

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 26, 2023**

MEMBERS PRESENT

Joseph Malcarne, Chairman
John Calogero
Charles Canham

Ron Mustello

Frank McMahan

Arlene Campbell, Secretary

MEMBERS ABSENT

Norma Dolan

Russel Tompkins

ALSO PRESENT

Eliot Werner, Liaison Officer
Jeff Newman, MCEI

Chairman Malcarne called the meeting to order at 7:30 pm. He asked Ms. Campbell if the application was properly posted and the surrounding properties were properly notified. Ms. Campbell responded, "Yes". He also noted that the meeting is being recorded.

Chairman Malcarne welcomed everyone and asked his colleagues to introduce themselves.

AREA VARIANCE:

Stewarts Shop Corp. - on property located at 2300 Salt Point Turnpike Clinton Corners NY, **Tax Grid No. 6566-00-331547.**

The applicant requests an area variance to Sec. 250-11 C 3 – to exceed the allowable 3,000 square feet maximum size of the structure in the Hamlet in order to replace the existing exterior freezer to a larger one by approximately 30 square feet.

Chuck Marshall appeared and gave the history of Stewarts Shop and explained his proposal. The Zoning Board of Appeals previously approved an area variance in 2013 to permit the expansion of the then current structure to 3,295 square feet. They are seeking to replace an existing walk-in freezer measuring 7'9" x 15'5" with a replacement freezer that is 7'9" x 19'3", which would increase the size of the freezer by approximately 30 square feet and increase the footprint of the structure from 3,295 square feet to approximately 3,325 square feet. Since the property is in the Hamlet (H) Zoning District, the maximum footprint of a structure

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 26, 2023**

needs a variance to Sec. 250-11 C-3. He added that they are not sure yet whether they are going to cut the wall to replace the freezer.

Sec. 250-11 C-3 (Standard in the Hamlet) - states "Maximum size of structures" The maximum footprint (ground area covered by the building and foundation) of any structure shall be 3,000 square feet, except such limitation shall not apply to agricultural buildings.

Chairman Malcarne asked for questions and comments from the board.

Mr. Canham also indicated the history of the property and commented that the proposed addition will bring the total new footprint to less than 11%. The proposed addition is only less than 1% of the building footprint. He discussed the matter whether this action is a type I action per SEQRA. He stated that area variance is a type II action and requires further no action.

Mr. Canham read the Planning Board's recommendation dated October 17, 2023 that is positive. No correspondence was received from the neighboring property owners.

Mr. Mustello questioned the building size per the site plan submitted. The building elevation seems off. Mr. Marshall responded that the site plan is scaled 20 feet but the building scale is wrong. The site plan scale is correct. The board agreed that Mr. Marshall will submit the correct building elevation of the building when he submit the building permit application.

Mr. Mustello asked about the storage setback. Mr. Canham responded that there is enough setback and commented that the setback is moot in this application.

Mr. Newman noted that this application does not require a special permit since the proposed addition is less than 250 square feet.

Sec. 250-15 Ridgeline, Scenic and Historical Protection Overlay District Regulations. Alterations. All modifications to a structure or construction of additional structures which require a building permit shall require that the applicant submit a new special use permit application to the Planning Board. Exceptions which conform to Subsection **G(1)** and **(2)** below shall not require a new special use permit but shall require a building permit:^[4]

(1) Increasing the originally approved size of any structure's building footprint by no more than 250 square feet; and/or

(2) Increasing the originally approved height of the structure no more than 10 feet, so long as the total maximum height restriction is not exceeded.^[5]

Chairman Malcarne motioned to open the public hearing, seconded by Mr. McMahan, all Aye, Motion carried, 5-0.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 26, 2023**

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

Chairman Malcarne motioned to close the public hearing, seconded by Mr. Mustello, all Aye, Motion carried, 5-0.

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

Mr. Charles Canham motioned that the Town of Clinton Zoning Board of Appeals grant an area variance to Sec. 250-11(C)(3) to permit the replacement of an existing freezer with a larger one as requested by **Stewart's Shops Corporation** on property located at 2300 Salt Point Turnpike in the Town of Clinton, NY, **Tax Grid No. 132400-6566-00-331547** in a Hamlet (H) Zoning District.

Factors:

1. The Applicant is seeking to replace an existing walk-in freezer measuring 7'9" x 15'5" with a replacement that is 7'9" x 19'3", which would increase the size of the freezer by approximately 30 square feet.
2. This would increase the footprint of the structure from 3,295 square feet to approximately 3,325 square feet.
3. The property is in the Hamlet (H) Zoning District, and Section 250-11(C)(3) of the Town Code limits the maximum footprint of a structure in the H zoning district to 3,000 square feet.
4. In 2013 the Zoning Board of Appeals approved an area variance to permit expansion of the then current structure to 3,295 square feet.
5. The property is within the Ridgeline, Scenic and Historic Protection Overlay District, the Taconic State Parkway Viewshed, and a Critical Environmental Area. The requested addition to the footprint of the building does not present an environmental threat or significant change in the character of the property.
6. The variance requested is minimal. It is less than 1% of the footprint of the existing building and the new footprint would be less than 11% above the 3,000 square foot limit for structures in the Hamlet Zoning District.
7. Granting the variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties as the freezer is located behind the building, and is a minimal expansion over the previous freezer.
8. The alleged difficulty is self-created, but that does not preclude granting the variance.
9. Town Code Section 250-15(D)(1) of the Ridgeline, Scenic and Historical Protection Overlay District regulations notes that any new construction or development within the Protection Overlay District "which requires a variance from the regulations in this section is considered a Type 1 action

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 26, 2023**

under SEQRA". The Hamlet restriction on square footage, however, is not technically a component of Section 250-15.

10. An area variance is a Type II action under SEQRA, and the area variance *per se* requires no further review.
11. The Town of Clinton Planning Board has made a unanimous positive recommendation for approval by the ZBA of the requested variance.

Conditions.

- All fees have been paid.

Seconded by Mr. Mustello,

Discussion. None.

All Aye Motioned carried, 5-0.

INTERPRETATION:

None

ADMINISTRATIVE ITEMS:

The board discussed proposed Local Farm Operation and Short Term Rental regulations with the liaison officer.

APPROVAL OF MINUTES:

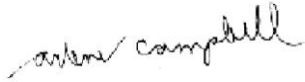
Chairman Malcarne motioned to accept the minutes of 5-25-2023, seconded by Mr. McMahon, all Aye, Motion carried, 5-0.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
October 26, 2023**

ADJOURNMENT:

Chairman Malcarne motioned to adjourn the meeting at 8:40 pm, seconded by Mr. Canham, All Aye Motion carried, 5-0.

Respectfully Submitted By:



Arlene A. Campbell
Zoning Board of Appeals Secretary

Cc: Carol Mackin, Town Clerk