

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
February 18, 2020**

MEMBERS PRESENT

Art DePasqua, Chairman
Gerald Dolan
Jack Auspitz
Justin Carroll
Sara Love
Paul Thomas
Tracie Ruzicka

MEMBERS ABSENT

Secretary – Arlene Campbell

ALSO PRESENT

Dean Michael, Liaison Officer

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

VARIANCE APPLICATION:

Malloy (Edition Farm) Variance - 73-79 Spooky Hollow Road, Tax Grid No. 6366-00-582554.

The applicants are requesting the following area variances to the Town of Clinton Zoning Regulations to permit a construction of a 94' x 96' one story pole barn to replace the two barns that were damage by fire.

Sec. 250 Attachment 2

- Front setback reduction from 100 feet to 16 feet
- Side yard setback reduction from 50 feet to 35 feet

Sean Shay and Ms. Malloy appeared for this application. Mr. Shay explained that Ms. Malloy owned almost 200 acres of property. This parcel has 62.86 acres of land that Ms. Malloy owned since 1986. They are proposing to construct a 94' x 96' one story Pole Barn 16 feet to the road. The proposed site will be inside the existing paddock thereby preventing tree clearing. He indicated the fire a couple of months ago that damaged the two big barns across the street. Everything was completely totaled. Instead of rebuilding the two barns, Mr. Shay stated that Ms. Malloy wished to rebuild one big barn inside the existing paddock due to proximity of the foaling barns.

Mr. Shay explained why the proposed location will be the most feasible site to construct the barn. He underscored that there will be no cutting of trees. He described the proposed barn which will consist of eight stalls.

Chairman DePasqua asked for questions and comments.

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Ms. Ruzicka asked where the nearest neighbor is. Mr. Shay pointed out on the map the location of the nearest neighbor. He also indicated the letter from these neighbors, the Pragmans who are supporting their proposal but hoping not to see any lights. Mr. Shay commented that there is no reason to put lights behind the barn anyway.

Ms. Ruzicka expressed her comments. This property is in the Agricultural District. She commented that it will also require cutting of trees if the barn is rebuild on the other parcel. She indicated the required variances per the ZEO.

Chairman DePasqua asked if this property has an Ag Exemption. The applicant responded, "Yes".

The board agreed to pass a resolution.

Ms. Ruzicka motioned that the Planning Board approve the following resolution:

Be it Resolved that the Clinton Planning board makes a positive/negative recommendation to the Zoning Board of Appeals on the requested area variances to Sec. 250 Attachment 2 reducing the front yard setback from 100, 1 story, open sided wood-pole barn. as requested by Henry and Vivien Malloy on property located at Spooky Hollow Road, Edition Farm **TaxGrid** #132400-6366-00-582554 in a AR5 Zoning District

WHEREAS:

1. The applicant is requesting a reduction of a front yard setback from 100 feet to 16 feet and the side yard setback from 50' to 35' for the building of a 94' by 96' Pole barn on their 62.86 acre parcel
2. The applicant is proposing to locate the new structure inside of an existing paddock to keep the barn yard complex workable and avoid having to remove any trees or stone walls, or do substantial grading.
3. The property is not in an Ag District.
4. The property is not within the Ridgeline, Scenic and Historic Protection Overlay District
5. The property is not in a CEA (Critical Environmental Area)
6. The variance requested is substantial as the front yard setback is for more than a 50% reduction, however the placement of the new structure will fit right in with the existing barns, of which, one is also quite close to the road.
7. An undesirable change in the neighborhood will not occur, as this farm has been

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in existence for many years, with its barns clustered close to the road.

8. The alleged difficulty is self-created, as the applicants wish to rebuild their barn lost to fire in a more workable spot for their horse farm.
9. The applicants own a large parcel, but neighbors directly affected by the change in setbacks, M. Gabriela and Kurt Pragman, have written a letter, dated 2/10/2020 that they have no objection to the reduction in setback, however they request that the lighting be designed to not affect the windows of their house.
10. No adverse effects will be created by the building of this structure, except during construction.

NOW THEREFORE, BE IT RESOLVED, the Planning Board is making a positive recommendation for approval to the Town on Clinton Zoning Board of Appeals.

Seconded by Mr. Auspitz,

Discussion. Chairman DePasqua suggested including in the resolution that this property has an Ag exemption.

All Aye, Motion carried, 7-0.

PUBLIC HEARING:

Smithyman Site Plan and Special Permit- 5 Lake Drive, Tax Grid No. 6368-00-752443.

Applicant proposes to convert the existing garage to an accessory dwelling.

Paul Smithyman and his wife Garrett Long appeared for their application. Mr. Smithyman explained that the required variances were granted December 6, 2019. They are now before the board to proceed with the special permit process.

Mr. Auspitz motioned to open the public hearing, seconded by Mr. Carroll, all Aye, Motion carried, 7-0.

Hearing no comments from the public, the board agreed to close the public hearing. Mr. Auspitz motioned to close the public hearing, seconded by Ms. Ruzicka, all Aye, Motion carried, 7-0.

APPLICATIONS:

Smithyman Site Plan and Special Permit (continuance) - 5 Lake Drive, Tax Grid No. 6368-00-752443.

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Applicant proposes to convert the existing garage to an accessory dwelling.

The property owners were back for the conclusion of their application. Mr. Smithyman explained that they wish to convert an existing structure into an accessory dwelling for family use purposes. The previous owner had converted the detached garage to a living space and they are now proposing to add a bathroom that will be located under the existing roofline. He noted that this is a 10.65 acre parcel. They also own the parcel in the back.

Chairman DePasqua asked for questions and comments from the board.

Mr. Auspitz stated that the cottage (detached garage) was renovated in 2015. The current owners are proposing to convert this structure into an accessory dwelling.

Mr. Thomas asked the applicant about the status of the Bard of Health approval. He stated that one of the requirements of the Special Permit is about the Board of Health compliance. Mr. Smithyman responded that their engineer is currently working with the Department of Health regarding this process.

Sec. 250-97 B-10 states that “The sewage disposal system will be adequate to accommodate the proposed use, in accordance with health regulations.”

Mr. Thomas asked the board if they need to see the Board of Health approval before issuing the approval.

After exchanging opinions and comments, the board agreed that the above issue can be a contingency to the approval.

The board reviewed the Short Form EAF and issued a Negative Declaration.

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

WHEREAS, the Town of Clinton Planning Board has received an application for a Special Use Permit and Site Plan approval from Paul Smithyman and Garrett Long for the purpose of converting an existing 736 s.f. building into an accessory dwelling located at 5 Lake Drive in the Town of Clinton as shown on drawings submitted by the applicants (the “Site Plan”); and

WHEREAS, the requested Special Use Permit would authorize the use of an existing outbuilding, septic system and well, such that extensive excavation will not be required on the site; and

WHEREAS, the subject property is identified as tax parcel number 132400-6368-00-752443 and is located in the C Zoning District; and

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

WHEREAS, the Planning Board has reviewed all available information regarding the proposed action, including the applicant's submission and comments from the public, and

WHEREAS, the Planning Board has acted as Lead Agency in the uncoordinated review of this unlisted action, and

WHEREAS, the Planning Board has reviewed the environmental impacts that may be associated with this action, and

NOW THEREFORE BE IT RESOLVED, that the Town of Clinton Planning Board has determined that the proposed action will not result in any significant adverse environmental impacts and that a Draft Environmental Impact Statement will not be required, and

FURTHER BE IT RESOLVED, that the Town of Clinton Planning Board cites the following reasons in support of this determination of non-significance.

1. The requested Special Use Permit would authorize the use of an existing outbuilding, septic system and well, such that extensive excavation will not be required on the site nor will the project entail significant clearing of trees or brush or other construction activities on or around the exterior of the building.
2. The applicants will be required to demonstrate, as a condition of final approval, that the water supply and sewage disposal systems serving the dwelling meet current County Health Department requirements and are otherwise adequate to service both the primary residence and the accessory dwelling.
3. The Planning Board has concluded that the proposed activity would not result in the removal or destruction of significant vegetation or fauna, and would not unduly interfere with the movement of any resident or migratory fish or wildlife species. No disturbance to or a substantial adverse effect on any identified significant habitat areas, threatened or endangered species of animal or plant, the habitat of such a species, or other natural resources, has been identified.
4. The proposed project would have no known adverse impact on historic or pre-historic cultural resources of local, state or federal significance.
5. The proposed activity will occur in a rural, low density, residential/agricultural area and is not expected to impair the character or quality of important historical, archaeological, architectural, or aesthetic resources or the existing community or neighborhood character.

Seconded by Mr. Carroll, All Aye, Motion carried, 7-0.

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The board passed another resolution.

Mr. Thomas motioned that the Town of Clinton Planning Board approves the following resolution, to wit:

Whereas, the Town of Clinton Planning Board has received an application pursuant to Section 250-29D of the Zoning Law for a Special Use Permit and Site Plan approval from Paul Smithyman and Garrett Long for the purpose of converting an existing 736 s.f. building into an accessory dwelling located at 5 Lake Drive in the Town of Clinton as shown on drawings submitted by the applicants (the “Site Plan”); and

Whereas, the requested Special Use Permit would authorize the use of an existing outbuilding, septic system and well, such that extensive excavation will not be required on the site nor will significant alterations be made to the exterior of the structure; and

Whereas, the applicants will be required to demonstrate, as a condition of final approval, that the water supply and sewage disposal systems serving the dwelling meet current County Health Department requirements and are otherwise adequate to service both the primary residence and the accessory dwelling; and

Whereas, the subject property is identified as tax parcel number 132400-6368-00-752443, is located in the C Zoning District, and consists of approximately 10.65 acres; and

Whereas, the property is within 500 feet of an Agricultural District containing a farm operation and an Agricultural Data Statement has been submitted; and

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

Whereas, the Planning Board has granted the following waivers from the Site Plan requirements set forth in Section 250-96(C)(3) of the Town of Clinton Zoning Law: vicinity map; site plan prepared by a licensed design professional at a scale of 1” = 50’; (b) (names of adjacent owners of record); (c) (structures and uses on adjacent properties within 100 feet); (d) (existing public streets and easements within 500 feet); (e) (existing zoning boundaries within 500 feet); [(l) (location, description, design of all existing and proposed site improvements)]; (o) (location and description of existing or proposed sewage disposal and water supply systems); (t) (lot area in acres and measurements of lot boundaries with bearings); and (v) (building setbacks); and

Whereas, the Planning Board determined that the proposed project is an Unlisted Action and has undertaken an uncoordinated review of the action; and

Whereas, the Planning Board conducted a public hearing during its regular meeting on February 18, 2020; and

Whereas, at its February 18, 2020 meeting, the Planning Board reviewed the EAF and related submissions by the applicant and issued a negative declaration of significance pursuant to SEQRA; and

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Whereas, the ZBA, in a decision dated December 6, 2019, granted area variances reducing the required side yard setback for the accessory structure from 50 feet to 16 feet and increasing the allowable accessory dwelling floor area from 35% to 49% of the total habitable space of the existing principal dwelling; and

Whereas, the design and construction associated with the adaptation of the building shall be performed in a way that retains the character of the structure and shall be compatible with the principal structure and the character of the neighborhood; and

Whereas, the total acreage of the parcel exceeds the minimum requirements set forth in Section 250-29D(3); and

Whereas, after review of the Site Plan and all other submissions by the applicants, the Planning Board has determined that the application and proposed accessory dwelling unit are otherwise in compliance with the requirements of the Town of Clinton Zoning Law and the Town Master Plan; and

Whereas, the applicants shall be required to obtain a building permit prior to commencing construction, to comply with all applicable building and fire codes and to obtain a certificate of occupancy for the proposed accessory dwelling; and

Whereas, any expansion of or significant modifications to the dwelling unit may require an amendment to the Site Plan approved by the Planning Board prior to construction; and

Whereas, there are no known zoning violations on the property per the Zoning Enforcement Officer:

Therefore Be It Resolved, that the Planning Board hereby grants approval of the proposed Site Plan and Special Use Permit, provided the following conditions are met:

1. Payment of all applicable fees.
2. Submission of a Final Site Plan for signature by the Chairman of the Planning Board.
3. Inclusion on the Final Site Plan of the acknowledgement required pursuant to Section 250-29D(4) setting forth the understanding that should subdivision of the parcel later be proposed, not less than the minimum specified acreages must be provided for the principal dwelling and its accessory unit, if their certificates of occupancy are to be maintained.
4. Submission by the applicants of written verification from the Dutchess County Health Department or a licensed engineer demonstrating that the water supply and sewage disposal systems serving the dwelling meet current County Health Department requirements and are otherwise adequate to service both the primary residence and the accessory dwelling.

Seconded by Mr. Carroll.

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	<u>Motion:</u>	<u>Second:</u>
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>	
Justin Carroll	<u>Aye</u>	
Sarah Love	<u>Aye</u>	

All Aye, Motion carried, 7-0.

Levitt Lot Line Adjustment – 155 Walnut Lane, Tax Grid No. 6367-00-752443 and 331304.

The applicants wish to move the lot lines of the two properties they own. The two lots consist of one on the north side with a small 0.16 acre piece across the road on the south side (Parcel B – 5.48 ac.) and one on the south side of Walnut Lane (Parcel A – 10 ac.).

Spence Hall, Land Surveyor appeared on behalf of the Levitts. He explained that the Levitts own two parcels on Walnut Lane. There is a small piece of land (.16 acre) that is part of the parcel across the street of the Levitt’s house property. This .16 acre piece is abutting the Levitt’s house property. He stated that the Levitts wish to take the small portion of the land to combine it to the house land.

Chairman DePasqua asked for questions and comments from the board.

Mr. Dolan indicated the waivers that the applicant is requesting. The board agreed to accept the waivers.

Gerry motioned to accept the waiver, seconded by Tracie, 7-0.

The board reviewed the map and agreed that everything is in compliance.

Mr. Dolan motioned that the Town of Clinton Planning Board approves that the

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Town of Clinton Planning Board grants conditional approval for a Lot Line Adjustment of the lands owned by **Charles and Joan Levitt**, both located on Walnut Lane, Staatsburg, **tax grid #6367-00-331304 (Parcel A), and tax grid #6367-00-371388 (Parcel B)**

WHEREAS:

1. The two lots owned by Charles and Joan Levitt on Walnut Lane consist of one on the north side with a small 0.16 acre piece across the road on the south side (Parcel B – 5.48 ac.) and one on the south side of Walnut Lane (Parcel A – 10 ac.) as shown on the plat prepared by Spencer Hall License No. 49138 and map dated January 28, 2020.
2. The intent of this action is to adjust the lot lines between the two lots so that the small 0.16 ac. parcel would become part and parcel with the lot on the south side of Walnut Lane making Parcel A 10.16 ac. and Parcel B 5.32 ac.
3. Since a lot line adjustment is a Type II action under SEQRA, no further SEQRA review is required.
4. The proposed lot line adjustment does not create a substandard lot or render any lot more substandard than it may already be.
5. The properties are not located in the Ridgeline, Scenic, and Historic Protection Overlay district.
6. On February 18, 2020, the Planning Board approved a motion accepting 3 waivers as stated in a letter from Spencer Hall.
7. The applicants' Lot Line Adjustment plat has met all the requirements of the Town of Clinton's Subdivision and Lot Line Adjustment Regulations.
8. All required letters of authorization to represent any or all property owners are on file.
9. The lands involved are not in an Ag District or within 500 ft of a farm in an Ag district therefore an Ag data statement not required.
10. The properties are not in a designated wetland.
11. The site is on a Clinton Scenic/Historic road, that being Walnut Lane and therefore must conform to Local Law # 3 of 2001.
12. All appropriate fees have been paid.

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NOW THEREFORE, BE IT RESOLVED, The Lot Line Alterations are granted approval by the Town of Clinton Planning Board.

Seconded by Mr. Auspitz,

Discussion. Chairman DePasqua credited the land surveyor for such a great job in preparing the map. Mr. Hall thanked Ms. Campbell for all her assistance in making sure that everything is on the map.

All Aye, Motion carried, 7-0.

Rhodes Site Plan and Special Permit – property located at 600 Clinton Hollow Road, Tax Grid No. 6467-00-125140.

Applicant proposes a one-bedroom accessory dwelling.

Teri Rhodes and her friend Gene Heninger were back for this application. It was noted that this application was granted January 19, 2020.

Mr. Carroll briefly explained that a letter from Peter Kloss, lawyer of Michael and Julia Zeuner at 610 Clinton Hollow Road was submitted to the board on January 17, 2020 in connection with the Rhodes Site Plan and Special Permit application, but due to an administrative oversight the board did not consider the letter at its January 20, 2020 meeting. To rectify this oversight, Mr. Carroll proposed reopening the matter for reconsideration by the board in light of the Zeuner letter.

Mr. Carroll summarized the five main points raised by or made in the letter, which were each discussed by the board:

1. The letter raises an issue as to whether the proposed unit would be acting as an accessory dwelling or instead create a two-family home.

After discussion, the board agreed that the 910 square foot unit is clearly subordinate to the principal residence measuring approximately 4,090 square feet and therefore the two units are a principal and accessory dwelling, not a two-family home.

2. The letter objects to the use of the accessory dwelling as an AirBNB or short-term rental (“STR”).

After discussion, the board agreed that whether or not the accessory dwelling unit may be used as an STR is a matter of Clinton Town law, and that the Town board is in fact working on a law governing STRs in the Town of Clinton. The board agreed that the proposed STR law, if and when enacted, would be the relevant law

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governing whether or not the accessory dwelling could be used as an STR and not the Planning Board special permit application process. The board also discussed the character of the existing neighborhood, noting that there are 2 two-family houses north of the Rhodes property and a single-family house with an accessory dwelling unit to the south of the Rhodes property.

3. The letter seeks to impose restrictions on the use and occupancy of the accessory dwelling unit, specifically limiting occupancy to family, extended family or certain employees of the owner.

The owner stated that she may want to rent the unit for income in order to pay caretakers or similar professionals, and did not agree to the occupancy restrictions. After discussion, the board agreed that the proposed occupancy limitations were overly restrictive and that the board would not dictate who could or could not rent an accessory dwelling unit that complies with the Town Code regarding such units.

4. The letter requests that the accessory dwelling unit may not be leased or occupied if the main dwelling unit is not Owner-occupied.

The board understood this request to already be covered by the Town Code and the proposed resolution. Section 250-29(4) of the Town Code states that “the owner of a single-family dwelling unit shall occupy at least one of the dwelling units,” and the original and amended resolutions both state “the owner of the property occupies at least one of the dwelling units.”

5. The letter requests that the Special Permit be subject to renewal every five years or upon change of ownership.

After discussion, the board declined to require a renewal for an accessory dwelling unit that complies with the Town Code regarding such units.

After all the reviews and discussions were made, the board agreed to amend the resolution of January 19, 2020,

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

BE IT RESOLVED THAT, THE Town of Clinton Planning Board grants approval of the **Rhodes Site Plan and Special Permit** regarding an accessory dwelling on property owned by Teri Rhodes located at 600 Clinton Hollow Road, **Tax Grid No. 6467-00-125140** in the as requested by Teri Rhodes in the AR3 Zoning District.

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WHEREAS, the applicant seeks a special permit, pursuant to Sec. 250-29 of the Town of Clinton Zoning Code, for an accessory dwelling unit on their property at 600 Clinton Hollow Road in the Town of Clinton (6467-00-125140); and

WHEREAS, the accessory unit in question is a one-bedroom apartment above applicants' garage; and

WHEREAS, the accessory unit is the only accessory unit on the lot and is clearly subordinated to the principal use on the lot;

WHEREAS, the owner of the property occupies at least one of the dwelling units; and

WHEREAS, the Applicant states that the accessory unit is 910 square feet, which square footage is less than 1,000 square feet and 35% of the 4,090 square feet of floor space in the principal structure; and

WHEREAS, the accessory unit is self-contained with separate cooking, sleeping and sanitary facilities and a safe and proper means of entrance from the exterior located within the walls of the building; and

WHEREAS, applicants have demonstrated that the water supply and sewage disposal systems serving the building meet current Dutchess County Department of Health requirements and will continue to meet such requirements; and

WHEREAS, the Applicant submitted a site plan meeting the requirements of Section 250-96(C) of the Town of Clinton Zoning Code;

WHEREAS, a public hearing was held pursuant to proper notice on January 21, 2020 and a resolution was adopted by the Planning Board on that day;

WHEREAS, it was subsequently discovered that a letter dated January 17, 2020 had been timely submitted by Peter Klose, Esq. on behalf of Michael and Julia Zeuner at 610 Clinton Hollow Road with respect to the special permit (the "Zeuner Letter"), but due to an administrative oversight, the Zeuner Letter was not disseminated to and therefore not considered by the Planning Board at the January 21, 2020 public hearing or meeting;

WHEREAS, in order to remedy this oversight, the Planning Board reopened the matter at its February 18, 2020 meeting for the purpose of considering the Zeuner Letter and revisiting the special permit application in light of such letter; and

WHEREAS, after due consideration of all the relevant information, including but not limited to the Zeuner Letter, the Planning Board has reached a determination on the application.

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NOW BE IT RESOLVED that this resolution supersedes and replaces the *Resolution of the Town of Clinton Approving Rhodes Site Plan and Special Permit of an Accessory Dwelling* dated January 21, 2020; and

BE IT FURTHER RESOLVED that the Planning Board hereby grants applicants' application for site plan approval and a special permit so that a certificate of occupancy may be obtained for the accessory building unit in question, **PROVIDED** that all applicable fees are paid.

Seconded by Mr. Auspitz.

Discussion. None.

All Aye, Motion carried, 7-0.

BOARD DISCUSSION:

Chairman DePasqua discussed the mandatory 4 hours training requirements of board members per NYS. He encouraged the members of the board to sign up for the upcoming classes in March.

The board members agreed to attend the March 31, 2020 classes.

Mr. Michael, Board's Liaison Officer joined the board and discussed the proposed Local Laws on Short Term Rentals (STR) and Events Local Law.

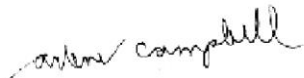
APPROVAL OF MINUTES:

Mr. Dolan motioned to accept the minutes of January 21, 2020, seconded by Mr. Auspitz, all Aye, Motion carried, 7-0.

ADJOURNMENT:

Mr. Carroll motioned to adjourn the meeting at 8:58 pm, seconded by Ms. Love All, Aye, Motion carried, 7-0.

Respectfully Submitted,



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