

**TOWN OF CLINTON  
PLANNING BOARD MEETING  
FINAL MINUTES  
December 4, 2007**

**MEMBERS PRESENT**

Mike McCormack, Chairman  
Arthur DePasqua  
Robert A. Marrapodi  
Gerald Dolan  
Tracie Ruzicka  
Tresa Veitia  
Eliot Werner

**MEMBERS ABSENT**

**ALSO PRESENT:**  
Jeff Burns

Mr. McCormack opened the meeting at 7:34 p.m.

**VARIANCE RECOMMENDATIONS:**

1. **John Robertshaw** – owner of a 183 acre lot with **Tax Grid No. 6569-00-019810** property located at 43 Field Road wishes to convert the barn to dwelling and maintain cottage as an accessory dwelling unit of 1,848 square feet.

John Kinnear, architect, was present for the applicant. He began by explaining their application. He stated that the property was originally subdivided into 2 lots. One lot is where the main house is, and, the second lot is where the rest of the barn land and the existing cottage are. He noted that the applicant wishes to keep the cottage that is already on the property and the back building that was built in the 1950s and predates the zoning will remain the same. The barn will become the primary residence on the large lot and the existing cottage will be the secondary dwelling. He also explained the architectural structure of the proposal and noted that they included the architectural plan on how the property will be used.

Mr. Marrapodi asked if the map was changed. He questioned Mr. Kinnear on the number of lots the property was subdivided. There are 3 parcels based on the property map that he obtained dated June 1998. He indicated that there were 2 parcels that were filed, lot 1 and lot 2. An area variance was granted on lot 2 and the main house is on the 3<sup>rd</sup> lot. Based on the property map that he attained dated May 1998, there are only 2 lots and informed the board that the 3<sup>rd</sup> lot belongs to another owner.

Mr. Kinnear added that the applicant does not have any intentions of constructing any more building on the property. .

Mr. DePasqua asked if the property is a working farm. The applicant replied negative.

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There was a discussion on whether Bulls Head or Field Road is the main road since the property is a corner lot. The problem occurred after looking at all the setbacks on the property. The front yard setback is only 50 feet. The applicant explained that based on his knowledge, you have the option to choose which is the main road if you have a corner lot and Bulls Head Road is what they considered main road. Mr. Marrapodi argued that the access to the property is Field Rd and that is the reason why the property address is 43 Field Road. Ms. Veitia stated that according to the Town of Clinton Zoning Law, both are considered front yards if you have a corner lot. The chairman asked the board for the definition of the "Corner Lot" in the zoning book. Section 4.6 A of Town of Clinton Zoning Law states that "Each street frontage shall be deemed to be a front street line, and the required yard along each such lot line shall be a required front yard." Based on the board analysis, the applicant needs an additional variance for the front yard setback. Mr. Kinnear argued that the ZEO stated that a front yard setback variance is not necessary. Mr. Marrapodi indicated that the ZEO's interpretation sometimes differs from the Planning Board. The chairman asked the clerk if the variance application was already advertised for the ZBA meeting. The clerk responded positive as per instruction of the ZEO.

Ms. Veitia asked Mr. Kinnear when the property was acquired. The applicant replied February 2007. The property is going to be owner occupied and they have no intentions of renting it out.

Mr. Kinnear noted that there is no bathroom facility on the property right now. The chairman advised the applicant that they need to come back to the planning board for a special use permit.

Mr. Marrapodi asked the board why the applicant needs an area variance. The chairman replied that the barn will be the primary dwelling and the cottage will be the accessory. Mr. Marrapodi asked the applicant if there was a building permit issued. Mr. Kinnear responded positive. Mr. Dolan wanted to know the purpose of the fence on the property. The applicant replied that it is for security reasons for the owner's small children and due to the amount of traffic on the dirt road especially with the ongoing construction of Farmview Estates which is the on the same road.

After all the analysis and discussion, the board came to a resolution.

Mr. DePasqua motioned that the Town of Clinton Planning Board approve the following resolution: BE IT RESOLVED, on December 4, 2007 that the Town of Clinton Planning Board provide a positive recommendation to the Zoning Board of appeals on the requested area variance from article 5.3 B.6 limiting accessory dwellings to 1,000 square feet on property of John & Elizabeth Robertshaw Tax Grid No. 6569-00-019810 located

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at 43 Field Rd consisting of 183.35 acres in the AR5 District. In addition the property requires a front yard setback variance from 100 ft to 50 feet approximately to Sec. 4.1A.

**WHEREAS:**

1. The applicant is requesting a variance to Sec. 5.3 B.6 restricting accessory dwellings to a maximum of 1,000 square feet. The current structure was constructed pre-zoning and consists of 1,848 square feet. The current barn adjacent to the accessory structure and is being remodeled to be a primary dwelling. Both dwellings are pre-existed zoning and are not being increased in square footage. In addition, the applicant needs a front yard setback variance from 100 feet to 50 feet approximately to Sec. 4.1 A.
2. The lot is 183.35 acres located in the AR 5 Zone.
3. The NYS Environmental Quality Review Act has determined that an area variance is a Type II action and not subject to further reviews
4. The property is in the Ridgeline, Scenic Historic Protection Overlay District..
5. The property is within 3,000 feet of the Taconic State Parkway.
6. The benefit sought by the applicant can be achieved by another method but would require more substantial variances.
7. The property and dwelling are well removed from the road and construction is maintaining the agricultural /rural setting.
8. The proposed variance will not have an adverse effect or impact on the physical or conventional conditions in the neighborhood.
9. The requested variance is substantial, but should not preclude the granting of said variance.
10. The alleged difficulty is self created.
11. As per Zoning and Enforcement Officer, there are no known violations on the property.
12. All appropriate fees have been paid.
13. Letter of authorization is on file.
14. Main house, barn to be owner occupied and not used as a rental unit.

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15. Elizabeth Robertshaw should sign as a co-owner.

NOW, THEREFORE, be it resolved the Planning Board is making a positive recommendation to the requested variance and to the subsequent front yard variance if needed for approval to the Town of Clinton Zoning Board of Appeals.

Second by Ms. Ruzicka. Discussion. Mr. Werner stated that the actual variance should be based on Section 4.1A instead of Section 4.6A which is Corner lot. He also suggested to have the wife sign the original application. The chairman agreed and advised Mr. Kinnear to have Mrs. Robertshaw sign as a co-owner. Ms. Veitia questioned the wording pre-existing accessory structure. She asked if the accessory has been always accessory. Mr. McCormack stated that the applicant is remodeling the accessory to become a primary structure. Mr. DePasqua noted that the applicant is only remodeling and not changing or increasing the size of the dwelling. Mr. Kinnear noted that it was always an accessory unit. Ms. Veitia explained that since the barn will become the primary dwelling, the cottage will now become the accessory. The board agreed and decided to change the wording to current structure instead of pre-existing accessory structure. All in favor. Aye. Motion carried 7-0.

**APPLICATIONS:**

1. **Gail Decker** (Lot Line Adjustment) – **Tax Grid Nos. 6469-00-334631 & 6469-10-336641**, parcels located at 8 Orchard St and 7 Lake View Road, respectively. The applicant wishes to combine the two parcels.

Mr. DePasqua recused himself as a board member and presented a letter to the board to represent Ms. Decker who could barely walk. He noted that the applicant was in severe pain to move around that he volunteered to represent her to the meeting. He explained the application. These are 2 lots created several months ago. The applicant wishes to combine 0.13 acre Lot 1 (parcel no. 334631) and 0.13 acre Lot 2 (parcel no. 336641) to create a 0.26 acre lot. There is no new line but a new lot.

Mr. Werner stated that the applicant will need a couple of variances. The line has to be removed to combine the two lots. The board agreed. Mr. DePasqua stated that Ms. Decker will need a lot of variances including a lake variance since her property is 100 feet of the lake. Ms. Ruzicka asked why Ms. Decker is doing it. Mr. DePasqua replied for property tax purposes.

The board discussed about some lot line applications involving a line elimination between two lots. It was noted that a couple of towns process this application at the Assessors Office. Mr. Dolan asked the chairman the possibility of implementing the same

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law to our town. The chairman replied, it is not up to the planning board but the town board. Mr. Burns responded that the case can be brought up to the town board.

The Planning Board agreed to send the applicant to the ZEO for a variance application before doing the lot line adjustment.

**2. FARMVIEW ESTATES – Tax Grid No. 6570-00-039059** property located at 105 Field Rd. for Relocation of Subdivision Driveways.

Ms. Mireille Cadorette, Superintendent and Ms. Sally Unger, Managing Member were present for Farm View Estates.

Ms. Cadorette explained their application to the board members. She stated that this is basically a shared driveway for Lot 8 and 9. It is taking one driveway to minimize the cost and disturbance of the slope. She indicated that all the lots are very long and steep and these are the only ones that could do it. The idea of the shared driveways is to save money and footage and ultimately good for the homeowners.

Ms. Veitia asked the applicant if the driveway is going to be paved. Ms. Cadorette responded negative, the proposed driveways are stoned and compact. She also added that NYSDEC highly recommends and approves this driveway material which is made up of tires. This material is new to residential, very costly (\$13/sq.ft), comes in different color, and easy to maintain and fix. The said material has been in the market for 15 years.

The chairman noted that this shared driveways should be filed as a new and separate application. Farm View Estates has already closed and finished their subdivision application before. He advised the applicant to issue a \$500 payment to make the existing balance of escrow into \$1,000.00. The applicant needs to set-up a meeting with the town lawyer, town engineer and town consultant prior to the meeting.

The board wanted to know what kind of application will this be. Ms. Cadorette stated that this is a site plan application since they are not going to be near the buffer. Mr. DePasqua suggested for the applicant to talk to the town officials first and find out what kind of application they need to file. He also suggested to do short form instead of a long form. The chairman advised the board to let the applicant talk to the town officials and see what they say.

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**OTHER MATTERS:**

1. JACK CLEARY advised the board about the pre-application program that he created called an Arc Explorer. He stated that this is not a supported program and could run into problems. He noted that the best way to go on this is through PDF. He also added that he made a copy of the Reference Layers. A reference layer is a data that provides information on where, when, and how old the sources are. Mr. Cleary asked the board if they could give this program a try.
  
2. The chairman advised the board about the latest on Klopping. He stated that based on his discussion with Mr. Cappillino, the town lawyer, the applicant has to come back to the Planning Board for a SEQRA process and then go back to the Zoning Board of Appeals. The town lawyer, town consultant and the town engineer has to be present at the board meeting since this is a very delicate and complicated case. Mr. McCormack motioned that an escrow in the amount of \$3,000.00 has to be set up by Klopping and have the applicant meet with the town officials prior to the meeting. Second by Mr. Marrapodi. Discussion. David Goldin of School House Road made a comment on how the board can process the said application if it is polluted. Mr. Marrapodi informed the board that according to the last board meeting when SEQRA process was done, the test results was negative. The Chairman stated that this is the reason why the board has to do the SEQRA process, to find out if the property is polluted. All aye. Motion carried 7-0.

**APPROVAL OF MINUTES:**

1. Mr. Ruzicka motioned to accept the November 13, 2007 minutes as amended. Mr. DePasqua second. Discussion. All Aye. Motion carried 7-0.
  
2. Mr. DePasqua moved to accept the Amended November 20, 2007. Second by Mr. Dolan. Discussion. All Aye. Motion carried 6-0. Ms. Veitia was doing the corrections on the June 5, 2007 minutes.

The next planning boarding meeting is set on December 18, 2007.

Mr. DePasqua adjourned the meeting at 9:45. Mr. Marrapodi second.

Respectfully Submitted

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

Cc: Barbara Joyce, town clerk

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