

APPROVED
JOINT TOWN / VILLAGE OF CLAYTON
ZONING BOARD OF APPEALS
September 16, 2013

The meeting opened at 7 p.m. with the following **members present:** Chairman Jim Kenney, Don Bell, Dale Maclaughlin, Harold Carpenter, Alternates Pat LeConey (sitting in for Les Drake) and Ann Aubertine. **Absent:** Les Drake.

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

Townspople Present: Larry Aubertine, Robert George, Jeremy Cohen, Kevin Topa, Marsha R. Topa, Erica Cohen, Clifford Rose, Lars Hauck, Jerry Ingerson

The minutes from the August 19 meeting were reviewed, with one addition noted. **MOTION** was made by Dale Maclaughlin, 2nd by Pat LeConey (sitting in for Les Drake), to approve the minutes as amended. Motion was carried.

7:04 --- Town --- Resume hearing for 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.

This hearing was resumed from the last meeting. Mr. George did the presenting. He had discussed the project further with his neighbors and had a letter, signed by the neighbors, signifying that they were all amenable to the project. He had also sent a copy of this, with some other information, via email to the members of the board. In his accompanying letter he had further pointed out that on page 58 of the town zoning ordinance, it was specifically stated that in his district, sheds were not allowed in front yards. He noted that he would be willing to make the shed one foot narrower, but was assured that would not be necessary. CEO Ingerson, in response to a question, noted that there was nothing in the fire code pertaining to a structure of this size.

At 7:10 **MOTION** was made by Don Bell, 2nd by Dale Maclaughlin, to declare this a Type II action. Motion was carried. **MOTION** was made by Dale Maclaughlin, 2nd by Pat LeConey (sitting in for Les Drake) to close the public hearing. Motion was carried.

Chairman Kenney did the finding of fact. At 7:20, **MOTION** was made by Dale Maclaughlin, 2nd by Pat LeConey, to approve the application as submitted.

Aye: Kenney, Bell, LeConey (for Drake), Maclaughlin, Carpenter
Nay: none Abstain: none Absent: Drake

7:23--- Village --- Gerald F. Ingerson, 125 State St., Clayton, Tax Map # 20.47-4-29, in the Industrial District. Sign variance to erect signage larger than allowed.

Mr. Ingerson did the presenting. He has the potential for multiple businesses at the State St. location, and is looking for each business to have its own sign on the posts next to the street.

There is currently one business at the site, with a sign that satisfies the ordinance; any further signage would violate the present ordinance. A previous business at the site had had a nonconforming sign up, but when the business moved, the sign was taken, and village ordinance says that any nonconforming sign taken down cannot be replaced without a variance.

Mr. Ingerson said that the planned sign would be similar to the sign currently there; it would not be fluorescent, but would probably have a small light from dusk to about 11 p.m., either uplit or downlit, with a yellow bulb. The existing sign measures 2x6 ft., or 12 sq. ft., which is what is called for in current village law; the previous sign had been 3x6 ft. Mr. Ingerson would be satisfied with keeping the signs at 12 sq. ft. (2x6, to fit into the existing framework).

There is a potential for three businesses at this site, so the question was raised as to whether two variances would be needed; the present application asks for only one. It was agreed that the application should be amended to include two additional 2x6 signs, rather than just one. It was also specified that the lighting should be low wattage and directed right at the sign; downcast lighting seems to work better, so that the lights don't interfere with traffic.

At 7:39, because a sign variance is an unlisted action (neither Type I nor Type II), Chairman Kenney went through the short form SEQR. At 7:42, **MOTION** was made by Don Bell, 2nd by Dale Maclaughlin, to accept the SEQR determination of no significant adverse environmental impact.

Aye: Kenney, Bell, LeConey (for Drake), Maclaughlin, Carpenter
Nay: none Abstain: none Absent: Drake

At 7:45 **MOTION** was made by Don Bell, 2nd by Harold Carpenter, to close the public hearing. Motion was carried.

Chairman Kenney did the finding of fact. At 7:52, **MOTION** was made by Dale Maclaughlin, 2nd by Harold Carpenter, to approve the amended application with the condition that the light be downpointing in a way that will not distract drivers on the adjacent road.

Aye: Kenney, Bell, LeConey (for Drake), Maclaughlin, Carpenter
Nay: none Abstain: none Absent: Drake

7:59 --- Village --- Kevin & Marsha Topa, 529 Merrick St., Clayton, Tax Map # 20.47-2-13, in the Neighborhood-Residential District. Variance to erect a garage closer to property lines than is allowed.

Mr. and Mrs. Topa did the presenting. They plan to take down the current shed, measuring 12x16 ft., about 20 ft. high, and 4.5 ft. from the property line, with nothing behind it. The planned garage would measure 40x20 ft. and would be 5 ft. from the back and side property lines, measuring from the eaves. With a height requirement in the village, an estimate was made of a maximum of 21 ft. for height. It was explained that according to the village ordinance, when the building height exceeds 15 ft., 1 foot must be added to the setback for every extra foot of height. These calculations are already taken into account in the application. The second story

will be for storage because there is little storage space in the house itself, and only a crawl space for a basement. It will not be used as living quarters.

There were no letters or calls concerning this application, but a neighbor, Larry Aubertine, spoke at the meeting and noted that several of the neighbors have garages of the same approximate height as the one planned by the Topas. Other neighbors have indicated their approval of the project.

At 8:10 **MOTION** was made by Pat LeConey (sitting in for Les Drake), 2nd by Don Bell, to declare this a Type II action. Motion was carried. **MOTION** was made by Don Bell, 2nd by Pat LeConey, to close the public hearing. Motion was carried.

Chairman Kenney did the finding of fact. At 8:16 **MOTION** was made by Dale Maclaughlin, 2nd by Pat LeConey (sitting in for Les Drake) to approve the application as submitted.

Aye: Kenney, Bell, LeConey (for Drake), Maclaughlin, Carpenter
Nay: none Abstain: none Absent: Drake

8:20 --- Village --- Jeremy & Erica Cohen, 521 Merrick St., Clayton, Tax Map # 20.47-2-12, in the Neighborhood-Residential District. Variance to extend a nonconforming garage that is closer to property lines than is allowed.

Mr. Rose, builder for the Cohens, did the presenting. The planned extension will be coming off the side of the garage and will maintain the same distance from the back property line. The current garage is too close to both the side and back property lines.

A letter was read from Ms. Susie O'Neill. Her property touches the Cohens' property in the back. Overall she has a favorable opinion of the project but does have some specific concerns. (1) Her lot is lower than the Cohens' lot, and she already has a problem with drainage; she wanted mitigation if the garage extension worsened her drainage problems. (2) There is some dispute as to the location of the rear property line, and she asked that the exact line be determined. (3) She asked that if fencing is erected, that it be kept free from debris, etc.

It was noted that there is nothing in the zoning law concerning the distance of a fence from the property line. Mr. Rose noted that he had moved some wood on the corner of the two lots and had found the stake marking the corner; and by using a mason line he had verified the property line as shown on the plan. The Board could make approval of the application contingent upon the determination of the exact location of the rear property line. Mr. Rose and the Cohens were encouraged to leave the strings up on the line so that Ms. O'Neill can check it out.

Mr. Rose and the Cohens were exhorted to make sure that the addition is precisely in line with the current structure. It was noted that the existing garage is not exactly parallel to the property line. Part of that problem will be alleviated by the fact that the addition walls will be even with the existing walls, not with the existing eaves; nor will the addition have eaves. A suggestion was made that an eavestrough be added to direct drainage away from Ms. O'Neill's lot.

At 8:43 **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 Pat LeConey (sitting in for Les Drake) to close the public hearing. Motion was carried.

Chairman Kenney did the finding of fact. At 8:52 **MOTION** was made by Dale Maclaughlin, 2nd by Pat LeConey (sitting in for Les Drake), to approve the application with the understanding that (1) the rear wall of the addition will be in line with the rear wall of the current structure, and (2) the final measurements be based on the agreed location of the rear property line.

Aye: Kenney, Bell, LeConey (for Drake), Maclaughlin, Carpenter
Nay: none Abstain: none Absent: Drake

At 8:57 **MOTION** was made by Harold Carpenter, 2nd by Don Bell, to adjourn the meeting. Motion was carried.

*Respectfully Submitted,
Susan Kenney, Recording Clerk*