

**TOWN OF CLINTON
PLANNING BOARD IN-PERSON MEETING
FINAL MINUTES
June 21, 2022**

MEMBERS PRESENT

Art DePasqua, Chairman
Jack Auspitz
Tom Bannano
Gerald Dolan
Justin Carroll
Alex Ferrini
Paul Thomas

MEMBERS ABSENT

ALSO PRESENT

Secretary – Arlene Campbell

Eliot Werner, Liaison Officer

Chairman DePasqua called the meeting to order at 7:33 pm.

VARIANCE APPLICATION:

Diesing Variance – property owned by Carl Diesing, Diesing, and Rosaria Diesing, located at 42 Bowmans’ Glen Lane, Tax Grid No. 6568-00-148673.

The applicants seek an area variance to Section 250-29 B(6) to allow the increase of the floor space requirement from 1,000 square feet to 1,260 square feet for Accessory Dwelling (currently principal dwelling).

Mr. and Mrs. Diesing explained that they received a variance back in 2008 for the increase in the square footage of an accessory dwelling. They built the guest house with the intention of building the principal dwelling. The house was overbuilt by 260 square feet more due to the miscalculation of the living space square footage.

Mr. Diesing noted that they didn’t know that variances expire after a year until they spoke with Ms. Campbell. The principal dwelling was never built and they now have a buyer for this property who intends to construct the principal dwelling on a 10-acre property.

Mr. Diesing underscored that they are proposing no changes to the variance and special permit approvals that were granted in 2008.

The board agreed to pass a resolution.

Mr. Dolan made a motion that the Town of Clinton Planning Board provides a

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positive recommendation to the Town of Clinton Zoning Board of Appeals on the requested area variance to Section 250-29 B(6) to allow the increase of the floor space requirement from 1,000 square feet to 1,260 square feet for and Accessory Dwelling (currently principal dwelling). The applicant's intent is to sell the property with the requested variance and allow the new owners to build the new principal dwelling of at least 3,317 square feet and convert the existing dwelling on the property to an accessory dwelling unit.

The requested variance is on a 10.18-acre site located off of Nine Partners Road on 42 Bowman's Glen Lane, Lot #1 of the Bowman Subdivision property owned by Carl Diesing, Diesing, and Rosaria Diesing, Tax Grid No. 6568-00-148673 which is located in the AR 5 Zoning District in the Town of Clinton.

WHEREAS:

1. The applicant requests the variance to allow the increase of the floor space requirement from 1,000 square feet to 1,260 square feet for an Accessory Dwelling Unit (currently principal dwelling).
2. The applicant's intent is to sell the property to new owners who will construct a new principal dwelling of at least 3,317 square feet or else a new variance will be required and convert the existing dwelling on the property to an accessory dwelling unit after obtaining the required Special Permit.
3. The new principal structure will be of similar style to the existing dwelling and will not be a detriment to the character of the neighborhood.
4. The property is in the Ridgeline, Scenic and Historic Protection Overlay District.
5. An area variance does not require an Ag Data Statement.
6. The site is not in a NYS DEC Wetland.
7. The site is on a designated Scenic or Historic road, that being Nine Partners Road.
8. There are no known outstanding zoning violations.
9. The property is not in a CEA district.
10. It is noted that an area variance is a type II action under SEQRA and requires no further action.

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11. It is our judgment that the proposed variance will not have an adverse effect on the physical or environmental conditions in the neighborhood. Accessory dwelling unit is a permit use in the AR 5 zoning district.
12. The impact of the additional building square footage of 260 square feet is minimal.
13. The alleged difficulty is self-created.

NOW THEREFORE, BE IT RESOLVED, the Town of Clinton Planning Board is making a positive recommendation for approval to the Town of Clinton Zoning Board of Appeals when the following condition is met:

- (a) All fees must be paid.

Seconded by Mr. Thomas,

Discussion, Mr. Bannano asked the applicants if they had already received all the necessary approvals in 2008 to build the house. Ms. Campbell responded that the applicants received a special permit approval in November of 2008. This permit also expired.

Mr. Thomas asked if the new owners will be building the house. Mr. Diesing responded that the new owners will be building 3,317 square feet of new principal dwelling per the zoning regulations (35% of the habitable space) given this variance. The board agreed to include that square footage in the resolution.

Mr. Thomas noted that a special permit needs to be obtained once the new principal dwelling is built. Special Permit is required to convert the current dwelling to an accessory dwelling.

Ms. Campbell remarked that the variance expires after a year. Mr. Diesing noted that the new owners are aware of the timeline.

Mr. Ferrini asked if this variance is exactly the same variance that was approved in 2008. Mr. Dolan responded, "Yes."

All Aye, Motion carried, 7-0.

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PUBLIC HEARING:

None

APPLICATIONS:

Gorelik Special Permit for an Accessory Dwelling – property located at 423 Clinton Hollow Road, Tax Grid No. 6466-00-001667.

The applicant wishes to convert an existing barn to an accessory dwelling.

Steve Gorelik along with his lawyer, Sean Kemp appeared for this application.

Mr. Kemp explained that the Goreliks purchased the property in the summer of 2019. The property consists of a 6.5-acre lot that contains a single-family dwelling built in 1850 and a barn built in 1982 that has one bedroom and one bath. The guest cottage was in a state of disrepair and the Goreliks spent enormous money to renovate the barn. They were now before the board to seek special permit approval for the guest cottage.

It was noted that Mr. Gorelik was before the board on May 4, 2021 for the same application. There was no action taken.

It was also noted that the guest cottage (barn) was granted a variance in the 80s to be used temporarily as an accessory dwelling to house the mother of the property owner. That use was terminated when the property changed hands.

Chairman DePasqua asked for questions and comments from the board.

Mr. Auspitz asked the applicants about the update of this application since 2021. Mr. Kemp responded that the guest cottage will be served by its own sewage disposal system per the Engineer's report dated June 24, 2021. He added that the requirements of the site plan and special permit regulations are satisfied.

Ms. Campbell made a recap about what had transpired at the May 4, 2022 PB meeting. Mr. Gorelik at that time bought another residence in London and a question was raised about owner occupancy per the zoning regulations. It was also noted that Mr. Gorelik wished to do two (2) Non-Hosted Short Term Rentals on this property when he appeared before the board at that time.

Mr. Auspitz asked the applicant about the intention to do two Short Term Rentals on this property. Mr. Kemp responded that is a separate application. They want to address the special permit first for the guest cottage.

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Mr. Kemp noted that Mr. Gorelik will occupy the single family home on this property. He reiterated that the purpose of this application is to get a special permit for the guest cottage and will cross the bridge for the other application when the time comes.

Mr. Auspitz asked about the setback measurements on the site plan. How was the setback measured? The measurement was exactly 100 feet for the front yard which is the zoning requirement. The site plan is also not scaled. Site Plan is technically prepared by a professional engineer. Mr. Kemp responded that he is requesting a waiver for this requirement.

Mr. Gorelik responded that these buildings were already on the property when he purchased the property. He admitted that he did not physically measured the setbacks.

Mr. Auspitz expressed his comments about this application. He asked the board if they are okay about accepting the site plan that was submitted. The second issue is about the accessory dwelling and dealing with the next step. There is a question about owner occupancy. He asked, "What does owner occupant means if the owner uses both dwellings as rentals? Mr. Auspitz expressed no objection in addressing the special permit for the accessory dwelling and deal with the owner occupancy issue when the short rental application actually comes in.

Mr. Kemp stated that the Sec. 250-29 B-4 states that the owner shall occupy at least one of the dwelling units. He underscored that this is the intention of the Goreliks.

Mr. Auspitz stated that the issue about owner occupancy is about owner occupying one of the units. How does this relates to renting out both houses on the property per the accessory dwelling code (Sec. 250-29-B)?

The panel discussed "owner occupancy".

Mr. Carroll agreed with Mr. Auspitz. One of the prerequisites of the special permit for an accessory dwelling is the owner occupying one of the units. The board could at least address that issue. The board needs to know about the intention of the property owner.

Mr. Kemp stated that the property owner intends to reside in the main dwelling on the premise.

Mr. Auspitz asked if Mr. Gorelik if this will be their primary residence. The last time he was before the board, Mr. Auspitz stated that Mr. Gorelik has another place in Brooklyn. Mr. Gorelik responded that he no longer has a residence in Brooklyn.

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Mr. Kemp stated that Mr. Gorelik intends to live in the main house. The code doesn't state that owner-occupied means permanent residency. He reiterated that the application before the board addresses the issue of the property owner occupying one of the units. This is not a short-term rental application.

Mr. Auspitz asked about the short-term rental sign. Mr. Gorelik responded that the advertising for the short-term rental was down. He noted that he forgot to remove the sign on the window.

Mr. Auspitz stated that he relies upon the applicant's statement that he will reside in one of the dwellings.

The board agreed to declare lead agency.

Mr. Auspitz motioned to declare lead agency in the matter of the Gorelik Special Permit for an accessory dwelling for SEQRA purposes on property located at 423 Clinton Hollow Road, Tax Grid No. 6466-00-001667, and to send site plan application, Short Form EAF, and site plan to the interested parties (DC Planning and Fire Department).

Seconded by Mr. Carroll.

Discussion. Chairman DePasqua asked Mr. Gorelik if anybody else resides in these dwellings. Mr. Gorelik responded "None". It's just him and his wife.

All Aye, motion carried, 7-0.

Public hearing is set for July 19, 2022.

No other action taken.

RR Orchard Holdings LLC Soil Erosion and Sediment Control Plan – property located at 1347 Hollow Road, Tax Grid No. 6566-00-005670.

Applicant seeks soil erosion and sediment control plan for the purpose of constructing a single-family dwelling pursuant to Sec. 250.71 of the Town of Clinton Zoning Regulations.

Eric Scholbohm from Insite Engineering, Surveying and Landscape Architecture P.C. appeared on behalf of the property owner. This is a 22-acre lot in the AR5 Zoning District. They are proposing to construct a house, pool and pool house on this property. There is a large barn on the property and the current use is

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farming. They will be using the current access to this property which is on Hollow Road.

Mr. Carroll asked if the proposed pool cabana a pool house. Will this be enclosed? He doesn't know if the pool house/cabana is proposed to be a guest house. Mr. Scholbohm responded that this is just a wet bar and not a guest cottage.

Mr. Auspitz asked how big is the proposed house. The applicant responded that the proposed house will be 7,000 square feet that contain seven bedrooms.

The board reviewed the proposed floor plans. It's a big house.

Mr. Carroll asked if there is a letter of authorization on file from the property owners. Ms. Campbell responded that there is a letter of authorization from the property owner authorizing Insite Engineering firm.

Ms. Campbell asked about the use of the large barn on the property. Mr. Carroll responded that the barn has tractors and hay for storage. The neighbor's tractors are also being kept there. This is a working farm.

Mr. Carroll asked about the steep slopes on the property. Mr. Scholbohm responded that they are disturbing more than 15%, 200 yards, and over an acre of steep slopes. This is part of their application.

Mr. Carroll stated that this proposal will also need Steep Slopes Permit pursuant to Sec. 250-72 in addition to the Soil Erosion and Sediment Control Plan approval. The applicant needs to figure out exactly how much steep slopes are they disturbing.

The board had a lengthy discussion and agreed that the town engineer needs to review this project. Escrow needs to be established.

The board discussed interested agencies apropos SEQRA.

Mr. Thomas asked if the property is in the ridgeline. Mr. Carroll responded that single-family dwelling is exempt per the ridgeline regulations.

The board agreed to declare lead agency.

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

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Whereas, the Town of Clinton Planning Board has received an application for approval of a soil erosion and sediment control plan pursuant to Section 250-71 of the Zoning Law on behalf of RR Orchard Holdings, LLC pertaining to the construction of a proposed single-family residence, including driveway, residential structure, pool, sewage disposal systems and related improvements on a 221-acre parcel located at 1347 Hollow Road in the Town of Clinton, as depicted on a Site Plan and attachments dated June 6, 2022, prepared by Insite Engineering, Surveying & Landscape Architecture, P.C.; and

Whereas, the subject parcel is identified as tax parcel no. 132400-6566-00-005670 and is located in the AR-5 Zoning District; and

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

Whereas, all applicable fees have been paid; and

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

Now, Therefore Be It Resolved, the Planning Board determines that the application is sufficient for purposes of commencing the selection of a Lead Agency pursuant to 6 NYCRR 617; and

Be It Further Resolved, that the Planning Board hereby declares its intent to assume the role of Lead Agency for this unlisted, uncoordinated action pursuant to Article 8 of the Environmental Conservation Law and Sections 617.6 (2) and (3) of 6 NYCRR Part 617 and directs that a copy of the Short Form EAF Part 1, the application and related documents be sent to the following interested agencies: NYS Department of Environmental Conservation; NY State Historic Preservation Office; Dutchess County Department of Public Works; Dutchess County Soil and Water Conservation District; Town of Clinton Conservation Advisory Council; East Clinton Fire District and NY State Scenic Byways (Taconic Parkway); and

Be It Further Resolved, that the application shall be referred to the Town Engineer for review and comments and that an escrow in the amount of \$1,500 shall be established for this purpose and for the purpose of reviewing the applicability of and compliance with Section 250-72 of the Zoning Law regarding steep slopes,

Subject to the following conditions:

1. Applicant shall submit an authorization letter to permit Insite Engineering, Surveying & Landscape Architecture, P.C. to appear before the Planning Board on behalf of RR Orchard Holdings, LLC; and

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2. Applicant shall review Section 250-72 of the Zoning Law, apply for relevant permits (to the extent required), and provide materials as needed sufficient for the Town Engineer to review the project's compliance with or variances needed with respect to 250-72.

Seconded by Mr. Thomas.

Discussion. Chairman DePasqua suggested establishing a \$1,500 escrow. Any unused funds will be refunded once the project is completed.

Mr. Carroll stated that one of the questions in the SEQRA form is about whether the site has a portion or is adjacent to an archeological site. The applicant's response to the SEQRA form showed a checkmark on the "Yes" box. Mr. Scholbohm responded that part of the questionnaire is automatically filled out on the DEC website.

Mr. Thomas suggested sending this application to State and Historic Preservation Office (SHPO). The board agreed.

Needs seven more sets of plans to circulate to the interested agencies.

All Aye, Motion carried, 7-0.

Conrad Associates LLC aka Abrahams Non-Hosted Short Term Rental – property located at 189 Fiddlers Bridge Road, Tax Grid No. 6267-00-999768.

Applicants wish to use an existing house and a guest cottage for Non-Hosted Short Term Rentals.

Mr. Auspitz recused himself for this application. He left for the night.

Dylan and Stacy Abrams appeared on behalf of Conrad Associates LLC. Mr. Abrams explained that they occasionally rent out the house when they are not around.

Chairman DePasqua asked if this is their primary residence. The Abrams responded, "Yes".

Mr. Thomas stated that the applicants are looking to do two short-term rentals on this property. Ms. Abrams confirmed. She added that they also rent out the main house when they are not in town.

Mr. Thomas stated that the property is listed as a limited partnership in California. Ms. Abrams noted that her father is the owner of the LLC. She submitted a letter of authorization from the property owner.

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Mr. Thomas asked Ms. Campbell if there is a special permit approval for the guest house on this property. Ms. Campbell responded, "Yes". The special permit was approved on December 15, 1998.

Mr. Thomas asked if the special permit is still valid and if there was no interruption of use. Ms. Campbell responded that the previous owner, Meghan Kent always continued the use of the guest cottage. The current owners (the Abrams) are also still using the guest house.

Mr. Carroll expressed his concern about the size of the septic tank on this property. A 1,000-gallon septic tank is a capacity for a 3-bedroom house per the Department of Health guidelines.

Mr. Thomas indicated the septic tank report which shows a 1,000-gallon septic tank. He asked the applicant if there is another septic tank associated with the guest house. The applicant responded, "Nothing that they know of."

Mr. Thomas explained that the 1,000-gallon septic tank can only handle the 3-bedroom main house. They won't be able to use the guest house since it did not meet the septic tank guidelines.

The board had a lengthy discussion about the matter. Mr. Thomas asked the applicants about their intention. Mr. Abrams responded that they intend to rent out two houses when they are not around.

Mr. Carroll indicated the possibility of two septic tanks on the property. The guest cottage has special permit in 1998. Mr. Carroll said that he reached out to the Department of Health about this issue but hasn't heard back.

Ms. Abrams noted that this property was listed as 5-bedroom property when they bought the property. There are 3 bedrooms and a loft on the main house. The guest house has one bedroom. Ms. Campbell noted that the loft is not counted as a bedroom.

Chairman DePasqua stated that the board will need more information about the septic approval per the county.

Mr. Thomas indicated the question that the board faces in regards to two non-hosted short-term rentals given the owner-occupancy requirement per Sec. 250-29 B of the accessory dwelling. ZEO Newman ruled that it needs separate applications for each short-term rental. Mr. Thomas raised his question "Can you have an accessory dwelling if the property owner is not occupying the main dwelling?"

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Ms. Abrams said that they will be renting out the main house when they go on vacation.

After a lengthy discussion about the issue, the board agreed to address the short-term application for the main house and table the short-term application for the guest house until the septic issue is resolved.

Mr. Thomas stated that the telephone number of the property manager is listed with the 617 area code. He commented that the property manager needs to be local. Mr. Abrams responded that the phone number is his. He used to live in Boston.

Mr. Thomas stated that they need a property manager who is local per the zoning requirement. Ms. Abrams stated that they have a property manager who lives ten minutes away from their house. Mr. Thomas asked the applicant to put this in writing.

The board agreed to set a public hearing.

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

Whereas, the Town of Clinton Planning Board has received an application for a Special Use Permit from Stacey Abrams on behalf of Conrad Associates LP for the purpose of utilizing a principal residence located at 189 Fiddlers Bridge Road in the Town of Clinton as a Non-Hosted Short-Term Rental pursuant to Section 250-69.1 of the Zoning Law; and

Whereas, the subject property is identified as tax parcel number 132400-6267-00-999768 and is located in the AR5 Zoning District; and

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

Whereas, the applicant does not propose any alteration, excavation, or construction on the site in connection with the requested permit; and

Whereas, the applicant has submitted an inspection report, dated within ninety days of the date of the application, stating that the existing sewage disposal system serving the principal dwelling is adequately functioning for the intended use at the time of inspection; and

Whereas, the Zoning Administrator has inspected the property and certified that it is in compliance with the permitting requirements set forth in Section 250-69.1 for the use of the parcel as a Non-Hosted Short-Term Rental within the Town of Clinton, provided the conditions set forth in his inspection report dated May 31, 2022 are met; and

Whereas, all applicable fees have been paid:

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Now, Therefore Be It Resolved, that the Planning Board has determined the proposed project is a Type II action and that no further SEQRA review will be required; and

Be It Further Resolved, that the Planning Board directs that the application and related documents be sent to the following interested agencies: West Clinton Fire District and Dutchess County Department of Planning and Development; and

Be It Further Resolved, that the Planning Board will hold a public hearing on this application at its meeting scheduled for July 5, 2022.

Seconded by Mr. Ferrini.

Discussion. None.

All Aye, Motion carried, 6-0.

OTHER MATTERS:

Mr. Werner joined the panel for board discussion regarding the latest about the zoning revision.

APPROVAL OF MINUTES:

Mr. Dolan motioned to accept the minutes of May 3, 2022, seconded by Mr. Ferrini, all Aye, Motion carried, 6-0.

Mr. Dolan motioned to accept the minutes of May 17, 2022, seconded by Mr. Bonanno, all aye, Motion carried, 6-0.

Mr. Dolan motioned to accept the minutes of April 5, 2022, seconded by Mr. Bonanno, all Aye, Motion carried, 6-0.

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ADJOURNMENT:

Mr. Dolan motioned to adjourn the meeting at 9:55 pm, seconded by Mr. Carroll
All, Aye, Motion carried, 6-0.

Respectfully Submitted,



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