

**APPROVED**  
**JOINT TOWN / VILLAGE OF CLAYTON**  
**ZONING BOARD OF APPEALS**  
**April 21, 2014**

The meeting opened at 7:02 with the following **members present**: Chairman Jim Kenney, Harold Carpenter, Don Bell, Les Drake, and Alternate Ann Aubertine (sitting in for Dale Maclaughlin). Absent: Dale Maclaughlin.

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

**Townpeople Present**: John Lanzione, Lars N. Hauck, Larry Aubertine, Steve Taylor, Mary Zovistoski

The minutes from the March 17 meeting were reviewed, and no corrections made. **MOTION** was made by Harold Carpenter, 2<sup>nd</sup> by Don Bell, to approve the minutes as submitted. 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. He went through the items in a letter sent to him concerning what exactly was needed from his clients. He had talked to Mike Tracy at the Health Department concerning the shared septic system. Jefferson County does not cover residential systems, and the DEC has no jurisdiction unless there is discharge into the St. Lawrence River (there is no discharge). The County Codes office said that this was a Clayton issue, but that as far as they were concerned, theoretically, a system on each lot was not needed as long as the single system was adequate for the purpose.

Mr. Taylor produced a copy of a letter received from Indian River Lakes Engineering, stating that, although the inspector had not been able to get into the cottages, an external inspection of the system led him to the belief that the system as it now stood was adequate for both cottages and in good working condition. The inspector advised the following: (1) the granting of an easement for the northern cottage to allow for maintenance and continued use of the leach field for both cottages; (2) any increase in the current number of bedrooms (total) on the island would necessitate redesigning the entire septic system; (3) a yearly inspection by a qualified individual. The only piece of the system not up to current standards was the lack of a 100-foot offset from the shore, but such is impossible from any point on the island, due to the land configuration.

The septic system was done in 1985 by David Chalk. Mr. Taylor also has a statement from Mr. McElfresh, stating that in 1986 his parents did a major overhaul of the septic system, which overhaul won the Heron Award from Save the River, and has served both cottages well for the past 28 years.

Mr. Taylor was unable to find any government official who would commit to saying whether sharing a septic system like this was legal or illegal, or who would put anything in writing. The onus of decision thus falls back on Clayton, more specifically on CEO Ingerson. Mr. Ingerson was reluctant to make such a decision and set a precedent without a final conference with the director of the Health Dept., who was currently out of the office. If the Health Dept. were to approve the system, Mr. Ingerson would have no problem going along with them.

Mr. Taylor was asked if the family would be willing to put in a raised bed system. He replied that they might, if that were the best possible solution, but the engineer's letter already cited said that the current system was the best possible solution for the conditions.

The following was read from the March 17, 2014, Board minutes: "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 that the Board should stick with that statement, and that a final decision needed to wait for the Health Department head to return so that he could see the property and make his own decision. It was also agreed that the Board's decision about the subdivision must rest upon the acceptability of the shared septic system.

Mr. Taylor asked that the question to the Health Department be clearly defined, that a legal decision is being sought on whether two lots can be serviced by one septic system. He also declined the idea that a decision be made contingent on what CEO Ingerson hears from the Health Department; he would prefer to wait for a letter from the Health Department.

At 7:37 **MOTION** was made by Les Drake, 2<sup>nd</sup> by Harold Carpenter, to declare this a Type II action. Motion was carried. **MOTION** was made by Les Drake, 2<sup>nd</sup> by Don Bell, to close the public hearing. Motion was carried. The Board now has 62 days to make their final decision on the application. The next meeting, May 19, will be within that time limit, and there will be a document from the Health Department and a decision from CEO Ingerson to aid in the decision.

**7:42 --- Town --- Giovanni Lanzione, 41101 Smithering Height Road, Clayton, Tax Map # 12.20-1-58, in the Marine-Residential District. Variance to erect a second-story deck on house closer to property line than allowed by zoning ordinance.**

No calls or letters have been received about this application. Mr. Lanzione did the presenting. He did not realize that he needed a permit or a variance, since nothing was actually going into the ground; so he has already built a cantilevered balcony on his second story, going 6 feet out from the house and 16 feet long, on 2x8's glued or screwed to the floor.

Board Member Bell expressed a strong concern about people building things without getting the proper permits, etc.

At 7:47, **MOTION** was made by Les Drake, 2<sup>nd</sup> by Harold Carpenter, to declare this a Type II action. Motion was carried. **MOTION** was made by Ann Aubertine (sitting in for Dale Maclaughlin), 2<sup>nd</sup> by Don Bell, to close the public hearing. Motion was carried.

Chairman Kenney went through the finding of fact. At 7:57 **MOTION** was made by Ann Aubertine (sitting in for Dale Maclaughlin), 2<sup>nd</sup> by Harold Carpenter, to approve the application as submitted.

Aye: Kenney, Carpenter, Bell, Drake, Aubertine (sitting in for Maclaughlin)  
Nay: none                      Abstain: none                      Absent: Maclaughlin

**8:00 --- ZEO LaClair handed out possible bylaws for the Zoning Board of Appeals, with a request for the members to look them over and be ready to vote on them at a later meeting. It was suggested that a bylaw could be added saying that all members have to be sworn in by both Village and Town.**

**8:02 --- Village --- Lars & Eileen Hauck, 152 State St., Clayton, Tax Map # 20.47-3-11, in the Neighborhood-Residential District. Variance to site a storage building closer to the side yard property line than allowed by the local zoning law.**

Mr. Hauck did the presenting. When he moved into the house 26 years ago, there was a gardening shed behind the garage. It was in poor shape and was torn down, to be replaced by a shed in a different location on the property. That replacement was badly hit by the December 2013 ice storm; it is deteriorating, it smells, and is in the wettest part of the lawn. Mr. Hauck wants to put in a new shed where the original one was, which is also the highest, driest part of the lawn. He does not plan to put in a cement pad, though possibly some fill. The shed will be 10x12; he is looking at possibly getting one from North Country Shed, though if that is too expensive he will build it himself.

The issue is that the proposed site is too close to the side property line, even though the garage is even closer. The building cannot be resited because the lawn drops off sharply, and he would need plenty of backfill to compensate for the drop-off. No letters have been received concerning this application, and only one call, from a neighbor, who had no problems with the project.

At 8:09, **MOTION** was made by Don Bell, 2<sup>nd</sup> by Harold Carpenter, to declare this a Type II action. Motion was carried. **MOTION** was made by Les Drake, 2<sup>nd</sup> by Don Bell, to close the public hearing. Motion was carried.

Chairman Kenney did the finding of fact. At 8:16 **MOTION** was made by Les Drake, 2<sup>nd</sup> by Harold Carpenter, to approve the application as submitted.

Aye: Kenney, Carpenter, Bell, Drake, Aubertine (sitting in for Maclaughlin)  
Nay: none                      Abstain: none                      Absent: Maclaughlin

At 8:20 , **MOTION** was made by Jim Kenney, 2<sup>nd</sup> by Harold Carpenter, to adjourn the meeting. Motion was carried.

*Respectfully submitted,  
Susan Kenney, Recording Clerk*