

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
October 18, 2022**

MEMBERS PRESENT

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

MEMBERS ABSENT

ALSO PRESENT

Secretary – Arlene Campbell

Eliot Werner, Liaison Officer
Jeff Newman, MCEI

Chairman DePasqua called the meeting to order at 7:30 pm.

VARIANCE APPLICATION:

None

PUBLIC HEARING:

None

Weber and Connell Soil Erosion and Sediment Control Plan– property owned by Steven Weber and Regina Connell located at 345 Schultz Hill Road, **Tax Grid No. 6268-00-958622**

Applicants seek Soil Erosion Plan and Sediment Control Plan per Sec. 250-71 and 250-72 for the construction of single-family dwelling including driveway, septic system and other land improvements on a 22.56-acre of land in the AR5 Zone District.

Matt Towne from Wellingham Engineering was back before the board. He indicated the meeting that they had with the town engineer, highway superintendent and fire department at the site. Project revisions have been made to address the town engineer's comments dated September 19, 2022 as reflected in his latest submission to the board dated September 23, 2022.

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Mr. Towne commented that the town engineer reviewed and saw the revised plan but hadn't gotten the chance to do the sign off as he was away on vacation. He noted that all these comments were basically addressed.

Mr. Carroll asked the applicant about steep slopes. Mr. Towne responded that the town engineer didn't comment on steep slopes. He noted that there were no contiguous steep slopes of 10,000 square feet on this parcel.

Mr. Carroll commented that the board can issue a conditional approval. They can defer the concern about steep slopes and final sign off to the town engineer.

The board exchanged opinions about the application on hand and agreed that this application does not need a public hearing. CAC comments dated August 29, 2022 were received and are on file. West Clinton Fire Department also sent a letter of sign off and is on file. The board agreed that a letter of sign off from the highway department is needed.

The board reviewed the Short Form EAF and issued a Negative Declaration, to wit:

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

Be it Resolved, that the Town of Clinton Planning Board has determined that Connell and Weber Soil Erosion and Sediment control Plan Special Permit on property located 345 Schultz Hill road, **tax grid #6268-00-958622**, will not have a significant impact on the environment; and;

BE IT FURTHER RESOLVED, that the Town of Clinton Planning Board hereby issues a Negative Declaration pursuant to the requirements of the State Environmental Quality Review Act 6 NYCRR 617.6 (g) and in accordance with Article 8 of the Environmental Conservation Law.

Seconded by Mr. Auspitz, All Aye. Motion carried, 7-0.

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

Mr. Carroll motioned that the Town of Clinton Planning Board approve the following resolution in the matter of Weber and Connell Special Permit for Soil Erosion and Sediment Control Plan in order to construct a single family dwelling.

Whereas, the Town of Clinton Planning Board has received an application for approval of a soil erosion & sediment control plan pursuant to Section 250-71 of the Zoning Law on behalf of Steven Weber and Regina Connell pertaining to the

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construction of a proposed single family residence, including driveway, residential structure, sewage disposal systems and related improvements on a 22.56 acre parcel located at 345 Schultz Hill Road in the Town of Clinton, as depicted on a Site Plan and attachments dated June 10, 2022, prepared by Willingham Engineering; and

Whereas, the subject parcel is identified as tax parcel no. 132400-6268-00-958622 and is located in the AR-5 Zoning District; and

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

Whereas, the Applicants have submitted an authorization letter to permit Willingham Engineering to appear before the Planning Board on behalf of the Applicants; and

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

Whereas, on August 2, 2022, the Planning Board declared 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 directed that a copy of the Short Form EAF Part 1, the application and related documents be sent to various interested agencies; and

Whereas, the application was referred to the Town Engineer for review and comments and an escrow established for this purpose; and

Whereas, the initial plans have been updated to address and incorporate comments received from the interested agencies and/or the Town Engineer; and

Whereas, the West Clinton Fire Department reviewed the application and sent a letter to the Planning Board dated October 13, 2022, stating that the plans for emergency vehicle pull-offs on the driveway were satisfactory; and

Whereas, the Planning Board issued a negative declaration under SEQRA on October 18, 2022;

Now, Therefore Be It Resolved, the Planning Board hereby approves the amended soil erosion and sediment control plan by the Applicants, subject to the following conditions and effective as of the date on which all conditions have been satisfied:

1. Applicant shall receive written confirmation from the Town Engineer that all of the Town Engineer's comments and concerns have been addressed in the final version of the plan;

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2. Applicant shall receive written confirmation from the Town Engineer that he has no additional concerns related to steep slopes, other than concerns already addressed by the plan;
3. Applicant shall receive written confirmation from the Highway Department that they have reviewed and approved the planned driveway; and
4. Payment of all applicable fees.

Seconded by Mr. Auspitz,

Discussion. None.

All Aye, Motion carried, 7-0.

Dutchess Reserve LLC 5 Lot Subdivision (Sketch Plan Approval) – Pumpkin Lane, Tax Grid No. 6568-00- 017281

Applicant wishes to subdivide ±110.957-acre parcel of land to five residential lots: Lot 1 – 18.302 acres, Lot 2 – 21.528 acres, Lot 3 – 9.791 acres, Lot 4 - 34.678 acres and Lot 5 – 26.258 acres.

Christopher Dierig and Doug Maxwell, property owners along with their land surveyor, Mark Graminski were all back for this application.

Mr. Graminski gave a recap of his application. They are seeking a 5-lot subdivision as indicated above. The latest submission includes the requested items from the board as per the last meeting. He noted that they preferred the 5 lots layout.

Mr. Graminski made a detailed presentation of his submission. Sheet 1 of 11 shows the existing condition of the lot, topography and wetlands. Part of the requirement of the subdivision regulations is to show a Cluster Subdivision to show the density count so, Sheet 2 of 11 shows the configuration that is based on conventional subdivision that shows a total of 12 lots. He noted that this conventional configuration conforms to the town code of 5-acre zone. Sheet no. 3 of 11 is what was proposed by the applicant i.e. 5-lot sketch subdivision plat that is accessed by one common driveway and a single residential driveway found on Lot no. 3, and the balance of the 4 lots are accessed via a common driveway located on the northwest of Pumpkin Lane. Mr. Graminski explained the details of the common driveway servicing the 4 lots. He noted that this configuration minimized the disturbance of the federal wetlands on the property. Sheet no. 4 is a plan that shows the amount of land that is being preserved. Mr. Graminski underscored that majority of the lands are being preserved with this layout. It's

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about 70 acres out of 110 acres total are being preserved. The development of the property is shown on the shaded area on the map. As requested by the board at the last meeting, Sheet no. 5 of 11 shows a 4-lot sketch layout. Lot #3 remains the same with access off Pumpkin Lane. Sheet no. 6 of 11 is about a Cluster concept of the subdivision as required by the regulation. It's developed with one single common driveway, 6 lots showing the criteria that the town code has. The lower left of the map shows the lot areas, private driveway and the easement area. He also shows and itemized the criteria of the cluster subdivision on this sheet. Sheet 7 of 11 is a plan of the proposed 5 lot concept that is preferred by the Dutchess Reserve LLC. This is the layout that shows engineering that was reviewed by the Town Engineer. Sheet 8 of 11 shows the profile that is necessary in order to generate the necessary common and individual driveways. Sheet 9 of 11 is about the development of lot count and the creation of rear lots. One of the criteria of the code was about the possibility of a driveway access over the flag lots being created. Mr. Graminski noted that he showed all the scenarios on the map about the access on Pumpkin Lane. These accesses met the town code and were approved by the Highway Superintendent. Sheet 10 and 11 are just showing the profile of existing common driveway and individual driveways. Mr. Graminski stated that they are looking to get Sketch approval for this layout and move forward with the plans of the next step.

Ms. Campbell asked Mr. Graminski if he received comments from the town engineer. Mr. Graminski responded, "No". Ms. Campbell noted that the town engineer is away on vacation and didn't have time to give comments for this meeting.

Chairman DePasqua asked for questions and comments from the board.

Mr. Thomas thanked Mr. Graminski for his detailed presentation. He stated that this is just a sketch phase of the subdivision process. The details of the engineering and environmental review will happen at the next phase. The board is merely looking at the concept at this stage of the process. As presented, subdivision layout for 4 lots, 5 lots, 12 lots and cluster subdivision were all shown on the map. The board just needs to decide conceptually which one is preferred. The board needs to approve two waivers for the accessways that are adjacent to each other in order to move forward with the 5-lots layout. The zoning regulation does not allow abutting driveways. The applicant needs to do waivers and the board needs to approve two waivers for each set of the abutting driveways.

Mr. Thomas continued with his comment. If the board goes with the 4-lot version, then only one waiver is required for the abutting driveway. Also, per the zoning law, they have to look at the cluster subdivision. He commented that the submission is great. The documentation and cooperation are good so far. He feels that there's a lot of considerations given in reducing the environmental impact.

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Mr. Thomas solicited discussion from the board regarding their views about the three versions (4-lot subdivision, 5-lots and Cluster subdivision). The board needs to decide which plan works best for this particular site. Mr. Thomas indicated his view about his preference.

Mr. Dolan noted that there are two versions of the 5-lots layout. One with the preservation area and the other one without a preservation area. Mr. Thomas agreed about the second version of the 5-layout. He commented that the concept of preservation is excellent.

The board had a lengthy and detailed discussion about the proposed layouts. Mr. Carroll opined that the 5 lots layout with preservation area is ideal. It mimics the idea and benefit of a Cluster concept.

Mr. Ferrini asked about the "Preservation Area". His understanding of the code is that each lot needs individual access from the road. With a preservation area, Mr. Ferrini said that they were essentially removing this access. He asked, "Is that permissible?" He commented that the law states that they should have individual access.

Mr. Thomas responded that this is a good question. The language of a Conservation Easement sometimes includes restrictions like there are no sheds allowed, etc. Maybe it can be tailored in a way that works like a Conservation Easement. They need to defer this to the town attorney. The applicant will have to come up with an easement or deed restriction and propose it so that the board can review and approve it.

Mr. Thomas said that they need to ask the town attorney whether they can say "If you buy this lot then you will not have your own access", and whether they can waive that. It's a question of "Could you by agreement have this lot and not have your own access?" This can either be a Conservation Easement or Driveway Agreement.

Chairman DePasqua asked if the preservation area was the same as committing to a "No Further subdivision" clause. Mr. Thomas responded, "No". The "No Further Subdivision" clause is more of "You cannot build nor subdivide the lot".

Mr. Dolan responded that there will be another party or organization involved like DLC or Conservation in a preservation area rather than just a note on the map or deed.

Mr. Thomas felt that the DLC Easement is the best thing to have a preservation area. Mr. Auspitz agreed. The DLC is the most efficient way to enforce it. They

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make sure that restrictions are enforced. He strongly favors the DLC Easement as opposed to a deed restriction.

Mr. Graminski stated that the property owners are willing to commit for a “No Further subdivision” clause.

Mr. Ferrini asked, “Is the board allowed to do that?” Mr. Thomas responded that DLC restrictions allow conservation of some of the lands. The applicant has to come up and propose a verbiage of a deed restriction or easement that the board can review and approve.

Mr. Newman read Sec.206-16 (E-1) Access from public roads.

(1) states: The subdividing of land shall be such as to provide each lot with satisfactory access for routine purposes and emergency vehicle access from public roadways. Each lot is required to have not less than 40 feet of frontage on and access to a public street or highway and shall be in accordance with Article IV of Chapter 250, Zoning. The Planning Board shall be satisfied that such access is feasible by a buildable driveway, whether or not construction is planned for the immediate future.

Sec. 206-16 E-2 states that “Lots shall not, in general, derive access exclusively from a major or collector road. Where driveway access from a major or collector road may be necessary for several adjoining lots, the Planning Board may require or allow such lots to be served by a common drive in order to limit possible traffic hazards on such roadway. The Planning Board may require construction of a public road in order to limit the number of rear lots.

Mr. Newman commented that Accessway is defined by the law as a strip of land, Base on his reading of these sections, the Planning Board has the authority to have a common access to be built. He said that the board can put in a restriction about a protected area that no access can be built and will be restricted to one common drive.

Mr. Thomas solicited comments from the board about the preferred layouts. His comment about 5 versus 4 lots other than the waiver of two abutting driveways and the impact of 5 lots versus the 4 lots is that Lot 2 in the 5 configuration is a conduit for everybody else’s driveway with a house in the back. He indicated his preference over 4 lots configuration.

Mr. Auspitz echoed Mr. Thomas’ thoughts. He commented that 4-lot configuration will also reduce traffic. He prefers the 4-lot layout.

Mr. Carroll felt that there is no difference between 4 and 5 lot subdivisions. The impact is almost the same. The number doesn’t really make a difference.

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Mr. Thomas commented that the board needs to do two waivers for the 5-lot configuration.

Mr. Ferrini said that he is okay with the 5-lot configuration as long as there is preservation. Mr. Bonanno and Mr. Dolan shared Mr. Ferrini's view.

Chairman DePasqua asked the applicant about the source of water in case there is a fire. He commented that this is a very long driveway from the road. He indicated his preference over the 5-lots

After a very lengthy discussion, the board agreed to issue Sketch Approval for 5-lot layout with preservation.

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

**Town of Clinton Planning Board
Resolution Granting Sketch Plan Approval**

Matter of Dutchess Reserve Subdivision

Whereas, the Town of Clinton Planning Board has received an Application for Sketch Plan Approval from Dutchess Reserve LLC, which proposes subdivision of a parcel located on Pumpkin Lane consisting of a total of +/-110.957 acres into five residential building lots, as shown on Sheets 3 and 4 of a "Sketch Subdivision Plat Prepared for Dutchess Reserve LLC" and related attachments prepared by Mark R. Graminski P.E., L.S. P.C. and dated September 20, 2022 (collectively, the "Map"); and

Whereas, the application involves tax parcel number 132400-6568-00-017281, which parcel is located in the AR-5 Very Low Density Agricultural Residential District; and

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Whereas, the layout of the proposed lots would be such that four would be “rear lots” as that term is defined in Section 250-105 of the Zoning Law and would have two non-contiguous sets of two abutting accessways each serving the rear lots; and

Whereas, pursuant to Section 250-25(B)(3), no two accessways to rear lots may abut except that the Planning Board may waive this requirement and allow up to two contiguous abutting accessways to rear lots; and

Whereas, applicant has submitted an alternative conceptual plan for a cluster subdivision as required by Section 250-42C(2) and the Planning Board has reviewed and considered the plan and determined that the objectives listed in Section 250-42C will be accomplished by the proposed conventional lot configuration and that a cluster subdivision will not be required; and

Whereas, applicant has proposed designating Preservation Areas that shall remain undeveloped and undisturbed on each lot as set forth on Sheet 4 of the Map and the Planning Board has determined as a condition of issuing Sketch Plan approval that applicant shall propose appropriate deed restrictions and/or conservation easements necessary to establish such Preservation Areas upon submission of the Preliminary Plat for review by the Planning Board; and

Whereas, the parcel is located within 500 feet of a working farm in an Agricultural District requiring the submission of an Agricultural Data Statement; and

Whereas, all applicable fees have been paid; and

Now, Therefore Be It Resolved, the Planning Board hereby waives Section 250-25(B)(3) to allow two non-contiguous sets of two abutting accessways as depicted in the Plan; and

Be It Further Resolved, that the Planning Board hereby grants the following waivers as requested by the applicants in their submission dated September 20,

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2022 from the Submission Requirements set forth in the Town of Clinton Subdivision and Lot Line Adjustment Regulations: Section 206-9 (sketch plan at a scale not less than one inch to 50 feet) and Section 206-51(F) (general location of rock outcrops, significant trees and stone walls); and

Be It Further Resolved, the Planning Board hereby grants Sketch Plan Approval and directs the applicant to submit a proposed Preliminary Plat and supporting application materials within six (6) months of the date of this resolution in accordance with Section 206-11 of the Subdivision and Lot Line Adjustment Regulations.

Seconded by Mr. Carroll,

Discussion. Ms. Campbell stated that this application needs Long Form EAF. This is a major subdivision. Mr. Auspitz suggested doing Conservation Easement.

All Aye. Motion carried, 7-0.

Krolak Non-Hosted STR (Modification of Resolution condition) – property located at 1579 Centre Road, Tax Grid No. 6469-00-323455.

MCEI requests to amend the conditions of the STR approval to better address safety and privacy concerns.

The property was not present for this modification. Per Mr. Newman's suggestion, MCEI, the property owner, will install a 6-foot fence to address the neighbor's issue. This fence will be built in stages. Mr. Newman also noted that they cannot prevent access in the back for fire safety concerns.

The board agreed to modify the conditions and give a year to complete the fence.

Mr. Carroll motioned that the Town of Clinton Planning Board approve 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, on August 17, 2022, the Town of Clinton Planning Board conditionally approved a Special Use Permit for Heather Krolak d/b/a/ Centre Road Realty LLC for the purpose of utilizing a principal residence ("Dwelling Unit") located at 1579

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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, after the Town Zoning Administrator ("ZA") made two site visits, reviewed the relevant meeting minutes and had individual meetings with Ms. Krolak and her neighbor, the ZA has requested that the Planning Board amend the conditions in the August 17, 2022 resolution to better address the safety and privacy concerns raised during the application process; and

Whereas, the ZA stated that Ms. Krolak and the neighbor were both informed of the proposed amendments;

Whereas, after hearing from the ZA and reviewing the matter, the Planning Board agreed that the proposed amendments would better address the relevant safety and privacy concerns; and

Now Therefore Be It Resolved, that the Planning Board hereby amends the resolution dated August 17, 2022 on this matter by deleting the conditions therein and replacing them with the following **conditions**:

1. The Applicant shall construct a 24-foot fence, with a minimum height of 6 feet, along the open stretch of woodland located east of her house and situated at the top of the steep slope that leads down to the property located at 1567 Centre Road so as to provide both a visual barrier to the adjacent property and a safety barrier intended to minimize lodger access to the steep slope.
2. The ZA shall inspect the fence upon completion and confirm that the two goals of visual privacy and lodger safety have been met.
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 ZA.
4. Prior to any renewal of the Special Use Permit, the owner shall extend the fence to further enhance privacy and safety, with the appropriate length of such extension to be discussed with the ZA, and such extension shall be inspected and confirmed by the ZA.

Seconded by Mr. Auspitz,

Discussion. None.

All aye, Motion carried, 7-0.

OTHER MATTERS:

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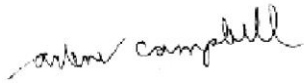
APPROVAL OF MINUTES:

Mr. Dolan motioned to accept the minutes of September 20, 2022

ADJOURNMENT:

Mr. Auspitz motioned to adjourn the meeting at 9:50 pm, seconded by Mr. Carroll
All, Aye, Motion carried, 6-0.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Arlene Campbell".

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