

APPROVED
JOINT TOWN / VILLAGE OF CLAYTON
ZONING BOARD OF APPEALS
March 17, 2014

The meeting opened at 7:00 p.m. with the following **members present**: Chairman Jim Kenney, Dale Maclaughlin, Harold Carpenter, Les Drake, Don Bell, and Alternate Ann Aubertine.

Others Present: ZEO Henry LaClair, CEO Richard Ingerson, Kim Johnston, Recording Clerk Sue Kenney

Townspople Present: Leah Cervantez, Andrew Patch, Brian Jones, Larry Aubertine, Steve Taylor, Steve Curtis, Mary Zovistoski, Pam McDowell

The minutes from the February 17, 2014, meeting were reviewed, and corrections made.

MOTION was made by Don Bell, 2nd by Dale Maclaughlin, to accept the minutes as amended. Motion was carried.

7:03 --- Town --- Gary O. McElfresh, 16463 Grenell Island, Clayton, Tax Map # 12.11-2-38.1, in the Marine-Residential District. Reopening of public hearing concerning subdivision of nonstandard lot.

Steve Taylor did the presenting. Reviewing the information from the hearing in February, Mr. Taylor noted that the family wishes to divide the current lot into two lots that are both less than the minimum size called for in the zoning ordinance. The property has been surveyed since the last meeting, so there are precise figures available. The lots are substandard by the current code but are still more generous than the average lot size on Grenell Island. Each proposed lot has a cottage on it; the cottages share a septic system. One lot would go to each son. The southern cottage already has a boathouse; the family wishes to build a boathouse on the northwest side as well.

According to email communication from the owners (who are out of the country until the end of this month), they all agree to using and maintaining a common septic system, the costs of which would be divided between the two lots equally.

Mr. Taylor also said that the septic system had been done within the last 10-15 years, and had been designed for both cottages. CEO Ingerson noted that state code does not allow septic systems to cross lot lines: specifically, that the expansion field cannot be closer than 10 feet to a property line.

Mr. Taylor noted that the lot has been in the same family since the 1870's, and they do not anticipate the sale of either lot out of the family. They want the subdivision specifically for building a second boathouse, since state law allows only one boathouse per parcel. The DEC and Army Corps of Engineers have already approved the project.

Board members expressed concern with setting a precedent of creating substandard lots such as these. ZEO LaClair said that in a search of past decisions during his tenure in zoning, he found only one time where a similar application had come before the ZBA: the lots in that previous application were larger than those of the current application. In that previous hearing, the subdivision had been granted. It was suggested that the state health department be consulted concerning the shared septic system, and that the owners show how the septic serves both houses, by giving more details on what is there. The onus should be on the owners to provide both the Zoning Board of Appeals and the Planning Board with a decision from the Health Department concerning the acceptability of two separate lots with one shared septic system.

It was agreed by the Board members that there was not sufficient data to answer the questions in the finding of fact. Mr. Taylor asked for a letter containing the Board's specific expectations. At 7:23 **MOTION** was made by Les Drake, 2nd by Dale Maclaughlin to adjourn the public hearing to Monday, April 21, at 7 p.m. or shortly thereafter. Motion was carried.

7:28 --- Town --- Leah Cervantez, 32391 Eliza St., Depauville hamlet, Tax Map # 42.14-2-5, in the Hamlet District. Request to alter a non-conforming house that is closer to property lines than allowed by the zoning ordinance.

Andrew Patch did the presenting. There is an existing addition on the house that will be taken down. They will redo the floors and put up a new two-story addition on the same footprint as the existing addition. The addition will be not far enough from the road on the rear line. It is zoning that makes the house non-conforming. It was noted that there is a stone ledge that starts about 15-20 feet behind the addition.

No letters or other communications have been received concerning this application.

At 7:32 **MOTION** was made by Les Drake, 2nd by Don Bell, 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 7:38 **MOTION** was made by Dale Maclaughlin, 2nd by Harold Carpenter, to approve the application as submitted.

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

7:42 --- Village --- James B. Cummins, 428 Riverside Dr., Clayton, Tax Map#20.38-1-22.2, in the Riverwalk B District. Request for a height variance.

ZEO LaClair noted that the height variance requires the long form SEQR. As the lead agency, the Planning Board will be doing that.

Brian Jones did the presenting. The planned building will be three stories from the street in the front. The roof will slope toward the back, and will have a greater distance to grade in the back because of the drop from street to dock level. Because the height is figured by an average of

front and back distances to grade, the height was more than originally anticipated, hence the need for a 2'7" variance. Mr. Jones said that bringing the height down any further would make the project much more expensive. As planned, the building in front would fit in with most buildings throughout downtown, which are about 45' or so in height. There will be handicapped accessibility from both street and dock levels. Half the foundation will be a conventional foundation on rock; the other half will be on caissons. The only drilling will be for replacing the seawall.

The letters received concerning this application were mostly concerned with the construction of the building, not with the height. No one was present at this meeting to speak about the application.

Chairman Kenney read a letter from the Jefferson County Planning Board which cited no county-wide issues of significance; this was of local concern only, and the local Board was free to make its own decision.

At 7:52, **MOTION** was made by Les Drake, 2nd by Harold Carpenter, to accept the Planning Board's finding of SEQR since it is the lead agency. 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 8:00 **MOTION** was made by Dale Maclaughlin, 2nd by Harold Carpenter, to approve the application as submitted.

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

At 8:03 **MOTION** was made by Don Bell, 2nd by Dale Maclaughlin, to adjourn the meeting. Motion was carried.

*Respectfully submitted,
Susan Kenney, Recording Clerk*