 75 foot rear yard setback made necessary by the topography north of the pool's proposed location which prevents an increase in the rear setback.

FACTORS:

1. An Undesirable change would not occur in the character of the neighborhood or be a detriment to nearby properties.
2. The benefit sought by the applicant cannot be achieved by an alternative method without a variance due to the topography north of the proposed location of the pool.
3. The property is not within an AG district or CEA.
4. The site does not contain an NYSDEC wetland.
5. The requested variance is substantial.
6. The alleged difficulty was self-created
7. An area variance is considered a type II action under SEQRA and requires no further action.
8. The property is within the Ridgeline, Scenic, and Historic Protection Overlay District.
9. The site is on a Clinton Scenic/Historic Road, that being Willow Lane, and must conform to Local Law #3 of 2001.
10. There are not any known outstanding zoning violations.
11. A consent form signed by the owners is on file with the Building/Zoning Clerk

CONDITIONS

The pool equipment and any associated items are located somewhere other than in the setback area.

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Seconded by Mr. Weiland.

Discussion. Mr. Weiland raised the issue about the space for the pool equipment. Mr. Todd stated that he will locate the pool equipment in any open space that he can find. The board discussed the issue and asked the applicant if 10 feet is enough to put the pool equipment. The applicant responded that he will find an open space for the pool equipment. He is not worried about it.

All Aye, Motion carried, 6-0.

The board went to an executive session.

APPROVAL OF MINUTES:

No minutes were approved.

ADJOURNMENT:

Chairman Calogero motioned to adjourn the meeting at 8:45 pm, seconded by Ms. Morrow, All Aye Motion carried, 6-0.

Respectfully Submitted By:



Arlene A. Campbell
Zoning Board of Appeals Secretary

Cc: Carol Mackin, Town Clerk