

Resolution No.: 67-2023

**RESOLUTION OF THE BOUROUGH OF CLAYTON LAND USE BOARD
GRANTING USE VARIANCE
FOR BLOCK 2002, LOT 7 (97 E. Jackson Avenue)
APPLICANT-APRIL ALPHEAUS AND MICHAEL ALPHEAUS**

WHEREAS, the Applicants, April Alpheaus and Michael Alpheaus Jr., of 97 East Jackson Avenue, Clayton, New Jersey, 08002, submitted an application for Use Variance relief contingent on site plan approval and appeared for a hearing before the Clayton Land Use Board on Monday December 12, 2022; and

WHEREAS, the subject property is located as a dead end off of East Jackson Avenue, south of East Academy Avenue, known as Block 2002 Lot 7 also known as 97 East Jackson Avenue. The subject site comprises approximately 10.9 acres in area and is approximately 405 feet wide and 1,138 feet deep. The site is presently comprised of forested land with an acre-wide pond on its east side, along with a stone driveway leading from East Jackson Avenue to the middle of the lot where a residential home with auxiliary solar panels resides. Area to the west is protected wetlands as designated by the Department of Environmental Protection. Adjacent lot to the north is zoned as "A" Agricultural/Low Residential with a residence, the lot to the south is zoned as "A" Agricultural/Low Residential with a farm and the lot to the west is zoned as "CF/I" Community Facility/Institutional and is a farm; and

WHEREAS, the Applicant is seeking a use variance in order to open and operate a events or venue business on the property. The property is currently zoned Agricultural/Low Residential, and an events or venue business is permitted. The applicant testified that intended events would be small weddings, vow renewals, birthday parties, etc.; and

WHEREAS, the proposed event space and accommodations are depicted on a variance plan signed and sealed by Professional Engineer Gregory J. Simonds, P.E., and dated September 20, 2022. Applicants sought site plan waiver with the application, but this request was denied and the use variance relief is contingent on site plan review and approval by the Board; and

WHEREAS, since the instant application asks for Use Variance relief, the Clayton Land Use Board reconstituted itself as a Zoning Board of Adjustment to hear this matter; and

WHEREAS, the Board's engineer Stan Bitgood, P.E., C.M.E. and planner Paul Breier, P.P. were present and duly sworn; and

WHEREAS, Applicants April and Michael Alpheaus were present and duly sworn to testify on behalf of the application;

WHEREAS, Applicant's engineer, Gregory Simonds, P.E., was present and duly sworn; and

WHEREAS, Applicants believe that the use variance will prove to positively impact the community, as there will be a natural outdoor venue at relatively low cost. Applicants further argue that the presence of the venue will directly support nearby business such as caterers; and

WHEREAS, Applicants do not intend for any further permanent structure on the property. Current space in the middle of the property is to be delineated as event parking, including one handicap space. Applicants intend to have portable trash cans and portable lavatories (port-a-potty), including one with handicap accommodations on the premises during events. Borough's trash pickup would not be affected; and

WHEREAS, Applicants testified that no swimming will be permitted on the property as part of the event space, and that there will be a lifeguard on duty as necessary; and

WHEREAS, parking is proposed for the end of the stone driveway in the middle of the lot with an area able to accommodate a proposed 20 parking spaces including one handicap space. Parking will be directed by an attendant during events; and

WHEREAS, Board Chairmen, Joe Abate, questioned if this proposed use adds something different from the existing parks in the municipality. He further asked how deep the pond is on the property, and Applicants testified they are don't know. Applicants denote plans to fence off the sides of the house on the property to seclude the house. Applicants further testified as regards house signage of the venue at the parking area with the name of the proposed venue being "The Winding Woods"; and

WHEREAS, Applicants testified that events held on the property shall be organized through contracts and that they will purchase a \$1,000,000.00 liability insurance policy for the business; and

WHEREAS, Board Professional, Stan Bitgood, P.E., C.M.E., recommended conditions for the site plan. These include clear delineation and access to the parking area, ADA compliance shown in reference to the topography on the site plan, and for the site plan to demonstrate how the deck and the pond will be blocked off during events. The Applicants must also address the implications of any New Jersey DEP limitations for the site and what may or may not be placed in DEP delineated areas. The Applicants and their engineer agreed to the recommendations; and

WHEREAS, the Applicants understand that they can't build any permanent structures on the lot because it is subject to a wetlands management plan and will provide documentation from the NJDEP as part of the site plan application for review along with the site plan; and

WHEREAS, Board Professional, Stan Bitgood, P.E., C.M.E., recommends and the Board requires site plan review; and

WHEREAS, members of the public were welcome to speak on the application at the hearing at the regularly scheduled meeting held on December 12, 2022 and two members of the public appeared; and

WHEREAS, Darlene Espisoto, of 145 Bernard Street, expressed support for the application; and

WHEREAS, Nick Prior, of 810 East Academy Street, also expressed support for the application; and

WHEREAS, the Board has considered and incorporates herein at length the review letters of Stan Bitgood, P.E., C.M.E., dated June 20, 2022 and Paul D. Breier, P.P., dated December 7, 2022; and

WHEREAS, the Board has carefully considered all the documents submitted and the testimony of the witnesses and members of the public; and

WHEREAS, the application for a use variance is hereby approved upon the condition of site plan approval, by the Borough of Clayton Combined Planning and Zoning Board of Adjustment sitting as a Zoning Board of Adjustment, by a 7 yes to 0 no vote.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Clayton Planning Board, that it does hereby **Approve** the application for Use Variance to allow for a mixed commercial use upon condition of site plan approval as hereinbefore stated along with the existing residential use on the property contingent upon the following:


1. Compliance with all requirements as hereinbefore stated.
2. Applicant must secure any and all outside approvals for the project.
3. Site plan review and approval including all documentation from NJDEP as regards the subject site as part of the site plan application.

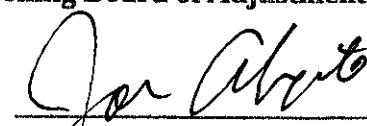
BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to the applicant, Borough Clerk, Borough Construction Official, Borough Tax Assessor, and the Borough Zoning Officer.

THIS RESOLUTION DULY ADOPTED at a regular meeting of the Borough of Clayton Planning Board held on Monday, January 23, 2023.

Attest:

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


Debbie A. Schlosser, Secretary


By: Joe Abate, Chairman

ROLL CALL VOTE

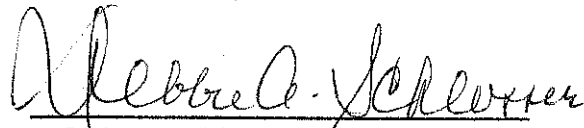
THOSE IN FAVOR _____

THOSE OPPOSED _____

THOSE ABSTAINED _____

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 January 23, 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 December 12, 2022 meeting and public hearing.


Debbie A. Schlosser, Secretary