

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
July 25, 2019**

MEMBERS PRESENT

Joseph Malcarne, Chairman

John Calogero
Charles Canham
Norma Dolan
Chris Juliano
Virginia Morrow

MEMBERS ABSENT

Arthur Weiland

ALSO PRESENT

Arlene Campbell, Secretary

Chairman Malcarne called the meeting to order at 7:32 pm.

Chairman Malcarne asked the secretary if the applications on the agenda were properly advertised and adjoining neighbors were notified. Ms. Campbell responded positively.

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

VARIANCE AND INTERPRETATION APPLICATIONS:

Maggio Area Variance - property on 61 Schoolhouse Road, tax grid #132400-6467-00-062470.

The applicant is seeking an area variance to Section 250 Attachment 2 for a rear yard setback reduction from 75' to 35' to allow construction of a 16' x 16' accessory structure on a 4.77-acre lot in an AR3 Zoning District.

Steven Maggio appeared before the board and explained his application. He's been a resident in this town for 27 years. This is a 4.77 acre property in the AR3 Zoning District in which 90% of the land is slopes. The house was built in 1939 towards the back which is the level area on the property. He noted that there is not much level area on this lot.

Mr. Maggio stated that he retired six years ago and built a utility building next to the garage to make use of the available electric in the garage. Mr. Maggio explained that he didn't realize that the utility building is in the setback. He underscored that this also the only flat area to locate a structure.

Mr. Maggio described the topography of his lot. He added that this property is very private and not visible from any of the neighboring properties. Behind his property is the

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land owned by the Neumanns-Heists which is under the Land Conservancy. Nobody can build there.

Chairman Malcarne asked for questions and comments from the board.

Ms. Morrow verbalized her comments based on her site visit. She agreed that the house and the other structures are not visible from the neighboring property owners. This property cannot be seen from the road. It has a very long driveway going up the hill to get to the house.

Ms. Morrow commented that due to the topography of the land, the area next to the garage is the only feasible area to install the utility building. She noted that the garage was already on the property when the Maggios purchased the property.

Ms. Morrow read the Planning Board's recommendation dated July 16, 2019 which is positive. There was no letter received from any of the neighboring properties.

Ms. Dolan asked the applicant if a building permit was filed when he constructed the utility building. Mr. Maggio responded, "No." Ms. Dolan asked if the utility building has an electric. Mr. Maggio responded, "Yes."

Ms. Dolan asked the applicant if he is aware that a building permit is required before starting a construction. Mr. Maggio responded that he is now fully aware about the process and trying to take care of the violation on his property. Ms. Dolan stated that she just wanted to remind property owners that they need to follow the law.

Mr. Juliano asked about the size of the building. Mr. Maggio responded that the size of the structure is 16' x 16'.

The board reviewed the map.

The board discussed about the front yard. Ms. Morrow stated that accordingly the front yard is measured from the center of the road. She thought it was the side due to the lay out of the front door. She learned that the road decides for the front yard not the house.

Mr. Calogero expressed his comment. He appreciated that the property owner is taking responsibility to correct the violation.

Mr. Juliano asked the property owner how he found out that the building is in violation. Mr. Maggio responded that he's in the process of selling his property.

Mr. Calogero stated that the property owner is doing the right thing by filing the required building permit and obtained the necessary approvals.

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Ms. Dolan commented that there are plenty of them out there. People are not obtaining the necessary town approvals. It is the tax base for our town. These properties are not getting taxed for not filing a building permit so the burden is to the rest of the property.

Ms. Morrow added that addressing the issue now is also beneficial for the sale of the property. Issues like these will cause delay.

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

Karen Summerlin of 83 Schoolhouse Road spoke indicating no objection about the above variance. She commented that you won't even know that the building is out there.

Hearing no more comments from the public, the board closed the public hearing.

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

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

Ms. Morrow moved that the Town of Clinton Zoning Board of Appeals grant to **Steven Maggio** of 61 Schoolhouse Rd, **Tax Grid #6467-00-062470**, a variance from Section 250 Attachment 2 (District Schedule of Area and Bulk Regulations) to reduce rear yard setback from 75' to 35'.

Factors:

1. The applicant is requesting a reduction of the rear yard setback from 75' to 35', which is a 40' variance, for an accessory shed that has already been built on a 4.77 acre lot.
2. The property is not in an Ag District.
3. The wooded lot has a long driveway, and the house and all other structures are not visible from the road, or from any neighboring properties.
4. This will be the third accessory structure on the lot.
5. The property is not within the Ridgeline, Scenic and Historic Protection Overlay District.
6. The applicant believes this is the best placement design as much of the lot consists of steep slopes, and adhering to setbacks would force the building to be on a slope.

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7. This is a Type II action under SEQR and requires no further action.
8. There will not be an undesirable change to the neighborhood.
9. Alleged difficulty is self-created.
10. The site is on a Scenic or Historic Road – Schoolhouse Road.
11. This will remedy an outstanding zoning violation.

Conditions:

Required Building Permits and Certificates of Occupancies are obtained.

Seconded by Mr. Canham,

Discussion. Chairman Malcarne suggested adding that this is a Type II action and need no further action. The board agreed.

Mr. Calogero asked if there is any exterior lighting. Mr. Maggio responded, “Yes, there is one right above the door.” There is also a motion detector lighting.

Mr. Calogero stated that exterior lightings should face down. Ms. Morrow commented that even bright lights will not matter in this property. It’s wooded.

All aye, motion carried 6-0.

APPROVAL OF MINUTES:

Chairman Malcarne motioned to approve the minutes of June 27, 2019, seconded by Mr. Juliano, all Aye, Motion carried, 6-0.

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ADJOURNMENT:

Chairman Malcarne motioned to adjourn the meeting at 8:45 pm, seconded by Mr. Canham, All Aye Motion carried, 6-0.

Respectfully Submitted By:



Arlene A. Campbell
Zoning Board of Appeals Secretary

Cc: Carol Mackin, Town Clerk