

**TOWN OF CLINTON
PLANNING BOARD IN-PERSON MEETING
FINAL MINUTES
August 16, 2022**

MEMBERS PRESENT

Jack Auspitz
Tom Bannano
Gerald Dolan
Justin Carroll

Paul Thomas

MEMBERS ABSENT

Art DePasqua, Chairman

Alex Ferrini

ALSO PRESENT

Secretary – Arlene Campbell

Deputy Chair Thomas called the meeting to order at 7:33 pm.

VARIANCE APPLICATION:

Koleoglou Variance – property owned by Peter Koleoglou located on Lake Drive, Tax Grid No. 6468-00-072915.

Applicant seeks an area variance to Sec. 250-10 D-5 from 200 feet to 100 feet from the lake to construct a new four-bedroom one family dwelling.

Mr. Koleoglou and his engineer, David Rider appeared before the board. Per the discussion at the last meeting, Mr. Koleoglou stated that they are proposing 150 feet setback from both wetlands.

Mr. Bonanno indicated what had transpired at the previous meeting. It was a consensus that maybe the proposed septic can be moved to the reserved area to avoid the variance. He asked the applicant if the reserve area needs to be built. The applicant responded, “No.”

Mr. Rider gave a detail explanation why the septic system cannot be moved 200 feet from the wetlands. Based on the engineering concept, Mr. Rider noted that there are limits of what can be done on the property in locating the septic system. He gave the details of the engineering aspect of the restriction. The proposed septic system that they have is 90% better than the regular system.

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Mr. Bonnano expressed his comment. The lot was previously board of health approved and was extended and good through 2024. This setback issue is prior to the ownership of the Koleoglous.

Mr. Carroll asked what was the regulation changes on the setback. Ms. Campbell responded that the Department of Health always calls for 100 feet setback but the town regulation requires 200 feet if the property is in the C Zone District.

The board discussed the application on hand. Deputy Chairman commented that he doesn't think that this is setting precedence. There are limits based on what can be done on the property. This is mitigating and the proposed septic system is a lot better than the regular system.

The board agreed to pass a recommendation.

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

Mr. Bonnano motioned that the Town of Clinton Planning Board is making a positive recommendation to the Zoning Board of Appeals on the requested area variance to Sec. 250-10 D-5 of the zoning law for a septic setback reduction from 200 feet to 155' as requested by **Peter and Michael Koleoglou** on property located at Lake Drive, Rhinebeck NY **Tax Grid No. 6468-00-9072915** in the C Zone District.

WHEREAS

1. The applicant is requesting an area variance, seeking in a reduction in the setback distance required in Section 250-10D(5) of the zoning code from 200' to 155'.
2. The lot is 3.4 acres, non-conforming.
3. The lot is in a C zoning district.
4. The alleged hardship is not self-created. The applicant has approvals from the Town of Clinton planning board under previous wetland setbacks of 100'.
5. The alleged hardship is unique because of the lot size, it would render the property unbuildable, given current setback requirements.
6. The variance sought will not have a severe adverse effect on the environmental conditions of the neighborhood, because the change in setbacks and the design of the septic system. Previous setback requirements were at 100' from the wetland and now are proposed at

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an even further 155'.

7. The applicant has recently obtained a Board of Health approval while the variance is substantial, given the new set back, the Board has provided a positive recommendation to the Zoning Board. The recommendation is conditional, providing the septic system is designed and installed by P.E. David Rider and is built using the Eljen GSF, discussed at the Board meeting.

NOW THEREFORE BE IT RESOLVED THAT the Planning Board hereby respectfully makes a positive recommendation to the Zoning Board of Appeals with respect to the variances sought for this property.

Seconded by Mr. Auspitz,

Discussion. Mr. Carroll suggested to include a statement in the motion stating the variance is substantial but necessary due to the mitigating factors of the lot line.

All Aye, Motion carried, 5-0.

PUBLIC HEARING:

Krolak Special Permit for Non-Hosted STR (continuance) – 1579 Centre Road, Tax Grid No. 6469-00-323455.

Applicant proposes to operate Non-Hosted Short-Term Rental pursuant to Sec. 250-69.1 of the Town of Zoning Law.

Deputy Chair asked the public to direct all comments to the board. He indicated the duty of the board. The board understands the concerns on short term rentals but noted that the board doesn't have the right to change the regulation. The town regulates Short Term Rentals. He stated that any concerns about the STR regulations should be addressed to the Town Board. The Planning Board doesn't have the right to change the law. The STR regulation was passed.

Mr. Thomas motioned to resume the public hearing, seconded by Mr. Auspitz, all Aye, Motion carried, 5-0.

Ms. Krolak was back before the board and explained her application.

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This is a 3-bedroom house and she is proposing 6 lodgers. She indicated the status of the outstanding items per the previous meeting. as listed below

1. Correct directions to her home so that guests do not go to the neighbors
2. Privacy fencing in the backyard to prevent falls and trespassing
3. Property management plan so that someone is always available to tenants
4. Alleged restrictive covenant brought by my neighbor
5. Statement of use for the property

Ms. Krolak explained that Google maps had incorrect directions to her home causing people to drive up her neighbor's shared driveway. She noted that she submitted a correction to Google Maps which added her own private driveway to their road network. This correction was published on 9/6/21 and confirmed by Google via email. Ms. Krolak commented that her driveway is 335 feet away from her neighbor and noted that this issue will never occur again.

With regards to privacy, Ms. Krolak stated that guests' use of the outdoor space will only include raised porch and driveway areas. This area face away from her neighbor's house. She will add basic fencing to the entry of her property near the driveway that will prevent people from accessing the yard. There will be a 12-foot fence to the left side of the garage (which is the side of the neighbor). She underscored that the fence will address privacy as well as safety and trespassing issues. She added that these areas will be monitored by security and noise alarm cameras.

Ms. Krolak indicated that she has a local property manager who lives on Silver Lake whom she trusted very well and will be accessible all the time. Her property manager will verbally reinforce the house rules with the guests upon their arrival. None of the guests will be accepted if they don't pass the screening.

With regards to the restrictive covenant, Ms. Krolak stated that this covenant was not included with her deed in the sale of my property. She had never seen or heard of it before that day of the meeting. She underscored that she would have not purchased the house if she knew. Per her attorney, Ms. Krolak stated that this is a legal matter outside the scope of the application.

Deputy Chair Thomas solicited questions from the board.

Mr. Carroll asked the applicant if the fence is already up. Ms. Krolak responded, "No, she is waiting for the approval from the board before getting it done." She underscored that nothing will be rented until the fence is up.

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Mr. Carroll asked the applicant if she's only doing AirBnB (not VrBo and other STR website). Ms. Krolak responded that she's only doing AirBnB for now as she wanted to test the market first.

Deputy Chair Thomas asked the applicant how many guest is she proposing. Mr. Krolak responded that she doesn't want a lot of people in her house. She is only asking for 6 people.

Deputy Chair Thomas solicited comments from the public.

Michael Dickett, 1567 Centre Road expressed his strong concern about the proposal. He noted that he is involved with law enforcement and he deals with bad people for a very long time. He stated that there's a lot of people who don't like him because of that. Having a short-term rentals in his backyard jeopardizes his own and family safety. He commented that there's a lot of task force members whose family members were either attempted murdered or worse. He indicated the hillside behind his property and expressed strong concerns about getting sued if anybody falls off this cliff. He submitted photos of the property showing the Krolaks' backyard looking down to his property. He commented that at night time and illuminated, they can visibly be seen in their living room sitting on their couch from the Krolaks property. He noted that his family has been living in this town for 50 years. He expressed strong concerns about the new regulation (STR). Ever since Ms. Krolak bought the property, Mr. Dickett commented that there was an increased in traffic on their driveway by 40%. He expressed his appreciation about the changes on the google map.

Tara Dickett, 1567 Centre Road indicated the risk of being a law enforcement officer. She commented that anybody can just search their last name on parcel access and find where they live.

Mr. Dickett explained the photos that he submitted to the board. The previous owners of the Krolaks property also spoke about putting up a fence at the back of the property. He noted that this hillside is a 5- foot drop. Mr. Dickett underscored that this puts them into a liability. He commented that the \$1 million dollar policy only protects the Krolaks and not them. He expressed his strong concern about getting sued. People nowadays sue for everything.

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Mr. Dickett stated that the Krolak's definition of vetting process is extremely different from their own definition of vetting process. He cited an instance Pre-COVID time about STR properties who were throwing parties. He asked, "If there is an issue at 2 am, who's going to deal with that?" Mr. Dickett responded, "It's not her! We are! She's owner absent!" What happens if the property manager doesn't answer her phone? Mr. Dickett underscored that they bought their property for privacy reason.

Deputy Chair Thomas asked Mr. Dickett if he can focus on mitigating these issues. He asked, "What would be the measures to be taken?"

Mr. Dickett responded that they just don't want this in their backyard. It's a motel. Different people are coming in who don't care about the neighborhood. He stated that the town law clearly states "To protect the general welfare and safety of the people." He accentuated that this is their major concerns---their safety.

Ms. Dickett asked about the liability insurance. Is it paid yearly? Monthly? Deputy Chair Thomas responded that the board sees the proof of insurance. The STR permit is renewable every year with proof of insurance.

Mr. Dickett responded to the outstanding items addressed by Ms. Krolak. He appreciated the installation of all the security cameras and alarms. He asked, "What if there is a power outage? What happens if there is no internet? He remarked, "This is great but it doesn't solve the problem!"

With regards to putting up a fence, Mr. Dickett asked, "If you're talking about putting up a fence, how can people get to the back door?"

Deputy Chair Thomas asked the Dicketts, "Does the proposed fence alleviates any of your concerns?" The Dicketts responded, "No, it doesn't!"

Ms. Krolak addressed the neighbor's concern. She vocalized her understanding about these concerns and is trying to mitigate these issues. She presented photos of how the property is going to be fenced up. She noted that she is proposing to fence up the entire property. The guest will not have access to the backyard at all and won't see the Dicketts through the

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window. She underscored that she is not maximizing profit, she is maximizing safety.

Mr. Auspitz asked, “How high is the fence?” Ms. Krolak responded that she can make the fence 12 feet high.

Deputy Chair Thomas asked about the topography of the property. Ms. Krolak responded that the Dickett’s property sits 50 feet below her property.

Gina Kantor, 1565 Centre Road, asked, “How are you going to prevent the guest from going out through the dining room?” Ms. Krolak responded that there will be no access from the inside or outside to go to the backyard.

Mr. Dickett asked, “How are they going to get in the house?” Ms. Krolak responded that they have to access the house through the front porch.

The applicant and the neighbors exchanged comments about the details of the access. Ms. Krolak explained how the guest is going to access the house. She underscored that she doesn’t want any guest to have access to the backyard at all. She indicated her strong concern about safety.

Deputy Chair asked Mr. Dickett about his closing remark. The board understood that they are opposed.

Mr. Dickett reiterated his strong concern about their own safety, privacy, people getting lost and ended up in their driveway and the liability given the hillside at the back of the property.

Mr. Carroll read the email from Alice Bacon indicating strong concern about Short Term Rentals. Questions were raised about the number of rentals a year, number of lodgers, is it 365 days a year?

Ms. Krolak responded that she is proposing 6 lodgers, 180 days for the first year.

The board agreed to close the public hearing.

Mr. Carroll motioned to close the public hearing, seconded by Mr. Auspitz, all Aye, Motion carried, 5-0.

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The board discussed the application. Mr. Bonnano commented that limiting the number of guests will not mitigate the issue. The number of guest is not the major concern of the neighbors but the type of guest. The board is trying to find a common ground to address the concerns. He commented that maybe limiting the number of guest can mitigate these issues.

Ms. Krolak stated that part of the vetting process includes checking the driver's license. She noted that access to the house will be via electronic so people who were not vetted cannot access the house.

Deputy Chair Thomas responded that the board can limit the number of daytime guest.

Mr. Carroll commented that based on the neighbor's comments, there are no mitigating factors that can satisfy the neighbor's concerns other than rejecting the application. It seems that nothing can resolve these issues.

Deputy Chair Thomas echoed Mr. Carroll's comments. There is nothing in the law they can deny the application as long as the applicant meets the standards. The board can mitigate the impact to the neighbor's property. The neighbor clearly stated that they don't want STR in their backyard so no mitigation will work.

Ms. Krolak remarked that it is not fair for the applicant like her to be denied of her right to host STR. There is a law.

The board had a lengthy discussion about mitigating the issues such as fencing and guest having no access to the backyard. Mr. Carroll asked if they will need a secondary access to the house if the access to the backyard is prohibited. He expressed concern about fire safety. Ms. Krolak responded that she can give access to the garage to get to the house.

Deputy Chair Thomas suggested that the board can put a fence as a condition, daytime guest can be limited to two and there should be final inspection regarding the fire safety issue about the access before the applicant gets the STR permit. Ms. Krolak agreed.

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Mr. Dickett asked if the liability will cover them. Ms. Krolak responded that she doesn't think that the Dicketts will get sued if anything.

Deputy Chair Thomas responded that the applicant will have renter's insurance and this will cover the tenants. The applicant will have a better home insurance than most people if that's the case.

Mr. Dicketts expressed his concern about getting liable. Deputy Chair Thomas noted that the tenants will be covered under the renter's insurance. Mr. Dickett disagreed. Deputy Chair Thomas underscored that there are four lawyers on the board and one is absent.

Deputy Chair Thomas noted that the permit can be revoked if there are problems or issues like parties at night. The complaints can be reported to the Town and the MCEI will review the complaint.

Mr. Carroll agreed. He added that AirBnB prohibits parties or you will get kick out of their program.

After a very lengthy discussion, the board agreed to pass a resolution.

Mr. Carroll motioned that the Town of Clinton Planning Board approves the following resolution in the matter of Krolak d/b/a Centre Road Realty LLC **NonHosted Short Term Rental** on property located at 1579 Centre Road **Tax Grid No. 6469-00-323455.**

Whereas, the Town of Clinton Planning Board has received an application for a Special Use Permit from Heather Krolak d/b/a/ Centre Road Realty LLC for the purpose of utilizing a principal residence ("Dwelling Unit") located at 1579 Centre 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 6469-00-323455-0000 and is located in the Conservation Agricultural Residential Zoning District; and

Whereas, the applicant will be adding fencing to exclude certain outdoor spaces from the rental, and does not propose any other alteration, excavation or construction on the site in connection with the requested permit; and

Whereas, the applicant submitted an inspection report, dated within ninety days of the date of the application, stating that the existing sewage disposal

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system serving the Dwelling Unit is adequately functioning for its intended use at the time of inspection; and

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

Whereas, the Planning Board has determined that the proposed action will not have a significant adverse impact on the environment based on the criteria set forth in 6 NYCRR 617.7(c) and qualifies as a Type II action under SEQR (6 NYCRR 617.5(c)(18) (“reuse of a residential or commercial structure”)); and

Whereas, the Planning Board conducted a public hearing during its regular meeting on August 16, 2022; and

Whereas, the Planning Board received a response from a neighbor indicating that a deed restriction was filed with respect to the property that may restrict the ability of the Dwelling Unit to be used as a short-term rental, but the Planning Board has determined, in consultation with the Town Attorney, that deed restrictions are not under the purview of the Planning Board and therefore have not been considered as part of this application;

Whereas, the Zoning Administrator has inspected the Dwelling Unit and certified that it is in compliance with the permitting requirements set forth in Section 250-69.1 for use of the Dwelling Unit as a Non-Hosted Short-Term Rental and that there are no known zoning violations on the property; and

Whereas, the Dutchess County Department of Planning and Development has stated that an STR application is “a matter of local concern”; and

Whereas, the Planning Board has determined that the maximum number of Lodgers allowed shall be 6 adults and the maximum number of daytime visitors permitted on the property shall be 2 persons; and

Whereas, after review of the application and all other submissions by the applicant, the Planning Board has determined that the application and Dwelling Unit are otherwise in compliance with the requirements of Section 250-69.1; and

Whereas, this Special Use Permit shall remain in effect for one year from the date of approval by the Planning Board and shall require annual renewal by the Planning Board, upon timely request by the property owner pursuant to Section 250-69.1D(4), no later than the anniversary of such issuance; and

Whereas, the applicant shall ensure that the Dwelling Unit complies with the requirements of Section 250-69.1 at all times while it is being utilized as a Non-Hosted Short-Term Rental and shall otherwise comply with applicable Town, County and New York State law and regulations governing such use; and

Whereas, all applicable fees have been paid:

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Now Therefore Be It Resolved, that the Planning Board hereby grants approval of the requested Special Use Permit, subject to the following conditions:

1. The Applicant shall construct a fence and install a lock in the dining room to restrict guest access to the yard.
2. The Zoning Enforcement Officer shall inspect the fence upon completion and confirm yard access by guests is restricted and that the available means of egress satisfy applicable fire codes and regulations.
3. The Effective Date of this permit shall be the date on which items 1 and 2 above have been completed and confirmed by the Zoning Enforcement Officer.

MAXIMUM NUMBER OF LODGERS PERMITTED: 6 adults

PERMIT REMAINS IN EFFECT UNTIL ONE YEAR FROM THE EFFECTIVE DATE (SEE SECTION 250-69.1D(4) FOR ANNUAL RENEWAL PROCEDURE)

Seconded by Mr. Auspitz,

Discussion. Mr. Auspitz suggested including a statement about the deed restriction on the property. Mr. Carroll agreed. Per the town attorney, the deed restriction is not the purview of the planning board.

Mr. Thomas stated that the effective date of the STR should be effective after a successful inspection by the MCEO and conditions are met.

All Aye except for Mr. Bonnano who Nay, Motion carried, 4-1.

Drago Special Permit for Non-Hosted STR – property owned by Joseph and Nancy Drago, located at 238 Hollow Road, **Tax Grid No. 6267-00-703319.**

Applicant wishes to operate a Non-Hosted STR.

Mr. and Mrs. Drago appeared for their application.

Mr. Drago briefly explained his proposal. They want to host short-term rental for additional income when they are on vacation. Their intention is to limit the number of rentals throughout the year. This is basically tied in to the number of vacation that they want to take a year. They are looking to

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have five or 6 overnight guests. Mr. Dolan noted that the AirBnB website listed it as 6 guests.

Mr. Dolan motioned to open the public hearing, seconded by Mr. Auspitz, all Aye, Motion carried, 5-0.

There were no correspondence received from any of the neighboring properties.

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

Mr. Dolan motioned to close the public hearing, seconded by Mr. Auspitz, all Aye, Motion carried, 5-0.

The board discussed the application. Mr. Dolan asked if the second insurance for the VrBO is received. Ms. Campbell responded, "Yes".

The board agreed to pass a resolution.

Mr. Dolan motioned that the Town of Clinton Planning Board approves the following resolution for a Special Permit for a Non-hosted Short Term Rental as requested by Joseph and Nancy Drago on property located at 238 Hollow Road , **Tax Grid No. 6267-00-703319.**

Whereas, the Town of Clinton Planning Board has received an application for a Special Use Permit from Joseph and Nancy Drago, Trustees for the purpose of utilizing a dwelling located at 238 Hollow Rd 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 132400-6267-00-703319-0000 and is located in the RH1A Zoning District; 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 Dwelling Unit is adequately functioning for its intended use at the time of inspection; and

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

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Whereas, the Planning Board has determined that the proposed action will not have a significant adverse impact on the environment based on the criteria set forth in 6 NYCRR 617.7(c) and qualifies as a Type II action under SEQR (6 NYCRR 617.5(c)(18) (“reuse of a residential or commercial structure”)); and

Whereas, the Planning Board conducted a public hearing during its regular meeting on August 16, 2022; and

Whereas, the Zoning Administrator has inspected the Dwelling Unit on 7/15/22 and certified that it is in compliance with the permitting requirements set forth in Section 250-69.1 for use of the Dwelling Unit as a Non-Hosted Short-Term Rental and that there are no known zoning violations on the property; and

Whereas, the Planning Board referred the application to the Dutchess County Department of Planning and Development pursuant to General Municipal Law, Sections 239-l and m, and has received a response indicating the application is “a matter of local concern”; and

Whereas, the Dwelling Unit will be utilized as a Non-Hosted Short-Term Rental subject to no additional conditions and limitations; and

Whereas, the Planning Board has determined that the maximum number of Lodgers allowed shall be 6 persons and the maximum number of daytime visitors permitted on the property shall be 6 persons; and

Whereas, after review of the application and all other submissions by the applicant, the Planning Board has determined that the application and Dwelling Unit are otherwise in compliance with the requirements of Section 250-69.1; and

Whereas, this Special Use Permit shall remain in effect for one year from the date of approval by the Planning Board and shall require annual renewal by the Planning Board, upon timely request by the property owner pursuant to Section 250-69.1D(4), no later than the anniversary of such issuance; and

Whereas, the applicant[s] shall ensure that the Dwelling Unit complies with the requirements of Section 250-69.1 at all times while it is being utilized as a Non-Hosted Short-Term Rental and shall otherwise comply with applicable Town, County and New York State law and regulations governing such use; and

Whereas, all applicable fees have been paid:

Now Therefore Be It Resolved, that the Planning Board hereby grants approval of the requested Special Use Permit, effective as on November 1, 2022 when the following condition is met:

Publication fees are paid.

MAXIMUM NUMBER OF LODGERS PERMITTED: 6

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Seconded by Mr. Auspitz,

Discussion. Ms. Campbell asked the board to include the publication fees as a condition. The board agreed.

Mr. Drago asked if the effective date of the permit could be closer to the end of the year. Deputy Thomas asked if he starts advertising. Mr. Drago responded that the calendar on the website is completely blocked off. They are not entertaining any STR request until February of next year. He underscored that their rental doesn't pop up on the website calendar till February.

The board discussed the matter. Mr. Auspitz asked when his insurance for the AirBnB starts. Mr. Drago responded that his AirBnB insurance doesn't take effect until November.

Mr. Dolan asked about the septic tank inspection. The requirement is 90 days per the regulation. Deputy Chair Thomas stated that 90 days septic tank inspection starts from the time the applicant submitted the documents.

The board agreed to defer the STR permit approval to November 1, 2022.

All Aye, Motion carried, 5-0.

APPLICATIONS:

Aull and Fite Non-Hosted STR (Renewal) – property owned by Wes Aull and Sebastian Fite, located at 62 E. Meadowbrook Lane, **Tax Grid No. 6367-00-501394.**

The applicants wish to host Non-Hosted Short Term Rental pursuant to Sec. 250-69.1 of the Town of Zoning Law.

Mr. Aull and Mr. Fite both were in attendance for their application. Mr. Aull explained that the MCEI inspection report should be included with his paperwork. He noted that they have a new property manager who is local.

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Mr. Carroll asked if there are any complaints received about this property. Ms. Campbell responded, “None”.

Deputy Chair Thomas indicated the inspection report from the MCEI. This report should also include a question about any complaints received on the property. Ms. Campbell agreed to include this question to the inspection checklist.

The board agreed to renew the permit.

Mr. Dolan motioned that the Town of Clinton Planning Board approves the following resolution for a Special Permit renewal application for a Non-hosted Short Term Rental as requested by **Aull and Fite** on property located at 62 E. Meadowbrook Lane, **Tax Grid No. 6367-00-501394**.

Whereas, the Town of Clinton Planning Board has received an application for renewal of a Special Use Permit from Aull and Fite for the purpose of continued use of their dwelling located at 62 E. Meadowbrook Lane 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 132400-6267-00-591394 and is located in the AR3A Zoning District; and

Whereas, the Zoning Administrator has inspected the Dwelling Unit on 8/9/22 and certified that it remains in compliance with permitting requirements set forth in Section 250-69.1 for use of the Dwelling Unit as a Non-Hosted Short-Term Rental and that there are no known zoning violations or complaints on the property; and

Whereas the applicants have provided a Host Liability Insurance certificate dated through November 2, 2023 providing \$1,000,000 liability per Host property; and

Whereas, the Planning Board has determined that the dwelling shall be used as maximum 4-bedroom unit and number of Lodgers allowed shall be 8 and the maximum number of daytime visitors on the property shall be 4;

Whereas, the Special Use Permit renewal shall remain in effect for one year from the date of approval by the Planning Board and shall require annual renewal by the Planning Board, upon timely request by the property owner to Section 250-69.1D(4), no later than the anniversary of such issuance; and

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Whereas, the Dwelling Unit will be utilized as a Non-Hosted Short-Term Rental subject to the following conditions and limitations: Maximum of 90 rental days per year; maximum of 6 off road parking spaces; and

Whereas, the applicants shall ensure that the Dwelling Unit complies with the requirements Section 250-69.1 at all times while it is being utilized as a Non-Hosted Short-Term Rental and shall otherwise comply with applicable Town, County and New York State law and regulations governing such use; and

Whereas, the applicants have provided the name and contact information for a local individual: Emily Reid, that the renters can contact in the event the owners are away from the area.

Whereas, as long as all applicable fees have been paid;

Now Therefore Be It Resolved, that the Planning Board hereby grants approval of the requested Special Use Permit renewal, effective as of the date of this resolution.

**MAXIMUM NUMBER OF LODGERS PERMITTED: 8
PERMIT REMAINS IN EFFECT UNTIL August/16/2023 (SEE SECTION 250-69.1D(4) FOR ANNUAL RENEWAL PROCEDURE)**

Seconded by Mr. Bonnano,

Discussion. Mr. Bannano asked how many days did they actually rent out the house. Was it under 90 days? Mr. Aull responded, “Yes, it’s under 90 days”. They normally rent it more on summer.

Mr. Bonnano asked about the average the number of lodger. Mr. Aull responded, “Between 6-8 person but they’re usually a family.

Deputy Chair Thomas noted that the board has the option to call for a public hearing for Non-Hosted STRs Renewal.

All Aye, Motion carried, 5-0.

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

Applicant seeks Soil Erosion Permit and Sediment Control Plan approval pursuant to Sec. 250-71 of the Town of Clinton Zoning Law in order to construct a single family dwelling in a 221.86-acre land in the AR5 Zoning District.

Eric M. Schlobohm, PE from Insite Engineering appeared for this application. Mr. Schlobohm explained that they are proposing to build a single family home, a pool and a pool house on a 221 acre property in the AR5 Zoning District with an existing driveway on Hollow Road. He explained the site plan showing the proposed location of the structures. He indicated the septic system that is currently being reviewed by the Department of Health. He commented that the septic system is not in the extreme steep slopes based on the contiguous 10,000 square feet requirement. He also indicated the comments made by the Town Engineer dated August 8, 2022 that they are currently working to address.

Deputy Chair Thomas asked, “Who made that determination (10,000 square feet contiguous)? Mr. Schlobohm responded that this is his understanding of the town code.

Mr. Carroll stated that there is a question whether the disturbance of the steep slopes is 10,000 square feet or is the actual steep slopes on the property total to 10,000 square feet.

Mr. Schlobohm responded that they have shown steep slopes of more than 25% but the contiguous area only sums up to 6,000 square feet. This is therefore not classified as extreme steep slopes per the definition in the town code. This is under 10,000 square feet.

Mr. Carroll commented that looking at the map, the grey area to the right where they are proposing to build a pool is moderately steep slopes of 10,000 square feet. He asked the applicant, “Are you disturbing moderately steep slopes?” Mr. Schlobohm responded, “Yes, they are disturbing moderately steep slopes but not extreme steep slopes.”

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The board discussed steep slopes.

Sec. 250-105 of the Town of Clinton Zoning Law defines and classifies Steep Slopes as follows:

A. Moderate Steep Slopes

Lands exhibiting slopes of 15% to 25% as calculated by the vertical rise divided by the horizontal distance over any ten-foot interval and encompassing a geographical area of more than 10,000 square feet. (Example: a 1 1/2 foot vertical rise over a ten-foot interval is a 15% slope)

B. Extreme Steep Slopes

Lands exhibiting slopes of greater than 25% as calculated by the vertical rise divided by the horizontal distance over any ten-foot interval and encompassing a geographical area of more than 10,000 square feet.

Mr. Carroll reiterated that the grey area on the map are the moderate steep slopes. The dark grey area is the extreme steep slopes. There's a disturbance on moderate steep slopes area.

Mr. Carroll opined that this application still need a Steep Slopes Permit for the disturbance of Moderately Steep Slopes though they are not disturbing extreme steep slopes. The applicant needs to submit an application to steep slopes permit.

Deputy Chair Thomas agreed. This application needs steep slopes permit for the moderate steep slopes but not for the extreme slopes. The board agreed that this application needs steep slopes permit in addition to the Soil Erosion and Sediment Control Plan approval. Public hearing is not required.

Mr. Auspitz asked if the pool house will have sleeping and cooking facilities. The applicant responded that the pool house will have a bathroom but not a bedroom. The proposed septic system is designed for a 9-bedroom house to have rooms for future guest house. Currently, there are 7 bedrooms in the main house.

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The board discussed the town engineer's comment dated August 8, 2022. The town engineer's concerns include driveway access, engineering aspect of the driveway concerning water runoff, diversion swale at the top of the retaining wall above the pool, soil erosion control measure, etc.

Mr. Carroll indicated the CAC's comments dated August 8, 2022 (letter on file). He commented that he feels that this application is not cleared to proceed yet. They need to address the engineering comments from the town engineer and steep slopes permit application needs to be submitted.

Deputy Chair Thomas agreed. The board needs a sign off from the town consultants before they can proceed with the approval.

After a lengthy discussion, the board agreed to wait for the town engineer's sign off before addressing the Soil Erosion Control Plan. The applicant to submit Steep Slopes Permit application and address the town engineer's comment and the CAC comment per letters both dated August 8, 2022.

No action taken.

Himmelman Special Permit for an ADU– property owned by Peter Himmelman located at 187 Schultz Hill Road, **Tax Grid No. 6368-00-257403.**

Applicant seeks Special Permit approval to convert an existing garage to an accessory dwelling unit.

Peter Himmelman was back before the board. He briefly explained his application as indicated above. He submitted an engineering plan for the proposed septic design system per the last meeting requirement. The application to the Department of Health is already on the way.

Mr. Auspitz recapped what was transpired at the previous meeting. The applicant is proposing to convert the second floor of the existing garage to an accessory dwelling with a new septic system. A letter is received from the applicant's engineer regarding the proposed septic system.

The board agreed to declare lead agency.

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Mr. Auspitz motioned that the Town of Clinton Planning Board approves the following resolution in the matter of Himmelman Special Permit to convert the second floor of an existing three car garage to a one bedroom accessory dwelling unit on property located at 187 Schultz Hill Road, **Tax Grid No.6368-00-257403.**

Be it Resolved, that the Town of Clinton Planning Board hereby declares itself their intent to be the lead agency for review of the project pursuant to Sections 617.6(2) and (3) of 6 NYCRR 617, in the matter of **Himmelman Special Permit for an Accessory Dwelling** on property located at 187 Schultz Hill Road, **Tax Grid No. 6368-00-257403** for this unlisted and uncoordinated action.

BE IT FURTHER RESOLVED, the Planning Board hereby directs the copies of Special Permit Application Short Form EAF and Site Plan be sent to the identified Involved Agency (Department of Health) and interested agency (West Clinton Fire Department),

Seconded by Mr. Carroll, All Aye. Motion carried, 5-0.

Mr. Himmelman asked the board if he can start working on the garage while the board of health approval is in process. Deputy Chair Thomas responded, "Yes, the town will not issue a C of O for the ADU without the receipt of board of health approval."

Public hearing is Sept. 6, 2022.

The SDS plan needs to be signed by the applicant's engineer.

No other action taken.

Squirrel Hollow Road Site Plan and Special Permit for an ADU– property located at 162 Rymph Road, **Tax Grid No. 6367-00-080033.**

Applicants wish to construct a pool house/guest cottage.

Michael Goldstein and his wife Emily Blumenthal appeared for their application. Mr. Goldstein explained that they are proposing a pool house/ADU on a 17- acre property. The main house contains 2,500 square feet habitable space. Per Mr. Auspitz request, Mr. Goldstein submitted an updated site plan showing the access to the pool house and the square

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footage of the structures. Mr. Goldstein noted that they received a driveway permit for the access to the pool house. This is a separate driveway on the property that they received a permit from the Highway Department.

Mr. Goldstein indicated that the proposed pool house square footage is less than 35% of the habitable space of the main house. The pool house is only 600 square feet habitable space and is under 1,000 square feet per the threshold.

Mr. Goldstein described the details of the house. The main house is a traditional farm house of 2,500 square feet with 3 bedrooms. Per his calculation, 35% of the main house square footage is 875 square feet which is more than the size of the proposed pool house i.e 600 square feet. He commented that they are in compliance with this requirement.

Mr. Goldstein stated that part of their application is to have a new septic system for this property. The Department of Health gave them preliminary approval pending the Planning Board approval. Mr. Goldstein commented that this will be an improvement to the property since they are proposing a new septic system with new reserve area. They are now before the board to get a special permit approval so that they can continue the Department of Health process approval.

Mr. Auspitz asked how many story is the proposed pool house. Mr. Goldstein replied that the pool house is a one story building. The main house is a two story building.

The board discussed the square footage of the buildings. Deputy Thomas asked what is the floor print of the pool house. Mr. Goldstein responded that the pool house consists of 633 square feet habitable and 523 square feet unhabitable with a total floor space of 1,156 square feet.

Mr. Auspitz remarked that 1,156 square feet floor space is over the 1,000 square feet threshold. The floor space of 1,156 square feet is more restrictive. This will need a variance to Sec. 250-29 B-6 as indicated below.

Sec. 250-29 B-6 of the Town of Clinton Zoning Law states that
“The accessory unit shall contain no greater than 35% of the total habitable space of the existing principal structure prior to the construction of such

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accessory apartment or 1,000 square feet of floor space, whichever is more restrictive.

Mr. Thomas asked if the whole structure will be heated. Mr. Goldstein responded, “Yes.”

The board had a lengthy discussion about the matter. Deputy Chair Thomas stated that this application requires a variance in order to proceed.

The board exchanged an opinion whether the proposal requires a variance to 880 square feet (35% of the habitable space) or 1,000 square feet floor space. The board felt that it should be based on 1,000 square feet floor space.

Deputy Chair Thomas asked the applicant how they want to proceed. The applicants agreed to seek a variance for the size of the pool house.

After a very lengthy discussion, the board agreed to issue a positive recommendation to the ZBA and let the ZBA decides on the square footage variance.

Mr. Auspitz motioned that the Town of Clinton Planning Board approves the following resolution in the matter of Squirrel Hollow LLC area variance on property located at 162 Rymph Road, Tax Grid No. 6367-00-080033

WHEREAS

1. Applicant Squirrel Hollow Farm LLC, represented by its principals Michael H. Goodstein and Emily S. Blumenthal, seeks an area variance from the requirement of Section 250-29B(6) that the floor space of an accessory dwelling unit (“ADU”) not exceed 35% of the total habitable space of the existing principal structure or 1000 square feet of floor space, whichever is more restrictive, in connection with their proposal to build a pool house/ADU on a 17.2 acre property located at 162 Rymph Road in the Town of Clinton (#6367-00-080033).
2. Applicant appeared before the Planning Board in connection with its application to build the pool house/ADU on August 16, 2022. The Planning Board determined that applicant required an area variance relating to the size of the proposed ADU and that the Planning Board had sufficient information to make a positive recommendation to the Zoning Board of Appeals in connection with such a variance.

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3. An area variance is required because the total interior floor space of the proposed pool house/ADU will comprise about 1156 square feet. Applicant calculates the total habitable square footage of the principal dwelling on the property as about 2514 square feet, 35% of which is about 880 square feet. While applicant contends that the habitable square footage of the proposed ADU will be about 633 square feet (which calculation excludes the bathroom and the smaller powder room, the two halls, and storage and mechanical rooms), the Planning Board concludes that the size limitations set forth in Section 250-29B(6) should apply to the total floor space of the pool house/ADU, or 1156 square feet, based on the language of Section 250-29B(6), prior precedent in such cases and to avoid disputes over the nomenclature or use of particular rooms which may change over time. The Planning Board defers to the Zoning Administrator and/or ZBA in that regard as well as any question of whether the operative restriction is 880 square feet (based on 35% of the habitable square footage of the principal dwelling) or the absolute limit of 1000 square feet of floor space pursuant to Section 250-29B(6). No matter how calculated, the issue can be resolved by an area variance which the Planning Board believes is appropriate here.
4. The proposed pool house/ADU will not produce an undesirable change in the neighborhood or a detriment to nearby properties. The site is well back from the road, more than meets the setback requirements, and is screened by foliage along the road. The pool house/ADU will be one story and, if visible at all from the road or adjoining properties, will not be obtrusive. Granting the requested variance will not substantially change the visual impact of the proposed building.
5. The benefit sought by applicant cannot be achieved in any other way based on the design for the building and its expected use. The proposed structure will not have an adverse impact on the physical or environmental conditions in the neighborhood.
6. The proposed variance is substantial and self-created but in these circumstances those factors do not outweigh the benefit and will not cause a detriment to the health, safety or welfare of the neighborhood.

NOW THEREFORE BE IT RESOLVED THAT the Planning Board respectfully makes a positive recommendation to the Zoning Board of Appeals with respect to the area variance requested by applicant.

Seconded by Mr. Dolan,

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Discussion. The MCEO needs to make a determination about the square footage and write a denial letter for the variance application. Deputy Chair Thomas commented that this issue should have been flagged before this application was presented before the board.

Mr. Bonnano asked about the details of the proposed new septic system. He asked, "Is the proposed septic system covers both the main house and the pool house?" Mr. Goldstein responded, "Yes." He explained the details of the proposed septic system.

All Aye, Motion carried, 5-0.

The applicants need to get the variance before special permit can be addressed.

OTHER MATTERS:

The board had a lengthy discussion about Short Term Rentals.

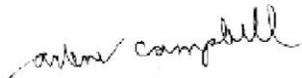
APPROVAL OF MINUTES:

No minutes were approved.

ADJOURNMENT:

Mr. Dolan motioned to adjourn the meeting at 10:15 pm, seconded by Mr. Carroll
All, Aye, Motion carried, 5-0.

Respectfully Submitted,



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