

**APPROVED**  
**JOINT TOWN / VILLAGE OF CLAYTON**  
**PLANNING BOARD**  
**August 7, 2014**

The meeting opened at 7:07 p.m. with the following **members present**: Chairman Bud Baril, Larry Aubertine, Brian Jones, Duane Hazelton, Preston Lowe. Absent: Paul Heckmann, Alternate John Kehoe, Alternate Doug Rogers.

**Also Present:** Kim Johnston, Clerk; Susan Kenney, Recording Clerk

**Townspople Present:** Jim Kenney, Mary Zovistoski, Art Mack, Judy Pinchin, Robert Pinchin, Jeffrey Cohen, Ann Aubertine

The minutes for the July 3, 2014, Planning Board meeting were not reviewed because there was not a quorum of members who had been present at that meeting. The July minutes will be reviewed at the September meeting. Chairman Baril made some comments to the Board about developments related to one of the hearings from July's meeting, a minor subdivision proposed by Blind Bay Associates. He noted that according to the Town of Clayton zoning ordinance, this is still considered a minor subdivision as long as the fifth lot is not intended for sale or development. He also noted that a lot split between two different municipalities is still considered a single lot.

**7:13 --- Town --- Ronald J. Cooper, off NYS Route 12E near County Route 4, Tax Map # 19.20-1-32, in the Marine-Residential District. Four (4) Lot Minor Subdivision.**

Art Mack, agent for Mr. Cooper, did the presenting. All four proposed lots are of the requisite size and frontage. The three lots on the water have a relatively gradual drop of 31 feet to the water. The property was previously subdivided under the previous owner. Mr. Mack said Mr. Cooper will possibly look at houses in the future; with these proposed new lots, there will be five lots in total to be developed. The access road is currently 25 feet wide, and will be extended to accommodate all of the lots. The intention is for this access road to remain private, to be maintained by the owners of the lots.

At 7:21, Chairman Baril opened the public hearing. There were no comments, nor were there any letters or other communications regarding this application. At 7:22 **MOTION** was made by Larry Aubertine, 2<sup>nd</sup> by Duane Hazelton, to close the public hearing. Motion was carried.

At 7:23, **RESOLUTION** was made by Larry Aubertine, 2<sup>nd</sup> by Preston Lowe, to accept this application subject to the right of way being shown on an updated map. A roll call vote was made.

Aye: Baril, Aubertine, Hazelton, Lowe, Jones

Nay: none

Abstain: none

Absent: Heckmann

**7:25 --- Town --- Charles A. Baum, 13834-974 Rusho Bay, Tax Map # 12.00-1-38.1, in the Marine-Residential District. Two (2) Lot Subdivision.**

This is located on Grindstone Island. There were no letters or other communications regarding this application.

At 7:26 **RESOLUTION** was made by Duane Hazelton, 2<sup>nd</sup> by Larry Aubertine, to approve the application for subdivision. A roll call vote was made.

Aye: Baril, Aubertine, Hazelton, Lowe, Jones  
Nay: none                      Abstain: none                      Absent: Heckmann

**7:30 --- Town --- Sarah Boss, 11249 North Shore Rd., Clayton, Tax Map # 11.11-1-41.1, in the Marine-Residential District. Simple Minor Two (2) Lot Subdivision.**

This is also located on Grindstone Island. Ms. Boss is simply taking a strip measuring 400x25 ft. and adding it to Lot 41.4, making it much like a lot line adjustment. Each resulting lot meets all the standards for zoning.

At 7:36 **RESOLUTION** was made by Preston Lowe, 2<sup>nd</sup> by Larry Aubertine, to approve the application for subdivision, with the condition that the strip must be joined by deed to Lot 41.4. A roll call vote was made.

Aye: Baril, Aubertine, Hazelton, Lowe, Jones  
Nay: none                      Abstain: none                      Absent: Heckmann

**7:41 --- Town --- Pre-conference hearing for Jeffrey Cohen to place storage units on his parcel at the corner of Greenizen Road and Route 12.**

Jeffrey Cohen did the presenting. He already has a building on the parcel, but he now wants to put doors on it to make it into public storage. It is a pole barn with no foundation or footers, sitting on gravel. The size of the storage spaces will depend in part on the demand. He intends to close off both sides and the end.

The Board informed Mr. Cohen that for the actual hearing, he needs to bring the following information: how will the site be safely accessed, from either Route 12 or Greenizen Rd.; what signage is proposed, what size and where; plans for lighting; what hours will the site be open for access; what will be the size of the storage spaces; how will the building be modified to accommodate public storage; what types of doors will be used; site plans and drawings. Mr Cohen was told that there is no upper limit on the amount of information he can bring for the Board. If he has future plans for development of the site, but is not prepared to begin those right away, he can always indicate such plans by using dashed lines on drawings of the site. He was also told that his site plan should include his intent to store boats outside the building, even if he has been doing that already. Mr. Cohen asked whether painting on a roof would be considered a sign, and was told that yes, it would. His original building had never had a site plan because he

had not intended at the time to give it a public use; now that he intends public usage, he must have a site plan.

**7:55 --- Village --- Pre-conference hearing for Judith Pinchin to convert an unfinished building into part seasonal rental and part personal use.**

The building in question was originally intended for storage with living quarters upstairs. Mrs. Pinchin would now like to put in two apartments in the back, one upstairs and one downstairs, for seasonal rental. When the point was brought up that this would be considered a change of use, hence would need to go to the Zoning Board of Appeals (ZBA), the chairman of the ZBA, Jim Kenney, who was in the audience, noted that it is not considered a change of use if the new use is an allowed use.

The Board told Mrs. Pinchin that she will need to bring to her hearing detailed information concerning parking and lighting, and her site plan needs to include the existing cottages and at what times of the year they are in use.

After Mrs. Pinchin's comments and pre-conference hearing were concluded, Jeffrey Cohen made some general comments about the recent history of his parcel on Route 12. He felt that he had originally been mistreated by the Board and forced to give an easement to a neighbor that now severely restricts his business. He would like to get the easement removed or changed. He also had questions about the Pinchin application.

The Board told Mr. Cohen that if he had questions about the Pinchin application, he should come to the public hearing next month. Regarding his desire to lift the easement, an easement on a property is an agreement between two private individuals, and is not the concern of the Planning Board.

**8:20 --- Village --- Discussion of H Enterprises LLC, Johnston House, hearing from February meeting.**

The Board discussed the Johnston House restaurant, specifically that the owners do not seem to be following the conditions set at the hearing on February 6, 2014. Among the conditions were limiting the seating at the outside bar to no more than eight and closing the bar whenever the restaurant was closed. Incidents were related where all the patrons outside had been crowded around the bar and the large-screen TV installed there, and where the bar had been open until 1:30 a.m., although the restaurant generally closes at 10 p.m. Numerous complaints have been made to various members of the Planning Board and village officials.

Village officials had been asked about the situation, and they had said that it was a zoning issue. The town attorney, Joe Russell, said that the conditions set at the February Planning Board meeting should be enforceable. The suggestion was made that a local law be passed stating the any outside bar be closed by 11 p.m., with the possibility of filing for a special permit to be open later for once or twice per season.

The discussion at the February 6 meeting had focused on maintaining a small-town atmosphere in Clayton. At the time, the owners of the Johnston House had seemed in favor of doing just that. CEO Ingerson has already gone to the owners once to put an end to the after-hours activity. Board Member Duane Hazelton suggested that a physical list of all the complaints be made, which along with the minutes from the February hearing could be used in any further meetings with the owners.

**8:27 --- Town --- General discussion of zoning along Route 12E, on both sides of Clayton.**

Much of the Route 12E corridor, both east and west of the village, is zoned Marine-Residential (MR) and Marine-Development (MD) on the River side. These zones have come into question with some recent site plan applications, two of which concerned establishing farm wineries. The predominant use of land on the road front along this corridor, especially from Bartlett Point to Taylor Lane and from the end of the village to Spicer Bay, is commercial, hence nonconforming – permitted since it existed before zoning. However, current commercial enterprises, such as Bowes Realty, cannot sell their buildings for anything other than the current use because of their nonconformance, making it very difficult to sell such buildings and properties.

It is generally deemed desirable to redraw the lines for the MR and MD districts along this corridor, at least in some spots, to better reflect the current usage. Jefferson County Senior Planner Mike Bourcy has said that planned development districts (PDDs) will not work. A number of different solutions have been discussed, including (1) drawing a line 400 feet from 12E going toward the River and making that a special zone, or (2) drawing the line to more closely conform to businesses on the River side. Prospect (1) would not necessarily protect the small commercial enterprises currently in existence, and prospect (2) would be too close to spot zoning, which is illegal.

It was stressed that any zoning needs to protect residential areas. Zoning doesn't need to allow more uses, but the MR/MD line needs to be redrawn. Being in the MD district does not mean that a person cannot build a residence there. Any businesses allowed should be restricted to what is compatible with residential.

If this area is opened up for commercial uses, the town needs to be very careful what businesses would be allowed. Zoning should be changed to meet a community need, not to suit one person. The Town needs to consider the best and most acceptable uses for each area. The Town should reschedule a public hearing about this situation, making sure that the Planning Board is there as well. It was suggested that maps be prepared to illustrate the various proposals.

At 8:57 **MOTION** was made by Preston Lowe, 2<sup>nd</sup> by Brian Jones, to adjourn the meeting. Motion was carried.

*Respectfully submitted,*

*Susan Kenney, Recording Clerk*