

**TOWN OF CLINTON
PLANNING BOARD MEETING
FINAL MINUTES
January 17, 2023**

MEMBERS PRESENT

Paul Thomas, Chairman
Jack Auspitz
Tom Bonnano
Gerald Dolan
Justin Carroll
Alex Ferrini
Gerry Thorpe

MEMBERS ABSENT

Secretary – Arlene Campbell

ALSO PRESENT

Eliot Werner, Liaison Officer
Jeff Newman, MCEI

Chairman Paul Thomas, new chairman of the board opened the meeting to order at 7:30 pm.

Chairman Thomas began by briefing the board about the new procedural process and how to run the meeting. He underscored that applications on the agenda must be complete to be heard by the board.

Chairman Thomas welcomed Gerry Thorpe who is a new board member.

VARIANCE APPLICATION:

None

PUBLIC HEARING:

None

APPLICATIONS:

Glazer Non-Hosted STR (continuance) – property located at 20-22 Bel Air, Tax Grid No. **6469-00-539562**.

Applicant wishes to operate a Non-Hosted Short-Term Rental.

Victor Glazer along with his lawyer, Sean Kemp from Marvin and Kemp LLC were back for this application.

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Mr. Kemp made a recap of what had transpired at the previous meeting. The Glazers seek a special permit to operate Non-Hosted STR on this property. They submitted a complete documentation of their application. Mr. Kemp indicated the neighbors' concern about the private road (Bel-Air Road) and the issue about the no road maintenance agreement in existence. He noted that this road maintenance agreement was found and runs with the land. He added that the public hearing was closed at the previous meeting.

Chairman Thomas stated that the board needs to vote that night given the 62 days rule once the public hearing is closed.

Mr. Ferrini acknowledged the completion of the submission. There were some outstanding items per the inspection report but were later addressed and signed off by the MCEI. The hotel tax certificate was also received and is on file. Many neighbors came out at the public hearing and voiced out strong objections about the proposed STR given the private road and the lack of road maintenance agreement. The Glazers were able to demonstrate that there is a road maintenance agreement in place and this was acknowledged by the town attorney.

Mr. Ferrini indicated the condition of his draft resolution about limiting the short-term approval to the primary residence. He noted that there is an apartment over the garage that is on a long-term lease.

Chairman Thomas asked what's the capacity of the proposed short-rental. Mr. Ferrini responded that the proposal is for 6 daytime lodgers and 6 overnight guests.

Chairman Thomas asked how many bedrooms is the house. He commented that this is a small lot. Mr. Glazer responded that this is a 3-bedroom house.

Mr. Ferrini stated that all the lots in this neighborhood are small. He opined that off street parking is not an issue. There is a common driveway (where the neighbors' concern) that leads you to the circular driveway into this unit. One can easily park three cars on that circular driveway.

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Mr. Carroll asked about the status of the conversation with the neighbors and how the insurance works if a renter gets hurt on the portion where the neighbors own part of the property.

Mr. Kemp responded that they received a confirmation from the Glazer's insurance company that the policy will cover the damage if anybody who's trying to access the Glazer's property gets hurt on the common driveway. He noted that this was conveyed to the town attorney. In reference to the conversation with the neighbors, Mr. Kemp stated that Mr. Glazer had tried two times contacting the neighbors after the town attorney had advised them to contact the neighbors again after their initial discussion with the neighbors but there was no development. They figured everybody is travelling given the holidays.

Chairman Thomas questioned allowing 12 people apropos the number of total lodgers – 6 daytime and 6 overnight guests.

Mr. Ferrini remarked that he is not suggesting twelve people. That is excessive. He clarified that he was thinking allowing total 6 overnight people. Mr. Carroll stated that it should be 6 lodgers with 0 daytime guest. Mr. Glazer agreed that the renters are not allowed to have visitors.

Mr. Bonanno asked if the current owner signed the road maintenance agreement. Mr. Kemp responded that the previous owners prior to the Glazers ownership have signed the agreement. Mr. Ferrini noted that the maintenance agreement runs in perpetuity with the land.

Chairman Thomas asked the applicant if the insurance liability on file will be renewed. It is expiring soon. Mr. Glazer responded, "Yes."

Mr. Carroll felt that there is still a major opposition from the neighbors that is not addressed. He expressed his understanding about the attorney's position on the matter but he's also representing his client.

Mr. Ferrini shared Mr. Carroll's view. He stated that the neighbors' opposition was intense.

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Mr. Carroll echoed the comment and added that the neighbors' opposition was intense and united. He wished that the neighbors will say that the liability insurance alleviates their concern.

The board had a lengthy discussion about the concern. Chairman Thomas asked Mr. Carroll if there is anything or modification that can make him comfortable.

Mr. Carroll commented that the concern is really valid. Maybe they can put a condition on the approval stating "That the neighbor will acknowledge that the policy covers them or something that will make them feel that they were heard." These people actually own the road. This is a private road.

Mr. Kemp underscored that they complied with all the regulations. The arguments of the neighbors about anybody getting hurt on the property goes with anybody who is visiting the property. It doesn't just apply to the short-term rental' guests. It is the same situation as in the case of any neighbor on that private road having multiple visitors on their property. He commented that the Glazers have a better liability insurance and has bigger coverage.

Chairman Thomas asked the applicant how many short-term rentals is he planning to do in a year. He asked, "Are you planning to do this on a full-time basis?"

Mr. Glazer responded, "Absolutely not!" He is only doing this to supplement the cost of living. He said, "Maybe - three weeks out of a year." He wants to rent it out to a family for like a week.

Chairman Thomas asked Mr. Glazer if he objects to committing a limited number of short-term rental a year.

The board had a lengthy discussion about limiting the number of rentals to alleviate the issue.

Chairman Thomas stated that this will be a test for the first year and will be reevaluated on the renewal.

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Mr. Glazer stated that they all pitch in maintaining the private road. He noted that he recently bought rocks for the common road. They're feeling each other out and learning how to work together.

After a lengthy discussion, a proposal was suggested to do 30 nights a year with 6 lodgers and 0 guest.

Mr. Bonanno asked how will they enforce this. Mr. Auspitz responded that if the neighbor sees more activities than it's supposed to then they will alert the town.

Ms. Campbell said that town has Granicus to oversee the short-term rentals in the town. Mr. Newman added that the Granicus also informs the town how many times the property is rented.

Mr. Kemp expressed his understanding about the concern. He understands that there's a lot of people who buys a property mainly to be used as short-term rentals. He commented that this is not the situation here. The Glazers still live here.

After all the deliberations were made, the board voted on the following resolution.

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

Be It Resolved that the Town of Clinton Planning Board approves the application of Victor Glazer for a permit for a Non-hosted Short-Term Rental for the property located at 20 Bel Air Drive, grid no. 6469-00-539562.

Whereas, the Town of Clinton Planning Board has received an application for a Special Use Permit from Victor Glazer for the purpose of utilizing a Dwelling located at 20 Bel Air Drive 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 132400-6469-00-539562 and is located in the Conservation Agricultural Residential Zoning District; and

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

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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 was 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 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 public hearings during its regular meeting on July 19 and November 15, 2022; 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; and

Whereas, the Dutchess County Department of Planning and Development has stated that an STR application is “a matter of local concern,” and the Planning Board has received no response from the West Clinton Fire District; and

Whereas, the Planning Board has determined that the maximum number of Lodgers allowed shall be 6 adults and the maximum number of additional daytime visitors permitted on the property shall be 0 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:

Now Therefore Be It Resolved, that the Planning Board hereby grants approval of the requested Special Use Permit, pursuant to Section 250-69.1 of the Zoning Law; **for a maximum number of 6 Lodgers and 0 additional daytime visitors**, subject to receipt from the applicant of the Hotel Tax Certificate from Dutchess County.

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MAXIMUM NUMBER OF LODGERS PERMITTED: 6
PERMIT REMAINS IN EFFECT UNTIL January 17, 2023 (SEE SECTION 250-69.1D(4) FOR ANNUAL RENEWAL PROCEDURE)

Seconded by Mr. Auspitz,

Discussion. Ms. Campbell stated that escrow account is depleted and needs replenishment.

Mr. Auspitz suggested that the capacity and the number of nights be in the condition instead of the “Whereas” of the resolution.

Chairman Thomas agreed. The essential conditions of the approval should be in the permit itself.

Ms. Campbell asked if they need to include a condition about updating the liability insurance. The insurance on file is expiring.

Mr. Ferrini responded that he included a verbiage stating, “In compliance with all the terms and statutes.”

Mr. Kemp suggested referencing to the entire ordinance rather than just a section. The board agreed.

VOTE:

Motion: Mr. Ferrini _____ Seconded: Mr. Auspitz _____

Paul Thomas, Chairman	<u>Aye</u> _____
Jack Auspitz	<u>Aye</u> _____
Tom Bonanno	_____ <u>Nay</u> _____
Gerald Dolan	<u>Aye</u> _____
Justin Carroll	_____ <u>Nay</u> _____
Alex Ferrini	_____ <u>Nay</u> _____
Gerry Thorpe	<u>Aye</u> _____

Motion carried, 4-3.

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Smithyman Non-Hosted STR Renewal – property owned by Paul and Garreth Smithyman located at 5 Lake Drive, **Tax Grid No. 6368-00-752443**

Applicant seeks renewal of the non-hosted STR pursuant to Sec. 250-69.1 of the town code.

Garreth Smithyman appeared and briefly explained her application.

Mr. Carroll made a recap about the application on hand. This is an ADU that was granted special permit for a Non-Hosted STR for two lodgers about a year ago. There were some issues that were back and forth and were remedied per the MCEI. He commented that he doesn't have an issue in terms of the substance of this renewal.

It was noted that this property had an advertising for 4 lodgers instead of the approved 2 lodgers.

Mr. Carroll asked the board how they should handle the renewal applications moving forward. What do they do if the applicant didn't follow the renewal protocol? Is there a penalty? Does the board need to make stronger conditions on the approval? He feels that they should impose something stronger on the approval. For instance, if the applicant doesn't renew on time, then the board has the right to cancel the approval. He also indicated the issue about people who receive approvals for 6 lodgers but were advertising 8 lodgers instead. He asked the board how do they deal with applicants who are in violation. He doesn't want to treat applicants differently. This is a new law for the board and the applicants and they've been trying hard to navigate this new law.

The board had a lengthy discussion about the matter.

Mr. Auspitz commented that violations have different magnitude. Some violations are more serious than others. He stated that there should be a date on the renewal application when it was received. The renewal application should be filed within 90 days of the expiry date per the regulation.

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Mr. Ferrini concurred with Mr. Auspitz. The violation about noise complaint, number of lodgers or septic failure are more serious than the misdate of the filing of the renewal application.

Mr. Carroll felt that the issue about the advertising of more lodgers in this application is more subtle. This dwelling is set up as a one-bedroom studio. They approved it as two adults plus two daytime visitors. He feels that the board will see a number of these cases about advertising more lodgers. He proposed a verbiage in the resolution that the applicant have acknowledged that they have two lodgers and that they have submitted the renewal application 90 days in advance.

Mr. Ferrini suggested adding a verbiage about whether any complaints were made.

Chairman Thomas asked if this application has a clean inspection report. Ms. Campbell responded, "Yes."

The board exchanged opinions about the matter.

Mr. Bonanno asked Mr. Newman if the website gives him an alert if anything changed on the number of lodgers. Mr. Newman responded, "No, it's a matter of checking."

Mr. Newman commented on Mr. Carroll concern. There is a significant point difference between two and four lodgers. Base on his inspection, the sizes of the beds (full and twin beds) determines that the lodgers are for two adults and two kids. He stated that what they should look at is how the STR is advertised. AirBnB's advertising for two lodgers typically connotes two adults and kids are not counted. He stated that it's up to the board to decide how to act on this matter. In this case, they know that the size of the septic allows four bedrooms. The children are not technically counted as the board of health regulation goes by the number of bedrooms and not lodgers.

Mr. Carroll commented that this approval state two lodgers instead of adult so it's different.

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Mr. Newman noted that the STR permit only refers to number of lodgers. He commented that this issue will be an important part of the revision of the regulation.

Chairman Thomas asked why did they limit this property to two bedrooms. Mr. Carroll responded that the septic approval supports 4 bedrooms. The main house has two bedrooms and this cottage is a one-bedroom studio apartment.

The panel had a lengthy discussion about the number of lodgers. The applicant was advertising for four lodgers as opposed to the approval of two lodgers. MCEI stated that the bed sizes on the property accommodates two adults and two children. It's a question whether two children are counted as lodgers.

Mr. Carroll said that if he is renting an AirBnb himself that will allow parents and two kids, he will be searching for 4-lodgers STR.

Ms. Smithyman noted that they're planning on renovating the main house and planning to make the ADU two bedrooms. She noted that most of their renters are one or two people. She added that there were instances that the kids slept on the couch.

Ms. Campbell commented that it also depends whether there is a charge for the kids. Mr. Carroll said that normally kids under three are free of charge.

Mr. Newman stated that a studio apartment can accommodate as many beds as it can. It goes by the square footage. He opined that it's a misconception that a studio apartment is a one-bedroom unit. In this case, the certificate of occupancy is specific to one bedroom unit so that it allows to two lodgers. They will need to get a new C of O if they want to modify the number of bedrooms in the ADU.

Ms. Smithyman noted that they are only seeking two lodgers for now.

Mr. Carroll stated that there is a new contact person/property manager for this rental. This needs to be a condition of the approval.

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After all the deliberations were made, the board agreed that this is a one-bedroom ADU and the number of lodgers for the renewal is two.

The board passed a resolution, to wit:

Mr. Carroll 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 Paul Smithyman and Garrett Long Smithyman on property located at 5 Lake Drive, **Tax Grid No. 6368-00-752443**.

Whereas, on December 7, 2021, the Town of Clinton Planning Board approved a Special Use Permit for Paul Smithyman and Garrett Long Smithyman (“Applicants”) for the purpose of utilizing an accessory dwelling (“Dwelling Unit”) located at 5 Lake Drive 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 6368-00-752443 and is located in the Conservation Agricultural Residential Zoning District; and

Whereas, the Applicants filed an application for renewal of the Special Use Permit on December 15, 2022, and on December 29, 2022, the Municipal Code Enforcement Inspector (“MCEI”) issued a Renewal Report to the Planning Board and sent the Applicants an Order to Remedy regarding various violations of the Zoning Law, including that Applicants had been listing the Dwelling Unit on AirBnB for up to four lodgers, while the 2021 resolution only permitted 2 lodgers and two daytime guests;

Whereas, Applicants have updated the local agent for the Dwelling Unit to be Melissa Coggeshall and shall provide the address, email and phone number where the local agent can be reached on a 24-hour basis;

Whereas, Applicants have acknowledged that any STR listing shall be limited to two adult lodgers, that any increase in the number of adult lodgers would require a new application and hearing before the Planning Board, and that listing the STR for more than two adult lodgers without a new application and hearing may result in future renewal applications being denied and/or penalties being assessed;

Whereas, Applicants have acknowledged that renewal applications for STR special use permits must be filed at least 90 days prior to the anniversary of such permit, and that failure to seek such timely approval may result in the lapse of the special use permit, require a new application and hearing, result in future renewal applications being denied, and/or the assessment of penalties;

Whereas, the Applicants have rectified the violations in the Order to Remedy, the renewal application otherwise satisfies the renewal criteria for a

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Type 2 Non-Hosted Short-Term Rental pursuant to Section 250-69.1 of the Zoning Law, and the MCEI has confirmed he has no further concerns;

Now Therefore Be It Resolved, that the Planning Board hereby renews the Special Use Permit for the Dwelling Unit for two adult lodgers for a period of one year from the expiration date of the prior permit (i.e. new permit expiration date of: December 7, 2023; renewal application due by September 7, 2023), subject to:

1. Payment of all applicable fees, and
2. Applicant providing the address and email of the local agent Melissa Coggeshall.

MAXIMUM NUMBER OF LODGERS PERMITTED: 2
PERMIT REMAINS IN EFFECT UNTIL September 7, 2023 (SEE SECTION 250-69.1D(4) FOR ANNUAL RENEWAL PROCEDURE)

Seconded by Mr. Auspitz,

Discussion. Mr. Newman stated that the renewal is retroactive.

All Aye, Motion carried, 7-0.

Upton Lake Christian School (Board Discussion) – Salt Point Turnpike, Tax Grid No. 6566-02-587843 & 648951.

Upton Lake wishes to build a new high school that will be connected to an existing elementary school.

It was noted that Upton Lake Christian School is seeking site plan approval from the Town of Washington Planning Board to construct a replacement facility for an existing private high school located at 20 Shepherd's Way with parcel number 6566-00-648951. The current application proposes a new two-story, approximately 14,000 square foot building to be attached to the northeast corner of the main building. The expansion of the school is on Town of Washington parcel and the Town of Clinton provides access to the property off Salt Point Turnpike.

The board had a lengthy discussion about the impact on Salt Point Turnpike in reference to the increase in traffic. Chairman Thomas stated that the board's role in this project is limited. The board can make suggestion or comments about the impact on the road, lighting, etc.

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The board exchanged comments about the proposal and agreed to consent the Town of Washington as lead agency for SEQRA purposes.

Mr. Bonanno motioned that the Town of Clinton Planning Board consents Town of Washington Planning Board as lead agency in the matter of Upton Lake Christian School Site Plan for expansion of the school building for SEQRA, seconded by Mr. Carroll, all Aye, Motion carried, 7-0.

Chairman Thomas asked Mr. Bonanno if he can attend the Town of Washington Planning Board meeting to learn more info about the proposal. He also asked Mr. Bonanno if he can check with DPW about any info that he can get in reference to the traffic analysis on Salt Point Turnpike. Mr. Bonanno agreed.

No other action taken.

BOARD DISCUSSION:

1. Mr. Werner discussed the amendment on the proposed local law about Alternate Care Facility. The board had a lengthy discussion about the matter.
2. Mr. Newman discussed Sacks subdivision (Lot 3). He said that per his conversation with the town attorney, the applicant needs to go for an amendment of final plat if the applicant is changing the size of the septic system if building envelope is sited on the final plat. The final plat for this parcel indicates 3- bedroom dwelling.

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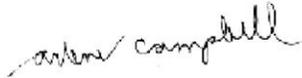
APPROVAL OF MINUTES:

Mr. Dolan motioned to approve the minutes of December 20, 2022, seconded by Mr. Ferrini, All Aye, Motion carried, 7-0.

ADJOURNMENT:

Mr. Carroll motioned to adjourn the meeting at 9:30 pm, seconded by Mr. Dolan, All Aye, Motion carried, 7-0.

Respectfully Submitted,



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