

**APPROVED**  
**JOINT TOWN / VILLAGE OF CLAYTON**  
**PLANNING BOARD**  
**February 6, 2014**

The meeting opened at 7:00 p.m. with the following **members present**: Chairman Bud Baril, Duane Hazelton, Preston Lowe, Paul Heckmann, Larry Aubertine, and Brian Jones. Absent: Ron Duford, Alternate John Kehoe, Alternate Doug Rogers.

**Also Present**: ZEO Henry LeClair, CEO Richard Ingerson, Recording Clerk Susan Kenney.

**Townspople Present**: Ron Cooper, David Renzi, Colleen Lawlee, Brent Lawlee, Mary Zovistoski, Ann Aubertine, Cathy Garlock, Jonathan Taylor, Peter Beattie, S. K. O'Neill, Pam McDowell, Steve Taylor, George Ruddy, Norma Zimmer, Jane Concer, Jim Kenney, Cindy Grant, Stephen Curtis.

The Board reviewed the minutes from the December 2013 meeting. No corrections were noted. **MOTION** was made by Larry Aubertine, 2<sup>nd</sup> by Duane Hazelton, to approve the minutes as submitted. Motion was carried.

The Board was unable to review the minutes from the January 2014 meeting since a quorum of members at that meeting was not present at this meeting. The January minutes will be reviewed at the Board meeting in March.

**7:04 --- Village --- H. Enterprise LLC, 507 Riverside Dr., Clayton, Tax Map #20.38-2-13, in the Riverwalk B District. Considering a Site Plan Review application for change of use of an existing building.**

Jonathan Taylor did the presenting. He reviewed the plan as presented in the pre-conference hearing at the meeting in January. The plan is to convert the first floor of the historic Johnston House into a restaurant, with outdoor seating as well as a pavilion for inclement weather. Within the pavilion would be an eight-person osteria for both service and serving. There would be some landscaping, and revision of the handicapped access ramp, as well as of the bathroom to accommodate handicapped access.

They are still not 100% sure of the details of the outside lighting. There will be low-level hanging lanterns in the pavilion. There are two existing lamps in the yard, which will be matched up with the street lighting on the Riverwalk, though probably with lower wattage, 70 watt or so. There will also be low-level path lighting.

The parking plan is the same as at the pre-conference hearing: 14 spots around the back of the restaurant including one handicapped space. Peter Beattie, one of the restaurant partners, said that they were thinking of offering a valet service during July and August, perhaps working with the surrounding businesses.

A question was raised by a Board member about the negative connotations of having a bar outside on the front lawn of the property. Should the Planning Board approve such a plan? Mr. Taylor pointed out that the bar/osteria is at least thirty feet from Riverside Drive, and that they will try to make it even more secluded with plantings. Another Board member noted that the Planning Board is trying to keep this community family-oriented, so an open bar would not be desirable, but this seems to be more of a service waiting area. Care must be taken to keep it secluded. Under the current zoning, a bar-restaurant is an allowed use, although the Board can certainly condition that use. Any succeeding owner would have to come back to the Board to alter the site plan.

Mr. Beattie noted that as a part of their lease, they must be closed by 11 p.m., and this osteria is not intended for serious drinking. It is more of a service bar, more for efficiency of business since it will make it easier to serve drinks to the outside diners. When asked about people who might wander by, see the osteria, and come in just to do some drinking, Mr. Beattie affirmed that this venue would be less enjoyable and more expensive for that type of drinker.

The second floor would not change much: it consists now of four offices, a storage room, a bathroom, and two sets of stairs. There are three exits to the building, two of which will be dedicated. There is sufficient egress for the building's occupants. Other than a new kitchen and bathrooms, the first floor interior would also basically remain unchanged.

Chairman Baril read two letters that had been received concerning this application. One was from Jefferson County Planning, which had been forced to postpone their recent meeting, so left the decision up to the local Board. The second was from Tim Helmer: he expressed concerns with the serving of alcohol, considering all the other bars in the immediate vicinity. He advocated either serving no alcohol or strictly limiting it.

At this point the hearing was opened for public comment. Ann Aubertine questioned the definition of a service bar, and should a service bar have any seating. Response: it would be better to call it a serving/service bar, to cover both functions. She also was curious about the number of steps from the front of the building to the ground level, and how many steps the waitresses would be dealing with to serve the outside diners.

Susy O'Neill expressed her agreement with Mr. Helmer's letter, and added that there is already a "pub crawl" along the other side of Riverside Dr., from the Lost Navigator all the way to O'Brien's; she would not like to see that extended to this side of Riverside as well, turning Clayton into just another bar town. She detailed some of the unsavory aspects of the pub crawl, such as the cigarette smoke, the beer smell, and the cigarette butts. She likes the idea of the restaurant, but not the outside bar/osteria.

Mr. Beattie noted that they can only control their clientele while on the property; they cannot do anything about people smoking off-property. They are going for a particular customer base. Colleen Lawlee, owner of the building, added that they intend to put a hostess at the front gate, who would allow entrance only to those coming to eat. David Renzi, attorney for the owners, said that they are looking to create a high-end place that would enhance the village.

It was noted that the Planning Board cannot change anything allowed in village law. Problems such as smoking, profanity, drinking on the street, etc., must be taken to the Village Board for the village to deal with. The question was brought up about whether conditions could be set to bind subsequent owners of the property, and it was determined that conditions must follow the property, not the owner.

Another member of the audience, George Ruddy, noted that a single diner often feels more comfortable sitting to eat at a bar rather than eating alone at a table.

The Board has to look toward the future and the precedents now being set. The village and town need a comprehensive plan to help everyone keep in mind where Clayton wants to go as a community.

Chairman Baril and the Board went through the newly formatted SEQR. At 8:05 **MOTION** was made by Larry Aubertine, 2<sup>nd</sup> by Paul Heckmann, to declare this a negative declaration. Motion was carried. At 8:06 **MOTION** was made by Preston Lowe, 2<sup>nd</sup> by Duane Hazelton, to close the public hearing. Motion was carried.

The Board then went through village zoning law 132-21. In the course of that discussion, it was noted that rather than a dumpster, there will be three 96-gallon covered bins behind the existing garage, next to the propane tank, to collect refuse; more can be added if necessary. Concerning parking, there is nothing in the ordinance about parking in the Riverwalk districts, so whatever is planned will be all right. It was also noted that the restaurant will have to put in a grease trap (?); the sewers are being upgraded. There will be exhaust fans venting toward the Chamber of Commerce next door.

Concerning the bar/osteria, one Board member asserted that it was certainly better than other venues for alcohol, so long as the bar was controlled. Some members were strongly in favor of the plan, while others expressed some concerns for the precedent set. There is a fence around the property, so persons cannot just wander in off the street; there will also be the hostess at the gate to further screen entrants. Questions were raised concerning a liquor license, and about making sure that there was no display or advertisement of alcohol on or behind the bar/osteria.

The following conditions were set for the application:

1. Limit seating to eight at the service/serving bar.
2. The service/serving bar only open during hours of the restaurant's operation.
3. If there is any alteration to the site plan, the owner(s) must return to the Planning Board for consideration.
4. The pavilion will remain open on all four sides and not be enclosed.

At 8:29 **MOTION** was made by Preston Lowe, 2<sup>nd</sup> by Paul Heckmann, to approve the application with the above conditions.

Aye: Baril, Heckmann, Jones, Hazelton, Lowe

Nay: Aubertine

Abstain: none

Absent: Duford, Kehoe, Rogers

**8:31 --- Village --- James Cumming, 428 Riverside Dr., Clayton, Tax Map # 20.38-1-22.2, in the Riverwalk B District. Site Plan Review application to erect a multi-use building.**

Brian Jones did the presenting. He gave a quick overview of the proposed project. There would be four levels in the building: the top two would hold apartments or condominiums, and the bottom two would hold retail and a restaurant/brewery. The project includes a continuation of the Riverwalk. There would be docking only on the river side; former docking at the side of the building would be much more difficult since the sidewalk level will have to be raised for handicapped access. On the river side, in a recessed area, there would be a seasonal kiosk, hopefully for use by Clayton Tours. Also on the river side would be a brick wall for screening of services such as trash collection.

The exterior design is meant to be in keeping with local architecture; the designers are still working on some details. The main entrance on the street level, leading to the retail part, would have a slight incline coming up from the sidewalk. The restaurant would be a half level down; its main entrance would be at the dock level. The kitchen for the restaurant would be underneath the mezzanine level. An elevator inside will give access to all levels. Above the condominiums would be a roof garden, for the private use of the condominium owners.

As planned, the river front of the building would line up with the TILT building next door. There will need to be a new foundation; since the water table is only two feet down, the construction will use hybrid caissons. The building is designed to be visually open, so that a person can see through the store to the restaurant, brewery, etc. After hours, the restaurant will be closed off by grillwork doors as in the mall; both elevators will still be accessible. The brewery will be vertically stacked, and the area under negative pressure, with an exhaust system, to there should be no problem with odor.

The projected start date is this spring, as soon as possible. There are still permits, etc., to go through. Since the initial pre-conference hearing, the whole building has been moved back so that it won't affect the wires out front. Electrical service will be underground.

Concern was expressed about the spring start date, since there will be other work being done on Riverside Drive, and there will be a need for summer parking. Mr. Jones said all loading will be behind the building, not on the street, and it can be coordinated with the other construction. Mr. Cumming is getting a grant from NYS, so the construction needs to be done by the end of the year.

A question was raised about the condos or apartments on the top floors. If they are condos, this may need to go through the state and take up to a year, so it may be awhile before they are occupied. Mr. Jones will check on this. Another question was raised about the docks: will there be protection against people falling in? Mr. Jones said life rings and/or ladders could be included in the plans. A third question concerned the brick screening wall, whether it would be considered a fence or not. If it's a fence, it can't be more than four feet tall. This too will be looked into.

Trash will be collected in 96-gallon totes, placed somewhere behind the screening wall. Mr. Jones was unsure where the leftover mash from the brewery would be collected.

The hearing was opened for public comment. Mr. Renzi, attorney for the owners of Rak's next door, expressed some concerns with the building's height cutting off views of the river, and with problems with the foundation. There needs to be definitive language about the Riverwalk easement on paper. His clients are not against the project but are concerned for their own property values. A lot of issues need to be clarified before Board approval.

Mr. Jones responded that the maximum height of the building is 45 feet, not including the parapet on top, which does not need to be counted in determining height. The project has a geotechnical engineer and a structural engineer involved, to alleviate potential problems with the foundation. Mr. Renzi suggested an exchange of data between project engineers (the Cumming project and the H Enterprise project).

Ms. Lawlee, owner of Rak's, was concerned about what will happen to her business during construction. She asserted that there was not enough room in the back of the proposed building to accommodate trucks, also that the building shakes when anyone is next door. Mr. Jones responded that no drilling is planned, only physical digging. There will be no pylons. There might be some rebar drilled into something, but that should not be major.

The two main issues are the easement for the Riverwalk and the foundation of the proposed building. The Riverwalk will answer the need to maintain the waterfront and preserve public access to the river. The public access needs to be legally clarified.

At 9:34, **MOTION** was made by Larry Aubertine, 2<sup>nd</sup> by Paul Heckmann, to declare lead agency for the project. Motion was carried. At 9:35 **MOTION** was made by Larry Aubertine, 2<sup>nd</sup> by Preston Lowe, to adjourn this hearing until March 6, at 7 p.m. or shortly thereafter. Motion was carried.

**9:36 --- Town --- Jeannette Dedek, 38289 State Rte. 12E, Clayton, Tax Map # 19.20-1-32, in the Marine-Residential District. Subdivision.**

Ron Cooper did the presenting. The entire lot is 16.8 acres; the proposal is to divide it into four parcels, each of which is over the minimum requirement of 30,000 ft<sup>2</sup>. The two smaller lots will be 34,000 ft<sup>2</sup> and 36,000 ft<sup>2</sup> respectively, each with over 100 feet of river frontage and 100 feet of road frontage on the proposed right of way. The owner had not been able to sell the whole lot, so was hoping that the smaller divisions would prove to be more sellable.

Chairman Baril read a letter from a neighbor who was concerned about conservation, in particular the potential disturbance of waterfront wildlife when the larger lot was broken up.

Chairman Baril did the full SEQR. At 9:53 **MOTION** was made by Larry Aubertine, 2<sup>nd</sup> by Paul Heckmann, to declare the Planning Board as lead agency. Motion was carried. At 9:54, **MOTION** was made to declare this a negative declaration. Motion was carried. At 9:55, **MOTION** was made by Larry Aubertine, 2<sup>nd</sup> by Paul Heckmann, to approve this application.

Aye: Baril, Aubertine, Heckmann, Jones, Lowe, Hazelton

Nay: none

Abstain: none

Absent: Duford, Kehoe, Rogers

**9:58 --- Town --- Gary O. McElfresh, 16463 Grenell Island, Tax Map #12.11-2-38.1, in the Marine-Residential District. Two-lot subdivision.**

Mr. Steve Taylor did the presenting. He was informed immediately that although this is a lot of record, it is not a legal-sized lot, so the planning board cannot approve the subdivision. Mr. Taylor said that the owner had not had surveyors out yet. There are two houses on this lot, each with its own well, but the septic is shared. The owner wishes to subdivide the lot, and give each of his sons one of the houses.

At 10:09 **MOTION** was made by Preston Lowe, 2<sup>nd</sup> by Paul Heckmann, to deny the application.

Aye: Baril, Aubertine, Heckmann, Jones, Lowe, Hazelton

Nay: none

Abstain: none

Absent: Duford, Kehoe, Rogers

**MOTION** was made by Duane Hazelton, 2<sup>nd</sup> by Larry Aubertine, to recommend to the Zoning Board of Appeals that, providing they can settle the septic problem, the Planning Board has no problem with the subdivision. Motion was carried.

At 10:11 **MOTION** was made by Duane Hazelton, 2<sup>nd</sup> by Preston Lowe, to adjourn the meeting. Motion was carried.

*Respectfully submitted,  
Susan Kenney, Recording Clerk*