

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
March 25, 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 Zoning Board of Appeals 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 Zoning Board of Appeals video page on the www.townofclinton.com

MEMBERS PRESENT

Joseph Malcarne, Chairman

John Calogero
Charles Canham
Norma Dolan
Ron Mustello
Russel Tompkins
Arthur Weiland

MEMBERS ABSENT

ALSO PRESENT

Arlene Campbell, Secretary

Liaison Officer not in attendance

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

Chairman Malcarne welcomed everyone and noted that the board is holding a public meeting via Zoom. 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 ZBA 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.

Chairman Malcarne and the board members introduced themselves.

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

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VARIANCE APPLICATIONS:

Rosman Area Variance – 110 Mountain View Road, Tax Grid No. 6368-00-304869.

The applicant requests an area variance to Sec. 250-74(B) to permit construction of a private swimming pool in front of the principal dwelling.

Mr. Rosman, property owner and Karin Payson, architect both appeared for this application

Ms. Payson explained that they are proposing to install an inground pool in front of the main house. This is a flag lot and an area variance to the rear yard was granted over a year ago to construct a house due to the topography of the lot. She underscored that there is no room at the rear to install a pool.

Ms. Payson explained why they cannot locate the pool behind the house and why the proposed location is the most feasible area to install the inground pool. The house sits over a thousand feet from the road and designed to fit on the hillside. The property is also well screened and is not visible from the road.

Mr. Rosman added that they are doing some work about the trees with the intent of the screening the property from the road. They valued their privacy and they know that the surrounding property owners feel the same.

Ms. Payson echoed Ms. Rosman's comment. The intent is to enhance privacy. The Rossmans don't want to be seen as much as the neighbors want to see them. They're doing their best effort to protect this privacy.

Mr. Canham indicated the variance that was granted over a year ago. At that time, there was a discussion about the intention of installing a pool but nothing was discussed about the pool to be in front of the house. The board could have dealt with both variances (pool and the house) at once when the applicant first came before the board.

Mr. Canham read the Planning Board's recommendation dated March 2, 2021 which is positive. He expressed his comment per his site visit. Not only the property is quite away up from the road, it also has a level off the side. He commented that it's hard to imagine being able to see the house from the road. The trees to the front of the house are reasonably dense and there are more trees farther to the west up the driveway. Based on the previous discussion, it was determined that moving the house 25 feet back into the rear setback made more sense than putting the house where it meets the setback. This

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determination clearly precludes locating the pool behind the house. He added that proposed location of the pool is clearly not visible from the road.

Mr. Tompkins asked about the exact location of the pool. Ms. Payson pointed out the proposed location of the pool on the map.

Chairman Malcarne motioned to open the public hearing, seconded by Ms. Dolan, All Aye, Motion carried, 7-0.

Nina Akamu, 106 Mountain View Road, asked, "Where's the electrical box?" Ms. Payson responded that there is an electrical box on the property right now that they are planning to relocate. This will not be visible to anybody unless you're digging into the bushes. This box will be tucked in the bushes.

Ms. Campbell asked Kathleen Scheer, 118 Mountain View if she has any comments or questions. Ms. Scheer replied, "No". She stated that she just wanted to know what's going on.

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

Chairman Malcarne motioned to close the public hearing, seconded by Mr. Tompkins, All Aye, Motion carried, 7-0.

The board passed a resolution, to wit:

Mr. Canham motioned that the Town of Clinton Zoning Board of Appeals grant the requested area variance to Sec. 250-74(B) to permit construction of a private swimming pool in front of the principal dwelling unit as requested by Adam and Elizabeth Rosman on property located at 110 Mountain View Road, Rhinebeck NY, **Tax Grid No. 132400-6368-00-304869** in an AR5 Zoning District.

Factors:

1. The Applicants are requesting permission to construct a private swimming pool in front of the principal dwelling unit on a 5.36 acre flag shaped lot.
2. The variance requested is not substantial as the site forested to the front of the lot from the proposed pool location, and the structure will not be visible from the road or nearby homes. Furthermore, the lot is steeply sloped and the principal structure is already located in the setback area, so construction of a pool behind the house would encroach even further within the setback.

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3. An undesirable change will not be produced in the character of the neighborhood or be detrimental to nearby properties.
4. The proposed variance should not have an adverse effect or impact on the physical and environmental conditions of the neighborhood.
5. The property is within the Ridgeline Protection Area and single family residences are exempted from Section 250-15 of the Town Code regarding Ridgeline, Scenic and Historical Protection Overlay District regulations.
6. The property is not in a Critical Environmental Area.
7. The alleged difficulty is self-created but should not necessarily preclude the granting of the area variance, considering the surrounding conditions and natural screening.
8. An area variance is a Type II action under SEQRA and does not require further review.

Condition:

1. All fees have been paid.

Seconded by Mr. Tompkins.

Discussion. Mr. Canham suggested getting ahead of the ground stabilization work as the spring has begun. There's a lot of earth moving and work to be done to stabilize the ground on this property.

Ms. Payson stated that they already have done a lot of stabilization on this property. They have a good professional team and they are on top of it. She thanked Mr. Canham for the reminder.

Roll call, all Aye, Motion carried, 7-0.

DeMello Area Variance – 13 Mountain View Road, Tax Grid Nos. 6368-00-070730 & 080753.

Applicant requests area variances to Sec. 250 Attachment 2 reducing the front yard setback from 100 feet to 37.7' and Sec. 250-22 A-4 to increase the number of accessory structures from 3 to 4 in order to install an inground pool.

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Darren Davidovich appeared on behalf of the property owners. He explained the details of his proposal. This is a 10.4-acre parcel in the AR5 Zoning District. He indicated the two parcels that were recently combined (2.8 and 7.6 acres) to meet the double the acreage zoning requirement for an Accessory Dwelling.

Mr. Davidowich explained that they are seeking a front yard variance for the existing residence. The first floor area is 3,760 square feet. They are proposing to remove an addition to the rear of the existing house and replace the addition with a new addition of 1,100 square feet (total footprint on the 1st floor is 4,626 square feet.)

Although the proposed addition is to the rear of the existing house and meet the rear setback, Mr. Davidowich stated that the existing house is too close to the road and did not meet the front yard setback. Per the regulation, any modifications to a nonconforming building must meet the area bulk and regulations. He noted that the proposed addition does not affect the original character of the 1793 circa house. He described the details of the proposed modifications to the existing structures.

Mr. Davidowich explained the second variance that they need i.e. increase the number of accessory structures. There are currently four existing structures on the property. It doesn't appear that a variance was granted when a building permit was issued to install a pool.

Mr. Davidowich indicated the structures on the property. There is a stone garage that is proposed to be a detached accessory dwelling. They are proposing to add 70 square feet of living space (loft) to the building. The pool and the associated amenities are not proposed to have any modifications. The existing barn is proposed to be expanded to double the size. This is currently used as a home gym and the owners wish to add more space to be used as home office and storage. The fourth structure is the chicken coop that is proposed to be renovated and converted to a functioning garage. He opined that nothing triggers a variance on this building since the building is within the existing footprint. He noted that they don't want to be accused of segmentation. They just wanted to lay out the overall project and the intention of the property owners.

Chairman Malcarne asked questions and comments from the board.

Mr. Weiland was baffled about the map that was just presented versus the map that he has in his packet. He remarked that these maps are not the same. Mr. Davidowich responded that they are basically the same map. They just stripped some items off the map that are basically landscaping. These maps have the same four structures that are currently on the property.

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Mr. Weiland asked clarity about some of the items on the map. He asked if that is a septic area that is to the left of the driveway near the stone barn. Mr. Davidowich responded that is just a stone wall that was originally a foundation. This is mainly a landscape feature.

Mr. Weiland asked, "What about the square structure on the map right above the pool?" The applicant responded, "That is just a compost area."

Mr. Tompkins asked about the gravel driveway to the north of the property. Mr. Davidowich responded that the gravel driveway is just a path to go to the compost pile which is to the left. Mr. Tompkins asked about the squares on the map to the right of that loop right above the pool. Mr. Davidowich responded that is just a pool equipment.

Mr. Mustello stated that this is the blue structure on the other map. Mr. Davidowich confirmed. The pool and the pool equipment were shown as blue structures on the other map as a bundle. The pool and the pool shed are considered one structure per his understanding.

Mr. Weiland asked if both property owners sign the letter of authorization. Mr. Davidowich responded, "Yes".

Mr. Weiland read the Planning Board's recommendation dated March 2, 2021 which is positive.

Mr. Weiland discussed the variance to the number of accessory structures. He read the preamble of his motion indicating the timeline and history of the property. Currently the Assessors records have 5 accessory structures on the parcel. Inspection of the parcel reveals that one has been removed (without a demolition permit). In 2002 a building permit (#4302) was requested for a 20 by 40 pool. In 2002 Assessors records would have had 4 accessory structures. A variance would have been needed for a fifth structure but human/bureaucratic error granted the permit without referring it to the Town Boards. In 2003 the pool was added to the Assessors rolls and taxed. Therefor the parcel is in violation.

Mr. Tompkins agreed with Mr. Weiland's review. It seems that it slipped through the cracks. The pool has a permit and a certificate of occupancy. He commented that there's also an error in the denial letter of the ZEO. The denial stated 100 feet to 11 feet when the setback is 37 feet. Ms. Campbell stated that the applicant recalculated the setback. Mr. Davidowich confirmed. The denial letter was issued based on the original submission before the two parcels were merged.

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Mr. Canham indicated his confusion about the number of structures. He stated that there is one structure (machine shed) that was removed and should not be counted as a structure since this is less than 120 square feet.

Mr. Weiland disagreed. This structure doesn't need a building permit but this is still counted as a structure. Shed is a structure.

Mr. Canham read the sec. 250.22 – B states that “One accessory structure with a maximum floor area of 120 square feet may be installed or constructed and utilized without the issuance of a building permit or certificate of occupancy and such a structure.....and shall not be included in the total permitted by Subsection A(4) (not more than 3 accessory structures).”

Mr. Canham stated that there are clearly 4 accessory structures on this property. The Planning Board's recommendation indicates these structures are pre-existing. He commented that this doesn't mean that these structures pre-dates the zoning. There is a horse barn, stone garage, chicken coop and the pool is the fourth structure. Clearly the pool was added after the zoning and there is a need for a variance to increase the number of accessory structures from 3 to 4.

Ms. Campbell noted that the previous ZEO signed off on the issuance of the pool permit. The pool also has a Certificate of Compliance.

Mr. Canham asked, “If this pool permit was processed properly at the time when the permit was requested, and the application came before the board to increase the number of structures, he wonders how the board would have responded to this.”

Mr. Weiland responded that it happened numerous times in the past. He cited an instance about a variance application to install a 3rd garage though the property already has two garages. This request was granted. He also indicated another variance that was granted to increase the number of accessory structures from 3 to 5.

Mr. Canham stated that if he was asked at that time for a variance for the number of accessory structures, he would have struggled to come up with justification for exceeding the regulation. This property has a stone garage, chicken coop that is not attractive and close to the road. This structure could have been removed to comply with the number of accessory structures regulations.

Mr. Tompkins stated that there was a permit issued in April of this year to renovate the chicken coop. Apparently there is an intent to renovate this building and improve the property. Mr. Davidowich agreed with Mr. Tompkins. That is exactly the intent of the property owners – to restore, re-create and make the property more attractive. He noted that the pool was existent prior to ownership

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of the current owners which was 2018. Mr. Canham noted that the title company and insurance should have picked these things up.

Mr. Weiland asked Mr. Canham if he would have imposed that one of the structures be removed.

Mr. Canham responded that this is an incredible openminded board but in his own philosophy, he needs to be given an argument why there is a hardship in imposing the zoning regulations. Typically, when a property has 5 or 6 accessory structures, there is a discussion in consolidating these buildings or reducing the number of accessory structures. He's not sure how he would have voted on a variance request to simply just increase the number of accessory structures and not wanting to taking one down.

Chairman Malcarne asked Mr. Canham if the number of the acreage, in this case almost 10 acres, would have impacted his decision. Mr. Canham responded, "No, not for him". If this is a farm or have 100 acres then it will be moot.

Mr. Weiland indicated item 2 of his motion stating "The benefit sought by the applicant can be achieved by demolishing one of the structures...". He noted that this concern is address in the motion. The board can weigh on this. He noted that this motion is crafted as positive.

Chairman Malcarne solicited the other board members' thoughts.

Mr. Tompkins expressed his concern about the other structures on the property. There was a permit issued in January of this year about the stone cottage renovation. There was a floor plan included in the packet to change this structure to an accessory dwelling. It seems that this building was already framed out, plumbing vent, etc. and they went beyond what the permits were issued for. Mr. Tompkins also expressed his concern about the proposed barn addition. This addition seems like another building instead of an addition. It's bigger than the barn just barely touching it. He opined that this seems to need another variance.

Mr. Davidowich addressed the above concern. The original plan for the stone cottage is for an art studio. They still have to get a special permit to make this an accessory dwelling. If this doesn't get approved, this will be converted back to an art studio. With regards to the proposed stable addition, this an exact replica of the same box next to the building. He doesn't know what the intended use for this barn but they just want to be upfront about this project.

Mr. Tompkins expressed concern about the proposed location of the septic system that is closed to the chicken coop. He indicated that this septic will also be tied in to the barn. It's quite a project.

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Mr. Davidowich stated that this property has a failing septic system. This is the only area where the good soil is. They have to create an oversized septic design system that meets the current code. He discussed the details of the septic system that will also accommodate the accessory dwelling and can be tied in to a sink.

Mr. Weiland expressed his concern about a structure having a septic system or sink that can potentially become a dwelling or living unit. He discouraged the intent of having a sink in the barn or tying the septic system into the barn. He noted that the only barn that is allowed septic is agricultural barn.

Mr. Davidowich stated that they will be happy to get the necessary approval if they decided to put plumbing in any of the structures. They're okay to see a condition in the resolution about plumbing language in any of the structure.

Mr. Weiland noted that they can put water in the building like hose bib but not a septic system.

Mr. Calogero discussed the stone garage that needs special permit to be an accessory dwelling. The applicant needs to go before the Planning Board for that approval. The applicant is being upfront for this.

Mr. Mustello wants to hear more discussion about the addition variance and the total number of structures.

Mr. Weiland stated that he drafted two variance motions.

Chairman Malcarne feels that acreage can impact the number of structures. They can technically subdivide the lot. For him, this can impact his decision. They can split the lot and have 3 accessory structures.

Ms. Dolan stated that if this is the component to whatever decision they make, this should be put in writing and not split the lot if consideration is given to the lot. She asked how many additions were made to the dwelling and when were the additions made. She indicated the regulation about the increase in the dwelling but not sure if they have to look at these additions as increment or overall total. She doesn't have the dates when the additions were made. She's not sure how to evaluate this.

Chairman Malcarne stated that this is a nonconforming dwelling. The rule applied differently on a nonconforming building.

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Mr. Davidowich responded that there was an addition made in 2003 and one in 2016. The recent proposal about the addition is to completely remove the addition made in 2016.

Chairman Malcarne responded that he's not sure whether there is a limitation in increasing the size of the building. There is regulation about the building coverage but there is plenty of acreage on this property.

Mr. Canham stated that he cannot expand his house anymore and he always assume that it is because of the lot size. His house sits on a nonconforming lot. In this case, this is a gray area. The addition is within the front setback and the building is a nonconforming building but the lot is a conforming.

Chairman Malcarne stated that it is the building coverage and the lot size plays a role. If the lot is only an acre or less than acre then it is 50% expansion rule. The rule about the addition to the building doesn't apply on this case. Mr. Canham shared the chairman's interpretation.

Mr. Weiland understands Ms. Dolan's concern about the 50% expansion though he's not concern about this case due to the lot size. This is a nonconforming structure and nonconforming structure is limited to 50% expansion.

Mr. Canham noted that the definition of nonconforming structure indicates lot area, size or maximum height per the zoning regulation. The code never mention anything about setback.

Chairman Malcarne commented that the pool violation is not the current property owner's fault. It's the previous owners.

Mr. Davidowich noted that one of the requirements of the special permit is double the acreage.

Mr. Mustello asked about the rectangle to the north side. Is that a structure? The applicant responded, "There's nothing up there. It's probably auto cad glitch." Mr. Canham stated that the updated google map shows nothing up there.

Mr. Calogero shared Mr. Canham and Mr. Malcarne's opinion about the pool violation. There are procedures and approval process like title search, title insurance, etc. For some reason, this violation did not show up but it happens. Mr. Calogero wishes to see how this gets rectified so it doesn't pop again for future sale. The pool is part of the whole project. He agreed about the discussion about the lot size and the idea that the lot can be subdivided and the individual lots can have more structures but it doesn't mean they won't run in the same problem. He wants to see this move forward and gets taken care of.

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Mr. Canham agreed that this needs to be taken care of. Ms. Dolan concurred with the board. She added that extra footprints to the barn should be considered in the process and might alleviate some of the pressure.

Chairman Malcarne stated that the barn addition does not concern the application on hand.

Mr. Weiland stated that he was glad that the Zoning Officer is carefully looking at these applications. He noted that the context of his original motion basically states that he doesn't want to grant a 37-foot variance for the entire house. If they allow an expansion to the house in its entirety then they can keep expanding to the left and right of the house.

The board discussed the front yard setback variance. Chairman Malcarne asked what's the distance of the main house from the center line of the road. Mr. Davidowich responded 37.7 feet.

Ms. Dolan asked if that measurement taken to the covered porch on the front of the house? She stated that if the porch is covered then this porch is counted as intruding into the setback. Mr. Davidowich stated that the porch is only 4 or 5 feet deep. He doesn't think that this number is really going to make a difference.

Chairman Malcarne motioned to open the public hearing, seconded by Mr. Canham, all Aye, Motion carried, 7-0.

Bonnie Fulmer, 323 Schultzhill Road spoke and said that she lives across the road. She had seen quite a lot of major work with heavy equipment and machineries on this property over the last few months. She was initially concerned about the overall plan. She indicated her two biggest concerns, (1) proposed addition whether this will be a ballroom or wedding venue and (2) stone cottage proposed to be an accessory dwelling. She expressed her strong concern about the number of AirBnBs popping up in the town and the wedding venue/events on Schultz Hill Road. She indicated the music and noise late and night and fireworks from the events happening nearby. The character of this town changed. She understands that there is a zoning regulation in place but she's not happy about what she's seeing. She got her questions answered after listening to the proposal and it seems that these property owners are doing an improvement to their property.

Chairman Malcarne thanked Ms. Fulmer for expressing her concerns. He asked the applicant about the intent of these projects.

Mr. Davidowich explained the details of the floor plan of the proposed addition. It's basically just a giant hallway. It's upgrading of the quality of the materials.

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This has been the primary residence of the property owners for over a year now since COVID though they have another residence in the city. They invite friends over a lot and they just wanted to have a bigger place and bigger kitchen. With regards to the accessory dwelling, Mr. Davidowich stated that this dwelling is intended to be Mr. Clark's father's part time residence when he retire sometime next year.

Ms. Fullmer stated that she can see the flood light every time they have a party and can hear the noise and music. She doesn't want to be a bad neighbor but asked if they can put some buffer or something to mitigate the noise. She's hoping this doesn't escalate once everything is done.

Mr. Weiland stated that the Planning Board can address the neighbor's concern about the noise, etc. once the applicant seeks the special permit approval. The ZBA can put a condition about the downlighting on the variance. Ms. Campbell agreed. The surrounding neighbors will get a notification about the public hearing and they can voice their concerns.

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

Chairman Malcarne motioned to close the public hearing, seconded by Mr. Weiland, all Aye, Motion carried, 7-0.

The board had a lengthy discussion about the language of the motions and agreed for the following:

Mr. Weiland then motioned that the Town of Clinton Zoning Board of Appeals grant to **Michael Clark and Carmaine DeMello** of 13 Mountain View Road **Grid # 6366-00-070730**, a variance from section 250-22 A-4. **ALLOWING ONLY 3 ACCESSORY STRUCTURES (WITH LIMITED EXCEPTIONS) ON A PARCEL** to be increased to 4.

FACTORS:

- 1 An undesirable change was not brought about in the neighborhood nor will the continued use of the pool be a detriment to nearby properties. The pool is tucked behind the house, not visible from the road, and hundreds of feet through the woods from next door neighbors.
- 2 The benefit sought by the applicant can be achieved by demolishing one of the structures of varying value or granting a variance.
3. The variance of 33% is substantial

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4. The placement of a swimming pool of moderate size has had no known adverse effect on the physical or environmental conditions in the neighborhood nor would any future such effect be expected.
5. The alleged hardship was not self created because the current owners would not be expected to be aware of the error in 2002.
6. A residential area variance does not require and Ag Data Statement.
7. A residential area variance is a type II action under SEQRA and requires no further action.
8. The site is not in a CEA district.
9. The site is on a Scenic or Historic Road - Mountain View.
10. The site is not within the boundary or buffer of a Wetland.
11. Part of this parcel, not necessarily the site of concern, appears to be in the Ridgeline, Scenic and Historical Protection Overlay District.

Condition

- Only an approved accessory dwelling unit can be tied into a septic system.

Seconded by Mr. Calogero.

Discussion. Mr. Mustello asked to include in the motion about the earlier discussion in regards to the septic system being tied in to an accessory structure. He's not sure whether it fits here or to the next motion. He just doesn't want to lose this discussion.

Mr. Davidowich indicated no objection to include a note in the resolution addressing this concern.

Mr. Tompkins thinks that Mr. Weiland was referring to the possible expansion of the barn. The accessory structure will be tied in to this due to the failing septic system. The new septic system will be sufficient to handle the main house and the accessory structure.

Mr. Davidowich stated that both comments are correct. They don't have a problem about including a provision that there is only one accessory structure

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that will be tied in to the septic system that will be used as a dwelling. He's not sure how to word it out.

Mr. Canham doesn't think that a variance is required for an accessory dwelling. This is a Planning Board's purview. They should let the Planning Board deal with this issue. This is a 10-acre property and meets the accessory dwelling regulation.

Mr. Weiland asked Mr. Mustello which barn is he talking about. Mr. Mustello responded, "It's the barn to the northeast side as shown on the map to be tied in to the septic system."

After reviewing the map, the board concurred with Mr. Mustello's concern and agreed to include it to the resolution. Mr. Calogero commented that this is an important piece to put in the resolution that will also address the neighbor's concern.

Roll call, all Aye, Motion carried, 7-0.

After taking a 5-minute break, the board passed a resolution in reference to the front yard setback.

The board discussed the verbiage of the motions.

Roll call, all Aye, Motion carried, 7-0.

Mr. Weiland motioned that the Town of Clinton Zoning Board of Appeals grant to **Michael Clark and Carmaine DeMello** of 13 Mountain View Road Grid # 6366-00-070730, a variance from section 250 Attachment 2 which sets the front yard setback in this district at 100'. This motion grants a variance for a limited intrusion into the front yard setback to remodel the addition at the back of the house. All work is to take place beyond the rear wall of the original 1793 structure. The intrusion is limited to the project presented to the board at this time.

FACTORS:

1. The front yard setback on this 1790's house is surveyed at 37.7'. It is not unusual for older homes to be in the current zoning setbacks. This enlargement will not bring about an undesirable change in the neighborhood.

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2. The benefit sought by the applicant can be only achieved by allowing for this setback modification.
3. This variance is substantial
4. This enlargement will have no adverse effect on the physical or environmental conditions in the neighborhood.
5. The alleged hardship was self created as is normal when homeowners wish to make improvements that are constrained by zoning.
6. A residential area variance does not require an Ag Data Statement.
7. A residential area variance is a type II action under SEQRA and requires no further action.
8. The site is not in a CEA district.
9. The site is on a Scenic or Historic Road - Mountain View.
10. The site is not within the boundary or buffer of a Wetland.
11. Part of the parcel, though not necessarily the site of concern, appears to be in the Ridgeline, Scenic and Historical Protection Overlay District.
12. There are not any known outstanding zoning violations.

Seconded by Mr. Calogero,

Discussion. The board discussed the verbiage of the motion. Mr. Weiland and the chairman exchanged a couple of opinions about the verbiage of item #1. Mr. Canham suggested making it simple.

All Aye, Motion carried, 7-0.

Zaccharia Area Variance – 1556 Hollow Road, Tax Grid No. 6566-00-257242

Applicants request the following area variances to facilitate the reconstruction of an existing barn and an addition joining that barn to the existing house, all of which exist/will exist in the 100ft minimum front setback:

1. Front yard from 100ft to 20ft for the house,

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2. Front yard from 100ft to 40ft for the existing barn,
3. Front yard from 100ft to 35.5 ft for the proposed addition.

Mr. Weiland recuse himself for this application as this property is a neighbor.

Darren Davidowich presented the application. This is 11.2-acre parcel in the AR5 Zoning District. He explained that the applicants wish to reconstruct an existing barn in its current location and then attach it to the existing house with a small mud room / addition which will connect the two buildings. He noted that they received a demolition permit from the Planning Board to demolish the barn that is poor condition. He explained the details of the proposed project.

Mr. Davidowich explained why they need a variance. The structures are close to the road and all the work they are proposing are within the 100 feet setback.

Mr. Davidowich stated that the proposed addition will be located behind the front line of the house and should present a minimal visual impact due to its lowered elevation to the road. The house and the barn, both built in the 1800 and 1900 respectively are both nonconforming buildings. The proposed 180 square feet addition that is proposed to be connected to the house is less than 50% of the allowed regulation.

Mr. Calogero read the Planning Board's recommendation that is positive.

Mr. Calogero asked the applicant to clarify the setback of the house and the barn. Mr. Davidowich responded that the front setback for the house is 20 feet and the barn is 40 feet. Mr. Calogero asked if he's only asking 35.5 feet for the proposed addition. Mr. Davidowich responded, "Yes".

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

Hearing no comments from the public, Chairman Malcarne motioned to close the public hearing, seconded by Mr. Calogero, all Aye, Motion carried, 6-0

The board passed a resolution.

Mr. Calogero motioned that the Town of Clinton Zoning Board of Appeals grant the following variances from 250-attachment 2, to Jeff and Frederique Zacharia of 1556 Hollow Rd, Clinton Corners, NY, Tax Grid # 6566-00-257242, to facilitate the reconstruction of an existing barn and an addition joining that barn to the existing house, all of which exist/will exist in the 100ft minimum front setback:

4. Front yard from 100ft to 20ft for the house,
5. Front yard from 100ft to 40ft for the existing barn,

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6. Front yard from 100ft to 35.5 ft for the proposed addition.

Whereas:

1. The applicants wish to reconstruct an existing barn in its current location and then attach it to the existing house with a small mud room / addition which will connect the two buildings.
2. The two buildings predate zoning and are built close to the road which is the case with many of Clinton's older structures.
3. The property is non conforming in that the construction of the buildings, 1800 and 1900 respectively, preceded zoning, but only the proposed 180sq.ft. connecting mud room would actually be an expansion of that non-conformity.
4. That addition would actually be located behind the front line of the house and should present a minimal visual impact due to its lowered elevation in relationship to the road at that particular spot.
5. The project should have no environmental impact when complete, and should not create an undesirable change to the neighborhood.
6. Reconstructing the barn in the same location will keep the original/historical layout of this property as it currently exists and neutralize the project's impact. To move the project outside the setback would produce new and greater disturbance.
7. The Planning Board has made a positive recommendation to the ZBA for the granting of these variances.
8. The property is in the Taconic Parkway view-shed.
9. The hardship is self-created.
10. An area variance is a Type II action under SEQRA and requires no further action.
11. There are no known violations.

Condition:

- All Fees are paid.

Seconded by Mr. Canham,

Discussion. None

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

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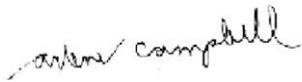
APPROVAL OF MINUTES:

No minutes were approved.

ADJOURNMENT:

Chairman Malcarne motioned to adjourn the meeting at 10:20 pm, seconded by Mr. Mustello, All Aye Motion carried, 7-0.

Respectfully Submitted By:



Arlene A. Campbell
Zoning Board of Appeals Secretary

Cc: Carol Mackin, Town Clerk