

**TOWN OF CLINTON
PLANNING BOARD VIRTUAL MEETING
FINAL MINUTES
February 16, 2021**

Due to the Pandemic Coronavirus (COVID 19), Emergency State and Federal Bans on large meetings or gatherings and Pursuant to Governor Cuomo’s Executive Order No. 202.1 issued on March 12, 2020 and 202.15 as extended, suspending the Open Meetings Law, the Planning Board Meeting held their regular meeting via Zoom videoconference with a You Tube livestream to the public.

Members of the public may also view the Board meeting on the Planning Board video page on the www.townofclinton.com

MEMBERS PRESENT

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

MEMBERS ABSENT

Secretary – Arlene Campbell

ALSO PRESENT

Dean Michael, Liaison Officer not in attendance

Chairman DePasqua called the meeting to order at 7:31 pm. He read his opening statement in accordance with the Governor’s Executive Order 202.1, and 202.15 as extended, which suspends certain provisions of the Open Meetings Law to allow the Planning Board to convene a meeting via videoconferencing. He added that the public has also been provided with the ability to view the meeting via the Town’s YouTube Channel, a link has been provided in the meeting notice, and a transcript will be provided at a later date.

VARIANCE APPLICATION:

Kat and Dog Properties LLC Area Variance – 39 Lake Pleasant Dr, Tax Grid No. 6268-00-778071.

Applicant seeks an area variance to Sec. 250 Attachment 2 for lot width reduction from 400 feet to 387 feet in order to construct a new dwelling in the AR 5 Zoning District.

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Kristen Zarella, an architect from Hudson Design appeared for this application. She explained that they are seeking a variance to reduce the minimum lot width to 387 feet. The property owners owned 3 contiguous parcels that were recently combined into one lot. The main house on the middle lot was demolished per Planning Board demolition plan approval a couple of years ago. Despite the merging of the three lots, Ms. Zarella underscored that the newly created parcel did not meet the minimum lot width requirement of 400 feet.

On another note, Ms. Zarella discussed the wetlands permit requirement per the ZEO's denial letter. She commented that the lake doesn't qualify as "wetlands". Due to close proximity of the Brown Ponds Lake, Ms. Zarella stated that the proposed building envelope does not meet the 100 feet setback per the Fresh Wetlands Regulations (Sec. 250-78). Per their research, Browns Pond lake does not fall under DEC jurisdiction but was advised that they still need to comply with the Water Permit Local Law. She opined that per her reading of the law, the subsection indicates a specific size of the pond or lake. The size of Browns Pond lake is actually larger and does not fall under this subsection. Ms. Zarella indicated their willingness to comply with the regulation but does not believe that the proposed action triggers Wetlands Permit.

Chairman DePasqua asked for questions and comments from the board.

Mr. Auspitz agreed that the Wetlands Permit should be dealt separately. The variance is pretty straight forward. He commented that there could have been three houses built on these lots but the applicant merged these three lots into one.

Mr. Thomas questioned the ZEO's decision about the variance to lot width per his reading of Sec. 250-18 (Existing Lot of Record). What makes this a little murky is the merging of the three lots. Mr. Thomas feels that if a variance to lot width is required then it should also necessitate a variance to the acreage. He believes that neither is required. The board can make a recommendation to the Zoning Board of Appeals and the ZBA can make a decision.

Mr. Auspitz agreed with Mr. Thomas. He stated that he didn't consider the acreage given the combination of the three lots. This property is in the AR5 Zoning District.

Chairman DePasqua expressed his understanding of the ZEO's decision given the newly created lot.

The board agreed to pass a resolution.

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Mr. Auspitz motioned that the Town of Clinton Planning Board approves the following resolution in the matter of **Kat and Dog Properties LLC** on property located at 39 Lake Pleasant Drive, **Tax Grid No. 6268-00-778071**.

WHEREAS

1. Applicant Kathleen Dorran (“Kat & Dog Properties LLC”) seek an area variance, pursuant to Section 250-98 of the Zoning Code, for property at 39 Lake Pleasant Drive in the Town of Clinton (#6268-00-77807) which is less than the minimum width permitted.
2. Applicant has combined three non-conforming properties bordering Brown’s Pond into a single more substantial, but still non-conforming property in this AR5 zone, with the intention of building a single residence on the property. We previously approved demolition of a house on one of the prior lots, noting that the plan to build a single residence on 3.09 acres was closer to the 5 acre minimum in an AR5 zone than the three houses that could have been built on the property under its pre-existing zoning.
3. The Town’s schedule of area regulations requires that each lot in an AR5 zone have a minimum lot width of 400’. The lot in question has a width of 387 feet, a shortage of 13 feet.
4. The variance sought is minimal and not substantial, amounting to slightly over 3% of the minimum required width. It will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. As noted, applicant’s plan will bring the property closer to the minimum zoning.
5. Given the size of the combined lot, the benefit cannot be achieved by other means. Nor will the variance have an adverse effect on the physical or environmental conditions in the neighborhood. The difficulty is self-created.

NOW THEREFORE BE IT RESOLVED THAT the Town of Clinton Planning Board makes a positive recommendation to the Zoning Board of Appeals with respect to this application.

Seconded by Mr. Thomas,

Discussion. None.

Roll call, all Aye, Motion carried, 6-0.

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The board discussed the wetlands permit per the ZEO's determination.

Mr. Auspitz disagreed with Ms. Zarella's understanding of the wetlands regulations. He indicated the definition of the "Controlled Area" per Sec. 250.78 which states "...Any area within 100 feet of the watercourse, lake or pond." He sees that the proposed house is 80 feet of Browns Pond."

Mr. Auspitz discussed the waterbody that is larger than 12 ½ acres. He stated that this is exempt because this waterbody falls under the jurisdiction of the DEC. In this case, Mr. Auspitz stated that this is not under DEC jurisdiction. He feels that the action triggers the wetlands permit.

Chairman DePasqua asked the applicant if they measure the setback to the edge of the cliff of the lake. Ms. Zarella responded that the setback was measured from the property lines.

The board discussed the issue whether the distance was measured from the property lines or from the edge of the water. Mr. Auspitz underscored that the regulation calls for anything within 100 feet of the waterbody.

Chairman DePasqua asked if the structure is already there. Mr. Auspitz responded that the main house was demolished.

Ms. Zarella pointed out on the map the footprint of the house that was demolished. She noted that the new house is proposed on a better location.

Mr. Dupree, a family friend of the property owner asked to speak. He also introduced himself as a Planning Board Chair in the Town of Hyde Park and noted that Browns Pond is not a DEC regulated wetland. It is not in the DEC mapper. The dock and the walkway still exist. He indicated his understanding about the ZEO's determination regarding the variance to the lot width. He underscored that there were previously three nonconforming parcels that is now combined to one lot.

After a very lengthy discussion, the board agreed to see an application to Wetlands Permit. Mr. Thomas asked the applicant to show what structures exist and what not exist on the property. He also suggested to check whether this waterbody is DEC regulated or Army Corps Engineer.

Magnotta Area Variance - property owned by **Michael and Josephine Magnotta** located at 176 Clinton Corners Road, Tax Grid number 132400-6566-00-563063-0000 in an RH Zoning District.

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Applicant requests an area variance to Sec. 250-Attachment 2 reducing the rear yard setback from 50' to 11' in order to install a 24' round above ground pool and 10' x 16' deck.

Mr. and Mrs. Magnotta appeared and briefly explained their variance application. They want to put up a 24' round above ground pool with a deck. Their lot is like a flag shape and this is the only feasible location to put up a pool.

Mr. Carroll agreed about the shape of the lot. He stated that there is a tree line on the southern part of the property. There are also tree lines that screen this area to the neighbor to the east. Mr. Carroll also indicated the surrounding properties who have above ground pool.

Mr. Magnotta echoed the above comment. He added that three of his neighboring properties have above ground pool. Ms. Campbell indicated the variance granted to Mr. Little a year ago to install an above ground pool.

Mr. Carroll expressed his comments. It is not uncommon for properties in this area to require variances given the size of the lot. This property is in the Hamlet. He agreed that there is no other feasible location to locate the pool. The pool will not be visible from the road.

The board discussed the building coverage. Mr. Carroll asked whether the house is a two-story or one-story dwelling. Ms. Magnotta responded that this is a two-story house.

After a lengthy discussion about the details of the structures on the property, the board came up with a total building coverage of under 12%. (house footprint/dimension - 1130 square feet, detached garage – 672 square feet, 24 inch round pool – 452 square feet and deck – 160 square feet gives a total of 2400 square feet.)

The board agreed to include a verbiage in the resolution about the building coverage and let the ZBA give the final say.

Mr. Carroll motioned that the Town of Clinton Planning Board is making a positive recommendation to the Zoning Board of Appeals on the requested variance to Section 250 Attachment 2 regarding an accessory structure requested by **Michael and Josephine Magnotta** on property located at 176 Clinton Corners Road in the Town of Clinton, parcel number 132400-6566-00-563063-0000 in an RH Zoning District.

WHEREAS:

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1. The Applicant is requesting a variance to construct an above ground pool within the rear yard setback.
2. The property is a 0.491 acre lot in an RH Zoning District. Based on a conversation at the Planning Board meeting, the Planning Board believes that the pool, pool deck, garage and house cover approximately 2,414 square feet (of a maximum lot coverage of 2,566 square feet); however, the Planning Board notes that exact measurements were neither taken nor provided and the Zoning Administrator did not deny the application based on maximum building coverage limits.
3. The property is not within the Ridgeline Protection Area, but is within a Critical Environmental Area and the Taconic State Parkway Viewshed.
4. The variance requested to reduce the rear yard setback from 50 feet to 11 feet is substantial.
5. An undesirable change will not be produced in the character of the neighborhood given several nearby properties with similar structures, nor will the structure be detrimental to nearby properties as the accessory structure will not be visible from the road and will be screened by trees from neighboring properties.
6. The benefit sought by the applicant cannot be achieved by some other method.
7. The proposed variance should not have an adverse effect or impact on the physical and environmental conditions of the neighborhood.
8. The alleged difficulty is self-created, but should not necessarily preclude the granting of the area variance.

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

Seconded by Mr. Auspitz,

Discussion. None.

Roll call, all Aye, Motion carried, 6-0.

APPLICATIONS:

DeMello Site Plan and Special Permit for Accessory Dwelling – 13 Mountain View Road, Tax Grid No. 6368-00-070730 & 080753

The applicant wishes to convert an existing detached garage to an accessory dwelling.

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Darren Davidowich, contractor from the Art of Building appeared on behalf of the property owners. The property owners recently combined the two parcels that they owned to one parcel totaling ±10.41 acres. The primary residence was built in 1793 and contains 5,352 square feet. They want to remove the addition that was previously done and replace this with a larger addition.

Mr. Davidowich explained that they are also proposing to convert the existing stone garage to a one-bedroom guest cottage. The barn is proposed to be expanded to double the size. He noted that the proposed project will be outside the controlled area. He gave details about the scope of the overall project. He also discussed the plan to install a brand new septic system. Currently, the house has three bedrooms and they are proposing to have five bedrooms.

Mr. Davidovich stated that per his conversation with the ZEO, a question raised about the number of accessory structures on the property and the intrusion of the existing dwelling in the front yard setback. Per the ZEO, modification of nonconformity triggers a variance.

Mr. Davidowich stated that there are currently four structures on the property aside from the main house (stone cottage, barn, detached garage and a pool). He opined that these structures existed prior to his client's ownership of the property. The work they are proposing involves improvements/investments in existing structures.

Mr. Auspitz asked about how much square footage of the house is proposed to be replaced. He asked, "How much of the historical part of the main house will remain?" The applicant responded that they will be re-using most of the historical parts that they can use. The current footprint is 3,760 and they are proposing an addition of 1,100 square feet or larger.

Chairman DePasqua stated that they should focus on what is on the agenda for now.

Mr. Auspitz asked if there is plumbing on the barn. Mr. Davidovich responded, "No". The board discussed the number of accessory structures on the property. Mr. Carroll asked if any of the structures is used as a poolhouse. He stated that pool and poolhouse structures are counted as one structure. The applicant responded, "No".

After a very long discussion, the board agreed to first address the variance before the Special Permit application. The applicant needs to submit a variance application.

No action taken.

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Rea Demolition Plan Approval– property owned by Thomas and Julie Rea located at 89 W. Meadowbrook Lane, Tax Grid No. 6367-00-154318.

The applicant seeks a permit to demolish an old barn that was built in 1850.

Dave Craft from Craft Builders appeared along with the property owners via zoom. Mr. Craft briefly explained that they are proposing to demolish an old barn due to its unsalvageable condition. They are not aware of any national historical significance of the building. Ms. Rea added that the existing structure is not sound and unsafe. It is not cost feasible to even try to restore it. There are no plans at this time to replace it with any kind of structure but would rather leave it as just a vacant land.

Chairman DePasqua asked for questions and comments from the board.

Ms. Love expressed no problem about the proposed demolition. She also indicated the letter from Cynthia Koch, the President of the Town of Clinton Historical Society indicating no objection about the proposed demolition.

Ms. Love motioned that the Town of Clinton Planning Board waived #7 of the checklist requirement, seconded by Mr. Thomas, Roll Call, all Aye, Motion carried, 6-0.

The board passed a resolution.

Ms. Love motioned that the Town of Clinton Planning Board approves the following resolution:

BE IT RESOLVED: The Town of Clinton Planning Board recommends approval of the Demolition Permit application dated December 3, 2020 submitted by **Dave Craft** on behalf of property owners **Tom and Julie Rea** for the purpose of demolishing a barn located on a 6 acre parcel at 89 Meadowbrook Lane, **Tax Grid 132400-6367-00-154318** and refers the matter to the Building Inspector for review and approval of the demolition plan submitted by the applicant.

Whereas:

1. The Barn was built in or about the mid 1800's. The structure does not appear on the Historic Resource Survey of 1986 located on Dutchess County Parcel Access. This structure does not have a national, state, or local designation of significance as per the Historic Resource Survey of 1986 from the Dutchess County Parcel Access and, as stated in a letter from Cynthia Koch, President Town of Clinton Historical Society, is a candidate for demolition.

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2. The barn structure has sagging in the middle of the roof ridge line, leaning of the eastern face, collapsed deteriorated flooring, openings in the roof, non-weather tight windows, wood framing elements that are leaning and evidence of vermin in the structure. The barn structure is compromised and weakened to the point where salvageability is not realistic and demolition is recommended as per letter dated January 29, 2021 from Aaron S. Pethic, PE.
3. The parcel is a conforming lot, and the applicant has no current plans to replace the structure.
4. The use of the property will remain the same as the current use, residential.
5. A completed Environmental Assessment Form has been submitted.
6. The Planning Board has granted a waiver with respect to Item 7 (plan drawn to scale of the interior and exterior of the building) of the Demolition Permit checklist.
7. The applicant has submitted a demolition plan to the Building Inspector that is pending review and approval prior to commencing any work at the site.
8. All appropriate fees have been paid.

NOW, THEREFORE BE IT RESOLVED, that the Town of Clinton Planning Board recommends approval of the Demolition Permit application and refers the matter to the Building Inspector for further action consistent with the Town Zoning Law.

Seconded by Mr. Thomas.

Discussion. None.

Roll call, All Aye, Motion carried, 6-0.

Zacharia Demolition Plan Approval – property owned by Jeffrey and Frederique Zacharia located at 1556 Hollow Road, Tax Grid No. 6566-00-257242.

Applicants wishes to demolish a 1900 year old barn due to its unsalvageable condition.

Darren Davidovich from the Art of Building appeared for this application. He explained that they are proposing to demolish a 54' x 18' old barn that is directly adjacent to the main house. He indicated the condition of the barn that is structurally compromised and salvageable. They want to rebuild the

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barn on a foundation and connect the new barn to the existing main house. They will also use some of the timber from the old barn in rebuilding the new structure.

Mr. Davidowich stated that they are also proposing to put a new 180 feet entry addition to the main house and accordingly will need a variance for the front yard setback.

Mr. Dolan asked the board if they need to do the Short Form EAF. The board discussed and agreed to waive the requirement of the Short Form EAF from the checklist requirement.

The board agreed to pass a resolution, to wit:

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

BE IT RESOLVED, the Town of Clinton Planning Board issues a Demolition Plan Approval to the Building Inspector for a Demolition Plan prepared by Darren Davidowich for the barn belonging to **Jeffrey and Frederique Zacharia** on property of 11.2 acres located at 1556 Hollow Road, Tas Grid 132400-6566-00-257242-0000.

Whereas:

1. The barn in this application for demolition was built in 1900. It is 972 sq. ft. (54"x18') and is directly adjacent to the primary dwelling. There is not any designation of significance on this barn or property as confirmed by [National Register of Historic Places](#) in [Dutchess County, New York](#).
2. This barn is being demolished because it has been deemed structurally compromised and beyond reasonable repair. There is no historic value to this barn.
3. Rather than removing the barn, it will be reconstructed with the new building being built in near-identical size, scale, orientation and location.
4. Proposed future use of the reconstructed building is residential, being connected to the primary residence with a new 180 sq. ft. entry addition.
5. The applicant provided comprehensive interior and exterior photos of the barn, a plan drawn to scale of the exterior and interior of the building, and

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a plan showing the location of the building on the property.

6. An authorization letter is on file allowing Darren Davidowich to represent the owners.
7. All appropriate fees have been paid.

Now, therefore, be it resolved, the requested Demolition Plan is granted approval by the Town of Clinton Planning Board.

Seconded by Mr. Auspitz..

Discussion. None

Roll Call, All Aye, Motion carried, 6-0.

BOARD DISCUSSION:

1. In reference to the Kat and Dog Property variance, Mr. Thomas stated that Browns Pond Lake is under the jurisdiction of Army Corps of Engineer.
2. Ms. Campbell reminded the board about the Ag Events Local Law that is in process of getting adopted by the Town Board.

APPROVAL OF MINUTES:

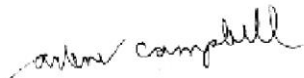
Mr. Dolan motioned to accept the minutes of January 5, 2021, seconded by Mr. Auspitz, All Aye, Motion carried, 6-0.

Mr. Dolan motioned to accept the minutes of January 19, 2021, seconded by Mr. Auspitz, all Aye, Motion carried, 6-0.

ADJOURNMENT:

Mr. Dolan motioned to adjourn the meeting at 8:59 pm, seconded by Mr. Carrol, All, Aye, Motion carried, 6-0.

Respectfully Submitted,



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