MEMBERS PRESENT	MEMBERS ABSENT
Jack Auspitz Tom Bonanno Gerald Dolan Justin Carroll Alex Ferrini Gerry Thorpe	Paul Thomas, Chairman
ALSO PRESENT Secretary – Arlene Campbell	Eliot Werner, Liaison Officer Jeff Newman, MCEI

Deputy Chairman Justin Carroll opened the meeting to order at 7:30 pm. He indicated that there will be no meeting on April 4, 2023.

### **VARIANCE APPLICATION:**

None

#### **PUBLIC HEARING:**

None

### **APPLICATIONS:**

**Francois Non-Hosted STR Renewal –** property located at 17 Schoolhouse Road, Tax Grid No. 6469-00-106349.

Applicants seek a special permit to operate a Non-Hosted Short-term Rental pursuant to Sec. 250.69.1 of the Town of Zoning Regulation.

Eric Francois appeared and explained that they received a special permit to operate a non-hosted short-term rental about a year ago. He is now before the board to renew the application. Nothing has changed and everything else is the same.

Deputy Carroll asked Mr. Auspitz for his comments or questions.

Mr. Auspitz commented that this is a straightforward application. He asked if there were any complaints made about this rental. Mr. Francois responded none.

Mr. Auspitz asked about the hotel tax certificate. The panel has a lengthy discussion about whether they need to collect the hotel tax certificate again.

Mr. Newman stated that per his conversation with the county, applicants do not need hotel tax certificates if they are using AirBnB exclusively. AirBnB collects those taxes.

Mr. Bonanno asked if the insurance on file needs to be updated. The board agreed to include this as a condition. Town of Clinton should be listed as additional insured.

The board passed a resolution,

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

#### **WHEREAS**:

- 1. Applicant Eric Francis seeks to renew a special permit for a non-hosted short term rental ("STR") at 17 Schoolhouse Road in the Town of Clinton (#6467-00-043348), pursuant to Section 250-69.1D(4)
- 2. Applicant's existing special permit was issued May 3, 2022 and we deem this application, received by the Town on Feb. 21, 2023 to be timely.
- 3. Applicant has submitted adequate proof of \$1,000,000 in liability insurance coverage, expiring in May, 2023. No complaints have been received by the Municipal Code Enforcement Officer regarding this property.
- 4. The Enforcement Officer has inspected the property and found it to be in compliance with two exceptions regarding signage.

**NOW THEREFORE BE IT RESOLVED THAT** applicant's request for renewal of his STR permit is granted subject to compliance with the pending requests of the Enforcement Officer, proof of renewal of its insurance when timely, and payment of all fees.

Seconded by Mr. Thorpe.

**Discussion**. None.

All Aye, Motion carried, 6-0.

Burns and Vega Non-Hosted STR - property located at 468 Lake Dr. Tax Grid No. 6469-00-200521.

Applicants seek a special permit to operate a Non-Hosted Short-term Rental pursuant to Sec. 250.69.1 of the Town of Zoning Regulation.

Carlo Vega appeared for his application. He received approval to operate a non-hosted STR in 2021. He noted that this permit expired in 2022.

Deputy Carroll asked for questions and comments from the board.

Mr. Ferrini stated that the outstanding items per the inspection report have been resolved. He asked about a copy of the insurance which is not included in the packet.

Mr. Vega responded that they are only using AirBnB exclusively. They are covered under AirBnB insurance policy.

Mr. Ferrini asked for the contact info of the local property manager. Mr. Vega responded that information was in the packet. Mr. Newman noted that info should also be in his inspection report.

Deputy Carroll commented that the only info provided was just a name of the contact person. The requirements per the regulations are: name, address, email and telephone number.

Mr. Ferrini stated that since the previous permit expired in May, 2022, this application requires a public hearing subject to (1) proof of the AirBnB arrangement with the property owner and (2) all the information of the property manager.

Deputy Carroll opined that they should include in the resolution the exclusive use of the AirBnB for insurance purposes. Mr. Ferrini agreed.

Mr. Newman recommended that there should be no access to the basement for safety concerns.

The board agreed to schedule the public hearing on April 18, 2023 subject to the receipt of property manager information and print out of the AirBnB liability insurance.

Mr. Ferrini motioned that the Town of Clinton Planning Board approve the following resolution in the matter of Burns and Vega NonHosted AirBnB on property located at 468 Lake Drive, Tax Grid No. 6469-00-200521.

Whereas, the Town of Clinton Planning Board has received an application for a Special Use Permit from Taryn Burns and Carlo Vega for the purpose of utilizing a principal residence located at 468 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 132400-6469-00-200521 and is located in the C Zoning District; and

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

**Whereas**, the applicants do not propose any alteration, excavation or construction on the site in connection with the requested permit; and

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

Whereas, the Zoning Administrator has inspected the property and, in his letter to the applicants dated March 7, 2023, 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, all applicable fees have been paid; and

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

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

**Be It Further Resolved**, that the Planning Board hereby declares its intent to assume the role of Lead Agency for this unlisted, uncoordinated action pursuant to Article 8 of the Environmental Conservation Law and Sections 617.6 (2) and (3) of 6 NYCRR Part 617 and directs that a copy of the Short Form EAF Part 1, the application and related documents be sent to the following interested agencies: West Clinton Fire District; Town of Clinton Highway Department; Dutchess County Department of Planning and Development; and

**Be It Further Resolved,** that the Planning Board will hold a public hearing on this application at its meeting scheduled for April 18, 2023.

Seconded by Mr. Auspitz,

**Discussion.** None.

All aye, Motion carried, 6-0.

**Alberini Non-Hosted STR –** property located at 296 Lake Dr, **Tax Grid No. 6469-00-265074**.

Applicants seek a special permit to operate a Non-Hosted Short-term Rental pursuant to Sec. 250.69.1 of the Town of Zoning Regulation.

Mr. Alberini appeared and briefly explained his application. They bought this property last year and want to rent it out when they are not around to supplement their income.

Deputy Carroll asked the applicant to submit the address, email and phone number of the local contact person aside from the name. The inspection report should state the condition and the size of the septic tank. The report submitted that is within 90 days of this application states that the septic tank was emptied but it doesn't state the condition and the size of the septic tank.

Mr. Alberini noted that he had a copy of the original septic tank report when the septic was installed. The size of the septic is 1,000 gallons.

Deputy Carroll stated that the septic tank report needs to be updated to include the size and condition of the tank.

The board discussed the number of lodgers. It was noted that this is a 3-bedroom house with a 1,000-gallon septic tank.

Mr. Newman stated that one of the bedrooms has two bunk beds. He asked the board how they want to calculate the number of lodgers if there are kids.

Deputy Carroll responded that the board has been issuing permits based on the number of adult lodgers. They can have a baby on the bassinet but the permit issued is based on the number of adults.

Mr. Bonanno asked if they are using AirBnB exclusively. Mr. Alberini responded, "That's the plan". They have an additional \$1M policy included in their home owners' insurance policy.

Deputy Carroll noted that they don't need to be restricted to AirBnB if they have additional insurance coverage.

Mr. Carroll asked if they also have the hotel tax occupancy certificate. Mr. Alberini responded that it is included in the packet.

The board agreed to set the public hearing on April 18, 2023.

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

Whereas, the Town of Clinton Planning Board has received an application for a Special Use Permit from Francisco Alberini and Cristina Celis Alberini for the purpose of utilizing a principal residence located at 296 Lake Drive in the Town of Clinton as Non-Hosted Short-Term Rentals pursuant to Section 250-69.1 of the Zoning Law; and

**Whereas**, the subject property is identified as tax parcel number 6469-00-265074 and is located in the C Zoning District; and

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

**Whereas**, on February 15, 2023, the Town of Clinton received an authorization form for Francisco Alberini to appear on the applicants' behalf at the Planning Board meeting in connection with the application; and

**Whereas**, the applicants do not propose any alteration, excavation or construction on the site in connection with the requested permit; and

Whereas, the applicants have submitted an inspection report, dated within ninety days of the date of the application, which shall be supplemented with a statement confirming the size of the septic tank and that the existing sewage disposal system serving the principal dwelling was adequately functioning for the intended use at the time of inspection; and

Whereas, the Applicants shall add to their application the full contact information (full name, physical address, e-mail, and phone number) for the property manager; and

**Whereas,** the Zoning Administrator has inspected the property and certified that it is otherwise 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, all applicable fees have been paid:

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

**Be It Further Resolved**, that the Planning Board directs that the application and related documents be sent to the following interested agencies:

West Clinton Fire District; Town of Clinton Highway Department and Dutchess County Department of Planning and Development; and

**Be It Further Resolved,** that the Planning Board will hold a public hearing on this application at its meeting scheduled for April 18, 2023.

Seconded by Mr. Ferrini,

Discussion. None.

All Aye, Motion carried, 6-0.

MTS Realty Non-Hosted STR Permit – property owned by Barry Milea located at 132 Rymph Road, Tax Grid No. 6366-00-065969.

Applicant seeks a special permit for a Non-hosted STR pursuant to Sec. 250-69.1 of the Town Code.

Gilda Elser was back before the board. She noted that they are now in agreement with Mr. Brands about their proposal.

Mr. Auspitz felt that the letter from Mr. Brands seemed to solve all the issues about this application. He doesn't think that the advertising whether through the winery or not is a concern.

Ms. Elser doesn't think that Mr. Brands is concerned whether the rental is connected with the winery. She thinks that Mr. Brands' concern is about the proximity of the short-term rental to his home. She noted that the issues have been resolved between Mr. Milea and Mr. Brands.

Mr. Auspitz asked Ms. Elser if this house will be rented to one group at a time. Ms. Elser responded, "Yes." She noted that the house only sleeps six people.

The board discussed the number of lodgers. Ms. Campbell noted that this property has a certificate of occupancy for 2 bedrooms. The applicant seeks 6 lodgers which requires 3 bedrooms. (It was noted that the applicant recently submitted a building permit to increase the number of bedrooms from two to three).

Ms. Elser stated that the size of the septic tank on this property is 1,000 gallons which is the threshold for a 3-bedroom house.

Mr. Newman agreed but noted that the Department of Health does not have a record of the septic system for this property. Once the Department of Health

approves the SAN 34 then the town can issue the building permit for the 3<sup>rd</sup> bedroom.

After a lengthy discussion, the board agreed to issue 6 lodgers subject to the certificate of occupancy of the 3rd bedroom. The current approval is 4 lodgers based on the current legal two bedrooms. The sign permit can be changed to 6 lodgers once approval from the Department of Health is granted.

Mr. Newman noted that this short-term rental can be advertised on every short-term rental platform except for Milea's website. They can have an ad stating "Recommended place to stay."

Mr. Ferrini expressed the same concern. He feels that this short-term rental is part of the winery. This is clearly marketed as part of the winery.

Mr. Newman noted that if the town determines that the Milea Winery is advertising this rental as part of the winery, then this will be a violation.

Ms. Elser stated that they will create a verbiage like "Places to stay like Beekman Arms, etc. She expressed her agreement that the Milea Winery is completely separate from the short-term rental.

The board had a lengthy discussion about the advertising. Mr. Auspitz asked if the short-term rental will not be referenced at the winery at all?

Deputy Carroll responded that they can put a link as a third-party place to stay.

Ms. Elser asked if they need to remove the picture of this property (Spencer's house) on the Milea website. Mr. Auspitz responded, "Yes."

Deputy Carroll felt that as long as it's treated like everyone else, then it's fine. Let's say, if they have a picture of the Beekman Arms, and other places, then this property can be up there too.

Mr. Thorpe asked Mr. Ferrini's concern about the Milea's winery and Spencer house. He doesn't think they are associated though these properties are in the same proximity and same ownership. They are not being advertised as associated.

Mr. Ferrini understands that the board is trying to make accommodations on the approval and heard about the lookout for a violation. The way this application was presented on day one was made clear to him after he checked the winery's website about an ad that says, "Come to the winery and stay here!" He understands that the applicant is not going to do this or that. He remarked, "That can be convincing to people but not to him!"

Mr. Auspitz stated that the neighbor wanted the short-term rental to be associated with the winery when this was originally presented to the board.

Ms. Elser agreed. Mr. Brands wants it that way.

Deputy Carroll noted that the board will not enforce the deed restrictions. The neighbors can.

Ms. Elser asked what if she owns this rental and Mr. Milea wants to advertise this on the winery, is that allowed? Mr. Newman responded, "No". This winery is not allowed to have lodging unless there's a permit.

After all the comments were made, the board agreed that the winery cannot be used to book the short-term rental. The lodgers should be a single group of no more than 4 persons.

The board passed a resolution,

Mr. Auspitz motioned that the Town of Clinton Planning Board approve the following resolution in the matter of MTS Realty Corp NonHosted Short Term Rental on property located at 132 Rymph Road Tax Grid No. 6366-00-065969.

#### WHEREAS:

- Applicant MTS Realty seeks a special use permit to operate a type 2 non-hosted short-term rental ("STR") at a 3.1 acre property it has purchased at 132 Rymph Rd. in an AR3A zone in the Town of Clinton (#6366-00-065969). The house has three bedrooms, each with a bath, and a swimming pool. However, the current certificate of occupancy ("c/o") is for two bedrooms only.
- 2. Applicant has renovated the property, which it states was built in 1747, and does not propose any further alteration, excavation or construction on the site in connection with the requested permit.
- 3. Applicant has submitted a septic inspection report dated within 90 days of the application stating the system, with a 1,000 gal. tank, was in good working condition and met NYS Dept. of Health standards. Applicant also submitted proof of \$1 million in liability insurance with STR coverage.
- 4. The Town's Code Enforcement Officer has inspected and reinspected the property and has found that prior violations have been corrected and that it now passes inspection and certified it for review by the Planning Board at this time, pursuant to Section 250-69.1 of the Zoning Code.

- 5. Applicant states that its concierge manager will "vet" all applicants, that all guests will be at least 25 years old and guests will be told that parties or large gatherings will not be permitted.
- Applicant has installed a noise sensor that connects to the concierge manager's phone for 24 hr. monitoring of noise levels in the house and at the pool. Applicant points out that its principal lives on the same road as the property in question.
- 7. Applicant seeks permission for not more than 6 people to occupy the premises at any time.
- 8. The Planning Board has determined that the proposed action will not have a significant adverse impact on the environment and qualifies as a Type II action, both under the relevant sections of SEQR. The application was referred to the County Dept. of Planning and the West Clinton Fire Department and no response was received.
- 9. A public hearing was held on Feb. 21, 2023. A neighbor expressed concerns about possible traffic, noise and parking problems.
- 10. In connection with the public hearing, a letter dated Feb. 14, 2023 was submitted by the owners of a neighboring property which attached an undated restrictive covenant stating that applicant's property "shall be occupied as a single-family residence only due to it's [sic] historic background and the rural character of this neighborhood and shall not be utilized for a short-term rental of under one year." Applicant's representative conceded the covenant was signed by applicant in 2021.
- 11. The Planning Board takes no position one way or the other with regard to the interpretation or enforcement of this provision. The Board is not a court and cannot resolve contracts between private parties. Nonetheless, the Board must, in considering a special use permit for an STR, consider the standards set out in Section 250-97B on special permits including whether the use is "in harmony with the orderly development of the district and its historic or rural character" (297B(1)) and that the character of the proposed use "shall not be more objectionable to nearby properties by reason of noise ... or hours of operation" than the operations of any permitted principal use. Accordingly, the Board will treat the neighbors' letter as a comment submitted at the public hearing, evidencing that applicant itself recently agreed the property was not appropriate for an STR. Nevertheless, subsequent correspondence submitted by the parties to the covenant indicates that they have agreed to the STR subject to

certain conditions to be included in the STR's rental agreements, such as minimum terms and prices.

- 12. In response to a question raised by the Planning Board, we have received a memorandum dated March 1, 2023 from the Municipal Code Enforcement Officer setting forth his conclusion that the property may be used as a STR even though its owner is corporate and will not be residing at the property.
- 13. In light of the comments received at the public hearing, the nature of the application and the positions put forward by applicant itself, the Planning Board has determined that the dwelling shall be used by not more than 4 persons at any time, renting as a single group, with parking by no more than 4 cars.
- 14. We also rely on applicant's statement that each person using the premises will be at least 25 years old and will be "vetted", that the minimum stay will be two days and the minimum price will be \$1,200/day.
- 15. The STR may be referred to on the website of the Milea winery, owned by applicant's principal, in comparable manner to references to other places to stay in the area.
- 16. After review, the Planning Board has determined that the application is in compliance with the requirements of Section 250-69.1.
- 17. 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 pursuant to 250-69.1(D)(4). Applicant shall ensure that it complies with the requirements of 250-69.1 and all other applicable laws at all times.

**NOW THEREFORE, BE IT RESOLVED** that the Planning Board hereby approves this application for a short-term rental for single groups consisting of no more than 4 persons at any time for a period of one year beginning on the date of this approval and subject to payment of all appropriate fees. It is further resolved that the Planning Board approves this property as an STR for 6 persons if and when applicant obtains a valid c/o for three bedrooms.

Seconded by Mr. Thorpe,

<u>Discussion</u>. Mr. Bonanno asked about the public comment who was opposed to it. Ms. Elser responded that the public concern was about the parking areas and Mr. Milea had addressed the issue.

All Aye except for Mr. Ferrini and Mr. Bonanno who opposed.

Motion carried, 4-2.

**Rossman Demolition Plan Approval** – property located at 92 Mountain View Road, Tax Grid No.

Applicant wishes to demolish a one family dwelling on this property.

John Cordeiro, contractor appeared on behalf of the property owners for this application. He explained that they are proposing to remove the house due to water damage that caused mold. They are not proposing to build a new house. The property owner also owns 110 Mountain View Road property.

Mr. Cordeiro explained how the house is going to be removed including the foundation. He submitted photos of the house which are on file.

Mr. Dolan indicated the submitted documents for this application.

Ms. Campbell noted that there is still a structure on the property once the main home is removed. Mr. Cordeiro agreed. He noted that the two-car garage will be staying since this is currently used for storage. They will eventually remove this structure too.

The board reviewed the Short Form EAF and issued a negative declaration.

Mr. Dolan 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 the Rossman Demolition Plan application to demolish a single-family dwelling and a detached car garage on property located at 92 Mountain View Road **Tax grid no.** 6368-00-268843 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.

**Discussion.** None.

All Aye, motion carried, 6-0.

The board discussed the application.

They're removing it since they had frozen pipes that burst. He noted that they are not proposing to build a new house.

Mr. Bonanno asked how far is the wetland. Mr. Cordeiro responded that the house is 360 feet away from the edge of the waterways.

Mr. Bonanno asked about the location of the septic. Mr. Cordeiro responded that the septic is located to the southwest side of the house.

Mr. Bonanno asked if there was a mortgage. Mr. Cordeiro responded, "There is no mortgage."

Mr. Newman remarked that once the main house is removed, the garage becomes the principal structure. The garage is an accessory use.

Mr. Auspitz agreed. The garage is an accessory use. It means an accessory to something.

The panel has a lengthy discussion. There cannot be an accessory use without a principal use. The house will be demolished and there will still be a garage.

Mr. Cordeiro stated that the garage will eventually be demolished. He stated that the garage will be demolished within a year.

After all the discussions were made, the board agreed that both the main dwelling and the garage need to be demolished.

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

**BE IT RESOLVED**, the Town of Clinton Planning Board issues a Demolition Permit Approval to the Building Inspector for the single-family home and garage belonging to **Adam and Elizabeth Rosman** on property located at 92 Moutain View Rd., **Tax Grid 132400-6368-00-268843**-0000, a 9.89-acre parcel in the AR5A zone

#### Whereas:

 The 1,180 sq. ft. single family home in this application for demolition was built in 1988 and a 672 sq. ft. garage built in 2003 on this 9.89-acre parcel. There is not any designation of significance on this home or property as confirmed by National Register of Historic Places in Dutchess County, New York.

- 2. This building is being demolished due to its condition and recent water damage to the structure. The construction of the home is sub-par and would not be worth the cost to rebuild.
- 3. For demolition the plan is to take the entire structure down and haul it away with dumpsters. The foundation will be removed including concrete slabs. All power and water will be disconnected from the building. Septic tank line will be capped and removed safely from the building and the septic tank will be preserved underground. It will be assured that the tank is safe and if the tank is compromised, it will be collapsed and filled with soil.
- Proposed use after demolition will be to leave it as open property till the owners make a decision on the use and possible new home at a later date.
- 5. The applicant provided photos of the interior and exterior of the building.
- 6. The applicant provided sketches of the interior and exterior of the building.
- 7. The building has been a single-family home since its conception in 1988. The building has not been used as a home since purchase by the new owner in 2021 and it has been used as a storage building for owner items.
- 8. At the meeting on 3/21/23 the Environmental Assessment Form submitted by the applicant was completed by the board resulting in a negative declaration which was approved by the board.
- 9. All appropriate fees have been paid.
- 10. A letter of authorization is on file in the clerk's office specifying that John Cordeiro may represent the Rosman's.

**Now, therefore, be it resolved**, the requested Demolition Plan is granted approval by the Town of Clinton Planning Board.

Seconded by Mr. Bonanno,

**Discussion.** None.

All Aye, Motion carried, 6-0.

**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.

Mr. Bonanno and Mr. Werner discussed with the board about the proposed reduction in the speed limit on the portion of Salt Point Turnpike. They will give an update at the next meeting once they hear back from the Department of Transportation.

#### **BOARD DISCUSSION:**

- Mr. Werner gave an update about the search for a town planner. He has a couple of names from the surrounding towns that he's hoping to hear from. He also tried reaching out to the previous town planner, Neil Wilson but to no success. He will try again.

#### **APPROVAL OF MINUTES:**

Mr. Dolan motioned to approve the minutes of March 7, 2023, seconded by Mr. Ferrini, All Aye, Motion carried, 6-0.

#### **ADJOURNMENT:**

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

Respectfully Submitted,

Arlene A. Campbell, Clerk

Planning & Zoning Board of Appeals