

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 28, 2021**

MEMBERS PRESENT

Joseph Malcarne, Chairman

John Calogero
Charles Canham

Ron Mustello
Russel Tompkins
Arthur Weiland

MEMBERS ABSENT

Norma Dolan

ALSO PRESENT

Arlene Campbell, Secretary

Liaison Officer not in attendance

Chairman Malcarne opened the meeting at 7:33 pm.

Chairman Malcarne welcomed everyone and asked his colleagues to introduce themselves. He also indicated that the meeting is being recorded.

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

VARIANCE:

William Gorres and Dawn Essig regarding property located at 580 Clinton Hollow Road, **Tax Grid No. 6467-00-126087.**

The applicants request an area variance to Sec. 250 Attachment 2 for a side yard setback reduction from 50 feet to 10 feet in order to install a 24' x 36' detached garage/workshop in the AR3 zone district.

Mr. and Mrs. Gorres appeared. Mr. Gorres explained that they have a four-acre lot that is pretty deep and narrow. The site to construct a garage is limited. Given the location of the septic and the steep grade of the land at the back of their house, Mr. Gorres stated that the only flat surface to install the garage is to the right of the driveway perpendicular to the house.

Mr. Gorres stated that the neighbor affected by this variance gave them a letter supporting their project. Their neighbor's house is up on the hill and theirs is at the bottom. The rest of the neighbors don't seem to care.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 28, 2021**

Mr. Mustello gave his comment per his site visit. He echoed the applicant's comment that due to the slopes and grade of the property and other physical restrictions on the property, this is the most feasible location to install a garage. He gave good compliments about the proposed structure.

Chairman Malcarne read the letter from the neighbor, William and Lynette Gibson, 572 Clinton Hollow Rd supporting the proposal.

Mr. Mustello read the PB recommendation dated Sept. 21, 2021 which is positive.

Chairman Malcarne asked about the setback of the existing shed. Mr. Gorres responded, "18 feet."

Chairman Malcarne asked if the existing shed will be removed. The applicant responded, "Yes". The new garage will be a replacement and this will look nice.

Mr. Canham indicated that he went through the same process when he built his garage years ago.

Mr. Weiland expressed his concern. The back of the proposed structure is facing the neighbor. He also commented about the window. This can be annoying to neighbors. He suggested putting curtains on the windows and lights facing downward.

Mr. Mustello remarked that the neighbor is pretty far given the elevation of the property. He doesn't think the neighbors can see this structure. Mr. Gorres agreed with Mr. Mustello. The neighbor's house sits on the elevation. He added that they are planning to plant trees.

Mr. Calogero said that he would rather it be somewhat visible than have to disturb the steep slopes.

The board agreed to open the public hearing.

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

Hearing no comment from the public, the board agreed to close the public hearing.

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

The board agreed to pass a resolution.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 28, 2021**

Mr. Mustello motioned that the Town of Clinton Zoning Board of Appeals grant an area variance requested by William Gorres and Dawn Essig of **580 Clinton Hollow Road, tax grid #6467-00-126087** with respect to the Town of Clinton Zoning Law District Schedule of Area and Bulk Regulations (Section 250 Attachment 2) for a side yard setback reduction to 10 feet from the required 50 feet, for the purpose of constructing a 24' x 36' detached garage/workshop. The 4.03-acre property is located in an AR-3 Zoning District in the Town of Clinton.

Factors:

1. The applicant requests an area variance to allow placement of an approximately 24 ft. wide by 36 ft. garage/workshop on the property. The topography, primary structure location (residential home), septic field, etc., are such that no other location other than the proposed would be practical or suitable for placement of the new structure. As such, the applicant is seeking a variance from Section 250, Attachment 2 as stated above for a reduction in the side yard setback from 50' to 10'.
2. The 4.03-acre parcel is located in the AR3A zoning district.
3. The property is not located within the Ridgeline, Scenic and Historic Preservation Overlay District.
4. The property is not in an Ag District or CEA
5. An area variance is a Type II action under SEQRA and requires no further action.
6. The site does not contain a NYSDEC wetland
7. The granting of the variances will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties.
8. The benefit sought by the applicant cannot be achieved by other feasible means.
9. The alleged difficulty is self-created, and the requested variance is substantial, but this does not preclude its granting.
10. There will be no potential adverse effect or impact on the physical or environmental condition in the neighborhood.
11. A consent form from Dawn Essig granting Mr. William Gorres full authority to make decisions on her behalf is on file with the Building/Zoning Clerk
12. A copy of correspondence from the adjacent property owners in support of the granting of the variance is filed with the Building/Zoning Clerk
13. There are no known violations.
14. The Planning Board has made a positive recommendation to the ZBA for approval.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 28, 2021**

Conditions:

1. All fees have been paid.
2. All lighting on the new structure shall be downward facing

Seconded by Mr. Canham,

Discussion. Mr. Calogero reminded the applicant about the no storage in the setback. Mr. Weiland echoed the comment.

All Aye, motion carried. 6-0.

Christopher Mao and John Tancock Area Variance - property located at 313 Allen Road, **Tax Grid No. 6466-00-310713.**

The applicants request area variances to Sec. 250-22 (A-6) and Sec. 250-105 (Accessory Structure exceeds allowable footprint) per the definition of Building, Accessory that states “An accessory building other than for agricultural use shall not be larger than the principal building on the same lot” in order to correct the violation for the two buildings that were consolidated.

Karen Hagstorm, legal counsel appeared on behalf of the applicants.

Ms. Hagstorm indicated the history and the interpretation made by the Zoning Board of Appeals back in May 27, 2021. The ZBA determined that the use of an accessory building to display the owners’ art collection without any commercial activity including sale of the artwork is a permitted use in an AR-5 district.

Ms. Hagstorm continued that part of the discussion at that meeting was about the failure to obtain a building permit to connect the two accessory buildings which is now larger than the primary dwelling. They filed a building permit but the permit was denied by the Zoning Administrator. They needed an area variance due to the size of the accessory structure. She noted that it was also agreed that they don’t need a variance to the height of the structure.

Sec. 250-22 (A-6) states “An accessory structure other than for agricultural use, shall not be larger than the principal dwelling.”

Ms. Hagstorm explained the Planning Board’s discussion about the square footage discrepancy between the parcel access and the structures. The 9.7% variance was based on the calculation of the footprint of the structure.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 28, 2021**

Ms. Hagstorm continued that the excerpts from the Dutchess County Parcel Access indicate that the primary residence has a square foot living area (SFLA) of 3,746 square feet and the accessory building has a gross floor area of 4,136 square feet. Using these measurements would require a variance of 390 square feet or 9.7% increase. Ms. Hagstorm commented that it is really hard to get an accurate measurement on parcel access. She asked the board to grant the variance of 390 square feet or 9.7% increase.

Ms. Hagstorm indicated the positive recommendation they received from the Planning Board given the inaccurate square footage on the parcel access. She discussed the letter that she submitted to the board. She commented about the Planning Board's discussion about the HVAC system in these buildings. She noted that this is not a dwelling.

Chairman Malcarne asked for questions and comments from the board.

Mr. Tompkins read the Planning Board's recommendation dated October 19, 2021 which is positive. He pointed out an error regarding the variance calculation indicated on the Planning Board's recommendation. It should be 10.4% instead of 9.7% ($4,136 - 3,740 = 390$) ($390/3746 = 10.4\%$)

The board had a lengthy discussion about the application on hand.

Ms. Hagstorm indicated that the correct section of the variance is Sec. 250-A-6 which refers to the footprint of the building.

Sec. 250-22 (A-6) states "An accessory structure other than for agricultural use, shall not be larger than the principal dwelling."

Sec. 250-105 Building, Accessory that states "An accessory building other than for agricultural use shall not be larger than the principal building on the same lot"

The panel exchange opinion about the matter and agreed to also include Sec. 250-105.

The board agreed to open the public hearing.

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

Hearing none, the board agreed to close the public hearing.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 28, 2021**

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

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

Mr. Tompkins motioned that the Town of Clinton Zoning Board of Appeals grant an area variance from Sec. 250-22 (A-6) and Section 250-105 of the Town Zoning Law as it relates to "Building, Accessory" to **Christophe Mao and John Tancock** on their property at 313 Allen Rd, Salt Point N.Y. 12578, **Tax Grid #6466-00-310713** to allow an Accessory Building to be larger than the principal building on the same lot.

FACTORS:

1. The parcel is 47.81 acres in an AR5 zone.
2. The accessory building is a series of joined steel sheds used by the applicants for storage of their art collection. On May 27, 2021 the Zoning Board of appeals determined that this use without any commercial activity including the sale of art work is a permitted use in an AR-5 district.
3. Sec. 250-22 (A-6) and Section 250-105 states in its definition of "building accessory" that an accessory building other than for agricultural use shall not be larger than the principal building on the same lot".
4. The requested variance lists the principal building as 3,842.57 sq .ft. and the accessory building as 3,982.98 sq. ft. showing the accessory building as 104.41 sq. ft larger than the principal building or 3.5% larger than the principal building. The excerpt from the Dutchess County Parcel Access submitted by the applicants indicated the principal residence as 3746 sq. ft. and the accessory building as 4136 sq. ft or a difference of 390 sq. ft. which is 10.5% larger than the principal building.
5. The Town of Clinton Planning Board reviewed this request at their October 19, 2021 meeting and made a positive recommendation to the Zoning Board of Appeals for the granting of this variance. The question as to the size of the principal building and accessory building as mentioned above was mentioned by the Planning Board.
6. An area variance is a Type II action under SEQRA and requires no further action.
7. The requested variance will not result in an undesirable change to the character of the neighborhood, or be a detriment to nearby properties. Neither the residence or the accessory building is visible from the road or nearby properties. The driveway to the residence from the road is 3/10 of a mile long.
8. This request will not have an adverse physical or environmental effect.
9. The benefit the applicant seeks can't be achieved without dismantling some of the accessory building already in place. The accessory building is actually three buildings joined by straight connections forming one long

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 28, 2021**

building. Removing any section would appear to be detrimental to the current quality structure that exists and would not change the visual impact of the structure.

10. The difficulty is self-created.

11. The request is substantial.

Conditions:

All fees are paid

Seconded by Mr. Calogero,

Discussion. Mr. Canham asked about any plans for any additional construction. Ms. Hagstorm responded, "None." The building is complete.

All Aye, Motion carried 6-0.

INTERPRETATION:

Kimberly and Keith Puchar 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 determination letter dated May 18, 2021 regarding his interpretation of Sections 250-28 (B) and (J) of the Town of the Clinton Code for activities related to smoke, fumes and odors emanating from 92 Deer Ridge Drive, and 93 Deer Ridge Drive Staatsburg NY 12580.

§250-28-(B) Smoke or particulate matter. Any emission of smoke or particulate matter, from any source, shall comply with all local, state and federal regulations.

§250-28-(J) Odor. No person, firm or corporation, excluding farms and agricultural operations, shall permit the emission of any offensive odor at the property line of the lot from which the odor is emitted.

Interpretation

The Puchars were back for their interpretation application.

There were no legal counsels present. The Bishops nor the Smiths were also not in attendance.

Chairman Malcarne passed the floor to Mr. Canham.

Mr. Canham indicated the voluminous materials received for this case and the lengthy draft to finalize the resolution. He said, "There are plenty of materials to

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 28, 2021**

digest. The public hearing has been closed so no additional documents will be entertained.”

Mr. Canham said that the board has been crafting the resolution. This draft is not a public document and cannot be disclosed until it is approved. The board needs to act on this at the December meeting. The board can email their comments/amendments to him and the board can put a vote on the final version of the resolution at the December meeting. He underscored that the draft resolution is not foible.

No action taken.

The board will give determination on December 2, 2021.

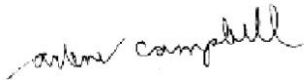
APPROVAL OF MINUTES:

No minutes were approved.

ADJOURNMENT:

Chairman Malcarne motioned to adjourn the meeting at 9:25 pm, seconded by Mr. Mustello, All Aye Motion carried, 6-0.

Respectfully Submitted By:



Arlene A. Campbell
Zoning Board of Appeals Secretary