

APPROVED MINUTES
JOINT TOWN/VILLAGE OF CLAYTON
CLAYTON PLANNING BOARD
AUGUST 6, 2019

Board Members Present: Doug Rogers, Dave Crandall, Paul Heckmann, Mike Ingerson, alternate Therese Christensen (will be acting in place of absent Patrick Dewey), Duane Hazelton, Fred Bach.

Absent: Patrick Dewey

Also Present: Richard Ingerson, Zoning Officer; Sue Kenney, Recording Clerk

Townpeople Present: Rebecca Dahl, Jake Tibbles, Sarah Smith, Mary Heyman, Katherine Reinman, Joseph Chrisman, Ron Cooper, Bill Heyman, Carl Reinman, Gary Hampson, Donna Hampson, Matthew Turcotte, Jerry Wetterhahn, Pam McDowell, Jim Palumbo, Jim Kenney, Lance Peterson, [Peter McAuliffe? – did not sign in]

The meeting was called to order by Chairman Doug Rogers at **7:00 pm** with the salute to the flag. Due to the absence of Patrick Dewey, alternate Therese Christensen was appointed to act in his stead.

Chairman Rogers thanked Vice Chairman Bach for standing in for him for the past two meetings. He also announced that this would be Mike Ingerson's final night on the Board, since he will be moving to the town of Cape Vincent and will no longer reside in the town of Clayton. Member Ingerson was thanked for his service to the Board and to the Town. Chairman Rogers is requesting that Therese Christensen be made a full member of the Board, and that the Town/Village advertise for two alternates.

COMMUNICATIONS

The solar law is still under consideration by the Town. They have gotten some feedback from the County, but are still looking at possible amendments. There will be a public hearing August 14th on Grindstone Island, during the regular Town Board meeting.

The town Board will consult with the ZBA and the Planning Board concerning the request from TILT (Thousand Islands Land Trust) to change the district designation at Zenda Farm. Chairman Rogers asked that the other Board members look into the advantages and disadvantages of Agricultural and Rural Residential vs. Marine Residential districts, adding that there is a chapter in the Comprehensive Plan concerning Agriculture.

A letter from Janet Burrows was read to the Board, concerning the water and sewer conditions along the River. Chairman Rogers was not sure this particular issue would be coming to the Board.

Chairman Rogers and Dave Crandall have discussed forming a committee to further investigate the Route 12 corridor. They have a list for tentative members, and will be contacting those people.

It was noted that Fred Bach has voluntarily recused himself from any discussions and votes on the TILT project.

At **7:11 pm**, the previous month's minutes were briefly discussed. Some comments were not available, so there will be further discussion at the next meeting. At 7:14 pm, **MOTION** was made by Fred Bach, second by Duane Hazelton, to (tentatively) approve the minutes, with the option to look at them again at the next meeting. All were in favor.

At **7:16 pm**, it was noted that the presenters for the Wood Road solar project were delayed at another meeting in Denmark and would be coming in later, so that application was moved to the end of the night's agenda.

7:17 pm — Thousand Islands Land Trust — Town — Zenda Farms, south side of Route 12E, in an Agricultural and Rural Residential District. Site plan review. To locate a recreational facility in an A-R district.

Chairman Rogers read a letter from the Jefferson County Planning Board, which has reviewed this application. They did not have a quorum when the review was done, and they won't reconvene before the expiration of time for such review. They had some recommendations, including particular consideration of parking availability and vehicular flow on the grounds, but the final decision would be up to the local Board.

Rebecca Dahl did the presenting for the application. She said that TILT had sent a letter to all of the neighbors of the property concerning the proposed project, and she handed out a copy of that letter. Besides the recreational facility, they are looking in the future to planning a wildlife observation tower, nature trails, U-Pick patches, etc. Right now, they are looking for a legal determination to see if they can do the recreational facility before moving ahead with detailed plans. Mr. Tibbles, director of TILT, said that as a non-profit organization, they are in a gray area concerning some activities and want to move out of the gray area and be totally aboveboard. They are not asking for a carte blanche, but want to be good neighbors, limiting the number of non-TILT events in the recreational facility and complying with all legal restrictions.

Chairman Rogers emphasized that all of the possible future projects would have to be looked at on an individual basis. Zoning Officer Ingerson said that some of those possible future projects will require special use permits. Board Member Mike Ingerson asked for clarification on the areas to be used for the structure and parking; currently they are just grass fields. There was historically an access road going between the two areas, which might be developed.

Zoning Officer Ingerson stressed that there is nothing in TILT's site plan concerning a tower or nature trails, and he cannot amend anything that is not in the site plan. Also, the Board cannot make a decision on what is not in the site plan. Mr. Tibbles said he was willing to come back before the Board for each added item.

Ms. Dahl stressed that they want to make sure all appropriate Boards are brought up to speed on the proposed project. In the application, they want to use the facility for fundraisers and outside events, as well as TILT functions. The TILT board has already put a self-imposed limit of six outside events per year, and is fine with the Planning Board making that a condition of the application.

Questions were raised about the definition of a recreational facility, as found in the Clayton Zoning Ordinance. Zoning Officer Ingerson read the definition out of the ordinance. In discussing parking, reference was made to Part Z of the ordinance, which was consulted, but Part Z refers primarily to

hotels and resorts and not to this type of facility. There will be plenty of room for parking on that piece of property. The question of restroom facilities was also raised, and Ms. Dahl said that at each outside event, temporary facilities would be brought in. It was noted that recreational facilities are allowed in all districts except Industrial.

Member Heckmann said that this application is all right, but any future plans will required detailed site plans. Member Mike Ingerson said that the Board needs to be sure they all agree that this proposal is a recreational facility as defined in the ordinance. There was more discussion on other events on the TILT property north side of Route 12E, which is zoned Marine Residential, but it was noted that the application applies only to the TILT property on the south side of 12E, and the discussion needed to stay within the parameters of the application.

A question was raised about whether the property was affected by the Scenic Protection Overlay District (SPO). It was thought that it did not, but it would be best to make sure with further investigation.

At **7:49 pm**, **MOTION** was made by Duane Hazelton, second by Dave Crandall, to open the public hearing. Motion was carried. There were no public comments. **MOTION** was made by Duane Hazelton, second by Therese Christensen (acting for Patrick Dewey), to close the public hearing. Motion was carried.

At **7:50 pm**, noting that this is a completed application, Chairman Rogers went through the short form SEQR. At **7:52 pm**, **MOTION** was made by Mike Ingerson, second by Dave Crandall, to declare this a negative declaration. Motion was carried.

At **8:02 pm**, **MOTION** was made by Mike Ingerson, second by Duane Hazelton, to approve the application with the following conditions:

1. TILT limits activities to permitted uses for AR District only
2. For significant improvements, such as new structures (with the exception of accessory buildings), TILT would have to return to the Board for site plan review.
3. TILT must meet Health Department regulations
4. The facility is limited to six (6) non-TILT activities per year

Aye: Rogers, Crandall, Heckmann, Ingerson, Christensen (acting for Dewey), Hazelton

Absent: Dewey

Nay: none

Abstain: Bach

8:04 — TILT — Village — 15370 County Route 3, Clayton, Agricultural and Rural Residential. To request a special use permit for a multi-use recreation trail.

TILT is the lead agency in finishing a multi-use trail from East Line Road straight through to LaFargeville. A special use permit is needed for this. Jake Tibbles did the presenting. They are proposing a small parking lot with some informational kiosks at one end of the trail, then run trail to the Trestle, the old railroad bed. The trail does not run through any wetlands, and it would be topped with gravel. The section at the Trestle would be built as a driveway but capped as a trail with gravel. When the trail is finished it will connect all the trails behind Heritage Heights. This is Phase 1 of the project. This is a non-motorized trail; ATVs are prohibited on all TILT trails between Clayton and LaFargeville.

At **8:11 pm, MOTION** was made by Duane Hazelton, second by Paul Heckmann to open the public hearing. Motion was carried. There were no public comments. **MOTION** was made by Duane Hazelton, second by Dave Crandall, to close the public hearing. Motion was carried.

Chairman Rogers read a letter from the County Planning Board, stating that there was no quorum at their meeting and they would not reconvene until after the expiration of time for such review, so the final decision would be left to the local board. The County Planning Board members had determined that the State DOT should be consulted for proper access to the parking lot. It was noted that this is a complete application.

At **8:12 pm, MOTION** was made by Duane Hazelton, second by Paul Heckmann, to approve the application as submitted.

Aye: Rogers, Crandall, Heckmann, Ingerson, Christensen (acting for Dewey), Hazelton, Bach

Absent: Dewey

Nay: none

Abstain: none

At **8:14 pm, MOTION** was made by Mike Ingerson, second by Therese Christensen (acting for Patrick Dewey), to declare this a negative declaration. Motion was carried.

8:15 pm — General Discussion for Ron Cooper — Town — North side of Route 12E. To address some public controversy about the work being done on a simple minor subdivision site.

Normally simple minor subdivision applications do not come before the Planning Board, but there have been several complaints from the neighbors and other citizens, primarily about the major disturbance of soil on the site. DEC has been called in and consulted. Mr. Cooper had a recent meeting with DEC and was given several recommendations, some of which he has already done, the rest of which he will be doing. Zoning Officer Ingerson said that when he had talked to the DEC, he was told that there would be **no repercussions** for Mr. Cooper as long as the soil wasn't disturbed from the crest down, plus all the ordered fixes were done. He further suggested that if Mr. Cooper complies with all the ordered fixes, that the Planning Board approve. The DEC will come out to inspect the property when they receive word from Mr. Cooper that the work is done.

There was a question about whether the ground had been properly stabilized. Mr. Cooper said that it had, that he had already put grass seed down on all affected areas.

A question was raised as to whether this property fell under the Scenic Protection Overlay. The pertinent part of the Town Ordinance was read, and it was determined that the property probably does not fall under the SPO because the SPO is exclusive of residential parcels an acre and under, and the DEC had determined that the property was an acre. However, two Board members strongly recommended that Zoning Officer Ingerson consult with the Town attorney, Joe Russell. Another strongly urged that there should be a site plan review because some of the property is visible from the road, thereby falling under a provision in the SPO.

Mr. Cooper expressed that there were two issues. One issue was the disturbance of earth, which was done to build a temporary access road, and that is now complete. The other issue was the fact that this is a simple minor subdivision, and he has met all the legal requirements for this. He is looking for a speedy resolution to this, since he already has one purchaser getting ready to build a house. That purchaser will have to deal with the dirt. Zoning Officer Ingerson said that the DEC's requirements of

Mr. Cooper do not affect the subdivision, but he would not sign the permit until he receives the okay from the DEC. It was noted that the new construction will need a Water Assessment and the short form SEQR.

The Board determined that the Town Attorney should be consulted about the situation. Zoning Officer Ingerson said that as soon as he received a response from Mr. Russell, he would send that response to everyone on the Board. Chairman Rogers read two letters that had been received concerning this issue. One letter expressed concerns about the potential proximity of newly installed septic systems to their well, and also potential erosion. The second letter was concerned with whether this really was a simple minor subdivision.

At **8:49 pm**, Chairman Rogers read a letter pertaining to the MSG-LLC application for the solar array. A representative from the State Historic Preservation Office (SHPO) said that the Planning Board would have to wait for notification from SHPO before making a final decision on this application.

9:01 pm — MSG-LLC, acting for Gerald Wetterhahn — Town — Wood Road and Co. Route 9, Clayton. To erect a solar array.

James Palumbo and [Peter McAuliffe?] did the presenting. They have talked to the state about the archeological concerns expressed at the last meeting. They have also made changes to the drawings, which have addressed the concerns with screenings. They tried to stick with native plant species, mixing both evergreens and deciduous (witch hazel and arrowroot). The screenings are to be used to break up the view of the array rather than fully block the view.

Addressing the concerns with the fencing, they have changed the plans to a black vinyl fence 7 feet high, and lowered the ground clearance to 7 inches. On the St. Lawrence Road (County Route 9) they are proposing a curb cut, for which they will need a County permit. They are hoping to keep the poles apart from the landowner's pastures.

There are several phases going on simultaneously. They anticipate 3-4 months maximum for construction.

Concerning the archeological issues, they have contacted the state Office of Parks and Historic Recreation and ascertained that they will have to do 1A and 1B studies. This is a 2-part process, split between the Planning Board and SHPO. Once the Planning Board gives approval, then the DEC takes over.

Part of this site was designated as sacred ground by the indigenous people, dating back to the 1500s or 1600s. The tribe came through the area on a seasonal basis, establishing a temporary village. This will need to be studied in more depth; MSG-LLC is reaching out to different archeologists to find one available for the study. They will also be meeting with the Onondaga Nation. The Nation will not want anything covering any burial grounds. Based on the archeologist's findings, MSG-LLC may have to alter the plans a little bit, using generally the same area but making the shape more recto-linear.

MSG-LLC is looking for approval on the condition that the site passes an archeological study. They won't start building until the archeological issue is cleared. They are also asking for a more informal and expedited process of approval should they have to change the siting, so that they don't have to go through the whole approval process again.

At **9:26 pm, MOTION** was made by Duane Hazelton, second by Fred Bach, to close the public hearing. Motion was carried. Chairman Rogers explained the long form of SEQR, then the Board went through it. Member Crandall asserted that there is very little impact on the viewshed, and he will approve the application because the array will not affect the view unless within 100 yards.

At **9:42 pm, MOTION** was made by Fred Bach, second by Therese Christensen (acting for Patrick Dewey), to accept the full environmental assessment. Motion was carried.

At **9:43 pm, MOTION** was made by Dave Crandall, second by Mike Ingerson, to approve the application with the condition that if SHPO's 1A-1B study finds a negative finding, additional review for approval will be required.

Aye: Rogers, Crandall, Heckmann, Ingerson, Christensen (acting for Dewey), Hazelton, Bach

Absent: Dewey

Nay: none

Abstain: none

NEW BUSINESS

At **9:50 pm**, Zoning Officer Ingerson informed the Board that while Zenda Farms (owned by TILT) was once an actual farm, by zoning it has lost its conformity as a farm. If TILT began growing the necessary for making and selling their own beer or wine at any of the non-TILT events, the NYS Department of Agriculture and Markets will give them no protection should issues arise. He further informed the Board that a wedding had happened on the Zenda property last weekend, contrary to allowed usage in that district. He has sent TILT a letter explaining the issue and warning them that if it happens again they will be ticketed and taken to court. Zoning Officer Ingerson stressed that he doesn't want to stop all activities, but he wants to make sure that everything is done safely and legally. Concerning TILT's request to change their Marine Residential zoning district to Agricultural and Rural Residential, the town attorney thought it would not be a good idea to go directly from the most restrictive district to the least restrictive. Zoning Office Ingerson suggested the possibility of making it a floating district.

At **10:01 pm, MOTION** was made by Duane Hazelton, second by Therese Christensen (acting for Patrick Dewey), to adjourn the meeting. Motion was carried.

Respectfully Submitted,

Susan Kenney, Recording Clerk