

APPROVED

JOINT TOWN/VILLAGE OF CLAYTON

ZONING BOARD OF APPEALS

February 24, 2020

The meeting was called to order by Chairman Jim Kenney at 7:06 pm, with the following members present: **Jim Kenney, Dale Maclaughlin, Lori Arnot, Ashley Pastorius**, alternate **Chip Garnsey**, and alternate **Andrew Wood**. Member **Steve Mack** was absent. Chip Garnsey will sit in for Steve Mack.

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

Townspople Present: Therese Christensen, Barbara Small, Marla Cohen, Jeffrey Cohen, Linda Brown, Don Lingenfetter, Allen Heberling, Tom Oot, Myrna Carter, Donna Lundon, Stephen Byers

7:06 pm – ZEO reviewed parcel map concerning subdivision with less frontage than required, an issue that will be coming up in next month's meeting.

7:08 pm – It was noted that Chip Garnsey will be sitting in for Steve Mack. The minutes from the January meeting were reviewed, with no corrections noted. **MOTION** was made by Lori Arnot, second by Ashley Pastorius, to accept the minutes as submitted. Motion was passed with all in favor.

7:09 pm – Oot Bros. Inc. – Village – Island View Dr., Oot Bros. – to erect Townhouses closer to property lines than allowed by local zoning law

Tom Oot did the presenting. This was a project created in 1989 by a Canadian company, which filed a map with the county and then built the first phase of the project. The Oot Bros. bought the project and stayed with what had been planned in 1989. The lots are irregular sizes and shapes. The developers can't take any of the green areas managed by the homeowners' association (HOA). They wanted to sell 0.775 acres but were unable to since a strip through the middle of that parcel was owned by the HOA. The developers would now like to build using the original layout. They plan to build this year, making the houses a little larger to accommodate first floor master bedrooms. The front yard variances are all right, but they need a variance for side and back variances and for space between houses. A variance was granted for the original plan back in 1989, but since the lot lines have been changed, that variance is no longer valid and a new variance must be sought.

There were no public comments on this hearing. Chairman Kenney read a letter from the Jefferson County Planning Board.

At 7:21 pm, **MOTION** was made by Dale Maclaughlin, second by Chip Garnsey (acting for Steve Mack), to declare this a Type II action. Motion was carried with all in favor. **MOTION** was made by Lori Arnot, second by Ashley Pastorius, to close the public hearing. Motion was passed with all in favor.

Chairman Kenney did the finding of fact. At 7:35 pm, **MOTION** was made by Dale Maclaughlin, second by Lori Arnot, to approve the application as submitted.

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

Nay: none

Abstain: none

Absent: Mack

7:37 pm – Bayside Marina & Mobile Home LLC – Village – 1061 State St., Clayton –to consider use variance to allow RVs on mobile home sites

Marla and Jeff Cohen did the presenting. The mobile home park in question opened 20 years ago with 18 slips. Since then only 6 out of the 18 have been sold or rented. Mobile homes are no longer as acceptable as they once were, and RVs have become much more acceptable. The Cohens have invested over \$300,000 in septic, water, electrical, etc., in this property and have had huge economic losses. At the time of the original application, the planning board had several requirements that increased the overall costs, for such things as architectural shingles, high-pitched roofs, and so on. The infrastructure is all there for putting in RVs; nothing else would really work. It would be basically for summer use, which fits in with Clayton's summer tourist boom.

There are new, stricter federal regulations, under which the size of pads for RVs has doubled, so they are no longer crammed together.

Ms. Cohen went through each of the four questions used for a use variance, giving reasons for each one to be answered in the affirmative. The Cohens had originally wanted an RV park, which was an approved use prior to purchasing the property, but the planning board was not amenable to RVs, preferred mobile home parks. The Cohens did as the planning board required and are now saddled with a mobile home park that is only one third full. Mr. Cohen noted that there is currently a huge demand for RV spaces. The owners of those RVs are usually 55 or older, so would be less likely to cause loud disturbances. In answer to a question, Mr. Cohen said that there had once been dock space, but the recent high waters destroyed that. He is going to put in floating docks to replace the fixed docks. The Cohens have worked hard to keep the place clean and neat.

One board member expressed a concern about the mixing of RVs and mobile homes on the same site. Ms. Cohen stated that most of the current mobile home owners or renters use them for summer homes.

At 7:56 pm, Chairman Kenney read a letter from the Jeff. County Planning Board. It was stated in the letter that there would be no significant county wide or intermunicipal impact. It was also noted that the approval of the public health department is needed for the operation of an RV park.

Mr. Cohen stated that the current lots on his property are 5000 ft², while state regulations call for 2500 ft², minimum. The requirements for RVs in general are less than for mobile homes. In his opinion, no one from the road would be able to see the RVs. The neighbors are further away from French Creek and up a slight slope. The RVs, if allowed, would not hurt the community and would not generate much more traffic. The RVs would be able to come and go as they pleased. He added that if they are not

allowed to do RVs, they will have to shut down the park, because under the current situation, the park is not economically feasible.

Members of the public made numerous comments. Don Linginfelter owns a hotel and house rental. His view overlooks the mobile home property. He is not happy with the thought of so many more people, and does not think RVs would fit in with the neighborhood. He wondered who polices the looks of the place.

Ms. Cohen replied that there are regulations. As the property owners, the Cohens can fix things and then charge the RV owners for that cost. Also the RV owners can be asked to leave (rentals) and can also be told to not come back. ZEO Ingerson noted that he owns an RV park, with 41 rules, including no dogs and no subletting.

Donna Lundon lives within 50 ft. of the mobile home park, and has been there for about 15 years. She noted that the mobile homes are nicely kept and neat. When the park first opened, the neighbors were concerned about too many mobile homes being crowded in, so everybody agreed to certain restrictions. She is not happy with the thought of several RVs coming in: she does not want so many comings and goings and sees a potential for the rules not being followed, thereby affecting the whole neighborhood. Ms. Lundon noted that rules were set up after Wall's place was opened. There is an ongoing problem with raccoons and the dumpster not being closed or emptied. She repeated that she has no problems with the current residents in the mobile homes.

A question was asked about the ZBA setting up a time limit for RV rental space. Chairman Kenney replied that this is not something the ZBA can answer, it must be done by the Planning Board. Ms. Cohen stated that before they took over the land, it was a dump, and they had to pull out plenty of garbage. Ms. Lundon disagreed. Mr. Cohen added that the dumpsters are always emptied on a regular basis.

Chairman Kenney then reviewed the four questions that must be answered in the affirmative before a use variance can be granted: (1) The applicant cannot realize a reasonable return, as demonstrated by competent financial evidence. (2) The alleged hardship relating to the property is unique and does not apply to a substantial portion of the district or neighborhood. (3) The variance, if granted, will not alter the essential character of the neighborhood. (4) The alleged hardship has not been self-created. Because this is a use variance, it is not a Type II action. If the variance is granted, SEQR would be done by the Planning Board, which would also deal with sizes of lots.

The Board discussed at length the questions that must be answered for a use variance. On Question 1, all members agreed that sufficient financial evidence was presented that the Cohens would not be able to realize a reasonable return on their property. On Question 2, all members agreed that this property is set up for a specific purpose and no other properties in the neighborhood are like it. On Question 3, after clarifying the question for the Cohens, all members agreed that making this an RV park would alter the character of the neighborhood, moving from single family homes to transient RVs. Since this criterion was not met, the application is now considered dead. At 9:01 pm, **MOTION** was made by Lori

Arnot, second by Chip Garnsey (acting for Steve Mack), to reject the application as submitted for a use variance.

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

Nay: none Abstain: none Absent: Mack

9:08 pm – Nicole Collins – Village – 337 James St., Clayton – to erect a structure closer to side property lines than allowed by local zoning law

Stephen Byers did the presenting. He plans to erect a landing / deck over the front porch of the dwelling so that the second story occupant can have a porch. There will be no roof on this deck. All construction will be over the ground except for the columns forming the support and a walkway. There is a right of way between this house and the neighbor, and the construction will not impinge on the right of way. Due to the construction of the house, the access to the proposed porch cannot be through the front of the house.

There were no public comments on this hearing. At 9:14 pm, **MOTION** was made by Dale Maclaughlin, second by Chip Garnsey (acting for Steve Mack), to declare this a Type II action. Motion was passed with all in favor. **MOTION** was made by Dale Maclaughlin, second by Lori Arnot, to close the public hearing. Motion was passed with all in favor.

Chairman Kenney did the finding of facts. At 9:21 pm, **MOTION** was made by Ashley Pastorius, second by Chip Garnsey (acting for Steve Mack) to approve the application as submitted.

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

Nay: none Abstain: none Absent: Mack

At 9:22 pm, **MOTION** was made by Chip Garnsey (acting for Steve Mack), second by Lori Arnot, to adjourn the meeting. Motion was passed with all in favor.

Respectfully submitted,

Susan Kenney, Recording Clerk