

APPROVED
JOINT TOWN / VILLAGE OF CLAYTON
PLANNING BOARD
April 3, 2014

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

Others Present: ZEO Henry LaClair, Recording Clerk Susan Kenney

Townpeople Present: David Renzi, Jim Burrows, Ann Aubertine, Colleen Lawlee, Brent Lawlee, Twyla Webb, Jim Kenney, Cindy Grant, Pam McDowell, Mary Zovistoski

Although there was a quorum present for conducting current business, there was not a quorum for reviewing minutes from the January and March meetings, so those minutes will be reviewed at the May meeting.

7:03 --- Village --- Melissa & Mathew Hardy, 602 Riverside Dr., Clayton, Tax Map # 20.38-1-7, in the Riverwalk B District. Application to alter existing Site Plan approval to allow for 12-seat dual purpose outdoor service bar at Bella's.

Chairman Baril first read a letter from a neighbor of the site in question; this neighbor has no objections to the project as proposed. Chairman Baril then went through the short form SEQR before opening the public hearing. At 7:07 **MOTION** was made by Preston Lowe, 2nd by Paul Heckmann, to declare this a negative declaration. Motion was carried.

The public hearing was opened. Attorney Jim Burrows did the presenting for the Hardys, who were unable to attend the meeting. Mr. Burrows said that in 2010 problems were expressed with the three-tiered deck and the service bar (for both servers and patrons). The dual purpose of the service bar was not clearly covered in the site plan at that time. This application is just to confirm that the bar is available for its dual purpose; nothing else is new, and there will be no change in the hours of operation.

The intent is to have no more than twelve seats available. This has been approved by the ABC (Alcohol Beverage Control). The bar will be open only while the restaurant is serving food; it closes around 9 or 10 p.m.

The floor was opened at 7:14 for public comment. Ms. Twyla Webb expressed a question about what could be so attractive about having a sit-down bar so close to the street; she has seen nothing similar to it in any of the surrounding communities or in any of her travels in South America or Puerto Rico. Ms. Ann Aubertine expressed a concern that the Hardys will do as they say, stating that in the past, the Hardys have said they would do one thing and then did another.

At 7:17 **MOTION** was made by Larry Aubertine, 2nd by Preston Lowe, to close the public hearing. Motion was carried.

In the ensuing discussion by the Board, concern was expressed about the proliferation of bars in the community and how that might affect the Clayton quality of life. But Bella's is a successful restaurant, and it should be all right to have drinks served with food. The definition of a service bar was brought up, not being explicitly defined in the ordinance. It was pointed out that since the ordinance allows a restaurant with a bar, this one cannot be denied with conditions.

One of the members recalled that in the original discussion when the bar was first discussed, it had begun as just a place for waitresses to get drinks for customers so that they would not have to keep running in and out. The bar has now become something much bigger, but since conditions were not set at the outset, the bar's dual purpose cannot be changed.

The bar currently is only five feet from the sidewalk. The twelve stools requested would fill up the bar; the ten it has now make it pretty full. With that much seating, there is actually not enough room for the dual purpose of serving and service. There may be a need to limit the number of seat to give room for the waitresses to serve. The question was also raised of opening up the river view more, perhaps by getting rid of the current screens and putting in potted plants of some sort.

It was stated that the bar sink, refrigerator, etc., while not right at the bar, are just inside the building from the bar and so meet ABC requirements. Another question was raised about access to the outside dining area from the street; there is a gate, so there would be street access. This outside access is necessary to ensure adequate emergency exits. The Board was urged to think ahead with their decisions and be cautious about how Clayton grows in the future.

After discussion, the following conditions were placed on the application:

1. Seating of patrons at the service bar shall be limited to eight (8) at any time.
2. The multi-use outside service bar shall be operation only during dining hours.
3. The use of potted screening or similar screening shall be used to help screen the dual use service bar from the sidewalk.

At 7:34 **MOTION** was made by Paul Heckmann, 2nd by Preston Lowe, to approve the application with the above conditions.

Aye: Baril, Heckmann, Lowe, Jones

Nay: Aubertine

Abstain: none

Absent: Duford, Hazelton

7:35 --- Village --- James Cumming, 428 Riverside Dr., Clayton, Tax Map # 20.38-1-22.2, in the Riverwalk B District. Reopen public hearing for Site Plan Review application to erect a multi-use building.

The floor was opened for public comment. David Renzi, attorney for the neighboring business owners Colleen and Brent Lawlee, discussed a letter from Brian Jones of Aubertine & Currier, about the Lawlees' concerns with the construction of this project. Among those concerns: the neighboring business Rak's wants input into the engineering process, not just review; the foundation, particularly in light of the phrase "Rak's foundation may need to be underpinned,"

needs to be seen by Rak's engineer; all applicable letters need to be part of the permanent record; SEQR was done before all engineering issues were resolved. The Lawlees want their engineer to have the power to say "no" in the case that underpinning is contemplated.

At 7:46 **MOTION** was made by Larry Aubertine, 2nd by Paul Heckmann, to close the public hearing. Motion was carried.

It was commented that the members of this Board are not appointed as engineers, and construction or engineering issues are not their purview. A possible condition to be placed on this application is that the construction plans will be reviewed by Rak's engineer before construction begins. There are concerns about parking, but these can't be addressed by this Board since Riverside Drive is not owned by Clayton but by the State of New York.

Brian Jones, engineer for the Cumming project, was asked to explain about the underpinning. Mr. Jones said that the necessity for underpinning can't be known for certain until digging actually starts and the ground is exposed. Part of the foundation will not be on bedrock, but will be on caissons, oversized piers. The main problem is on the side facing Rak's, where the bedrock ends. It was emphasized to Mr. Jones that Rak's must be kept completely in the loop concerning any underpinning, and that all costs of such will be covered by the developer. Mr. Renzi also emphasized that Rak's engineer needs to be kept in the loop, and that there should be some sort of bonding.

The Board was agreed that it should not be refereeing engineering details; again, this is not its purview. There was a discussion of what the Planning Board is responsible for, and what is expected of SEQR. The Board does have the right to go back and change SEQR. The Board encourages the two engineers to interact. It was noted that a letter on file states that the owner of the new building will set aside 24 parking spots, and that he will pick up all expenses for the Riverwalk being constructed through the easement granted for that purpose.

The following conditions were agreed upon:

1. All plans and specs to be prepared by a licensed engineer and architect prior to zoning and building permits being granted for construction
2. Reasonable communication between the engineers for Cumming and engineers for H. Enterprises LLC to address possible structural concerns in a timely fashion
3. All participants in the construction of the multi-use building and from H. Enterprises shall act in a reasonable and genial matter (manner?) in order to complete the project with little or no impact to adjoining structures

At 8:12 **MOTION** was made by Larry Aubertine, 2nd by Preston Lowe, to approve the application with the above conditions.

Aye: Baril, Heckmann, Lowe, Aubertine

Nay: none

Abstain: Jones

Absent: Duford, Hazelton

A reminder was given to the members of the Board about the training program coming up at JCC on April 23.

There was no other old or new business.

At 8:14 **MOTION** was made by Preston Lowe, 2nd by Paul Heckmann, to adjourn the meeting. Motion was carried.

*Respectfully submitted,
Susan Kenney, Recording Clerk*