

APPROVED
JOINT TOWN / VILLAGE OF CLAYTON
ZONING BOARD OF APPEALS
August 19, 2013

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

Also Present: ZEO Henry LaClair, CEO Richard Ingerson, Recording Clerk Susan Kenney

Townpeople Present: Curtis Byington, Peter Mellon, Golda Mellon, Philip Marra, Yuvon Marra, Keith George, Will Salisbury, Bill Grater, Anthony Malavenda, Bill Ferrado

The minutes from the regular July 15 meeting were reviewed. A few minor corrections were noted. **MOTION** was made by Harold Carpenter, 2nd by Dale Maclaughlin, to approve the minutes as amended. Motion was carried.

7:04 --- Town --- Robert K. George, 16760 Mason Point Lane, Clayton, Tax Map # 12.20-1-31, in the Marine-Residential District. Area Variance to site a storage building closer to property lines than allowed by zoning ordinance.

Mr. George did the presenting. He wishes to install a small storage shed, from North Country Sheds, behind his carport. Because of the lay of the land, where he hopes to place it would be very close to the side and back property lines. It will be about 6-7 feet high and will match the cottage in color and style. Immediately behind his cottage is a wooded, rocky hill, so the shed shouldn't obstruct any views. The dimensions will be 6x8; as far as he knows, that includes any overhanging eaves. He noted that the adjacent property owners have sheds on their properties.

No calls or letters have been received concerning this variance. Chairman Kenney noted that he had talked to one of the immediate neighbors, who had no problems with the shed itself, but was concerned that it would be too close to their property line. She did not want it to go over their line. Alternate placements of the shed on Mr. George's property were discussed. Since he enters his carport from the front, he did not want the shed in front to block the carport or obstruct his view. To put the shed between the carport and the house would block his front door; to put it in the corner by the well would entail cutting back bushes and would possibly also block the neighbor's view. Mr. George stated that he didn't think his neighbors would be all right with the shed in front of the house.

At 7:28, **MOTION** was made by Harold Carpenter, 2nd by Les Drake, to adjourn the public hearing until September 16, 2013, at 7 pm or shortly thereafter, in order for Mr. George to get more information from his neighbors concerning their preferences for placement of the shed.

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

7:30 --- Town --- William Salisbury, 43198 Point Angiers, Clayton, Tax Map # 12.00-1-16.3, in the Marine-Residential District. Area variance to site a storage building closer to front property line than allowed by zoning ordinance.

Mr. Salisbury did the presenting. He had constructed a storage building on another site for a client, but the client was dissatisfied, so he had to remove the shed from the other property, and thought to replace his own shed. The replacement shed is bigger than the old shed and won't fit on the former foundation. Eventually he would like to put a small deck on the side of the shed for better access. It would be up against a hill. The neighbors on either side are several hundred feet away. If allowed to keep the new shed in the proposed location, he would tear down the old one.

At 7:34, **MOTION** was made by Les Drake, 2nd by Dale Maclaughlin, to find 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 agreed that the Board would make the removal of the old shed a condition of the variance. At 7:41, **MOTION** was made by Dale Maclaughlin, 2nd by Les Drake, to approve the variance with the condition that the existing shed be removed by May 1, 2014.

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

7:40 --- Town --- Peter & Golda Mellon, 41041 Smithering Heights Road, Clayton, Tax Map # 12.20-1-62, in the Marine-Residential District. Area Variance to extend a nonconforming garage that is closer to the front property line than allowed by zoning ordinance.

Mr. Mellon did the presenting. They wish to extend their garage with a carport. The garage is nonconforming, being closer to the front line than allowed by the ordinance. The carport, though it would be in line with the garage front, would actually be further from the road because of the way the road curves in front of their house. The carport would be erected over the blacktop which is currently there.

At 7:47 **MOTION** was made by Don Bell, 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 7:53, **MOTION** was made by Dale Maclaughlin, 2nd by Harold Carpenter, to approve the application as submitted.

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

7:53 --- Town --- Dodge Memorial Community Center, Inc., 11512 North Shore Road, Clayton, Tax Map # 11.11-1-33, in the Agricultural-Island Residential District. Area Variance to site storage building closer to front property line than allowed by zoning ordinance.

Mr. Philip Marra did the presenting. The Community Center needs more room for tables, chairs, and other storage. They plan to put up a 12x20 storage building, with the same exterior look as the other building. It shouldn't obstruct anything. It can't be put on the south side of the building because of the septic system and leach field; the south side is also the place for parking and gathering. The proposed site for the building is in a corner of the L-shaped main building and would not come any closer to the road than the exterior walls of the hall. There have been no calls nor letters, nor does Mr. Marra know of any opposition.

At 7:59, **MOTION** was made by Don Bell, 2nd by Harold Carpenter, to declare this a Type II action. Motion was carried. **MOTION** was made by Dale Maclaughlin, 2nd by Les Drake, to close the public hearing. Motion was carried.

Chairman Kenney did the finding of fact. At 8:07 **MOTION** was made by Les Drake, 2nd by Dale Maclaughlin, to approve the application as submitted.

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

8:09 --- Village --- Eric Gregware, Bartlett Point Road, Clayton, Tax Map # 20.45-2-15.46, in the Resort-Single Family Residential District. Area Variance to erect a house closer to the side yard property line than allowed by local zoning law.

Mr. Bill Grater, engineer, did the presenting. The Gregwares' lot is of uneven shape and tapers; to meet the side setbacks, the planned house would have to be pushed forward, which would make it not align with the other houses in the neighborhood, nor would it meet the front yard setback. Between the Gregwares' lot and the lot to the west is an access road, which is nonbuildable; the current plan conforms to the intent of the ordinance by keeping a requisite distance away from the neighbors' house. On the east is the Constantinos' lot; the Constantinos received a variance in July 2013. Mr. Gregware and Mr. Constantino had consulted with each other and with the engineer to come up with the best possible solution to locating their proposed homes considering the odd sizes and shapes of their lots.

A question was raised about the date of the subdivision. It was about 1 ½ to 2 years ago, and did not go to the planning board at the time because it was in the village and met all requirements.

Mr. Curtis Byington spoke from the audience. He lives 2 doors down; his sister and brother-in-law, the Malavendas, live in the house immediately west of the Gregware property; he has power of attorney for his sister. He was concerned with potential damage to the access road between the Malavendas and Gregware: the incline is very steep and he had to put 10 tons of gravel on the road to make it accessible. It is also very narrow, and he was concerned with where snow would be pushed in the winter.

Mr. Gregware stated that he did not intend to use that access road at all; he plans to build a driveway from Farm Road, coming through the back of his property, so that shouldn't affect the other access road at all. There is already an existing road and easement from Farm Rd., and it also is not as steep. Mr. Gregware wants to keep the house plan as is in agreement with Mr. Constantino. If he moved his house forward, it would cut off the Constantinos' view.

Mr. Malavenda, the neighbor on the west, also spoke. He stated that he now has no problems with the plan since the driveway would be coming in the backside and would not affect his access road. The Board agreed that bringing in the Gregwares' driveway from the southwest could easily be made a condition of approval.

Mr. Byington also brought up an issue with water drainage. When the sewer was put in, an 8-inch culvert was removed but never replaced, and now there is a lot of washout. He was referred to the Village Board; this issue is not in the purview of the Zoning Board of Appeals.

At 8:33, **MOTION** was made by Les Drake, 2nd by Harold Carpenter, to declare this a Type II action. Motion was carried. **MOTION** was made by Dale Maclaughlin, 2nd by Harold Carpenter, to close the public hearing. Motion was carried.

Chairman Kenney did the finding of fact. At 8:45 **MOTION** was made by Les Drake, 2nd by Don Bell, to approve the application with the condition that motor vehicle access to the property comes from the southwest portion of the lot and will meet all zoning and other applicable ordinances.

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

8:50 --- Town --- Robert Hurley, 17063 May Irwin Road, Clayton, Tax Map # 12.20-1-69.1, in the Marine-Residential District. Area Variance to site decks closer to the front property line than allowed in the zoning ordinance.

CEO Ingerson did the presenting. Mr. Hurley died shortly after submitting his application, and the family wishes to proceed with the application in order to sell the property. The property was bought at tax auction in 2000; the setbacks on the original plan were not correct. A front deck had been completed, and the back deck lacked a railing when a work stoppage was ordered. There are no stairs on the house at present; it will need stairs to be sold. There are no near neighbors, nor have any complaints or calls been received.

At 8:54 **MOTION** was made by Harold Carpenter, 2nd by Dale Maclaughlin, to declare 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 9:00 **MOTION** was made by Dale Maclaughlin, 2nd by Harold Carpenter, to approve the application as submitted.

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

At 9:01 **MOTION** was made by Don Bell, 2nd by Dale Maclaughlin, to adjourn the meeting. Motion was carried.

*Respectfully submitted,
Susan Kenney, Recording Clerk*