

APPROVED MINUTES
JOINT TOWN/VILLAGE OF CLAYTON
PLANNING BOARD
NOVEMBER 7, 2019

Board Members Present: Chairman Doug Rogers, Dave Crandall, Therese Christensen, Fred Bach, Paul Heckmann, Duane Hazelton, alternate Kevin Patchen (acting for Patrick Dewey).

Absent: Patrick Dewey

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

Townpeople Present: James Lattier, Chris Dillenback, Jack Stopper, Mary Zovistoski, James Kenney, Rebecca Dahl, Jake Tibbles, Janet Burrows, Lance Peterson

The meeting was called to order at 7:00 pm by Chairman Doug Rogers with the salute to the flag. Since the last meeting in August, Therese Christensen has been appointed as a full member of the Board. Due to the absence of Patrick Dewey, alternate Kevin Patchen will be acting in his stead.

It was noted that the July 11 minutes had not been officially approved (see August 6, 2019 minutes) because some questions still remained. The questions have been dealt with, so at 7:00 pm, **MOTION** was made by Therese Christensen, second by David Crandall, to approve the July minutes as submitted. Motion was passed with all in favor. The Board reviewed the August 6 minutes and did not make any corrections. At 7:01 pm, **MOTION** was made by Fred Bach, second by Duane Hazelton, to approve the August minutes as submitted. Motion was passed with all in favor.

COMMUNICATIONS

At 7:03 pm, Chairman Rogers declared that the Town had now codified the Town Laws and Regulations in a different format than the current Zoning Ordinance, although the content has not changed. The new version, which includes the new solar law, was handed out to each member. Chairman Rogers also briefly went over the agenda for tonight's meeting, noting that he and Member Dave Crandall had been taken on a tour of Zenda Farms (TILT), guided by Rebecca Dahl. At this time Member Fred Bach recused himself from voting on the TILT application.

Kevin Patchen was welcomed as a new alternate. He is officially sworn in, so he will be acting in the stead of Patrick Dewey.

7:07 pm – TILT – Zenda Farms, Rte. 12, Clayton – site plan review for constructing recreational facility on Zenda property on north side of Rte. 12.

Rebecca Dahl and Jake Tibbles did the presenting. TILT wishes to use two existing buildings for a recreational facility on the Zenda Farms property. Zenda Farms has already been used for a number of community activities, such as a community garden and an annual community picnic, but would like to improve the usefulness of the property by adding a recreational facility. This would be open to up to six non-TILT events per year: e.g., weddings, educational activities, small gatherings, but not wedding

receptions. Ms. Dahl presented their new site plan, which includes designated parking areas on pavement, gravel, or grass as needed. She already has an office in the creamery in her position as Zenda Farms Program Director. The part of Zenda Farms on the northern side of Rte. 12 is in the Marine-Residential District.

Chairman Rogers noted that there is an inconsistency in the Zoning Ordinance. Recreational facilities are specifically mentioned as being permitted in certain districts, although Marine-Residential (M-R) is not one of them with a specific mention. However the ordinance also says that recreational facilities are allowed in all districts but Industrial Development (ID).

At 7:14 pm, **MOTION** was made by Duane Hazelton, second by Dave Crandall, to open the public hearing. Motion was passed with all in favor. Chairman Rogers read the Jefferson County Planning Board response to the proposed site plan. The County stated there was no significant county-wide impact. Zenda Farms is in a NYS-certified agricultural district, so an agricultural data statement is required; this has already been done by Zoning Officer Ingerson. The County also had some advisory comments, which are only meant to assist the local Board in making its own decision. These comments included ascertaining if the proposed uses meet the intent of town zoning; defining more clearly handicapped accommodations; and considering if the proposed parking meets the ordinance's requirements.

Lance Peterson, Supervisor for the Town of Clayton, wanted to know if there was a definition in the ordinance for recreational facilities. He noted that the Zenda proposals seem innocuous enough, but there might be issues with how other people may interpret the term. Chairman Rogers read the definition of recreational facilities from the ordinance.

Fred Bach said that the Board needs to make site-specific requirements. In their decision, the Board could put in a stipulation that if the ownership of the property changes, the new owner would have to come back to the Board for anything other than what is in this particular application. Mr. Tibbles, speaking for TILT, said that they would certainly come back to the Board if they wished to add anything other than what is in this application.

Dave Crandall wanted to know if there were specific requests in the application, and if so, said these need to be strictly defined. He also asked if there was any checklist for recreational facilities. Chairman Rogers said that Clayton does not, but other municipalities do have checklists.

Janet Burrows cautioned concerning restrictive ideas and said that TILT should certainly come back if more is desired.

Mr. Bach asked if these six events would need special use permits. Mr. Peterson said not at this time. Chairman Rogers added that only a site plan review is needed at this time. Mr. Peterson asked whether fundraising events would be allowed at the new facility. The answer was not at this time; these types of events are not acceptable to the Board.

Jim Kenney, chairman of the Zoning Board of Appeals (ZBA) noted that his Board had earlier denied a use variance to TILT for temporarily moving their offices to Zenda while their in-town office is being renovated. One reason for the denial was that for use variances, by state law four criteria must be met to grant the use variance, and TILT did not meet one of those criteria. Another reason for the denial was that there is nothing in the ordinance to cover non-profit organizations, so there is no clear guidance on

how to deal with them. He noted that this needs to be considered, and the appropriate changes made. The ZBA is looking to make some recommendations concerning this to the Planning Board.

At 7:29 pm, **MOTION** was made by Duane Hazelton, second by Paul Heckmann, to close the public hearing. Motion was passed with all in favor. Chairman Rogers noted that the next step was to go through the environmental short form. On this form there are options only for little/no impact and moderate/large impact. If the Board chooses moderate/large impact, the Board will then need to go over mitigation actions; for little/no impact, no further mitigation is necessary. Chairman Rogers went through the short form; **the site use plan review is now complete.**

At 7:32 pm, **MOTION** was made by Therese Christensen, second by Dave Crandall, to declare this a negative declaration. Motion was passed with all in favor. The Board then discussed possible conditions to add to an approval of the application. Suggestions included forbidding the use of any building until a Certification of Occupancy or Compliance is obtained; setting a specific shutdown time for all events; requiring TILT return to the Board if there are any changes. Mr. Tibbles was asked if they were looking into seasonal bathroom facilities; he said they would like to put in permanent facilities at some point and are consulting with an engineer with possibly putting bathroom facilities in the barn. Mr. Crandall asked that TILT provide a list of non-TILT events that will be happening at the site; Mr. Hazelton said that TILT also needs to present ideas for possible future activities. It was noted that the definition of recreational facilities needs to be clarified, and also that non-profit organizations need to be defined and included in the ordinance. Chairman Rogers noted that there are some details in the comprehensive plan concerning recreational facilities.

At 7:46 pm, **MOTION** was made by Duane Hazelton, second by Dave Crandall, to approve the application with the following conditions:

1. Buildings must be brought up to code and issued a Certificate of Occupancy or Compliance before they are used.
2. If anything changes in the scope of use or in ownership, TILT or the new owners must come back to the Board for review and approval.
3. There will be a limit of six non-TILT events at the facility.
4. The shut-down time for all events is 10:00 pm.
5. No wedding receptions are allowed.

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

Nay: none

Abstain: Bach (recused self)

Absent: Dewey

7:57 pm – pre-application hearing for James Lattier, proposing a recreational facility in his barn at Pier 65, a marina in the Marine-Development (M-D) district.

James Lattier did the presenting. He said that he has owned this marina for four years and gone through two years of flooding; he is looking for another way to get income. He is proposing to set up the barn on the property to be used for events during the summer; it is used for boat storage in the winter. The barn is 120 feet by 32 feet, with plenty of parking already, and a great view out to the river. The property has approximately 430 feet of frontage. He plans to build a deck on one end. He plans to put time limits on all events. He has not yet talked to the only neighbor within 200 feet, Kelly Cantwell, but will do so. If there are neighbors within 200 feet, buffers must be placed between the two properties.

He rents part of the barn as a residence; the renter has no issues with the proposal. There are some mobile homes on the property but these are not used year round. He would like to rent the barn from Memorial Day to Labor Day, mostly for parties, with no plans for any large-scale concerts.

Mr. Peterson asked if moving the proposed deck to the other end of the barn would mitigate the 200-foot restriction. Board members Rogers and Crandall noted that the main issues they see are the noise and signage. Mr. Lattier noted that his current business already makes noise, and he has not received complaints. In answer to another question, he noted that he is not currently on the village sewer system. He intends on putting in bathrooms, and will need to consult with the health department on the requirements for that. If necessary, he will use portable toilets until the sewer comes to his property.

Mr. Crandall suggested that he talk to an acoustics engineer on how to mitigate noise. Mr. Bach saw an issue in this proposal setting a precedent. Mr. Bach said that for the actual hearing, Mr. Lattier should get full measurements of the barn and the property; the more details included, the better. Mr. Lattier is getting an engineer to do a site plan. It was recommended that he talk to his neighbors to get a sense of how they feel about the proposal; he should reach out to neighbors even beyond the 500-foot radius within which the Zoning Officer sends out official notification of an upcoming hearing. With the need to get a plan together and sent to the County Planning Board, this application might not actually reach the Clayton Planning Board until January.

NEW BUSINESS

At 8:35 pm, Chairman Rogers noted that he has not yet received a legal review of the proposed PDD legislation for the Town. The Village already has a PDD. The need for this has been triggered by a potential development that would overlap both Town and Village. There was some discussion of the proposed PDD. Zoning Officer Ingerson brought up the point of checking whether the Village sewer system can handle extra development. This PDD has been sent to the ZBA, Town Board, and Village Board for review and comments. It was noted that any developer would have to come in with very detailed plans.

Mr. Heckmann noted that in the recent issue of Planning News, he saw that Planning Board members in other municipalities get more money than those here in Clayton.

At 8:52 pm, **MOTION** was made by Therese Christensen, second by Duane Hazelton, to adjourn the meeting. Motion was carried with all in favor.

Respectfully submitted:

Susan Kenney, Recording Clerk