

JOINT TOWN/VILLAGE OF CLAYTON

ZONING BOARD OF APPEALS

March 18, 2024

The meeting opened at 7:00 pm with the following members present: Stephen Mack, Chairman; Dale MacLaughlin; Lori Arnot; Chip Garnsey; Ashley Owens; Nicholas Reddick (Alternate) **Absent:** Jeff Staples (Alternate).

Also Present: ZEO Richard Ingerson; Recording Clerk Mariah LaClair.

Townpeople Present: Jeff Szkolnik; David Brennan; Tricia Banister; Chad Angus; Ann Marie Angus; Mary Luck

Minutes- The Board reviewed the minutes for the January meeting. **MOTION** to approve the January 2024 ZBA minutes made by Dale MacLaughlin, seconded by Ashley Owens. All in favor, motion carried. There was no meeting in February due to lack of agenda items.

New Business:

1. (Village)

Applicant: St. Lawrence Seaway RSA Cellular Partnership

Action: Use Variance

Site Location: 200 Riverside Dr, Clayton, NY 13624 (Tax Map #20.39-1-1.1)

Representatives of St. Lawrence Seaway RSA Cellular Partnership, Jeff Szkolnik and David Brennan, presented plans for wireless antennas atop the roof of the Clayton Harbor Hotel. The cellular company has entered into a lease agreement with the hotel to use the hotel property. The intended purpose is to extend cellular coverage in Clayton and reduce Canadian roaming. The antennas will extend approximately 7ft on the roof. The equipment would be stored in a 4th floor utility closet. Current codes do not allow cellular towers but don't account for antennas but would still need a use variance. Mr. Brennan explained that due to prior New York Court of Appeals litigation *Cellular Tel. Co. v. Rosenberg*, 82 N.Y.2d 364 (1993), it was determined that cellular telecommunication is a public utility and that cellular companies prove the requisite public necessity by establishing that the erection of the cell site would enable it to remedy gaps in its service area that currently prevent it from providing adequate service to its customers. The Board inquired whether the antennas could be disguised to keep the neighborhood aesthetically pleasing. Mr. Brennan stated that they considered an 8' x 8' structure around the antenna but felt that it would be more obstructive and stand out even more than the antennas would. The Board asked if more antennas can be added to existing antennas rather than new ones on the hotel roof. Mr. Brennan stated that the currently existing antennas are all optimized to the best of their ability and that engineers have prepared a site selection analysis to determine the gaps in

coverage in the area and the Harbor Hotel, with its elevation, was the most optimal space for antennas. The Board discussed cellular coverage potentially provided by the antennas.

MOTION to open the public hearing for the St. Lawrence Seaway RSA Cellular Partnership use variance at 200 Riverside Drive, Clayton, NY, made by Chip Garnsey, seconded by Ashley Owens. All in favor, motion carried.

- Mary Luck- Mary disapproves of the look of the antennas as well as the size. She believes that a cellular tower should be constructed outside of the Village instead. She is worried that taxpayer money will contribute to the cost of construction and maintenance of the antennas which contradicts the Village project to bury lines that was just recently completed. She is disquieted about the increase in technology and questions at what point they will be done adding antennas and towers.

Ashley Owens states that company would not invest in towers to go in every location but is mapping and pinpointing specific locations that are gapped in coverage. Lori Arnot concurs that the antennas would not fit the character of the neighborhood and wants to see plans for screening. She also is not sure that the community faces a hardship in cellular coverage. Nick Reddick asks if the company did their own data coverage mapping or if a 3rd party was hired. Mr. Brennan said it was their own mapping. Mr. Brennan is willing to look into options for screening if that is what the ZBA suggests to the Planning Board. Jeff Szkolnik believes that the structure to screen the antennas would stick out too much because the roof of the hotel is flat versus just having the skinny rods of the antennas. He also believes that the owner of the hotel would not sign off on structure.

- Tricia Bannister- Tricia states that when the hotel was built, the owners were very attentive to what the community wanted and a lot of effort was put in to have the hotel fit the character of the neighborhood. She is sure that a lot of research was done before the hotel owners agreed to a lease with the cellular company.
- Chad Angus- Chad agrees with Tricia and states that the owner of the hotel would not agree to an 8' x 8' structure on the roof to block the antennas and that it would be even more obstructive of the view.

MOTION to close the public hearing for the St. Lawrence Seaway RSA Cellular Partnership use variance at 200 Riverside Drive, Clayton, NY, made by Ashley Owens, seconded by Chip Garnsey. All in favor, motion carried.

Lori Arnot would like to make an official recommendation to the Planning Board to research options for screening due to concerns that the antennas will disrupt the character of the neighborhood especially given that the Village had just spent money and time burying utilities on Riverside Drive. The Board agreed to send a recommendation.

MOTION to approve the use variance for the St. Lawrence Seaway RSA Cellular Partnership located at 200 Riverside Drive, Clayton, NY with the condition that a recommendation is sent to the Planning Board to have them research options for screening made by Ashley Owens, seconded by Dale MacLaughlin.

AYE: Mack; Arnot; Owens; MacLaughlin; Garnsey

NAY: None

ABSTAIN: None

ABSENT: None

PASSED

Communications- The Board discussed objection to the Easton's sign on the Victorian. The sign does not meet the size requirements in the Village Code and the Board believes they should have been addressed on this before a decision was made regarding the allowance of replacing the old Subway sign with the new Easton's sign. Richard Ingerson answered that because the business did not change hands and does not exceed the size of the original sign, the owner does not need to complete a new variance application.

MOTION was made to adjourn the meeting at 9:20 PM by Chip Garnsey, seconded by Dale MacLaughlin. All in favor, motion carried.

Respectfully submitted,

Mariah LaClair, Recording Clerk