

**APPROVED  
TOWN/VILLAGE OF CLAYTON  
ZONING BOARD OF APPEALS  
NOVEMBER 16, 2009**

**Board Members present:** Jim Kenney, Les Drake, Dave Storandt, Darrel Hayes, Harold Carpenter, Dale Maclaughlin

**Others present:** Zoning Enforcement Officer Henry LaClair, Assistant Zoning Enforcement Officer Richard Ingerson, Clerk Janet Sullins,

**Townspeople present:** Lew Bevens, Richard Howland, Sharon Howland, Chris Badour, Norris Handschuh, Stan Brill, Gunther A. Schaller, Anthony Pisarski, Stephen LeBlanc

At 7:05, Vice Chairman Harold Carpenter opened the meeting of the Joint Town and Village of Clayton Zoning Board of Appeals.

Minutes from the October 19, 2009 meeting were reviewed. **MOTION** made by Board Member Dave Storandt, 2<sup>nd</sup> by Board Member Les Drake to approve the minutes as written. Motion carried.

**Village --- Richard C. Howland, Captain Johnston House, 507 Riverside Drive, Tax Map No. 20.38-2-13, in the Riverwalk B District. Public Hearing for a Height Variance to Erect a Fence that is Taller than Allowed in the Local Zoning Law.**

Before the Public Hearing could be opened, since this is an unlisted action for a six-inch height variance, Vice-Chairman Carpenter and Board Member Storandt completed Part 2 of SEQR. Chairman Jim Kenney arrived in time to open the Public Hearing at 7:15. Mr. Howland said that the fence he wishes to erect is similar in style and gauge as two others in the Village. He also had an article documenting that the house, but not the site, was placed on the National Historic Register in 1982, and the photo in the article depicted a similar fence. The article stressed the historic significance of the house, but not the site. His intent is to continue using the building as office space and possibly a gourmet restaurant; he said that he has had many offers of use of space. He also said he would like to acquire an anchor from one of Capt. Johnston's ships and place it on the side lawn. He noted the frequency with which the house is photographed, and even painted by artists. Anything he does to the house will only enhance its character. Board Member Storandt said that an option to make the fence compliant is to take six inches off the bottom. Mr. Howland said that would cost thousands of dollars, and besides, keeping the fence higher would discourage fence-jumping/vandalism. Board Member Drake said that he is against fences in general, saying they connote a "private property/do not trespass" message, but agrees that the proposed fence is attractive. Board Member Storandt asked if Mr. Howland was previously aware of the (height) ordinance; he was not, and was told by others that he did not need a permit for a fence.

Mr. Storandt brought up the fact that Mr. Howland had agreed to remove a gazebo from another property that was only allowed for his mother's use until her death, which was one year ago. He has been non-compliant on that issue. While he did express his condolences, Mr. Storandt's point was that this was another instance of being non-compliant on a zoning matter. Mr. Howland said that he had many projects going on, and forgot about the gazebo. He said he would have it removed June 2010.

With a couple of Mr. Howland's answers allowing all the SEQR questions to be answered, Chairman Kenney read into the record a letter from the Jefferson County Planning Board. Their opinion in that the fence is of local concern only. They wanted to ensure that tests for area variances are met per local laws, and that they be notified within thirty days of the determination. ZEO LaClair will ensure that is done.

At 7:35, **MOTION** made by Board Member Drake, 2<sup>nd</sup> by Vice Chairman Carpenter to close the public hearing. Chairman Kenney proceeded to find facts, and then asked for a motion to approve the variance application. **MOTION** made by Board Member Drake, 2<sup>nd</sup> by Board Member Darrel Hayes.

Aye: Jim Kenney, Harold Carpenter, Les Drake, Darrel Hayes

Nay: Dave Storandt

Absent: None

Abstain: None

Motion carried and the Board proceeded to affix their signatures.

**Town --- Clark Babcock, 36161 Clayton Center Road, Tax Map No. 31.15-1-9, in the Agricultural-Residential District. Public Hearing to Replace a Mobile Home on a Parcel with a House on it that Lacks Required Front Lot Width and Area that is Allowed in the Ordinance to Locate Two Principle Residences**

At 7:45, Chairman Kenney opened the Public Hearing. Mr. Lewis Bevens was present for the Babcocks, his in-laws. Mr. Bevens said that his in-laws recently bought a property on Clayton Center Road that had a house and an inhabitable trailer on it. They planned to replace the trailer and move out of a large home in Watertown into the new trailer, while the daughter's family lived in the house. Their real estate agent told them that he had called the zoning office and that this would be possible. There already is in place a well and septic for the trailer. Assistant ZEO Richard Ingerson said that he had taken several calls recently asking about replacing mobile homes, but he did not recall anyone specifically mentioning that there was another home on the property. It is possible that the mobile home could be replaced with a smaller one to reduce the amount of variance requested and to be sure it would be far enough away from the septic system, but it would still be non-compliant and require the Board's approval.

While Chairman Kenney read into the record letters of approval from eight neighbors, he said that the zoning ordinance must be complied with and that perhaps the public hearing should be adjourned for a month to do all the necessary measurements, to locate a smaller trailer and to see exactly where an engineered pad could be poured. At 8:05, **MOTION**

made by Board Member Storandt, 2<sup>nd</sup> by Board Member Hayes to adjourn the Public Hearing until December 21 at 7:15. Motion carried.

**Town --- Brad Kranz, 16635 Jackson Lane, Tax Map No. 20.08-1-8, in the Marine-Residential District. Public Hearing to Erect a Deck on His House Closer to the East Side Yard than is Allowed in the Zoning Ordinance.**

At 8:10, Chairman Kenney opened the Public Hearing. Mr. Norris Handschuh, agent to Mr. Kranz, came before the board and stated that Mr. Kranz only wishes to erect a deck on the front of his cottage. It would not be under cover and have an open-style railing.. Without the deck, the ground is uneven and it is difficult to have gatherings. The neighbors' decks protrude farther than the planned deck. Besides, this public hearing is for a side-yard variance, not front-yard. There have been no letters or calls against this proposal. There are no townspeople present in regard to this matter, either. At 8:15, Chairman Kenney asked for a **MOTION** to make this a Type II action. Motion made by Vice Chairman Carpenter, 2<sup>nd</sup> by Board Member Drake. Motion carried. He then proceeded with the finding of facts. **MOTION** made by Board Member Drake, 2<sup>nd</sup> by Vice Chairman Carpenter to close the public hearing. Motion carried. At 8:20, **MOTION** made by Vice Chairman Carpenter, 2<sup>nd</sup> by Board Member Hayes to approve the application as requested. Motion carried and the Board affixed their signatures.

Aye: Jim Kenney, Harold Carpenter, Les Drake, Darrel Hayes, Dave Storandt  
Nay: Absent: None Abstain: None

**Town --- Chris Badour, 41062 Smithering Heights Road, Tax Map No. 12.20-1-65, in the Marine-Residential District. Public Hearing to Extend His Home Closer to the Front Yard Line than is Allowed in the Zoning Ordinance.**

Before Chairman Kenney opened the Public Hearing, he asked Board Member Les Drake to recuse himself, as he is related to the applicant. He asked Alternate Member Dale Maclaughlin to sit in for Mr. Drake. At 8:25, the Public Hearing was opened, and Mr. Badour came forth with his request. Simply put, even though he bought the lot behind him, he cannot erect the addition he wants on his house to the rear of it due to the septic system being there. With none present against, nor letters or calls regarding this matter, at 8:30, Chairman Kenney asked for a **MOTION** to declare this a Type II Action. Motion made by Vice Chairman Carpenter, 2<sup>nd</sup> by Alternate Board Member Maclaughlin. Motion carried. He then proceeded with the finding of facts. **MOTION** made by Alternate Maclaughlin, 2<sup>nd</sup> by Vice Chairman Carpenter to close the Public Hearing. Motion carried. At 8:35, **MOTION** made by Alternate Maclaughlin, 2<sup>nd</sup> by Vice Chairman Carpenter to approve the application as requested.

Aye: Jim Kenney, Harold Carpenter, Dale Maclaughlin, Darrel Hayes, Dave Storandt  
Nay: Absent: Les Drake Abstain: None

The Board affixed their signatures.

**Other business:**

ZEO LaClair reminded the Board to bring their completed 2009 training record to the December 21<sup>st</sup> meeting.

Board Members Storandt, Kenney and Carpenter intend to attend the Land Use Workshop at JCC Nov. 18.

Chairman Kenney said that Bud Baril, Chairman of the Joint Planning Board, approached him regarding a couple of facets of the Local Law on Renewable Energy, in particular setting setbacks based on decibels.

Also, he wondered if, instead of the Zoning Board of Appeals, the Planning Board be the entity to determine setbacks in the Village, particularly the Riverwalk, which is under development. ZEO LaClair suggested to Mr. Baril that he call the State on that one.

With no other business arising, at 8:50, **MOTION** made by Dale Maclaughlin, 2<sup>nd</sup> by Chairman Kenney to adjourn this regular meeting of the Zoning Board of Appeals. Motion carried.

Respectfully submitted,

Janet Sullins  
Recording Clerk