

APPROVED  
JOINT TOWN/VILLAGE OF CLAYTON  
ZONING BOARD OF APPEALS

March 18, 2019

The meeting opened at 7:00 PM with the following members present: Chairman Jim Kenney, Dale MacLaughlin, Lori Arnot, Ashley Pastorius and alternate Chip Garnsey. Absent Steve Mack

Also Present: Zoning Officer Richard Ingerson and Ashley Pastorius as Recording Clerk

Townspesople Present: Mary Zovistoski, Andrew Wood, C. Livingston, Doug Rogers, Pam McDowell, Tom Bogenschutz, Nancy Hyde, Susan Lyth, Norma Zimmer, Lance Peterson Sr, and John Buker

At 7:00pm Chairman Jim Kenney called the meeting to order.

At 7:01pm **MOTION** made by Dale MacLaughlin, 2nd by Chip Garnsey to approve February 2019 meeting minutes. Motion carried.

**7:01 PM—Trillium Main Street LLC, / Mary J Zovistoski – Village — 423 Riverside Dr, Clayton, in the Riverwalk-B District. Sign Interpretation.**

The board was asked to consider whether Ice Cream Cone Sculpture was to be considered a sandwich board or a sign since there is no definition in the current zoning law. If it is called a sign it needs a permit and Mary could still have a sandwich board and not be in violation of the village sign law. The Statue is moveable, and provides enough room for pedestrians on the sidewalk and does not exceed total signage limit for businesses.

Susan Lyth – Owns popcorn store in village. She advised that she does not consider the cone a sandwich board and advised that she felt that if the board approved the sculpture for Mary then the board should allow other businesses to have the same option. The board advised that any business in the village that would like a sign / sculpture to be reviewed for approval by the board is more than welcome to do so.

The board decided to approve cone as sign with stipulation that she will not also have a sandwich board out at the same time as the cone. Measurements will be taken by useable writing space.

At 7: PM **MOTION** made by Dale MacLaughlin, 2nd by Lori Arnot to declare a Type II action. Motion carried.

At 7: PM **MOTION** made by Dale MacLaughlin, 2nd by Ashley Pastorius to close the public hearing. Motion carried. Chairman Kenney conducted the finding of fact.

At 7:41 PM **MOTION** made by Dale MacLaughlin, 2nd by Chip Garnsey to approve the application including stipulations.

**Aye: MacLaughlin, Kenney, Pastorius, Arnot, and Garnsey**

**Nay: None      Abstain: None      Absent: Mack**

**7:43 PM— Thomas M. Bogenschutz— Village — 38008 NYS Route 12 E, Clayton, in the Agricultural and Rural Residential District. Area Variance Application.**

Mr. Bogenschutz is requesting a variance of 12ft to place a storage shed closer to the property line than is allowed by zoning ordinance. He advised that if he moved the shed further away from the property line it would take up more of his useable yard and would also need to cut down a tree. After discussion with Mr. Bogenschutz it was determined that actual variance needed was 11 ½ ft.

At 7:57 PM **MOTION** made by Dale MacLaughlin, 2nd by Ashley Pastorius to declare a Type II action. Motion carried.

At 7:57 PM **MOTION** made by Lori Arnot, 2nd by Dale MacLaughlin to close the public hearing. Motion carried. Chairman Kenney conducted the finding of fact.

At 8:06 PM **MOTION** made by Dale MacLaughlin, 2nd by Chip Garnsey to approve the application as amended.

**Aye: MacLaughlin, Kenney, Pastorius, Arnot, and Garnsey**

**Nay: None      Abstain: None      Absent: Mack**

**8:10 PM—Lee Gil Ventures LLC – Village — 695 Riverside Dr, Clayton, in the Riverwalk-A District. Sign Removal Discussion.**

Lee Gill and Charles Livingston received a letter from zoning regarding the Marine NAPA sign that is still attached to the new NAPA building Located at 695 Riverside Dr, in the village of Clayton. Mr. Livingston came to address the board about the non-compliance of the removal of the sign and the interpretation from the September 17, 2019 ZBA meeting where the signs on the new NAPA building had been discussed.

The board asked Mr. Livingston why the sign was still attached to the building and he advised that the sign had been tarped over and was no longer visible. The board advised that, that was not the agreement that we had come to in the September Meeting and Mr. Gill was in non-compliance. Mr. Livingston denied that his client was not complying with the board's request. Ashley Pastorius read back minutes from the September Meeting:

“Lee Gill is requesting a 51 sq. ft area variance to keep signage on building that is currently more than allowed according to village sign laws. Current signs were moved from previous location in Clayton and transferred to new current location. The law allows a maximum signage per business of 24 sq. ft and a maximum individual business sign of 18 sq. ft. The main Napa sign is 18' x 3'3". There is also a smaller 4' x 4' Napa Marine sign as well as four advertisement posters on building. The board explained to Mr. Gill and his representative Chuck Livingston Jr. that although he had 150 sq ft of signage on previous building which was in place before village sign restrictions were implanted, by moving to a new location he would need to conform to village laws with any signage. The board also explained that if a variance had been granted on previous building the variance goes with the parcel, not the business and signs on new building would still need to be conforming. **The board, Mr. Livingston, and Mr. Gill came to an agreement where he may keep existing main Napa 18' x 3'3" sign and may also add "marine" somewhere on sign if he would like but would need to take down the separate Napa Marine sign as**

**well as the four advertisement posters within two weeks.** Application was amended to request a 40' 6" variance for a total signage of 58' 6". "

Mr. Livingston advised that he would argue that interpretation of removal and of the minutes and advised that since it was covered it was no longer an issue. The board advised that covering the sign up was clearly not the agreement. It was clearly stated in the minutes that the agreement was to take down the sign or move it over and affix it to the other NAPA sign on the building. The sign is not tarped and an eye sore for our small community. Mr. Livingston also brought up that Mr. Gil was concerned about water entering the building through the screw holes if the sign were to be removed. The board advised that the screws could be reinserted into the building with rubber gaskets once the sign was removed. Since the NAPA store sells rope and tarp, the sign although covered up could still be interpreted as a sign since it could be advertising items for sale within the store. Mr. Livingston advised that the sign would not be removed, and the board would need to take further action if they wanted Mr. Gill to remove the sign from the building.

At 8:36 PM **MOTION** made by Jim Kenney, 2nd by Lori Arnot to adjourn the meeting. Motion carried.

Respectfully Submitted,

Ashley Pastorius, Recording Clerk