

APPROVED
JOINT TOWN/VILLAGE OF CLAYTON
ZONING BOARD OF APPEALS
May 20, 2019

The meeting opened at 7:01 PM with the following **members present**: Chairman Jim Kenney, Steve Mack, Lori Arnot, Ashley Pastorius, and alternates Chip Garnsey and Andrew Wood. **Absent**: Dale Maclaughlin (Chip Garnsey sitting in for Dale)

Also Present: Zoning Officer Richard Ingerson and Recording Clerk Sue Kenney

Townspeople Present: Mary Zovistoski, Lance Peterson, Jonathan Taylor, Norma Zimmer, Joseph Chrisman, Colleen Lawlee, Brent Lawlee, Linda Stagnitta, Tom Booth, Douglas Rogers, Jakob VanReenen, Jennifer VanReenen

At 7:01 pm Chairman Jim Kenney called the meeting to order.

The minutes from the March 18, 2019 meeting were reviewed. At 7:05 pm MOTION made by Chip Garnsey (sitting in for Dale Maclaughlin), 2nd by Lori Arnot to approve the March 18, 2019 meeting minutes as amended. Motion carried.

7:06 PM—John and Beverly Murray, 302 River Shore Rd., Clayton.

There was a fire at the residence, and the owners need to remove the entire structure, due to the presence of lead and vermiculite. They hope to leave the foundation and rebuild on top of that. Their question is, would it be all right to leave the structure in the same location? After brief discussion, the board declared that it needed time to consult the ordinance, but will give a provisional approval so long as the ordinance covers it.

At 7:08 PM, **MOTION** made by Chip Garnsey (sitting in for Dale Maclaughlin), 2nd by Steve Mack, to give provisional approval to leaving the rebuilt residence at the same location as the old one. Motion carried.

7:10 pm—Thousand Islands Land Trust—Village—135 John St., Clayton, in the Riverwalk-B District. To enlarge existing office space closer to a property line than allowed by local zoning law.

At 7:10 pm, Chairman Kenney opened the public meeting for this application. Presenting the application was Jonathan Taylor, architect for the project. The Thousand Islands Land Trust (TILT) wishes to put on an addition for storage, add steps for easier access, and put a roof over the existing porch. Because part of the porch is on a Village road, the proposed roof is currently being reviewed by the Village Board, so the ZBA cannot rule on that part of the project. Mr. Taylor described the plans for an addition going toward the DiPrinzio Restaurant on one side, to be used for storage, with stairs on the exterior as well as interior access. This addition will store a cooler, signage, chairs, etc., to be used for various events. He believes the side yards all have 0 setback. The proposed roof will hang 5 inches over the edge of the porch. There are also plans to renovate the interior of the building, mostly on the first floor. The conditioner unit currently at the site of the proposed addition would be placed on top of the new storage room. The applicant is asking for a proposed setback of 3'2 $\frac{1}{8}$ "; the current setback is almost 15', so they are asking for a variance of 11'9 $\frac{1}{8}$ ".

The chairman emphasized the point that the ZBA cannot approve construction across a boundary line, unless the applicant can come in with an agreement with the Village Board. Mr. Taylor raised a question about the

possible need for an easement after approval was granted, and was told to consult with the town attorney. Mr. Taylor said that the proposed stairs in the back can be moved to the river side, if necessary. Mr. Peterson expressed concern about how far away the conditioning unit would be from the riverside balconies on the neighboring building once it was moved to the top of the storage addition as planned, because of potential propane fumes. More precise dimensions and measurements were requested. Mr. Taylor said that the conditioning unit could be moved, but it couldn't go under the stairs.

Further concerns were expressed about fire safety and the right of way in the back of the TILT building being kept open. Mr. Taylor said the entire building will be a fire-rated construction, and there shouldn't be any problem with large trucks coming in the back.

Chairman Kenney read a letter from David Renzi, of Brown, Dierdorf & Renzi, the attorney representing H. Enterprises LLC, the owners of Rak's Department Store. His client objects that the space is too tight already, and the proposed project will negatively impact nearby properties. They also are concerned about the proposed construction cutting off their river view, and how fire units would be able to access the back lane, which is owned by the county. The client is asking that the applicant fill out a long-form SEQR. In response, Mr. Taylor said that the right of way only goes along the waterfront to DiPrinzio's and doesn't extend to Rak's. He doesn't feel the river view will be impacted much, even if Rak's, as is proposed for the future, adds another story and windows.

Chairman Kenney noted that Mr. Taylor needs to ask the Clayton Fire Department how they would attack a fire back there. Mr. Taylor agreed, and noted that they will definitely be moving the stairs. More questions were asked about whether there would be an increase in foot traffic in the building and whether the septic would be adversely affected. Mr. Taylor said there would not be much increase in foot traffic and the proposed project shouldn't affect the septic.

At 7:43 pm, the Board began discussion. Chairman Kenney recommended that the hearing be adjourned for a month while waiting for an answer from the Village about the proposed porch roof. In that interim, Zoning Officer Ingerson can talk to the fire department about how they might tackle a fire in that back alley, and Mr. Taylor can get more precise measurements and revise the drawings accordingly. At 7:45 pm, **MOTION** was made by Steve Mack, second by Lori Arnot, to adjourn the hearing for a month. All were in favor.

At 7:46 pm, concerning the Murrays' previous question, Article 11 of the zoning ordinance, "Non-conforming Uses," was consulted, and it said that a non-conforming structure (such as the Murrays' previous house that burned) cannot be replaced by a similar non-conforming structure. Therefore the Murrays must seek a variance for their building.

7:48 pm—Jakob Van Reenen—Town—44011 Big Gull Island, Clayton, in the Marine Residential District. Permission to construct a bunkhouse closer to the property line that is allowed by the zoning ordinance.

At 7:48 pm, Chairman Kenney opened the public hearing for this application. Jonathan Taylor did the presenting for the project. The current dock is 10' 11½" from the mean high water. The current structures were probably built in the 1930s or 1940s. The applicants are hoping to build the bunkhouse first and temporarily keep the current dwelling. These are designed to be livable year round, though they probably won't be used much in the winter. The high water is the biggest problem. The bunkhouse and deck were designed to FEMA recommendations and should be okay unless there is a really catastrophic event. The planned dock is at water level right now, but under better conditions is higher than normal for docks.

For the septic system, they are hoping to gravity feed from both buildings, using a raised bed type. The planned system is engineered by Indian River Engineering. The current septic is probably soggy but not underwater yet. They will need to bring in fill to build up the bed.

Chairman Kenney noted that the deck can't extend over the water, since if a deck is physically connected to a dwelling, they are considered one structure. If the deck remains connected as planned, they will have to ask for a 0 setback. They will also need to consult the Army Corps of Engineers for any structure (including docks) extending over water. Mr. Taylor said that he will separate the deck from the dock. As far as other setbacks, they are asking for a 12'2 $\frac{7}{8}$ " setback for the bunkhouse and 5'4 $\frac{7}{8}$ " setback for the deck. Docks don't need to be approved. There is no change in distance from the current house to the planned house.

There were no public comments. At 8:13 pm, **MOTION** was by Ashley Pastorius, second by Lori Arnot, to declare this a Type II action. Motion was carried. **MOTION** was made by Chip Garnsey, second by Lori Arnot, to close the public hearing. Motion was carried.

Chairman Kenney did the finding of fact. It was noted that among the benefits of this plan, the structures will be built to code and take higher water into account. At 8:27 pm, **MOTION** was made by Ashley Pastorius, second by Chip Garnsey, to approve the application as amended.

Aye: Kenney, Pastorius, Mack, Arnot, Garnsey (for Maclaughlin)

Nay: None

Abstain: None

Absent: Maclaughlin

OLD BUSINESS

At 8:29 pm, Chairman Kenney brought up the contested variance for the NAPA building. He had received a reply from the state official, Chris Eastman, who had been informally consulted. In the reply, Mr. Eastman said that the ordinance as written is spare but adequate, so the Village should be on good legal footing should this come to trial. Mr. Eastman recommended that the ZBA, the village attorney, and the mayor meet to discuss the next options. It will be the Village Board's call on how they want to proceed. The Village Board has not yet made a decision on the proposed sign law.

Another question was asked about allowing off-site signage on buildings. This is not yet in the sign law.

There was further discussion about the TILT application. The question was asked, if Rak's and the yacht house already have 0 setbacks, why shouldn't TILT also be allowed a 0 setback. The proposed porch roof would be a liability for the Village since the porch is partly on Village property.

At 8:45, **MOTION** was made by Jim Kenney, second by Lori Arnot, to adjourn the meeting. Motion was carried.

Respectfully Submitted,

Susan Kenney, Recording Clerk