

**APPROVED
JOINT TOWN / VILLAGE OF CLAYTON
ZONING BOARD OF APPEALS
February 18, 2013**

The meeting opened at 7:01 p.m. with the following **members present:** Chairman Jim Kenney, Vice Chairman Harold Carpenter, Les Drake, Dale Maclaughlin, Don Bell, Alternate Patty LeConey. Absent: Alternate Ann Aubertine.

Also present: CEO Richard Ingerson, Recording Clerk Sue Kenney.

Townspesople present: William C. Dertinger, Josh Henry, Les Henry, Brandon DeRoshe, Andrew Greene, Augusta Withington, Rob Campany.

The minutes for the January 2013 meeting were reviewed. No corrections were made. **MOTION** was made by Dale Maclaughlin, 2nd by Les Drake, to approve the minutes as submitted. Motion was carried.

7:03 --- Town --- Louis Maier, 16316 Grenell Island, Clayton, Tax Map # 12.11-2-75, in the Marine-Residential District. Request for Area Variance for a non-conforming house.

Josh Maier, brother of the applicant, did the presenting. The proposed project is to rebuild a deck on the rear of the house, tied to the existing deck. The applicant was unaware that a variance was required to replace or improve an existing structure. It is already framed but not yet decked. Since the house is right on the property line, it is perforce non-conforming, and an area variance is needed: 12 feet in the rear yard, and an additional 15 feet on the east side yard.

CEO Ingerson had talked to two of the neighbors of the property, neither of whom had any problems with the project.

At 7:08, **MOTION** was made by Les Drake, 2nd by Dale Maclaughlin, to find this a Type II action. Motion was carried. **MOTION** was made by Dale Maclaughlin, 2nd by Don Bell, to close the public hearing. Motion was carried.

Chairman Kenney did the finding of fact. At 7:19, **MOTION** was made by Les Drake, 2nd by Dale Maclaughlin, to approve the application as amended, to include the 15 ft. east side yard variance.

Aye: Kenney, Drake, Bell, Maclaughlin, Carpenter.

Nay: none Abstain: none Absent: none

7:22 --- Town --- Augusta Withington, Fourth Coast Realty LLC, NYS Route 12 east of the Village of Clayton, Tax Map # 20.11-2-12.13, in the Agricultural-Rural Residential District. Requesting an Area Variance to erect a structure taller than allowed by the Town zoning ordinance, and a Sign Variance of 24 square feet.

This is a re-opening of the public hearing from January 21, 2013. Augusta Withington did the presenting. Fourth Coast Realty LLC is moving their offices from the currently very cramped conditions to a new building on the property in question. To maintain the rustic appearance of other

buildings in the neighborhood, they are asking for an 8-foot 7-inch height variance. It was noted that in the zoning ordinance, cupolas, ventilators, etc., are not counted, so the height is measured to the ridgeline of the structure. Ms. Withington owns to the top of the ridge, so there should be no problem looking over the top of the building once constructed.

Chairman Kenney read a letter received from the Jefferson County Department of Planning. The County sees no significant county-wide impact of this project, but noted that a NYS work permit was required, and recommended that Fourth Coast provide plans for landscaping, parking, etc., and ensure that access easement was provided.

Concerning the requested sign variance, currently the sign ordinance only allows 8 square feet, while Fourth Coast is asking for a 32-square-foot sign. Not only is a revised sign ordinance expected to be passed in the near future, which would allow such a sign size, but there are other nearby businesses which have had special site plan reviews allowing up to 32 square feet in the size of their signs. The sign will be located on Route 12, near the phone pole at the head of the driveway.

At the previous meeting, the artesian well on the property had been an issue of contention from some of the neighbors, and the Board had requested further clarification. None of those who raised that issue were present at this meeting, and it was further noted that the height variance was not connected at all with water rights.

At 7:36 **MOTION** was made by Harold Carpenter, 2nd by Don Bell, to declare this a Type II action. Motion was carried. **MOTION** was made by Les Drake, 2nd by Don Bell, to close the public hearing. Motion was carried.

Chairman Kenney did the finding of fact. At 7:48 **MOTION** was made by Dale Maclaughlin, 2nd by Les Drake, to approve both variances found in the application.

Aye: Kenney, Drake, Bell, Maclaughlin, Carpenter.

Nay: none Abstain: none Absent: none

7:52 --- Town --- William Dertinger, 38000 Ledgewood Lane, Clayton, Tax map # 19.19-1-2.8, in the Marine-Residential District. Requesting Area Variance to erect a deck on a non-conforming structure.

William Dertinger did the presenting. He is requesting an area variance to erect a deck closer to the front yard property line than is allowed in the zoning ordinance. He actually built the deck 2 years ago, not realizing that permission or a variance was necessary. The ground on his property is not at all level, and the deck basically covers the whole yard. The deck is 36 feet from the river, according to the property survey, but a steep cliff leads down to the river, and flooding from high water is highly unlikely. The deck could not be put on the side of the house without cutting down some very large trees. The applicant said that he had hired a contractor to build his house, and if he had thought about it more at the time, would have put the house further back on the property to allow room for a deck or porch.

There was some discussion about how to look at this application. Ideally it should be looked at as if the deck were not already there, but realistically that cannot be done. The deck is already there,

erected without a permit. Should the Board consider setting a precedent here? It was decided that each application of this sort must be judged on its individual merits.

At 8:08 **MOTION** was made by Les Drake, 2nd by Don Bell, to declare this a Type II action. Motion was carried. **MOTION** was made by Harold Carpenter, 2nd by Dale Maclaughlin, to close the public hearing. Motion was carried.

Chairman Kenney did the finding of fact. It was noted that the application specifies a 540-square-foot deck, but actually the deck is 640 square feet. At 8:17, **MOTION** was made by Les Drake, 2nd by Harold Carpenter, to approve the application as amended.

Aye: Kenney, Drake, Bell, Maclaughlin, Carpenter.
Nay: none Abstain: none Absent: none

8:20 --- Town --- Charles Spaulding, 42767 Murray Island, Clayton, Tax Map #12.11-1-16, in the Marine-Residential District. Requesting an Area Variance to extend his non-conforming house.

Andy Greene, contractor for Mr. Spaulding, did the presenting. Mr. Spaulding wishes to add an addition at the side of the house which would be 21 feet away from the high water mark. The variance called for is 55 feet, since the house itself is right on the water; measurement is from the entire structure, not just the planned addition. The addition would tie in to the existing roof and be built around the existing deck. The existing stairs would need to be moved. There is no other place on the property to place the addition since the other side would bring it too close to the side property line, and the ridge at the rear of the house is much too steep. There would be an additional bathroom in the addition, but would not place any undue strain on the upgraded septic system.

At 8:29, **MOTION** was made by Dale Maclaughlin, 2nd by Harold Carpenter, to declare this a Type II action. Motion was carried. **MOTION** was made by Les Drake, 2nd by Dale Maclaughlin, to close the public hearing. Motion was carried.

Chairman Kenney did the finding of fact. At 8:37 **MOTION** was made by Dale Maclaughlin, 2nd by Les Drake, to approve the application as submitted.

Aye: Kenney, Drake, Bell, Maclaughlin, Carpenter.
Nay: none Abstain: none Absent: none

At 8:39 **MOTION** was made by Les Drake, 2nd by Don Bell, to adjourn the meeting. Motion was carried.

*Respectfully Submitted,
Susan Kenney, Recording Clerk*