

**APPROVED**  
**JOINT TOWN/VILLAGE OF CLAYTON**  
**ZONING BOARD OF APPEALS**  
**September 17, 2007**

**Board members present:** Les Drake, Harold Carpenter, Dave Storandt, Jim Kenney, Darrel Hayes, Pete Brabant

**Others present:** ZEO Henry LaClair, Assistant ZEO Steve Dorr, Recorder Diane Clark

**Townspople:** Kenneth Knapp, Anna Forbes, David Clark, John Jepma, Dan Murdie, Jeremy Cohen, Erica Cohen, Patrick Patch, Brenda Patch, Joseph DelVecchio Deborah DelVecchio, Nancy Augliano

**Minutes** were reviewed from August 20, 2007. **MOTION** was made by Les Drake, 2<sup>nd</sup> by Dave Storandt to approve the minutes as written.

Aye: Storandt, Kenney, Carpenter, Drake, Hayes  
 Nay: None                      Abstain: Brabant                      Absent: None

**7:00PM – Town – Alice Peron – 41821 Lower Town Landing Rd. Tax Map # 12.00-1-39.21 Area variance to create new side yard property line by subdivision. Set a Public Hearing.**

The board reviewed the application and determined it was complete. **MOTION** made by Harold Carpenter, 2<sup>nd</sup> by Les Drake to set a Public Hearing date and time for October 15, 2007 at 7:15PM

Aye: Storandt, Kenney, Brabant, Carpenter, Drake, Hayes  
 Nay: None                      Abstain: None                      Absent: None

**7:05PM – Town – Peter & Carol Wosyluk – 16675 Jackson Lane. Tax Map # 20.08-1-12 in the Marine Residential District. Area variances to erect porch. Set a Public Hearing.**

The board reviewed the application and determined it was complete. **MOTION** made by Darrel Hayes, 2<sup>nd</sup> by Harold Carpenter to set a Public Hearing date and time for October 15, 2007 at 7:15PM or soon after.

Aye: Storandt, Kenney, Brabant, Carpenter, Drake, Hayes  
 Nay: None                      Abstain: None                      Absent: None

**7:10PM – Town – Frontenac Crystal Springs – 37115 Co Rt 4. Tax Map # 30.00-2-45 in the Agricultural-Rural District. Area variance to erect storage building. Set a Public Hearing.**

The board reviewed the application and determined it was complete. **MOTION** made by Dave Storandt, 2<sup>nd</sup> by Harold Carpenter to set a Public Hearing date and time for October 15, 2007 at 7:15PM or soon after.

Aye: Storandt, Kenney, Brabant, Carpenter, Drake, Hayes  
 Nay: None Abstain: None Absent: None

ZEO LaClair asked the board for clarification on a side line and rear lot line setbacks. The board discussed the percentage of land and degrees. The board did not reach a consensus and agreed to wait on a definition until after the conference they will be attending where they hope to get an answer.

**7:15PM Chairman Kenney opened the Public Meeting.**

**7:15PM Town – Gerald & Kathryn Thompson and PPM Energy. Corner of Ellis Rd. and Schnauber Rd. Tax Map # 42.00-2-10.1 in the Agricultural-Rural-Residential District. Resume Public Hearing for area (height) variance to erect a temporary wind test tower. Complete Part II of the SEQR short form.**

PPM Energy representative Dan Murdie addressed the board. He presented a handout of FAA regulations that the board had asked for at the last meeting. He indicated the information they requested for test towers located near FAA approved airports was on page 25 and reads:  
*77.13 Construction or alteration requiring notice states (ii) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of each airport specified in paragraph (a) (5) of this section with the longest runway no more than 3,200 feet in actual length, excluding heliports.*

This meaning that the test tower location is within the FAA guidelines. The test tower is more than 10,000 ft. from any FAA approved runway Mr. Murdie stated.

Chairman Kenney asked Mr. Clark since he raised the question at the last meeting, was he satisfied with Mr. Murdie's FAA report? Mr. Clark indicated he was and stated he had read it on the FAA website.

Chairman Kenney asked if there were any questions from the townspeople.

**Kenney Knapp** – Expressed concern with this new test tower expanding the overlay district.

Chairman Kenney stated it wasn't the opinion of the board.

**Dan Murdie** said often these towers go up and within a short time are taken down again because they didn't get the readings they were looking for.

**Kenney Knapp** – But if you do get the readings you will put wind turbines there.

**Dan Murdie** stated that there are many other mitigating factors that are involved.

Chairman Kenney stated we will not assume it's a given that the turbines will go there.

The board asked what Mr. Murdie considers a “temporary” time frame for this tower. He stated not more than two years.

**David Clark** - Asked the board to answer each question carefully when completing the finding of fact. He went on to ask, “Doesn't Mr. Thompson have to prove hardship?” This is self created and will change the character of the neighborhood. Isn't this a commercial entity going into the agricultural District? Mr. Clark stated he felt it needs a special use permit. The board disagreed.

**Dr. John Jepma** – Asked why the board is allowing another test tower to go up when they don't know the outcome of the initial proposal. He suggested more research be done before approving more test tower sites.

Board member Les Drake stated the Planning Board is looking at everything very carefully. This is only a test tower, not a windmill.

Chairman Kenney asked the board if they would take lead agency. **MOTION** made by Les Drake, 2<sup>nd</sup> by Dave Storandt for the board to take lead agency.

Aye: Storandt, Kenney, Brabant, Carpenter, Drake, Hayes  
Nay: None                      Abstain: None                      Absent: None

The board completed Part II of the SEQR short form.

**Dr. Jepma** stated he disagreed with the boards finding that it would have little or no impact.

Board member Les Drake stated the test tower existence is insignificant.

ZEO LaClair stated he has not received any phone calls or letters of complaint about the other test tower off Rt 12 that has been up for over two years.

**Anna Forbes** asked if a cultural and natural impact study has been done.

Board member Les Drake asked Mr. Murdie how much land would be disturbed to erect the test tower. Mr. Murdie stated a 3ft. x 3ft plate sits on the surface. There are no roads or electric to the tower. Very little land is disturbed.

**Erica Cohen** asked what would be considered temporary for this tower.

Mr. Murdie stated it would not be up more than two years.

Anna Forbes asked if any board members had been to the site to see if there will be any environmental impact. Board members Les Drake and Harold Carpenter indicated they have been there.

Board member Dave Storandt reminded the townspeople that this is only a test tower. It doesn't have blades and will only disturb about 3 sq. ft. of land.

8:05PM - Being no further discussions MOTION was made by Les Drake, 2<sup>nd</sup> by Pete Brabant to close the Public Hearing. Motion carried.

The board completed the finding of fact and affixed their signatures.

MOTION was made by Les Drake, 2<sup>nd</sup> by Pete Brabant to declare this an Unlisted Type II Action under the SEQR law.

Aye: Storandt, Kenney, Brabant, Carpenter, Drake, Hayes  
Nay: None Abstain: None Absent: None

MOTION was made by Les Drake, 2<sup>nd</sup> by Dave Storandt to approve this application with the condition that the tower be removed by PPM Energy no later than twenty four (24) months from this approval date.

Aye: Storandt, Kenney, Brabant, Carpenter, Drake, Hayes  
Nay: None Abstain: None Absent: None

Chairman Kenney asked the board if they felt the applicant should go before the Planning Board for a special use permit and the board stated "no".

8:20PM – Town – John G. Howard-Smith 12815 Grindstone Island, Tax Map # 11.00-1-28.2 in the Marine Residential District. Public Hearing for a front yard area variance to erect a garage.

Agent, Pat Patch reviewed the application with the board. He stated the garage can not be located in any other area because of the rocky terrain. ZEO LaClair stated there were no calls or letters of opposition. The board determined the application was complete.

MOTION made by Chairman Kenney to close the Public Hearing at 8:30PM. Motion carried.

MOTION was made by Darrel Hayes, 2<sup>nd</sup> by Dave Storandt to declare this a Type II Action under the SEQR Law.

Aye: Storandt, Kenney, Brabant, Carpenter, Drake, Hayes  
Nay: None Abstain: None Absent: None

The board completed the finding of facts and affixed their signatures. **MOTION** made by Dave Storandt, 2<sup>nd</sup> by Pete Brabant to approve this application as submitted.

Aye: Storandt, Kenney, Brabant, Carpenter, Drake, Hayes  
 Nay: None Abstain: None Absent: None

**8:40PM – Town – Joseph & Deborah DelVecchio – 16513 Rainbow Shores Dr. Tax Map # 12.20-1-6 in the MR District. Public Hearing for a side lot line set back.**

The board reviewed the application and determined that a 12 ft. front yard set back needed to be added to the application. ZEO LeClair stated there were two letters received, one from Roger Burdick and the other from Robert and Sandra Marr. Both letters were in favor of the project and variance.

**MOTION** made by Les Drake, 2<sup>nd</sup> by Harold Carpenter to close the Public Hearing. Motion carried.

**MOTION** made by Les Drake, 2<sup>nd</sup> by Harold Carpenter to declare this a Type II Action under the SEQR Law.

Aye: Storandt, Kenney, Brabant, Carpenter, Drake, Hayes  
 Nay: None Abstain: None Absent: None

The board completed the finding of facts and affixed their signatures. **MOTION** made by Les Drake, 2<sup>nd</sup> by Dave Storandt to approve this amended application.

Aye: Storandt, Kenney, Brabant, Carpenter, Drake, Hayes  
 Nay: None Abstain: None Absent: None

Being no other business to discuss, **MOTION** made by Dave Storandt, 2<sup>nd</sup> by Darrel Hayes to adjourn this meeting at 9:00PM.

Respectfully submitted,

Diane Clark  
 Recording Clerk