

**APPROVED**  
**JOINT TOWN / VILLAGE OF CLAYTON**  
**ZONING BOARD OF APPEALS**  
**March 16<sup>th</sup>, 2015**

The meeting opened at 7:05 p.m. with the following **members present**: Chairman Jim Kenney, Dale MacLaughlin, Harold Carpenter, Don Bell, and Alternate Ann Aubertine.

**Also Present**: Zoning Officer Richard Ingerson, Assistant Zoning Officer Kimberli Johnston, and Recording Clerk Amanda Shane.

**Townspople present**: Larry Aubertine, Bill Grater, Norma Zimmer, Joe Russell Margaret Hummel, Mark Hummel, Jack Stopper, Katie Ross, and Pam McDowell.

The minutes were discussed from the February 23<sup>rd</sup>, 2015 meeting and two (2) changes were made. 7:01 PM **MOTION** was made by Don Bell, 2<sup>nd</sup> by Harold Carpenter, to accept the minutes as amended. Motion carried.

Board member, Anne Aubertine, will be the new fulltime member of the board and must be sworn in by the town and village. For the March 16<sup>th</sup>, 2014 Anne Aubertine will serve as an alternate for Les Drake.

**7:07 PM ---Village--- Daniel H. McCollister, 610 Riverside Drive, Clayton, Tax Map #20.38-1-4.1, in the Riverwalk-B District. Use variance application to erect a three (3) story multi-family dwelling.**

Bill Grater did the presenting. Mr. Grater explained the history of the property, which is located next to Bella's on Riverside Drive. In 1990 the property was approved for eight (8) townhouse units, however only four (4) were built. In 2002 the property was approved to construct a multifamily home. Mr. and Mrs. McCollister purchased the end townhouse unit with intent to construct a multifamily unit in the future. In 2007, zoning laws were changed and the location of the property fell under Riverwalk-B which requires and new building contain a commercial component. Because it was already approved to construct town homes some years ago, Mr. McCollister wishes to construct the multifamily residence without a commercial component. The proposed structure would match the aesthetics of downtown Clayton. Because of the changed zoning law the property cannot be developed or sold so the McCollisters are seeking a use variance. Mr. Grater reviewed the AREA VARIANCE CRITERIA: Town Law Section 2167-b & Village Law Section 7-712b. Mr. Grater explained that the property is unique because it was the only property in the Riverwalk-B district to be previously approved to construct residential only and then be required to incorporate something commercial. In addition, the original deed restriction kept the property from being conforming and only a residential structure could be built. He presented a sketch of the proposed residence and explained that parking will be below the building with only one entrance off the street. There is also a utilities easement in front of the property.

Mr. Grater explained that he had spoken with the other townhouse owners and all were in support of the proposal. In addition, there were no objections from Bella's owner, Melissa Ringer. He also said that per the Local Waterfront Revitalization Program (LWRP) the proposed residence would be positive for the village, bringing in more people and there is no grant money being asked for. The McCollister's property could be considered a "transitional piece" because the commercial core is more Riverside Drive up to Bella's and James Street.

Jack Stopper and Norma Zimmer both discussed the next phase of the Riverwalk. Norma Zimmer said that should the Riverwalk expand there may be need for easements for residences of Riverside and James Street. Jack Stopper said that the Department of State felt the Riverwalk shouldn't be where the McCollisters property is located.

Chairman Kenney questioned if anyone in the townhouses or the McCollisters came forward with concern over the zoning law when it was proposed back in 2007 to change from residential to Riverwalk-B. Norma Zimmer didn't believe that anyone came forward with concern. Larry Aubertine said that he had attended the meeting in 2007 about the changed zoning law and no one had been there from the area or submitted a letter despite the public being notified.

The board discussed if asking for a change in zoning and changing the law would allow the McCollisters to build. Village attorney Joe Russell explained that a use variance is hard to satisfy and that the McCollisters are a classic case because the property was legal to construct a residence only at one time.

Norma Zimmer explained that if the McCollisters were to go to the village and ask for a change in the law it would take about six (6) months and high cost.

Mr. Grater presented previous plans for the townhouses and explained that they would match the town aesthetics and reconfirmed that the other townhouse owners are in full support of the project.

7:35 PM Chairman Kenney read a letter submitted from the Jefferson County Planning board explaining the proposal was of local concern only. However, the planning board did suggest that the board take into consideration the LWRP, to consult with the village attorney, and reference NYS Village Law 7-712-b.

7:47 PM Chairman Kenney read a letter submitted by fellow townhouse owners, Brent and Gail Richardson, Barbara Trimble, Ann Kaiser, and John and Mary Ellen Slattery. All support and approved of the proposal. They also stated that they purchased their properties knowing the parcel would be used for residential purposes.

Village Attorney Joe Russell explained that the property is unusable under the current restrictions and because the restrictions were placed after the property was purchased the hardship was no self-created.

7:44 PM Chairman Kenney stated there is a SEQR on file and he reviewed it with the board. While reviewing the SEQR it was stated that the elevation of the property is not in the floodplain. If approved this plan will go to the Planning Board for incidentals.

7:52 PM **MOTION** made by Dale MacLaughlin, 2<sup>nd</sup> by Anne Aubertine to declare the proposal and unlisted action. Motion carried. 7:53 PM **MOTION** made by Don Bell, 2<sup>nd</sup> by Dale MacLaughlin to close the public hearing. Motion carried.

7:53 PM Chairman Kenney did the Finding of Fact.

8:10 PM **MOTION** made by Dale MacLaughlin, 2<sup>nd</sup> by Harold Carpenter to approve the application as submitted. Motion carried.

**Aye: Kenney, Bell, Maclaughlin, Carpenter, Aubertine (sitting in for Les Drake)**

**Nay: none Abstain: none Absent: none**

**8:15---Town--- Kim and Thomas Rasmussen , 16281 Grenell Island, Clayton, Tax Map # 12.11-2-27, in the Marine Residential District. Area variance application to erect an addition, a deck and a porch to a non-conforming cottage.**

Kim and Thomas Rasmussen are seeking a thirteen (13) foot side yard area variance. Mark Hummel did the presenting. He explained a drawing of the property and where the previous addition will be removed and where new additions to the cottage will be made. The new addition will be 24 feet x 36 feet and a deck. The proposed additions have not been constructed yet.

Kimberli Johnston explained that she had received a phone call from the Mrs. Hummel (neighboring property owner) who had some questions about the proposal. She was given a copy of the application for review.

Mr. Hummel explained that the additions will be built going towards the center of the property to make it more conforming and the existing porch that encroaches will be removed.

8:20 PM **MOTION** made by Dale MacLaughlin, 2<sup>nd</sup> by Don Bell to declare the proposal a Type II action. Motion carried. **MOTION** made by Jim Kenney, 2<sup>nd</sup> by Dale MacLaughlin, to close the public hearing. Motion carried.

8:21 PM Chairmen Kenney did the Finding of Fact.

8:27 PM **MOTION** made by Don Bell, 2<sup>nd</sup> by Anne Aubertine to accept the proposal as presented. Motion carried.

**Aye: Kenney, Bell, Maclaughlin, Carpenter, Aubertine (sitting in for Les Drake)**

**Nay: none Abstain: none Absent: none**

8:30 PM **MOTION** made by Dale MacLaughlin, 2<sup>nd</sup> by Anne Aubertine, to adjourn the meeting. Motion carried.

*Respectfully Submitted,  
Amanda Shane, Recording Clerk*