

APPROVED
JOINT TOWN/VILLAGE OF CLAYTON
ZONING BOARD OF APPEALS

November 18, 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 appointed to stand in for Ashley Pastorius for this meeting.

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

Townpeople Present: Mary Zovistoski, Jonathan Taylor, George Kittle, Chris Ciolfi, Rebecca Dahl.

At 7:01 pm, Jonathan Taylor presented for two preapplications, looking for some direction on the feasibility of the projects. The first one concerned the store Rak's in downtown Clayton, which is looking for a grant to improve the street façade on their building, to make it look more like the other buildings in the immediate neighborhood. The new façade would include brick walls and redone windows and a cornice on one corner. This cornice might stick into the street by 12 or 18 inches. On the John Street side, this wall might be dressed up with some faux windows, but no real windows are planned. Zoning Officer Ingerson noted that there is a 0 setback in the Riverwalk-B district. One corner of the building lies on village property, so the village will need to be consulted.

The second project concerned the art center on James St., currently the Fibonacci Gallery. The project is very much in the conceptual stage right now. The hope is to use this as an anchor for a possible grant. The building now there would be demolished and replaced with something more like other downtown buildings. Among other things they would like to put in a museum, probably on the first floor. Also on the first floor would be two galleries that could be merged into one; on the second floor would be classrooms; on the third floor would be archival. There is no living space intended. They would create a covered porch on the front of the building, topped by an open balcony accessible from the second floor. The setbacks in this district are 20 feet on the front and back, and 15 feet on the sides; they would be looking for a 5-foot variance on the north side, and a 10-foot variance on the front. For parking, they would use the existing parking in the back, and maybe expand. Zoning Officer Ingerson noted that in the Riverwalk-B district, a variance would be needed.

7:16 pm – Evolution Site Services (Lessee), Sam Weaver (Owner) – Town – NYS Route 12 west of NYS Rte. 180 – To erect a new cell phone tower.

Chris Ciolfi, with Evolution Site Services, did the presenting. His company wishes to erect a cell phone tower on property purchased from Sam Weaver. Mr. Weaver will sell the property but not lease it. He asked that the company use as little land as possible, so that the rest can be used for farming and future residential construction. They normally lease 100 ft², though they can fit everything within 75 ft², but the zoning ordinance calls for a minimum of one acre. The ordinance also requires a fall zone around the tower of 1.5 times the tower height. The tower is 195 ft. high, so the required fall zone would be 6.5

acres, which is more than Mr. Weaver is willing to sell. Evolution Site Services has plotted out an area of 1.5 acres, including the tower area, a driveway, and 200 ft. of road front. The company is looking for a right of way for the fall zone; they already have an easement agreement with Mr. Weaver. The town attorney said that this should be all right as long as it is a deeded right of way.

Part of the land owned by Mr. Weaver is a swampy low spot, and the proposed tower is located away from the wet area. As proposed, the nearest edge of the fall zone would be 200-250 ft. from Rte. 12, and 900 ft. away from the closest house (Mr. Weaver's). For fencing around the proposed tower, the company would install 7 ft. of chain link fence topped by 1 ft. of barbed wire. The proposed installation would be similar to the Verizon tower on Old Town Springs Road.

Chairman Kenney read a letter from the County Planning Board. The Board noted no significant county or intermunicipal issues. A construction permit would be required, as well as an agricultural statement. The Board suggested identifying alternate sites, and ensuring that the tower meets the required setback. There were no comments from the public.

At 7:29 pm, **MOTION** was made by Dale Maclaughlin, second by Chip Garnsey (acting for Ashley Pastorius), to declare this a Type II action. Motion was carried with all in favor. **MOTION** was made by Lori Arnot, second by Steve Mack, to close the public hearing. Motion was carried with all in favor.

Chairman Kenney did the finding of fact. At 7:49 pm, **MOTION** was made by Dale Maclaughlin, second by Steve Mack, to approve the application as submitted. Any conditions would need to be set by the Clayton Joint Planning Board.

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

Nay: none Abstain: none Absent: Pastorius

7:51 pm – Kassandra Kittle – Town – 38626 NYS Rte. 12E, Clayton – to construct a gazebo closer to the property line than allowed by the ordinance.

George Kittle, father of the applicant, did the presenting. His daughter wishes to construct an open-air gazebo and a sidewalk to connect their two properties. The gazebo would have no sides and the gable ends would be open; there would be a bench inside. The applicant had already poured the cement corners for the foundation of the gazebo at 15 ft., not realizing that the setback was 25 ft. She is asking for a variance of 10 ft.

At 7:58 pm, **MOTION** was made by Chip Garnsey (acting for Ashley Pastorius), second by Lori Arnot, to declare this a Type II action. Motion was carried with all in favor. **MOTION** was made by Steve Mack, second by Dale Maclaughlin, to close the public hearing. Motion was carried with all in favor.

Chairman Kenney did the finding of fact. At 8:04 pm, **MOTION** was made by Chip Garnsey (acting for Ashley Pastorius), second by Steve Mack, to approve the application as submitted.

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

Nay: none Abstain: none Absent: Pastorius

At 8:06 pm, the minutes from the October meeting were reviewed. MOTION was made by Dale Maclaughlin, second by Chip Garnsey (acting for Ashley Pastorius), to approve the minutes. Motion was passed with all in favor.

NEW BUSINESS

At 8:07 pm, the Board entered into a discussion about how best to include non-profit organizations in the zoning ordinance. A member asked why special exemptions should be made for non-profits; the chairman replied that they are not looking for an exemption, but rather a definition of non-profits. He noted that the City of Syracuse ordinance accounts for different districts with “civic usages,” such as non-profits, educational institutions, police departments, etc. The way the Clayton zoning ordinance is written, the Board could not allow office use on the northern stretch of Zenda Farms. The ordinance needs to be changed to better accommodate uses that weren’t anticipated in the original ordinance. Another member noted that the Town/Village need to help foster non-profit organizations which will enhance the overall community. Chairman Kenney asked for suggestions that could be relayed to the Planning Board.

At 8:15 pm, Chairman Kenney noted that there has been a tendency for the members to chat with each other during hearings; this is distracting and not always appropriate for the venue and the time. He asked that the members refrain.....

At 8:16 pm, a member brought up the issue of the Oya solar project not following the agreement in their pre-application to abide by the guidelines of the solar law not yet finalized. The member asked whether everything put in the conditions became law. Chairman Kenney noted that if the conditions are specific, then they are binding, but if the conditions are too general, as they were with Oya, then they are not binding. The conditions are then merely a “gentlemen’s agreement,” with no legal power. The member stated that the Board shouldn’t have approved the Oya application without the solar law in place.

Zoning Officer Ingerson noted that the applicants must follow their site plan, but once they have been approved, they can’t legally be brought back for a second hearing.

At 8:24 pm, **MOTION** was made by Dale Maclaughlin, second by Chip Garnsey (acting for Ashley Pastorius), to adjourn the meeting. Motion was carried with all in favor.

Respectfully Submitted,

Susan Kenney, Recording Clerk