

APPROVED
JOINT TOWN/VILLAGE OF CLAYTON
ZONING BOARD OF APPEALS
SEPTEMBER 16, 2019

The meeting was called to order by Chairman Kenney at 7:00 pm with the **following members present:** Chairman Jim Kenney, Dale Mclaughlin, Lori Arnot, Steve Mack, alternate Chip Garnsey, alternate Andrew Wood. **Absent:** Ashley Pastorius. Alternate Chip Garnsey was selected to act in the place of Ashley Pastorius.

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

Townspople Present: Scott Johnson, Rebecca Dahl, Jake Tibble, Mary Zovistoski, Kathy Reinman, Sonny Marshall, Robert McCann.

The minutes from the August meeting were reviewed and no corrections were made. **MOTION** was made by Dale Mclaughlin, second by Lori Arnot, to accept the minutes as submitted. Motion was passed.

7:04 pm – Clayton Fire Department – Village – 855 Graves St., Clayton – to erect more signage than allowed in the local zoning law.

Scott Johnson did the presenting for the Fire Department. There were pictures handed out of two possible plans for the sign: with the sign on brick or stone-faced blocks as on the building, or on posts. No dimensions were given on the pictures. The sign itself will be 8 feet wide and 4 feet tall, giving a total area of 32 square feet. With the brick or block option, there would be a small flower bed underneath. The height of the entire assembly is still not settled; the department wants it to show above the chain link fence which is 4 feet to 4 ½ feet tall. A height of 6-8 feet was thought to be adequate. The Fire Department would prefer the brick/block structure since that would entail less maintenance.

There will be two parts to the sign: the top half will be a fixed display of the Fire Department's name and logo. The bottom half will be an LED display that will show changing messages as new events and issues come up.

Concern was expressed that the LED lighting in the sign might interfere with the village's historic appearance. The fixed portion of the sign cannot be backlit, since that is not allowed in the ordinance. It was suggested that down-facing lights be installed at the top of the board or on side arms angled at the board.

The foundation for the assembly and the sign itself can be built now while waiting for a final decision on the framework to hold the sign. It was stated that the only real issue here was the height of the finished assembly. The ordinance calls for a maximum of 8 feet; the ZBA will grant a variance allowing an overall height of 8 ½ feet.

At 7:17 pm, **MOTION** was made by Dale Mclaughlin, second by Chip Garnsey (acting for A. Pastorius), to declare this a Type II action. Motion was passed. **MOTION** was made by Steve Mack, second by Lori Arnot, to close the public hearing. Motion was passed.

Chairman Kenney did the finding of fact. At 7:26 pm, **MOTION** was made by Dale Mclaughlin, second by Steve Mack, to approve the application as amended, with the conditions that the overall height of the sign assembly not exceed 8 ½ feet, and that the total area of the sign not exceed 32 square feet.

Aye: Kenney, McLaughlin, Arnot, Mack, Garnsey (acting for Pastorius)

Nay: none

Absent: Pastorius

Abstain: none

7:30 pm – Thousand Islands Land Trust (TILT) – Town – 38973 Zenda Road, Clayton – to change use from farm building to temporary office space.

Presenting were Rebecca Dahl and Jake Tibbles. They are asking to put temporary office space in the Creamery Building on the Zenda Farms site, while the downtown office is being renovated. Ultimately they would like to make the office space permanent, as they are looking to expand their public face. The building is 26 feet by 48 feet, or 1,248 square feet. The occupancy load is 13 persons.

Zenda Farms lies in a Jefferson County Agricultural District and has historically been used as a farm. A local farmer currently takes hay off a field on the south side of Route 12E. Since TILT has been given trusteeship of the site, they have been using the Creamery building for office space for the Zenda Farms program manager (Rebecca Dahl) and the Zenda Farms manager (Gary LaLonde), although the office space is not much used. Usage as an office is not allowed under the ordinance in this district (MR), but TILT hopes to bring it up to compliance. The building was also used by the Thousand Islands Biological Station in partnership with SUNY ESF as a dry laboratory; the lease was for a very low amount, and has since been terminated. The property has been placed in trust in perpetuity, and will never have a home on it.

Board member McLaughlin wanted clarification about whether TILT was asking for just temporary use for office space or permanent. Mr. Tibbles said that they are ultimately looking for permanent office space at Zenda Farms; the application was amended to change “temporary” to “permanent.” The site is for use by the public, and TILT feels that permanent offices on site would enhance that mission.

It was stressed that in asking for a use variance, there are 4 criteria that must all be met; legally there is no leeway, even if a negative decision makes no sense. Use variances can be granted, but it’s a very tough process. It was suggested that TILT’s best next move would be to talk to the Planning Board, which will then go to the Town Board with recommendations for future zoning ordinances that would better accommodate non-profit organizations such as TILT. Mr. Tibbles had hoped to avoid the much longer process of zoning change by looking for a use variance.

There were no public comments from the spectators, nor had there been any letters or calls about this application. Chairman Kenney read a letter from the Jefferson County Planning Board which stated that there were no significant county-wide or intermunicipal issues, and that this was of local concern only.

At 7:50 pm, Chairman Kenney read information on the short form Environmental Impact Statement. Since this is SEQR, it is still part of the public hearing. It was determined that this action does not meet the threshold needed for a full environmental review, therefore it is an unlisted action. At 7:55 pm, **MOTION** was made by Dale McLaughlin, second by Lori Arnot, to make this a negative declaration. Motion was passed. **MOTION** was made by Chip Garnsey (acting for A. Pastorius), second by Lori Arnot, to close the public hearing. Motion was passed.

Chairman Kenney did the finding of fact for a use variance. Each of the 4 criteria was gone over in detail. Mr. Tibbles and Ms. Dahl were allowed to make brief comments.

(1) Concerning unnecessary hardship, Mr. Tibbles argues that under the current zoning, the buildings on Zenda cannot be used for anything else; it’s always been a farm, is seen as a farm, and zoning ordinance should never

have put it in the MR district. In this district agricultural use is allowed, but not office space unless it is in a residence. Mr. Tibbles was told that to properly establish unnecessary hardship, specific “dollars and cents” were needed: quotes should be solicited for renting office space and these compared to TILT’s operating budget and financial records. Without specific figures, unnecessary hardship cannot be proved. Finding: Negative.

(2) Concerning whether the alleged hardship is unique, it was agreed that yes, it is unique because there is no residence, and under MR zoning, professional offices are only allowed in residences. As a trust in perpetuity, there are no deed or other restrictions to putting up a residence, but TILT has decided there will never be a residence on this property. Chairman Kenney brought out that TILT is, in part, an educational institution, but the only districts allowing educational institutions are A-IR (Agricultural-Island Residential) and AR (Agricultural and Rural Residential). This is an issue that should be addressed by the planning and town boards. The ZBA will compose a letter to be sent to the Planning Board to this purpose. Finding: Positive.

(3) Concerning whether the variance would change the essential character of the neighborhood, it was determined that it will not. All the proposed changes on Zenda Farms would be interior, hence not visible, except possibly a few more parked cars, but there are already several parked cars from people using trails, etc. Finding: Positive.

(4) Concerning whether the hardship is self-created, Mr. Tibbles argued that the difficulty was created by the zoning ordinance, not TILT. Office space is allowed in AR districts, and Zenda Farms, if not in the town’s AR district, is in one of the county’s agricultural districts, so by putting Zenda in the MR district, which is more restrictive, the ordinance created the hardship. Zenda Farms is specifically mentioned in Clayton’s Comprehensive Plan as important to the community, so where is the leniency of the zoning ordinance when the Comprehensive Plan is fully supportive. Board Member Mclaughlin repeated that the Board is constrained to go by the guidelines as set forth, or they open up the town for possible legal issues. The planning and town boards need to deal with the issue of nonprofits. A poll of the board members found 4 in agreement that it was a self-created hardship, since the ordinance was enacted in 1989 and TILT did not acquire the Zenda Farms property until 1997; Board Member Arnot did not agree. Finding: Negative.

At 8:40 pm, since the majority of the board agreed that this was a self-created hardship, the application is considered dead. The ZBA will strongly encourage the planning board to deal with this. It was noted that TILT will be making the process easier for those nonprofit organizations who follow. At 8:45 pm, **MOTION** was made by Chip Garnsey (acting for A. Pastorius), second by Steve Mack, to deny the application as amended.

Aye: Kenney, Mclaughlin, Arnot, Mack, Garnsey (acting for Pastorius)

Nay: none

Absent: Pastorius

Abstain: none

8:49 pm – Gerald Marshall – Village – 202 Jane St., Clayton – to erect a deck closer to side property lines than allowed in the local zoning law.

Sonny Marshall did the presenting. His house abuts the parking lot for the Harbor Hotel. He wants to build a deck on the back of his house large enough to make access easier via the handicapped ramp on the side of the house. He wants to make the deck 20 feet by 14 feet, which would need a 0 setback. Their outside furniture won’t fit on a deck narrower than 14 feet. He had talked to a person in management at the Hotel, and they were not concerned with the closeness to the edge of the parking lot. Between the edge of Mr. Marshall’s property and the edge of the parking lot is 7 feet of grassy space.

At 8:55 pm, **MOTION** was made by Dale McLaughlin, second by Chip Garnsey (acting for A. Pastorius), to declare this a Type II action. Motion was passed. **MOTION** was made by Lori Arnot, second by Steve Mack, to close the public hearing. Motion was passed.

Chairman Kenney did the finding of fact. At 9:06 pm, **MOTION** was made by Lori Arnot, second by Dale McLaughlin, to approve the application as submitted.

Aye: Kenney, McLaughlin, Arnot, Mack, Garnsey (acting for Pastorius)

Nay: none

Absent: Pastorius

Abstain: none

9:08 pm – Robert McCann – Town – 17039 Blanchard Lane West, Clayton – to erect a garage closer to a property line than allowed by the zoning ordinance.

Bob McCann did the presenting. He owns 2 separate lots, on either side of Blanchard Lane (which is privately owned), and wishes to build a garage on the lot facing his house. It will be closer to the lot line than allowed in the MR district, but it would sit even with the garage next door, making the view of the street more esthetically pleasing.

There were no public comments, nor any phone calls or other communications concerning this application. Mr. McCann had talked with his neighbors on both sides, and none of them expressed a problem with the proposed project.

At 9:13 pm, **MOTION** was made by Steve Mack, second by Chip Garnsey (acting for A. Pastorius), to declare this a Type II action. Motion was passed. **MOTION** was made by Lori Arnot, second by Chip Garnsey (acting for A. Pastorius), to close the public hearing. Motion was passed.

Chairman Kenney did the finding of fact. At 9:17 pm, **MOTION** was made by Dale McLaughlin, second by Steve Mack, to approve the application as submitted.

Aye: Kenney, McLaughlin, Arnot, Mack, Garnsey (acting for Pastorius)

Nay: none

Absent: Pastorius

Abstain: none

At 9:20 pm, **MOTION** was made by Dale McLaughlin, second by Chip Garnsey (acting for A. Pastorius) to adjourn the meeting. Motion was passed.

Respectfully Submitted,

Susan Kenney, Recording Clerk.