

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
December 5, 2019**

MEMBERS PRESENT

Joseph Malcarne, Chairman

John Calogero
Charles Canham
Norma Dolan

MEMBERS ABSENT

Chris Juliano
Virginia Morrow
Arthur Weiland

Arlene Campbell, Secretary

ALSO PRESENT

Mr. Werner was not in attendance

Chairman Malcarne called the meeting to order at 7:33 pm.

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

VARIANCE APPLICATIONS:

Dickett Area Variance – property owned by Michael Dickett and Tara Jessen located at 1567 Centre Road, **Tax Grid No. 6469-00-364453.**

The applicants are requesting the following area variances to the Town of Clinton Zoning Regulations to permit a construction of a 40' x 36' Pole Barn/Garage in the C Zone.

Sec. 250 Attachment 2

- Side yard setback reduction from 50 feet to 19 feet
- Side yard setback reduction from 50 feet to 25 feet

Sec. 250-22 A-3

- Placement of an accessory structure in front of the principal building
Dickett Area Variance –

Mr. and Mrs. Dickett appeared for their application. Mr. Dickett stated that he had been wanting to install a detached garage to store their vehicles. This is a 3.3 acre flag lot in the C Zone District. He explained the requested area variances as indicated above.

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Mr. Dickett submitted three letters from his neighboring properties all indicating no objections or concerns (letters on file).

Chairman Malcarne asked for questions and comments from the board.

Ms. Dolan read the Planning Board's recommendation dated November 19, 2019 which is positive.

Mr. Canham cited his variance application years ago when he installed his garage. He expressed his understanding about the importance of having a garage. Mr. Canham also commented that this property is not visible from the road or neighboring properties.

Mr. Calogero asked if the proposed garage will have electricity and plumbing. Mr. Dickett responded, "No". There will be no electricity or plumbing.

The board agreed to open the public hearing.

Chairman Malcarne motioned to open the public hearing, seconded by Mr. Calogero, all Aye, Motion carried, 4-0.

Hearing no comments from the public, the board agreed to close the public hearing. Chairman Malcarne motioned to close the public hearing, seconded by Mr. Canham, all Aye, Motion carried, 4-0.

Chairman Malcarne solicited more comments from the board.

Mr. Canham stated that this property is in the C (Conservation Agricultural Residential) Zone District. The purpose of the C Zone District regulation is to preserve and maintain the quality and quantity of waterbody. He indicated the proximity of the waterbody in the area.

Mr. Calogero suggested that all lighting should be downlighting. The board agreed to include this as a note in the resolution.

After all the reviews were made, the board passed a resolution, to wit:

Ms. Dolan motioned that the Town of Clinton Zoning Board of Appeals approve the area variances requested to Section 250-Attachment 2 and a variance to Attachment 250-22A.3 to build a 40'x36' accessory structure requiring sideyard setbacks of 50' to 19' and 50' to 25' and the placement of this structure in front of the principle building. This is a 3.36 acre property, owned by **Michael Dickett and Tara Jessen** located at 1567 Centre Rd. **tax grid number 132400-6469-00-564453-0000** in the C zone.

Factors:

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1. There will be no undesirable change or impact on the physical character or environmental condition in the neighborhood as this is a flag lot with substantial distances from adjacent homes.
2. The benefit sought by the applicant cannot be achieved by an alternative method without variances due to the topography and features of the lot.
3. The property is not within an AG district.
4. The site contains Federal wetlands but the buffer is not intruded upon by the placement of the accessory structure.
5. The requested variances are 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 not within the Ridgeline, Scenic and Historic Protection Overlay District.
9. There are not any known outstanding zoning violations, per the Town Zoning Officer.

NOTE: As per town zoning, there shall be no outside storage within the setbacks.
Any exterior lighting should face downward

CONDITIONS

All Fees to be paid

Seconded by Mr. Canham.

Discussion. None.

All aye, motion carried, 4-0.

Smithyman Area Variance – property owned by **Paul Smithyman and Garrett Long** located at 5 Lake Drive, **Tax Grid No. 6368-00-752443.**

The applicants are requesting the following area variances to the Town of Clinton Zoning Regulations to convert an existing structure to an accessory dwelling in the C Zone.

Sec. 250-29 D-1 and Sec. 250 Attachment 1

- Side yard setback reduction from 50 feet to 16 feet

Sec. 250-29 B-6

- Size of the accessory unit in relation to the principal dwelling which is an increase from 35% to 49%.

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Mr. Smithyman and Ms. Long both appeared for their proposal. Mr. Smithyman explained that they just recently bought this property. There was a detached garage that was converted to a studio by the previous owners. Mr. Smithyman stated that they wish to convert this structure to a guest house. They are proposing a bathroom under the existing roof line.

Mrs. Smithymann added that they have extended families from England and needed space when they have company. She noted that they will also need a place while the main house is being renovated.

Chairman Malcarne asked for questions and comments from the board.

Mr. Canham read the Planning Board's motion dated November 19, 2019 which is positive. He read the letter from Ray Oberly, 631 Fiddlers Bridge Road expressing no concern.

Mr. Smithyman submitted letters from their neighboring property owners. The Mobleys of 41 Lake Drive and the Murphys from 577 Fiddlers Bridge Road both supported their proposal.

Mr. Canham indicated the proximity of the waterbody in the area since this property is in the C Zone District.

Mr. Calogero asked if the footprint of the building will change. Mr. Smithyman responded, "No". Mr. Calogero made a follow up question, "Is the existing roof sufficient enough to cover the proposed area?" Mr. Smithyman responded, "Yes".

Mr. Canham expressed his comment. These structures are pre-existing and nonconforming buildings. The size of the main house is too small. It is not surprising to see an addition or an accessory dwelling on this property. He expressed his wish to see a revision in the zoning code about the size of the main dwelling knowing the sizes of the houses nowadays are not in accordance with the code.

Ms. Dolan asked the applicant if this will be a rental. Mr. Smithyman responded, "No." The proposed cottage will be used for family and guests.

Mr. Calogero asked about the number of bathroom in the main house. Mr. Smithyman responded that there is only one bathroom in the main house.

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

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Mr. Canham motioned that the Town of Clinton Zoning Board of Appeals grant motion to approve the area variances to Section 250 Attachment 2 (District Schedule of Area and Bulk Regulations) to reduce the side yard setback from 50 feet to 16 feet and Section 250-29 B-6 increasing the allowable accessory dwelling floor area from 35% to 49% of the principle structure for the purpose of adding a bathroom to an existing converted garage structure as requested by **Paul Smithyman and Garrett Long** on the property located at 5Lake Drive, Rhinebeck, NY, **Tax Grid #: 132400-6368-00-752443** in a Conservation Agricultural Residential Zoning District.

Factors:

1. An undesirable change would not occur in the character of the neighborhood or be a detriment to the nearby properties as the converted garage already exists and the existing footprint is not changing by adding the new bathroom. Where the proposed bathroom is to be located there is an existing attached covered porch/covered patio area and the bathroom will be located under the existing roof line.
2. The lot size is 10.65 acres
3. The property is in a Conservation Agricultural Residential Zoning District.
4. The Property is not in a Critical Environmental Area.
5. The variances request is substantial but this does not preclude its granting. Lot is 10.65 acres which is more than double the required acreage.
6. The benefit sought by the applicant cannot be achieved by some other method.
7. An area variance is a type II action under SEQRA and requires no further action.
8. The alleged difficulty is self-created.

CONDITIONS:

1. Any Lighting to be downward.
2. All fees have been paid.

Seconded by Mr. Calogero,

Discussion. Chairman Malcarne commented that the requested variance is significant but it does not preclude from granting the variance.

All Aye, Motion carried, 4-0.

INTERPRETATION:

None

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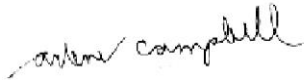
APPROVAL OF MINUTES:

Mr. Calogero motioned to accept the minutes of October 24, 2019, seconded by Mr. Canham, All Aye, Motion carried, 4-0.

ADJOURNMENT:

Chairman Malcarne motioned to adjourn the meeting at 8:55 pm, seconded by Mr. Canham, All Aye Motion carried, 4-0.

Respectfully Submitted By:



Arlene A. Campbell
Zoning Board of Appeals Secretary

Cc: Carol Mackin, Town Clerk