

**CLAYTON PLANNING BOARD  
PLANNING BOARD MEETING MINUTES  
FEBRUARY 27, 2023**

The regular meeting of the Clayton Planning Board was called to order at 7:00 PM. Invocation was given and we had a Salute to the Flag.

**SUNSHINE LAW**

The public notice of this meeting pursuant to the Open Public Meeting Act of 1975 has been properly given in the following manner:

- A. Posting written notice on the Official Bulletin Board in the Municipal Building.
- B. Mailing written notice to the South Jersey Times and the Franklinville Sentinel.
- C. Filing written notices with the Clerk of the Borough of Clayton.

**ROLL CALL:**

Ayes: Abate, Culver, Miller, Vondran, Wise, Wiseburn

Absent: Bianco, Cerone, B. Saban, T. Saban, Thomas

**APPROVAL OF MINUTES**

M/ Vondran, S/ Miller - Approve the Minutes of the reorganization meeting of the Clayton Planning Board/Zoning Board held on January 23, 2023.

Ayes: Abate, Culver, Miller, Vondran, Wise, Wiseburn

Alexis Smith, Esquire, appeared on behalf of Linda Galella, Esquire as Solicitor. She swore in both Wayne Roorda, Jr., P.E., P.P. and Rose Ann Lafferty, Zoning Officer.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

**Julio Aviles – 521 Coleman Dr., a/k/a Block 2001.05, Lot 11**

Julio Aviles was sworn in by Alexis Smith, Solicitor. Mr. Aviles was applying for a C-1 variance in regards to the pergola that was installed without a zoning permit. His neighbor helped him build it. He doesn't see what the problem is. They started building it and the zoning officer reached out to advise that a zoning permit was needed. He went through all the motions to apply which brings him here. He has some neighbors here with him tonight.

Rose Ann Lafferty, Zoning Officer, advised that his permit was denied as the structure is on the property line and it needs to be five feet from the property line. In addition, there is an in-ground pool involved. All structures have to be 10' from the water line (pool). It currently is not. If he moves it from the property line, it's going to make him less compliant in regards to the structure being 10' from the water line. He is currently about 7' from the pool.

Mr. Aviles advised that his two posts closest to the shed are 8 ½ feet from the water line. The Zoning Officer told him it has to be 10 feet. He indicated that he attached a copy of the survey to his application. He noted that he has two buffer zones on his property, and basically is not able to use the right side of his property due to a gas line. He is a retired vet and getting shielding from the elements is a big part in his life. He wasn't trying to cause any issues putting it up. It's not bothering the neighborhood.

He was told by the Zoning Officer that someone called and complained. This was the only place he could put it because of the gas line. This only leaves him the left side of his property. He has lived there for 23 years. He has great neighbors and doesn't have any complaints. He wasn't trying to do something negative on the property or doing something negative against the neighborhood or the municipality. He would like to be grandfathered in. He indicated that the Borough should indicate when applying for a variance that you need to apply for a zoning permit when you build one of these. The town needs to be consistent with the laws. He asked the board to take this into consideration. He wasn't aware of needing a zoning permit and indicated that the people should be told what they need.

Joe Abate thanked him for his service.

#### **MOTION TO OPEN TO THE PUBLIC**

M/ Abate, S/ Vondran

Ayes: Unanimous

Frank Francese – 519 Coleman Dr. was sworn in by the Solicitor. He indicated that he has no problem with it. It doesn't bother him and it doesn't affect him. He helped him build it as he is a contractor. He doesn't know why a neighbor called on him as it's his property.

Bill Culver asked if it is built to code and Mr. Francese indicated yes. Bill asked if the construction official was sent over to inspect it if it would pass and Mr. Francese responded yes. Bill asked Mr. Aviles if it is open and he responded yes. Bill also asked if it is about 30 feet long and was told yes. He was also asked if it was for shade and he said yes. Mr. Aviles advised that when he nailed on the roof the town had a problem with it. Bill Culver asked if there is a roof on there now and he was told yes. There are eight posts with a roof on it. Bill stated that his concern is if it is in code and would pass inspection. If it isn't and then collapses, who is responsible. Mr. Aviles understood his concern. He indicated that he should have called the Borough to see if a permit is required, apply for the permit and then he would have been sent here to the board. Instead you built it and someone complained you applied and were denied and you are here tonight. Mr. Aviles indicated he went around the neighborhood and asked people who had sheds against their fences and pergolas. Bill Culver asked Mr. Aviles if he asked the construction department. He answered no because his neighbors didn't need one. Mr. Culver asked why didn't they need one and Mr. Aviles responded because it was consistent with the neighborhood.

Mr. Aviles advised Mr. Culver that he goes to Lowes and Home Depot and they sell sheds and pergolas but they do not have signs posted saying that you need a zoning permit. Scott Wiseburn answered that Lowes and Home Depot aren't here and you should have asked the Borough. Alexis Smith, Solicitor added that the board can make it a condition of approval that it has to get inspected by the Construction Official. Scott Wiseburn added it's 36 feet long. You built it yourself you didn't purchase it and you should have asked questions.

Bill Culver added that you also need a zoning permit for a shed. Rose Ann Lafferty clarified that any structure is required to have a zoning permit. Anything under 200 sq. ft. does not need a construction permit. In the case of the shed, if it is under 200 sq. ft. it does not need a construction permit. If it is over 200 sq. ft., it will need a construction permit. A pergola would have to go for a construction permit once it is issued a zoning permit. Mr. Aviles added that it is mandated by the State. He said if he is in violation and you're not consistent, he doesn't feel he is in violation. Bill Culver added that the rules are written down. Rose asked how she is not consistent. Bill Culver said you're in violation. Joe Abate added that there is not going to be a discussion tonight about what the law is.

Ralph Sizer – 515 Coleman Dr. was sworn in by the Solicitor. He resides a few doors down from the applicant and has known him for a long time. He said Mr. Aviles keeps his property beautiful and it looks like paradise. He said that the board is right you do have rules and regulations. He probably should have checked to see if he needed a permit but things happen. He probably didn't realize he would be in violation. The structure is solid.

Justin Walker – 516 Coleman Dr. he was sworn in by the Solicitor. He lives across the street diagonally from the applicant. He feels kind of stupid as he didn't realize he had a pergola in his back yard (him and his son run the block a lot). He didn't know there was an issue until the applicant told him about it. He doesn't have an issue with it.

Scott Wiseburn added he didn't see the picture as to whether or not it was attached. It is, however, the size. Grandfathered in from back in the 80's is totally different from being grandfathered in now. The rules were different. We are going to work with you.

Ralph Sizer – 515 Coleman Dr. Mr. Sizer added that he moved into those houses that were allegedly inspected to code and our houses were falling down. You kind of left us in the lurch too where our houses had issues and the homes weren't properly inspected. Now someone is trying to improve their home these inspections and rules are now coming into play.

There is a roof on it now. Brief discussion took place about it being inspected and being up to code. Alexis Smith, Solicitor, indicated that it can be stipulated that it be inspected per the approval.

## **MOTION TO CLOSE TO THE PUBLIC**

M/ Abate, S/ Vondran

Ayes: Unanimous

Wayne Boorda, P.E. & P.P. referenced his letter dated February 16, 2023. He had indicated that there was an old survey from 1998. He realized after the fact that there was an updated survey dated 2022. When he originally looked at the surveys, he thought they were the same one. He's good with the survey. He feels Mr. Aviles stated his case. The building official can inspect if the board chooses to.

Joe Abate advised that he visited the property. He mentioned that the roof is sloped and goes into the neighbor's property. He said that the current neighbor may not have an issue with it but if a new neighbor moves in they may. He suggested that he add a gutter and downspout. Mr. Aviles advised that he stopped all construction once he received the violation but he was going to do that. He doesn't want to cause any issues with his neighbor. Mr. Abate added that the property had a trailer on it, firewood, a tire, trash, and some other things and it needs to be cleaned up. Zoning Officer, Rose Ann Lafferty, asked Mr. Aviles if his trailer is parked in the back yard and he said yes. She advised the board that the trailer can be there and it's where it needs to be parked. The other stuff can't be there. Rose Ann Lafferty advised the board again that if they are going to grant him the waiver of the five foot setback there is still the issue of the 10' from the pool. That is State regulation and the board cannot override that. The pergola will have to be reduced in size so it is not within the ten feet of the pool. It's just the one corner that is in violation. Rose spoke to Mr. Aviles about this previously that if he reduced the size of the pergola he would not be in violation.

Mr. Aviles added that if you look at his survey you can see his shed is within violation as he is within five feet of the fence. Rose Ann advised that she cannot speak to that as she was not here in 2014. If the zoning permit was issued by the previous Zoning Officer, she cannot revoke that. He referenced the survey showing the pool which was previously submitted at the time and asked the board to look at how close the shed is. Joe Abate responded that they are not here discussing the shed but they are talking about the pergola. He does not have a problem complying with reducing the size of the pergola and moving the one post to comply with the State regulation. He asked if he could show Bill Culver a picture and was told yes. It was stated on the record that Mr. Aviles was showing the board members a picture of the pergola from his phone. Wayne added that the board can grant the variance but you cannot allow the structure to be under 10' from the pool since it is regulated by the State. Brief discussion took place. Rose Ann Lafferty added that no part of the structure (not the top or the roof) can be within 10' of the pool. Mr. Aviles asked what the process is if he is approved tonight.

Rose Ann Lafferty, Zoning Officer, told him if approved tonight for the variance waiver she will get a Resolution which will be memorialized at the next meeting. He would have to bring in a new drawing showing that he shortened the pergola. She will issue the zoning permit and then he would have to go to construction and apply for construction permits and have it inspected.

## **MOTION TO APPROVE BULK VARIANCE WITH WAIVER**

M/ Abate, S/ Culver

Ayes: Abate, Culver, Miller, Vondran, Wise, Wiseburn

Mr. Aviles asked if he would be notified about getting everything in compliance. Alexis Smith, Solicitor, advised that a resolution will be drafted and will be adopted at the next meeting. If it's approved by the board, then it has to be published and you have 45 days. Mr. Aviles asked if he should start complying today so he can start getting everything in order. Rose Ann Lafferty responded that he can bring in his updated drawing on either Tuesday or Thursday and she can help him at least be in compliance with the 10 feet issue. Once the resolution is done and memorialized I can issue you the zoning permit and you can then go to construction.

### **Novelis – 838 N. Delsea Dr., a/k/a Block 1902, Lots 18, 19, 26, & 33 – Minor Site Plan**

Beth Marlin, Esquire of Brown & Connery appearing on behalf of the applicant, Novelis. She also had Matthew Welding who is a mechanical engineer, Erasmo Rizo, CEC, who is a licensed engineer in West Virginia and who did a lot of the work on this and Brian Spray who is a licensed engineer in New Jersey. They are both from the same firm, Civil & Environmental Consultants, Inc. All three were sworn in by Alexis Smith, Solicitor. Brian Spray has been operating as an engineer since 2006 with Civil & Environmental Consultants, Inc. Erasmo Rizo is licensed in West Virginia and has been an engineer for over 20 years. He has worked with a lot of municipalities through the years.

They are asking for minor site plan approval and a couple of waivers for interior landscaping and screening of the parking lot and for curbing of the parking lot and the drives. Erasmo Rizo advised that the improvements they are requesting are for the safety of Novelis. They are trying to make it easier so they have access to the facility and aren't crossing with pedestrians.

They are putting in a guard shack in the one vicinity. All vehicles will stop at the guard shack on the parking lot. It is just a facility where the guard will have a sheet with names of people who have access. Joe Abate asked if it is going to be 24/7 and he was told yes. If a guard is not there, the employees will be able to still access the facility with a swipe card. There will be two armed guards. There are no utilities proposed at this time as they will use the facilities currently in the building. There is already a three lane access point to get there. There is going to be a small wedge to make sure the traffic can get around safely.

The second portion of construction is going to be the access road. There is already an impervious access road that goes in between the buildings. He explained the existing traffic flow which has a maintenance issue with gravel in the tracks. A more impervious lot such as asphalt will greatly reduce maintenance. In addition, there will be storage for two trailers. The tractor trailers will pull in and take them out. In addition, there will be parking spaces to ensure maintenance personnel has a suitable location to park and access to this portion of the facility.

Joe Abate asked if the impervious surface is going to affect the retention pond. They have about 6,000 sq. ft. of impervious. He was advised that the rise in the pond is less than 1" at a 100 year storm so it will not affect it.

In the northern area, they will either resurface or fix the issues with the current asphalt. They will make sure that the one area will have a better pattern for storage of pallets, etc.... On the other side there is already a significant amount of parking. They will be re-striped for safety. Each parking space has a curb stop so they don't have to use curbing for that. The sidewalks are existing and they will now be able to utilize that sidewalk in the middle and have a proper flow of traffic. The one section already was done and has the paving, the sidewalks, and the striping. There are striping arrows so it flows nicely and is not chaotic. The intent of this project is for safety and not really improvements. The business is not being expanded.

Matt Welding indicated that Novelis produces aluminum (best way to describe it is large toilet paper rolls of aluminum). They have been around since 1970 under different names. First was Echo, then Aleris, and now Novelis. The production will be the same and will not change or expand at all. They are a 24/7 operation. They employ 108 employees and will have the same amount after this renovation. There are two 12 hour shifts 6 a.m. and 6 p.m. There are four total shifts (four different groups but two shifts per day). There is also administrative during the day Monday-Friday which is either 8 a.m. to 4 p.m. or 9 a.m. to 5 p.m. which employs approximately 20-30 people and there are 20 people on the day shift for a total of 40-50 (20 shift and 20-30 administrative) and 20 people on the night shift. They have about 3-5 trucks coming in and 4-6 trucks going out. They showed the board members on the plan where the trucks unload.

Lighting has been added for safety. They will be LED lights. They do have security cameras. There is a guard shack which is there 24/7 and they are proposing lights along there. When it is winter time and it is dark at 5 p.m., they will have lights there. Plans have been submitted regarding the formation.

Beth Marlin, Esquire advised that the one variance they are applying for is the landscaping and the screening of the parking lot. The main parking lot is about 1,200 ft. away from Delsea Drive. The new access driveway is about 750-800 ft. from Delsea Drive. The new side driveway is about 1,400 ft. from Delsea Drive. These areas are not visible from Delsea Drive as there is a curve. They are also not visible from the neighboring property. This will not impact the municipal services.

Beth Marlin, Esquire acknowledged the Fire Chief's comments. The guard booth will be manned 24/7 and they will also provide keys. They don't have an issue with all hydrants being uplifted to 4.5 inch storz steamer connections. They still have to touch base with him regarding his request for a new hydrant being added to the beginning of the new road being installed. They will be addressing this with the Fire Chief as they believe there are some in the area. They have not been able to get in touch with him. These improvements will not create any additional run-off on the adjacent lots.

Curbing – they are trying to keep the traffic separate from the pedestrians. There are no people walking except in the parking lot on the sidewalks. The purpose for the curbing is for aesthetics. These areas are not visible from Delsea Drive or any neighboring property. If curbing was added, would it cause an issue with run-off. There is no curbing now and they have do not have any issues.

There is an issue and they don't know if they need to ask for a variance or it can just be recognized as a pre-existing condition. The property is a very odd shape and there is a very little piece that sticks up and goes to the street. For that little area they need a variance for setback. The main piece coming into the driveway meets the width. Joe Abate advised that they would need a variance for that but it is a pre-existing condition.

Brian Spray is the Quality Manager on this project. He did hear Mr. Rizo's testimony and agrees with it along with his letter.

Wayne Roorda, Jr., P.E., P.P. addressed Paul Breier's letter dated September 19, 2022 regarding planning. He addressed the need for a bulk variance for the lot width of the small odd shaped piece that extends to Delsea Drive. There is no evidence of a variance being granted previously so this may have pre-dated zoning. Wayne Roorda, Jr. has no issue with it. It is just a technicality but not one that affects the application. All you have is three things in consideration. The guard shack with a slight consideration to the lane coming in. The side lane traffic where they are going to have the forklift traffic. The parking lot on the southern side (right side) you have the parking area that is existing, asphalt they are repaving and enhancing and making it safer. He has no issues with the lot width variance. This is a technicality which is a pre-existing non-conforming. The testimony covered everything else. There is just the one comment from the Fire Chief that is any agency outstanding approval that needs to be met.

As far as traffic is concerned, they have answered the questions already. There is no intended change in operation or employees. The intent of that parking is to be convenience parking for the contractors and maintenance personnel that may come on to the property to perform duties. The trailer parking spaces are temporary and not intended for long term storage. The longest would be maybe a week. They will be moving in and out. It will be a rotation.

Wayne Roorda, Jr., P.E., P.P. addressed both of Stan Bitgood's letters dated September 2022 and January 2023. Everything was pretty much addressed in his September 2022 letter. Wayne added that they addressed the stormwater and this is not a huge amount. It is not a major development in the eyes of the State. Wayne spoke briefly about this.

There are no major changes to the operation or change in employees. They are just adding safety enhancements to the property but nothing new. They are basically cosmetic changes.

As mentioned earlier, the guard shack does not intend to have utilities so there will be no bathroom. The guards will have access to the existing utilities on site. Wayne added there is the bulk variance for the pre-existing, non-conforming which would be required as part of any approval. Two design waivers in regards to the curbing and landscaping. Beth Marlin added that the interior parking lot landscaping and the screening of the parking areas they feel are not necessary for this particular parking since it is so far off the drive. There are also woods around the property. It sort of has it's own screening built in.

In regards to the curbing, the big purpose for this is a safety feature as it will be separating the road from the pedestrians. There are no sidewalks along these drives except for in the original parking lot that has the wheel stops so there is protection.

Rose Ann Lafferty, Zoning Officer, did not have any comments.

Sue Miller addressed Stan's letter dated September 2022 #17 where he mentioned that they add a note to the plans. Wayne responded that the language is added on the plans.

Beth Marlin, Esquire gave a copy of the DEP permit to Wayne Boorda, Jr.,

Joe Abate mentioned the tractor trailers coming out of Aleris to Delsea Drive. They come out without stopping. He asked if there can be a flashing LED light. They run the stop sign all of the time and just come out on Delsea Drive. Brief discussion took place. They mentioned that they can put big reflectors on the current sign. They also can put an additional sign before the current sign indicating for them to stop ahead. A suggestion was made about internal management talking to the drivers. Joe doesn't think they will listen.

Bill Culver asked about the two parking spots for the trailers and what is in the drums. Matt Welding advised that they are decorative or wax coating in the drums.

#### **MOTION TO OPEN TO THE PUBLIC**

M/ Abate, S/ Miller

Yhanne Battle – 835 N. Delsea Dr. was sworn in by the Solicitor. He asked if the curbing on Delsea Drive is it going to be left "as is". Mr. Rizo said improvements stop short of the entry point and start farther back. Everything at the beginning is going to get seal coated to make it last longer at the front entrance and that's basically it.

#### **MOTION TO CLOSE TO THE PUBLIC**

M/ Abate, Vondran

Ayes: Unanimous

#### **MOTION TO APPROVE MINOR SITE PLAN W/CONDITIONS AND WAIVERS**

M/ Vondran, S, Culver

Ayes: Abate, Culver, Miller, Vondran, Wise, Wiseburn



**CORRESPONDENCE:**

None.

**DISCUSSION:**

None.

**RESOLUTIONS:**

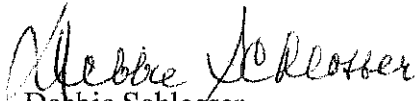
None.

**ADJOURNMENT**

M/ Vondran, S/ Miller

Ayes: Unanimous

Submitted by,

A handwritten signature in cursive script, appearing to read "Debbie Schlosser".

Debbie Schlosser

Planning Board Secretary