

Resolution No.: 11-2023

**RESOLUTION OF THE BOROUGH OF CLAYTON LAND USE BOARD
GRANTING USE VARIANCE APPROVAL TO PERMIT BOAT PARKING IN
DRIVEWAY**

FOR BLOCK 1704, LOT 3 (1003 Brown Lane)

APPLICANT- LEON SANDERS

WHEREAS, the Leon Sanders (the “Applicant”), who resides at 1003 Brown Lane, Clayton, New Jersey, 08312, submitted an application for use variance approval to permit the parking of a boat in the driveway adjacent to pole barn, and the Applicant appeared before the Clayton Land Use Board (the “Board”) on Monday, March 27, 2023 (the “Hearing Date”); and

WHEREAS, the subject property, Block 1704, Lot 3, more commonly known as 1003 Brown Lane, is owned by the Applicant (the “Property”) located on the northern side of the intersection of Brown Lane and Buckboard Lane. The property contains a single-family dwelling with a grassed yard, fencing and one detached pole barn. The property is located in the R-B Medium/High Density Residential zone and is bordered by residential uses and woodland; and

WHEREAS, the Applicant seeks Use variance approval and as such the board reconstituted as a Zoning Board of Adjustment; and

WHEREAS, the Board’s engineer and planner, Wayne L. Roorda, Jr., PE, PP, CME, was present and duly sworn; and

WHEREAS, Applicant was duly sworn to testify on behalf of the application; and

WHEREAS, during the public hearing, the Applicant was given the opportunity to present testimony and legal argument, and the Board’s professionals and members of the public were given an opportunity to comment on the application; and

WHEREAS, the Applicant met all jurisdictional requirements enabling the Board to hear and act on the application, and appeared before the Board on the Hearing Date, as specified above; and

WHEREAS, the following reports prepared by the Board’s professionals were considered by the Board:

Memorandum of the Board’s planner and engineer Wayne L. Roorda, Jr., PE, PP, CME dated March 20, 2023; and

WHEREAS, no exhibits were marked into evidence during the Hearing; and

WHEREAS, the Applicant testified that he is applying for a use variance with an additional request for a bulk variance to park his jon boat on his pole barn driveway. He had a 32’x24’ garage built when he moved in approximately five years ago. His intended use was to park the boat and a couple of cars when it is not inside the garage. The boat is 16 feet long. It is

parked on a trailer and registered all year round. When the boat is on the trailer it will not fit in the garage. There are cars in the garage and no room for the boat. The boat is used for fishing and sunset cruises. The Applicant is located on a dead end street and directly adjacent to woodland. The Applicant confirmed he is not running a business at his property; and

WHEREAS, the Board's engineer and planner, Wayne Roorda, Jr., PE, PP, CME, reviewed his engineering and planning reports with the Board; and

WHEREAS, the meeting was opened to the public and Orhan Turan of 1004 Brown Lane testified in support of the application; and

WHEREAS, the Board has considered and incorporates herein the review letter submitted by Board engineer and planner Wayne L. Roorda, Jr., P.E., P.P., C.M.E., and the Board has carefully considered all the documents submitted and the testimony of all the witnesses; and

WHEREAS, the Board has made the following findings of fact and conclusions of law:

1. The Applicant seeks use variance approval to park his 16 foot jon boat on his pole barn driveway.
2. The property contains a single-family dwelling with a grassed yard, fencing and one detached pole barn. The property is located in the R-B Medium/High Density Residential zone and is bordered by residential uses and woodland.
3. When the boat is on the trailer it will not fit in the garage. There are cars in the garage and no room for the boat. The boat is used for fishing and sunset cruises. The Applicant is on a dead end street and directly adjacent to woodland. The Applicant confirmed he is not running a business at his property.
4. The Applicant needs a D(1) variance pursuant to N.J.S.A. 40:55D-70(d)(1) to permit the parking of a recreational vehicle, the jon boat. A recreational vehicle is not permitted in the front yard per Section 88-46.A(3) and 88-11.B. As such, the Applicant needs a D(1) variance and must demonstrate that the Applicant satisfies both the negative and positive criteria pursuant to N.J.S.A. 40:55D-70(d)(1). There is an enhanced burden of proof for the D(1) variance here because the master plan does not address the use variance sought. The Applicant has the burden of demonstrating "special reasons" for granting the use variance and demonstrating that the requested relief can be granted without detriment to the public good and will not impair the intent and purpose of the zone plan and the zoning ordinance.
5. The Board finds that the Applicant satisfied the relevant criteria for the use variance. The Board finds that the proposed use will enhance the site, with little to no impact on the surrounding area.
6. The Board finds that the Applicant also needs a bulk variance in order to park the boat within 10 feet of any property line.

WHEREAS, after deliberation, a motion was made to grant approval of the Relief Requested, subject to certain conditions, as set forth herein, and was approved by a 7 yes to 0 no vote.

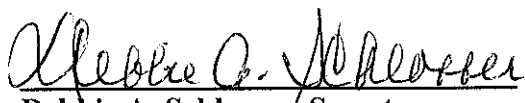
NOW, THEREFORE, BE IT RESOLVED by the Borough of Clayton Zoning Board, that it hereby approves the application for a use variances as set forth above and is contingent upon the following conditions:

1. All affordable housing non-residential development fees must be paid.
2. The Applicant shall comply in all respects with the review letters submitted by the Board's professionals with the exception of waivers and/or variances granted.
3. The Applicant shall obtain the approvals of all other necessary governmental agencies having appropriate jurisdiction.
4. The Applicant shall post all performance bonds and inspection escrows and pay in full all review escrows prior to the approvals taking effect.

BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to the Applicant, Borough Clerk, Borough Construction Official, Borough Tax Assessor, and the Borough Zoning Officer.

THIS RESOLUTION DULY ADOPTED at a regular meeting of the Borough of Clayton Planning Board held on Monday, April 24, 2023.

Attest:


Debbie A. Schlosser, Secretary

**Borough of Clayton Combined Planning
Board and Zoning Board of Adjustment**

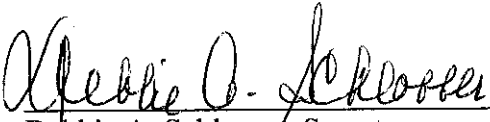

By: Joe Abate, Chairman

ROLL CALL VOTE

THOSE IN FAVOR	<u>8</u>
THOSE OPPOSED	<u>0</u>
THOSE ABSTAINED	<u>0</u>

CERTIFICATION

I hereby certify that the foregoing Resolution is a true copy of a Resolution adopted by the Borough of Clayton Combined Planning Board and Zoning Board of Adjustment at a regularly scheduled meeting of the Board held on April 24, 2023 at the Borough of Clayton Municipal Building, 125 Delsea Drive, Clayton, New Jersey 08312 at 7:00 p.m. and memorializes the decision reached by said Board on the herein application at the Board's March 27, 2023 meeting and public hearing.


Debbie A. Schlosser, Secretary