

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
April 22, 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

Norma Dolan
Ron Mustello
Russel Tompkins
Arthur Weiland

MEMBERS ABSENT

Charles Canham

ALSO PRESENT

Arlene Campbell, Secretary

Liaison Officer not in attendance

Chairman Malcarne called the meeting to order at 7:31 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 asked the board members to introduce themselves.

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

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
April 22, 2021**

VARIANCE APPLICATIONS:

Wolfe Area Variance - 5 Electronic Lane, Tax Grid No. 6468-00-756555.

The applicant requests the following area variances to put an addition to a non-conforming building.

Sec. 250 Attachment 2 – Front Yard setback reduction from 100' to 24.74'
– House

Sec. 250 Attachment 2 – Rear Yard setback reduction from 75' to 8.70' –
House

Sec. 250-83 All Alterations or extensions to Nonconforming Building shall comply with provisions of Article IV, Area Bulk and Regulations.

Lisa Wolfe and her architect, Robert Dupont both appeared for this application.

Mr. Dupont explained that Ms. Wolfe recently bought a 4.2-acre property that has a small house built in 1820. The parcel has two road frontages since the property is at the corner of Electronic Lane and Nine Partners Road. The 4.2-acre lot is intersected by the road and due to the shape of the lot and location of the house, anything that you do on this property requires a variance. Ms. Wolfe is proposing to construct a 465-square feet addition to the easterly side of the house. The proposed location will be sited between the main house and the detached garage. The proposed addition will come out 30 feet to the right and is only one-story. It will match the existing house.

Mr. Dupont added that the addition is basically just a mudroom and more living space. Although the proposed 465-square-foot addition is an extension of a non-conforming building and requires a variance per section 250-83, Mr. Dupont stated that the proposed addition is still less than the 50% maximum allowable of the aggregate square footage. He commented that none of the surrounding neighbors are affected by this proposal. He also indicated the positive recommendation that was issued by the Planning Board.

Mr. Mustello read the Planning Board's recommendation dated April 6, 2021 which is positive.

Chairman asked for questions and comments from the board.

Mr. Mustello expressed his comments per his site visit. He commented on item #3 of the PB recommendation that states about "the benefit cannot be achieved

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
April 22, 2021**

without any other feasible method.:" He solicited the board's opinion about an alternative in putting the proposed addition to the rear yard.

Ms. Dolan shared Mr. Mustello's view. One of the factors in granting a variance is about "No other feasible or alternative method". It seems that merging these lots will eliminate the variance requirement. She wonders how the rest of the board feels about this.

Mr. Calogero remarked that it will still need a front yard variance. Mr. Dupont agreed.

Mr. Mustello commented that the possibility of relocating the proposed addition to the rear exists. He also indicated his concern about the grading at the rear.

Mr. Dupont explained the rationale in putting the addition to the easterly side. This is the greatest flat area and the addition will be closer to the garage. He described the layout of the interior of the house why putting the addition to the right is more feasible than putting it to the rear. He stated that the side of this house is just a blank wall and a perfect spot to put an addition. He also described how it will be easier for the property owner to access the house coming from the driveway and go through the mudroom that is part of the addition. It makes the most sense to put an addition to that side of the house.

Mr. Mustello agreed about the rationale of the proposal but underscored that there is still an alternative method and the board is required to review the alternative.

Ms. Dolan said that the assessor's card listed the garage as a shed. This needs to be corrected for the property owner's benefit. She suggested that the applicant calls the Assessor's office to make sure everything on the property match the town records.

Mr. Tompkins commented about the L-shape of the lot where the house is. Mr. Dupont agreed. Though the total acreage of the property is 4.2 acres, it includes the lot across the road. He added that the house is located on the most interesting piece of the parcel.

Mr. Tompkins commented that the proposed addition to the right seems more appropriate rather than going to the rear. It is closer to the stone wall but the house is actually closer to it due to the angle of the property. He commented that it won't make it worse since that stone wall drops down at the back of the house. Mr. Tompkins doesn't think putting the addition to the rear is a feasible alternative. The proposed addition will not be closer to the setback than the existing structure.

TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
April 22, 2021

The board agreed to open the public hearing.

Chairman Malcarne opened the public hearing, seconded by Ms. Dolan, Roll Call, Aye, Motion carried, 6-0.

Hearing none, Chairman Malcarne motioned to close the public hearing, seconded by Mr. Mustello, Roll call, All Aye, Motion carried, 6-0.

Chairman Malcarne made a summary of the board's discussion. Based on the two front yard setbacks and the way the property sits, the architect feels the proposed addition is the best area to put the addition. The applicant's architect had explained the aesthetic and functional standpoint for the proposed area.

Chairman Malcarne solicited questions and comments from the board.

Ms. Dolan felt comfortable hearing everybody's opinion about the other alternative. The pie shape lot to the north can be combined to this parcel to avoid the rear yard variance. There is a feasible alternative that can eliminate a rear yard variance.

Mr. Tompkins opined that the house is already closer to the rear setback. Based on the submitted drawings, the house is 7.64 feet to the north side, and the proposed addition is 8.7 feet (almost 2 feet more intrusion). Mr. Tompkins stated that the proposed addition is not going to be closer than the house. He agreed that there is an alternative to merge the lots but the proposed addition will not make the intrusion more closer. He disagreed that the parcels should be merged.

Mr. Weiland commented that the parcel to the north will also lose the buildable characteristic of the lot if the parcels are combined. Due to the size and shape of the parcel to the north, it will need so many variances to put a house in there. It will be a headache to develop this lot in the future. It seems that it will benefit the town to get rid of a substandard lot.

Chairman Malcarne agreed. He can't foresee how a house can be built on this lot without any variances. Mr. Tompkins noted that there used to be a house on this lot back before the zoning. He understands about all the approvals required in developing this lot but he doesn't think that forcing the issue about the lot merger will be necessary.

Chairman Malcarne feels that merging these lots is a good recommendation.

Mr. Calogero agreed with the chairman. There should be a record about the discussion of the lot merger. This doesn't change his view about the variance so much but putting the property to conformity will be a nice thing to do. The property becomes more attractive. He indicated the benefit to the property owner

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
April 22, 2021**

when the lot moves to less nonconforming. He feels merging the lot is a good recommendation.

Mr. Weiland noted that you cannot put a structure (barn, pool or shed) on a lot without a principal structure. Chairman Malcarne agreed. This is another good reason why the lots need to be combined. However, he doesn't need any reason why the proceeding has to stop.

The board had a lengthy discussion about the issue. Chairman Malcarne echoed Mr. Calogero's opinion about the lot merger that would eliminate nonconformity of a lot. He also agreed with Mr. Weiland that no buildings can be constructed on this lot since it is a vacant lot.

Mr. Weiland corrected Chairman Malcarne about the verbiage of "building" instead of "structure". People have different connotations about structures and buildings.

Chairman Malcarne advised the property owner about consideration in merging the lots. Ms. Wolfe responded that she will be happy to do it.

Mr. Dupont asked if this will be a contingency to the variance approval. He also asked if this is just to eliminate the rear yard variance. He noted that they are on the timeline and they have contractors all line up already. They're hoping to move forward with the project.

Ms. Campbell noted that lot merger owns by same property owners and where lots are abutting to each other or contiguous is done via deed consolidation. It doesn't need Planning Board's approval. They just need to fill out a form at the Assessor's office and it's done through the Dutchess County Clerk's office.

The board had a lengthy discussion about this concern as a contingency of the variance.

Mr. Weiland said that a contingency will be quite reasonable. If the lots are combined then the rear yard variance goes away.

The board discussed the variances. Chairman Malcarne stated that since this lot has two front yards then the yard to the rear is technically considered side yard. After reviewing the map and the setback, the board agreed that the proposed action requires a front yard setback from Electronic Lane, and nothing from Nine Partners Road since the proposed addition is 110 feet from the center line of the Nine Partners Road, and side yard variance of 8 feet.

Mr. Weiland feels that the requested variance needs to be restructured. The rear yard setback variance will be eliminated once the lots are combined.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
April 22, 2021**

Mr. Mustello stated that the application on hand involves two existing lots. He suggested including a condition about the lot merger.

Chairman Malcarne solicited the board comments about including a contingency about the lot merger.

Ms. Dolan felt that the language about the other feasible method is there but she doesn't want to hold this up. It would be great if the property owner feels comfortable with it.

Mr. Weiland suggested including a condition about the lot merger since it can be done via deed consolidation per Ms. Campbell.

The board discussed the timeline. Ms. Campbell suggested putting a condition about the lot merger prior to the issuance of the Certificate of Occupancy. The board agreed. Mr. Weiland thanked Ms. Campbell for her knowledge and experience.

Mr. Tompkins feel that they should leave the lots the way they are. They don't need to put a condition. They can put a language that the property may combine the lots in the future.

Ms. Dolan said that the board granted a condition in the past about "Prior to the issuance of the Certificate of Occupancy....." This will not hold up the applicant.

Chairman Malcarne asked the property owner if she is willing to do it. Ms. Wolfe responded, "Yes, I am happy to do it".

Mr. Tompkins indicated the complaints from the people driving by saying the lights on this property are too bright. He suggested doing something about the brightness of the lighting. Ms. Wolfe thanked the board about the comments and indicated that the bright light is for security purposes. She indicated her willingness to change the lighting to a lower voltage.

The board also discussed the downlighting per the zoning regulations and agreed to include this as a condition of the variance.

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

Mr. Mustello motioned that the Town of Clinton Zoning Board of Appeals grant an area variance requested by **Lisa Wolfe of 5 Electronics Lane, tax grid #6468-00-756555** with respect to the Town of Clinton Zoning Law District Schedule of Area and Bulk Regulations (Section 250 Attachment 2) for a front yard setback

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES**

April 22, 2021

reduction to 24 feet from the required 100, and a side yard setback reduction from 50' to 8 feet for the purpose of constructing a single story living space addition to the east side of the existing home. The 4.12-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 construction of 465 gross square foot single story addition to the home on the property. The front and rear setbacks of the new construction will be very similar to (but not less than) the setbacks of the current 1820's home at this site.
2. The benefit sought by the applicant can only be achieved by allowing for these setback modifications.
3. The 465 square foot addition, being an extension of a non-conforming building requires a variance to section 250-83. The variance of 32% is substantial, but less than the 50% maximum allowable of the aggregate square footage of the original non-conforming building.
4. Parcel 756555 is a ~4.2 acre property intersected by Nine Partners Rd and Electronics Lane. It should be noted that the applicant also owns the property to the North (side lot line of the variance request)
5. The requested variance will have no adverse effect on the physical or environmental conditions within the neighborhood.
6. The granting of the variances will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties.
7. The property is not located within the Ridgeline, Scenic and Historic Preservation overlay district.
8. The site is not in an Ag District or CEA
9. The site is on a Clinton Scenic/Historic road and must conform to Local Law #3 of 2001
10. The site does not contain a NYSDEC Wetland.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
April 22, 2021**

11. The alleged difficulty is self-created, and the requested variance is substantial, but this does not preclude its granting.
12. The benefit sought by the applicant cannot be achieved by other feasible means.
13. An area variance is a Type II action under SEQRA and requires no further action.
14. There are no known violations.
15. The Planning Board has made a positive recommendation to the ZBA for approval.

Condition:

1. All fees have been paid.
2. The newly acquired ±.895-acre parcel (Parcel #767592) to the north of the existing home will be joined with Parcel #756555 prior to issuance of the CO
3. All exterior lighting will be downward facing

Seconded by Mr. Tompkins, All Aye, Motion carried 6-0.

Trendell Area Variance – property owned by Rosanne Trendell located at 22 Grissom Place, **Tax Grid No. 6466-01-013895.**

The applicant requests an area variance for a side yard setback reduction from 50 feet to 30 feet to replace an existing above ground pool and expand an existing deck.

Ms. Trendell appeared for her application. She briefly explained her application as indicated above. This is a nonconforming .5-acre lot in the AR3 Zoning District. She wants to remove the 18-foot above ground round pool and replace it with a 21-foot Above ground pool and add about 5 feet deck to the left side but still 75 feet away from the rear. A side variance was granted in 2012 for the installation of an 18-foot above ground pool.

Mr. Calogero read the Planning Board's recommendation dated April 6, 2021 that is positive.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
April 22, 2021**

Mr. Calogero stated that the building permit application was denied because it didn't meet the 50 feet side yard setback. Since there was a variance granted in 2012, Mr. Calogero commented that he's not sure why another side yard variance is required to upgrade the pool (18 feet to 21-foot Above Ground Pool). He solicited the board's thoughts about the requirement of the side yard variance.

Chairman Malcarne asked the applicant about the setback of the proposed pool. Ms. Trendell responded that the original pool was 30 feet from the side yard and the new pool will be 38 feet from the right side yard. The deck is more attached to the house and will be going 5 feet out to the left. The neighbor's property is 75 feet away.

Chairman Malcarne asked if the proposed new pool will be closer than 30 feet now. Ms. Trendell responded that it will be 38 feet.

Ms. Campbell noted that the variance granted in 2012 was for the pool. The new application is also requesting for a deck.

The board discussed the details about the deck. Ms. Trendell stated that the deck is 4 feet long on the side of the house and another 5 feet out. The deck will be farther away from the neighbor to the right and will be 70 feet away from the neighbor to the left.

Mr. Tompkins asked the applicant if she will remove the existing deck. The applicant responded, "Yes and will add a new deck." She described the details of the proposed deck. The edge of the new deck will be 70 feet to the left and will have no change on the other side.

Ms. Campbell commented that the new deck still doesn't have a variance. The pool has a variance.

Mr. Tompkins stated that the deck seems to be in violation. Chairman Malcarne asked Ms. Trendell when was the deck built. The applicant responded that it was built same time with the pool. Chairman Malcarne noted that the variance approval will address the deck violation.

After a lengthy discussion about the rear yard setback, the board agreed for a rear yard setback reduction to 50 feet.

Mr. Weiland gave good comments about the property. The question is – "Do they recognize the deck as a variable variance?" In this situation, there's no bureaucratic recognition of the existing deck.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
April 22, 2021**

Ms. Campbell stated that the variance approval in 2012 has a note stating “Any additional modifications in the setback such as a deck require an additional variance.

Ms. Trendell stated that she would try to fit the pool as close to the existing deck, but not sure it will fit since this is 3 feet larger than the old pool. Push the pool a little and rotate to the left. The idea is to square it off as much and as close as it can.

Mr. Tompkins asked if there was a variance issued to the existing deck.

Chairman Malcarne responded, “No, the deck is in violation”. Ms. Trendell remarked that she wasn’t aware that the pool is in violation. The pool guy installed the deck.

The board had a lengthy discussion about the deck. Mr. Calogero asked about the distance from the rear stone wall to the house. He asked, “Do you have 75 feet from the rear?” Ms. Trendell responded that she’s not sure, nobody raised that question in the past.

Chairman Malcarne opined that based on looking at the parcel, it seems that there is 75 feet to the rear.

Mr. Mustello stated that the map that was submitted in 2012 indicated 86 feet to the back of the house and an 18-foot above ground pool. Ms. Trendell agreed. It was her contractor who took out the permit and did the previous drawing. She stated that the measurement from the stone wall to the deck is 75 feet.

Chairman Malcarne stated that 21 foot above ground pool in a 75 feet rear yard setback gives you 54 feet. Chairman Malcarne asked the applicant how much room does she need for the placement of the pool and the deck. Ms. Trendell explained that she doesn’t want to give a definitive number in case they need more and not be in compliance.

Mr. Weiland stated that there will be no detriment to the neighborhood due to the density of the parcels. However, there is a question about the advertising of the changes in the variance application. It may not be fair for the community to see the particular changes without getting notified. There are abutting properties that are affected.

Ms. Trendell stated that the neighbor to the right Linda Odell gave her a blessing about her proposal.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES**

April 22, 2021

Ms. Campbell asked the applicant who's the property owner at the rear. Ms. Trendell responded that the back property is owned by John Patten. He was actually his pool guy for many years.

Chairman Malcarne asked about the property owner to the left of her property. Ms. Trendell responded that Jessica Bernier is the property owner to the left. These neighbors came to her and indicated no objections when they received the notification about the variance. These are the only people who are affected by this application. They see her all the time.

Ms. Campbell noted that the property at the rear is an 18-acre vacant parcel. She asked the applicant if the property at the back is wooded and vacant. Ms. Trendell responded, "Yes". Mr. Patten lives on Browning Road.

Chairman Malcarne recapped the discussion about the pool and the deck. He explained that the deck variance needs to be advertised before they can move forward with the application.

Ms. Campbell remarked that the pool and the deck variances were both advertised. The Planning Board's recommendation also indicate the variances to the pool and the deck.

Mr. Weiland stated that the board cannot grant the pool variance because of the deck violation. However, granting the deck variance will correct the violation. There will be no changes in the neighborhood. This is an existing situation with slight modification. He was originally worried about the legal paper work but glad that it was advertised correctly. His concerns are addressed.

Chairman Malcarne agreed with Mr. Weiland's comments. The key component is about the advertising of the deck and the pool to ensure that the community is notified. He asked the distance from the existing deck to the right side. Ms. Trendell responded the deck is 45 feet from Ms. Odell's property. This is not changing. She is not moving any closer to Ms. Odell's property. This is actually going to be farther away. The distance to the right is approximately half way of the length of the house.

Chairman Malcarne stated that they will put 30 feet for the deck to cover the base. The rear yard will be 50 feet.

Mr. Calogero stated that his understanding is --the applicant wants the pool to be closer to the house from the design standpoint so there is no intention of more intrusion in the setback. Ms. Trendell agreed.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
April 22, 2021**

Chairman Malcarne motioned to open the public hearing, seconded by Mr. Weiland, Roll call, All Aye, Motion carried, Art. 6-0.

Hearing no comments from the public, Chairman Malcarne motioned to close the public hearing, seconded by Ms. Dolan, Roll Call, All Aye, Motion carried, 6-0.

After a very lengthy discussion, the board agreed for a rear yard setback reduction to 50 feet.

Mr. Calogero motioned that the Town of Clinton Zoning Board of Appeals grant variances to **Rosanne Trendell**, 22 Grissom Pl, Town of Clinton, **tax grid number 132400-6466-01-013895**, to Section 250 Attachment2, for a side yard setback reduction to 30 feet when 50 feet is required, for a deck and pool, and a rear yard setback reduction to 50 feet when 75 feet is required, for a deck and pool.

Whereas:

1. The applicant wishes to improve her property by expanding an existing deck and replacing an existing above ground pool.
2. The requested variances are to reduce the side yard setback from the required 50 ft to 30 ft and the rear yard setback from 75ft to 50ft.
3. This property is a .5 acre lot in an AR3Zoning District and is situated among similar size lots on Grissom Pl.
4. The size of the lot and the location of the well and septic severely limits the possible location of the pool.
5. The request is substantial but a similar variance was granted in the past.
6. There should be no adverse effect on the environmental or physical conditions in the neighborhood as a pool currently exists in essentially the same spot as the proposed upgrade. Other properties on Grisson Pl have structures in their side and/or rear yard setbacks.
7. The alleged difficulty is self-created, but this should not preclude granting the variances.
8. The site is not within a Critical Environmental Area.
9. The site is not within the Ridgeline, Scenic and Preservation District.
10. An area variance is a Type II action under SEQRA and requires no further action.
11. The planning Board has made a positive recommendation for approval of this request.
12. These variances satisfy any existing violations.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
April 22, 2021**

Seconded by Mr. Tompkins.

Discussion. Chairman Malcarne suggested stating “deck and pool” in the opening paragraph.

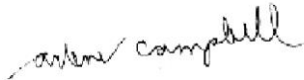
Mr. Tompkins asked item #7, it should say variances instead of variance.

All aye, Motion carried, 6-0.

ADJOURNMENT:

Chairman Malcarne motioned to adjourn the meeting at 9:30 pm, seconded by Mr. Mustello, All Aye Motion carried, 6-0.

Respectfully Submitted By:



Arlene A. Campbell
Zoning Board of Appeals Secretary

Cc: Carol Mackin, Town Clerk