

**Town of Clinton
Zoning Board of Appeals
Meeting Minutes - April 25, 2019**

MEMBERS PRESENT

Joseph Malcarne, Chairman
John Calogero
Charles Canham

Chris Juliano
Virginia Morrow
Arthur Weiland

MEMBERS ABSENT

Norma Dolan

ALSO PRESENT

Arlene Campbell, Board Clerk

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

Chairman Malcarne asked the board clerk if the application on the agenda was properly advertised and adjoining neighbors were notified.

Ms. Campbell responded positively.

Mr. Canham noted that the meeting was being recorded for record keeping purposes.

INTERPRETATION APPLICATION:

Punchar's Interpretation - for an application interpreting Sections 250-28 (B) and (J) the Town of Clinton Town Code.

The appellants are seeking a reversal of the Zoning Administrator's interpretation of Sections 250-28 (B) and (J) of the Town of the Clinton Code regarding a determination made by the Zoning Administrator for activities related to smoke, fumes and odors emanating and occurring at 92 Deer Ride Drive, Staatsburg NY 12580 Tax Grid No. 6368-00-289180.

The Punchars and their legal counsel, Alan Rapplelea were back before the board for an Interpretation application. The public hearing was open December 6, 2018 and is still open. Also present at this case was Shane Egan, representing the Town.

Chairman Malcarne indicated that the board has some administrative things that they are looking to take care of.

The board agreed to enter into an Executive Session at 7:31 pm.

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Chairman Malcarne motioned that the board goes into an Executive Session, seconded by Mr. Canham, all Aye, Motion carried, 6-0.

At 7:48 pm, Chairman Malcarne motioned to close the Executive Session, seconded by Mr. Calogero, all Aye, motion carried, 6-0.

Chairman Malcarne noted that he will change the order of the agenda a little bit to hear the Interpretation's application first. The variance application will be heard after.

Mr. Canham stated that the public hearing is still open at the request of the Bishops to allow their attorney, Mr. Kearney to be present.

Mr. Canham advised the Bishops of Mr. Kearney's absence. He said, "In case you want him to be in here, Mr. Kearney has indicated that he does not need to be in here." Mr. Canham asked the Bishops, "Is that still your understanding?"

Ms. Bishops indicated yes.

In that case, Mr. Canham said, "I'd like to close the public hearing,

Ms. Punchar interjected and said, "actually, I wanted to submit..."

However, the motion to close the public hearing was seconded by Mr. Calogero, all Aye, Motion carried, 6-0.

Mr. Canham said that the public hearing is closed. The board had two full meetings, (December 6, 2018 and February 28, 2019) six plus hours. There are new submissions that were acknowledged and will require each review, but at this point, the board has all the information that they need in order to move to an interpretation. This will happen within the 62-day period. He presumes that the parties will be notified by Ms. Campbell.

Ms. Campbell responded, "Yes".

Mr. Canham said, "That's where we are with this." We have a lot of materials to digest. There are new materials that may or may not be relevant to the interpretation based on the ZEO's decision in October 2018. So – that's the board standing.

Mr. Egan asked the board to acknowledge for the record, the two other documents that were recently submitted by Ms. Punchar.

Mr. Canham acknowledged the receipt of two documents dated April 24, 2019 and April 11, 2019.

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Mr. Rappleyea asked, "I know there was a motion, but I wasn't sure whether the motion was voted or not."

Mr. Canham noted that there was a motion to close the public hearing. This was voted and passed.

Mr. Rappleyea said, "The only request that I have is about the 3 to 4 pages documents that we'd like to submit now and that would be the end of it."

The board agreed to accept the submission.

Mr. Canham read for the record the new submission passed at the meeting by the Punchars i.e. copies of emails and exchanged between the Punchars and the Zoning Administer, dated back to last August 21, 2018.

Mr. Canham asked, "Are these not..?"

Chairman Malcarne asked to mark the documents received dated April 25, 2019.

Mr. Egan verified that the vote to close the public hearing was passed.

The board said, "Yes".

No other action taken. Decision will be made within 62 days of the meeting.

VARIANCE APPLICATION:

Mobley Area Variance – property owned by Matt and Miranda Mobley, located at 41-51 Lake Drive, **Tax Grid No. 6368-00-829549** which is in the C Zoning District.

Applicants request an area variance to Sec. 250 Attachment 2 (Area Bulk and Regulations) of the Town of Clinton Zoning Law for a front yard setback reduction from 100' to 30 feet in order to construct a 36' x 44' Agricultural Multi-use Pole Barn for storage, work space, and farm store purposes.

The Mobleys appeared for their application. Mr. Mobley briefly explained his application as indicated above. This is a 52-acre property that they recently purchased. They want to have a multi-use building to have a storage, work spaces and offer their farm products to the community and Omega people. He indicated his intention to use the land behind the proposed building location to grow farm goods such as apple trees, etc. He acknowledged the concern about the proposed size of the building and its proximity to the road. He noted that passersby can easily access the store. It will also be closer to walk around and find the farm products that they want. Mrs. Mobley added that the proposed building will not be an eye sore. They want this building to look appealing and to conform with the

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town code and the neighborhood. She indicated the reason why the building can't be located farther back due to the type of soil that is suitable for vegetation instead of a building.

Chairman Malcarne asked for comments from the board.

Mr. Calogero read the Planning Board recommendation dated April 2, 2019 which is conditional positive.

Mr. Calogero expressed his comment. It's hard to miss an improvement to this property based on his site visit. The property owners seems to be enthusiastic to what they're proposing. He stated that he sat down on one of the front porch of the house and visualized the building to be out on the middle of the field. He thinks that this building will be more visible out on the middle of the field than tucked closer to the tree lines where it will be somewhat shielded by the trees. If there is a determination about the soil types behind the proposed building that are most suitable for farming then, he respects that. Why would you put up a building on a good soil when you can farm it? Looking at the property, Mr. Calogero opined that that the proposed building would be an asset to the property and the Town.

Mr. Canham commented that this is one of the most heartwarming applications that the board had recently given the recent experience that they have. It's really inspirational. There's a reason why most old barns are located close to the road. He said that this proposal seems to be reasonable and sensible.

Ms. Morrow agreed with Mr. Canham about the barn location and echoed Mr. Calogero's comments about the land. She asked the applicant about the details of the building. As to her understanding, the middle part of the building will have a foundation and the green house will have dirt floors? The Mobleys responded, "gravel". Ms. Morrow commented that she doesn't even know if that area would count as a building.

Mr. Weiland asked if there will be a septic. Mr. Mobley responded, "There will be no septic, just water." Mr. Weiland asked about the parking. "Will it be off the road?" Mr. Mobley located the proposed parking areas on the map. He also indicated his conversation with Skip Backus of Omega who warned him about the number of people walking on this road. He was asked to have a real good plan about the parking.

Mr. Juliano asked if they have a farm exemption. The Mobleys responded, "Yes." Mr. Juliano asked how much of the 56 acres of land is rated as agricultural. Mr. Mobley responded, "Roughly about 30 acres."

Mr. Juliano asked about the two thresholds to qualify for farm exemptions. Mr. Mobley responded that under 10 acres is \$20,000 and over \$10,000 a year with the average of over 2 years. Mr. Juliano concurred with Mr. Calogero's comment about the positive impact of farm buildings to the town. It is good for the community. He also noted that farmers are under the jurisdiction of the state (Ag and Markets).

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

Robert Backus from Omega Institute spoke and indicated his strong concern about the possible increase in traffic on Lake Drive. This road is a disaster. They're lucky that they never had any accidents on this road. He underscored that he doesn't want to create additional traffic hazard on this road. He also indicated his concern about the run off and contaminant that could affect Long Pond. He is worried about the livestock operation. Mr. Backus also indicated that he shared the same feelings about farming and appreciated and welcome more local agricultural products.

Chairman Malcarne remarked that 90% of the traffic on Lake Road is caused by Omega.

The board discussed parking and traffic concern. At peak season of Omega, this road is very busy.

Mr. Calogero read the letter received from Ray Oberly who supports the proposal but indicated concerns about parking and proposed driveway entrance. He suggested having the Highway Superintendent review the proposed driveway to ensure compliance of the sight distance and regulations.

Mr. Mobley said that Mr. Tompkins already signed off the proposed location. He just needs to get the paper work from him.

Mr. Weiland asked the applicant if he considers locating the parking to the other side of the property. Mr. Mobley responded that it is pretty far walk. They will also have to clear some trees. He noted the culvert that runs to the property.

The board had a lengthy discussion about parking. Mr. Mobley indicated the Planning Board's suggestion about the parking areas. Mr. Juliano noted that there is a regulation in the book about how many parking areas required for a farm stand. Per his understanding, the Planning Board suggested 3 spaces of parking areas per farm stand code. Ms. Campbell agreed. The Planning Board discussed the requirement of 3 parking spaces for a farm stand.

Ms. Morrow commented that she wasn't sure why there's a concern about the sight distance. It's pretty far off. Chairman Malcarne noted that the Highway Superintendent already signed off the proposed access.

Chairman Malcarne suggested looking into Hahns Farm on Salt Point Turnpike. He's a local farmer and a very nice guy. He has a parking across the street. They've been there for years and the set-up pretty works well. Mr. Weiland said that they also have a lot of events out there.

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Mr. Canham added that Hahns Farm is also located on a very busy road. The road is a 55-mile-speed road and the amount of people who goes in and out of this farm is big.

Chairman Malcarne commented that if Omega Institute was not on this road, then he will be fine. He indicated the amount of people in the area especially during the weekends.

Mr. Calogero agreed with Mr. Backus comments earlier about the driving skills of the Omega guests. He suggested that the applicant take the words of Mr. Backus seriously about the Omega guests.

The board had a lengthy discussion about Lake Drive traffic due to Omega Institute guests. Mr. Juliano asked if it is possible to consult an engineer about the parking plan to mitigate the safety concern. He underscored that he's not trying to increase the property owner's burden of expense. He just wanted to help mitigate the concern about the parking issue.

Mr. Canham commented that it is up to the applicant to make this building safe. The last thing that they need is accident on their parking area.

Ms. Morrow said that they will also know the need of putting more gravel on the parking site when they see that more cars are stopping by.

Mr. Canham asked the applicant if they understand and are aware about the buffer along the creek when it comes to fertilization. Mr. Mobley responded, "Yes." He indicated the details of their farming. He noted that they are working with a great consultant about everything.

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

The board passed a resolution.

Mr. Calogero motioned that the Town of Clinton Zoning Board of Appeals grant a variance to **Matthew and Miranda Mobley** of 41 Lake Dr, Rhinebeck, NY, in order to construct a pole barn 30 feet from the road when a front setback of 100 ft is required, on their 52.7 acre parcel, **tax grid# 132400-6368-00-8295-0000.**

Factors:

1. The applicants wish to construct a multi-use pole barn, 36ft x 44ft, with three parking spaces and an unpaved driveway, in the front of the field where much of their farm products will be cultivated.
2. In order to accommodate anticipated pedestrian traffic as well as the vehicle traffic, they wish to locate the building closer to Lake Dr than allowed by the Schedule of Area and Bulk Regulations.

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3. The proposed building's purpose will combine farm product sales, greenhouse seedling preparation, and washing of farm produce. The applicants hope that the multi-purpose design will provide customers with insight into how their food is grown.
4. The alleged difficulty is self-created but if the building were to be located back further to avoid needing a variance, it would be situated on the best soil for crop production as identified by Dutchess County Soil and Water. The multi-purpose design lowers the number of buildings needed.
5. The variance is substantial but there are at least a dozen other structures along Lake Dr which are closer to the road than the current required setback. This building will not produce an undesirable change to the neighborhood but rather should be in harmony with other structures. Also, locating the building closer to the road brings it closer to the tree line which serves to somewhat screen it and to make it less intrusive than if it were an additional 70 ft out in the field.
6. The planning board has issued a positive conditional recommendation.
7. The parcel is located in a Conservation Agricultural District, Lake Dr.
8. The parcel is not within the Ridgeline and Historic Protection Overlay District, and is not within a Critical Environmental Area.
9. The parcel is located on a Scenic Road.
10. An area variance is a Type II action under SEQRA and requires no further action.

CONDITIONS:

1. All fees have been paid.
2. Highway Department approval and subject further to the condition that any expansion of the facility beyond selling applicant's own produce (and vegetable propagation and workshop as set forth in the papers submitted) would require applicant to submit a site plan.
3. The applicant will design and submit a parking expansion plan.

Seconded by Mr. Canham.

Discussion. Mr. Weiland asked if scenic roads is mentioned on the resolution. Mr. Calogero responded, "Yes, it's on number 8". Mr. Weiland noted that "Scenic Road" is

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under a different section of the regulations. This is different from the Scenic, Historic and Historic Overlay District. The board agreed to include that the property is in the scenic road.

The board discussed and agreed the inclusion of the Planning Board's recommendation (Condition #2) in the resolution.

Chairman Malcarne asked to include the submission of the design of parking expansion plan before a Building Permit can be issued. This will give a sense to everybody that the ZBA looked at this concern and is aware of it. Chairman Malcarne suggested reviewing this parking plan carefully given the magnitude of the concern in the area.

Mr. Weiland asked to include an item about "Whether the proposed action is a detriment to the neighborhood?" in the "Factors" section of the resolution. He feels that this is an improvement. The 5 factors of a variance must be part of the resolution. The board agreed.

All Aye, Motion carried 6-0.

APPROVAL OF MINUTES:

Mr. Canham motioned to approve the minutes of March 28, 2019 minutes, seconded by Ms. Morrow, all Aye, Motion carried, 6-0.

ADJOURNMENT:

Chairman Malcarne motioned to adjourn the meeting at 9:20 pm, seconded by Mr. Weiland, All Aye Motion carried, 6-0.

Certification:

The forgoing represents accurate minutes of April 25, 2019 Public Hearing and Zoning Board of Appeals Meeting.

Respectfully Submitted By:



Arlene A. Campbell
Board Clerk, Zoning Board of Appeals

Cc: Carol Mackin, Town Clerk