

Town of Claverack
Zoning Board of Appeals
P.O. Box V
Mellenville, NY 12544
Minutes: August 28, 2013

APPROVED 9/23/13

Chairman Frank Clegg called the August 28, 2013 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:30 p.m. Chairman Clegg led members of the ZBA and the audience with the Pledge of Allegiance.

Members in attendance were: Chairman Frank Clegg, Steven Melnyk, Kim Keil, David Graziano, Oliver Milot, Jock Winch, engineer Paul McCreary, attorney Rob Fitzsimmons, secretary Jodi Keyser.

Absent with regret: Chris Post

Correspondence: Letter to the Zoning Board of Appeals members from ZBA member Chris Post explaining the reasoning for the 5-acre density lot size within the new TOC Zoning Laws.

Members reviewed the minutes of June 26, 2013 meeting. Motion to approve the corrected minutes was made by Kim Keil with a second from David Graziano. All members were in favor. Minutes were approved.

NEW APPLICATIONS for 8/28/13:

Skelley, John M. Area Variance: Tax Map #123 – 02 – 37, 38, 39 Located at 206 Prach Rd. Subdivision of 8.044 acres into two parcels of 5.279 acres and 2.765 acres respectively requires an Area Variance for the undersized parcel.

Jeff Plass was present for the application. Mr. Plass explained that the Skelleys own approximately 8 acres on Prach Rd. which they would like to subdivide into two parcels. Mr. Plass continued that he found out in May 2013 that the Zoning Laws had changed and lots less than 5 acres are not allowed within this zone. Mr. Plass informed the Board that the Skelleys want to subdivide the property to be able to give a parcel to their son to build a home. Mr. Plass stated that the Skelleys actually thought that they owned 10 acres because they have been paying taxes on 10 acres for several years but when he surveyed the property it was 8+/- acres. Mr. Plass then contacted Stan Koloski for guidance with the subdivision. Mr. Koloski suggested making at least one of the parcels 5-acres to meet the minimum lot size and then seek a variance for the insufficient parcel. Rob Fitzsimmons agreed that it is better to have only one of the parcels requiring a variance than two. Rob Fitzsimmons informed the Board that the applicant had submitted an application with the TOC Planning Board only to find out about the new Zoning Law change. Rob Fitzsimmons continued that the applicant would have applied for the subdivision earlier if they knew that this would be a problem. Jeff Plass stated that going from 1-acre parcels to 5-acre minimum parcels is a big jump. Chairman Frank Clegg stated that it will set a precedence if the ZBA were to grant the Area Variance for this

subdivision then they would be expected to grant all Area Variances. Rob Fitzsimmons handed Mr. Plass the criteria sheet for his client to fill out to make their argument. Jock Winch stated that the smaller 3-acre parcel is larger than most current parcels. Chairman Frank Clegg stated again that granting an Area Variance sets precedence and causes a problem. Steven Melnyk agreed with Chairman Clegg but also stated that every decision of the TOC ZBA set precedence and that the Skelleys thought that they owned 10 acres. Chairman Clegg stated that the new Zoning Laws should be revised because 5 acres is too large to expect. Steven Melnyk stated that he feels that the applicant is trying to comply. David Graziano credited Mr. Plass for making one of the parcels conform. Set for public hearing for the September meeting.

INFORMAL:

Travins, Seth Interpretation for Agricultural Use & Use Variance: Tax Map #(SBL) 130 . – 1 – 42 . 200 located at 5625 Rte. 9-H/23 Interpretation of Agricultural Use to make sauerkraut, Kim Chee and other fermented vegetables, flowers and to grow some of the cabbage for the sauerkraut. Use Variance to have a sauerkraut making business within a Rural Residential Zone.

Seth Travins was present for his application. Mr. Travins explained that he is seeking to have the TOC ZBA grant an interpretation of agricultural use for his sauerkraut making business. Mr. Travins explained that he makes sauerkraut and other fermented vegetables for retail and wholesale sales and is in the process of purchasing the former Glencoe Computer Building for this business. Mr. Travins continued that he would like to grow, manufacture, and sell his products from this building. Mr. Travins informed the Board that he will grow approximately 20% of the vegetables he uses on site and will have the remaining 80% delivered from local farms. Chairman Frank Clegg asked Mr. Travins the size of the parcels. Mr. Travins stated that the parcel is approximately .9 acres. Chairman Clegg stated that the size of the parcel does not seem large enough to have the business and big garden for the cabbage and flowers. Chairman Clegg asked how the smell is mitigated. Steven Melnyk informed the Board that he makes his own sauerkraut and there is no real smell because of the tight lids on the crocks. Mr. Travins informed the Board that he uses food grade plastic barrels with a bag filled with water to ferment the cabbage. Kim Keil asked if the building shares a well with the neighbor. Mr. Travins stated that the building does share a well and he is looking into having his own well dug or an easement for the existing well. Jock Winch asked if the septic systems are separate. Mr. Travins stated that the buildings have separate septic systems. Mr. Travins informed the Board that he had the well tested and the testing showed chloroform which makes him feel that a new well would be the best option. Steven Melnyk asked Mr. Travins how many vehicles would be in and out each day. Mr. Travins stated that the largest truck would be a 24 foot box truck to do deliveries and some tractors. Jock Winch stated that Mr. Travins could not determine the size of the delivery trucks because the size is determined by the delivery company and the number of deliveries that they may have. Steven Melnyk asked Mr. Travins if his business is primarily wholesale. Mr. Travins stated yes he sells by the pallet. Kim Keil asked if he sells his sauerkraut at the Hawthorne Valley Farm Store. Mr. Travins stated no Hawthorne Valley manufactures

their own sauerkraut and that he helped them develop their product. Rob Fitzsimmons informed the applicant that retail and wholesale businesses are not allowed within the Rural Residential Zone but a farm stand over 500 square feet is a permitted use. Kim Keil stated that the TOC welcomes growth, new business, and new opportunities. Steven Melnyk agreed that this is more like a farm stand. Rob Fitzsimmons stated that bringing vegetables to the site to manufacture the sauerkraut might not be considered a farm stand. Steven Melnyk asked Rob Fitzsimmons for the definition of wholesale as opposed to retail business. Rob Fitzsimmons read from the TOC Zoning Laws that a wholesale operation is a business that sells only to other businesses and a retail operation sells the public at retail pricing but can also sell wholesale. Rob Fitzsimmons asked Mr. Travins if he has contacted NYS Department of Agriculture and Markets for guidance. Mr. Travins stated that he did contact the NYS Ag. & Markets but they informed him that because the building was within a Rural Residential Zone it would be up to the Town of Claverack to make any determination. Chairman Frank Clegg asked where the boundary line of the property is located. Mr. Travins stated that the property line is very close to the large blue building. Jock Winch stated that there might be a setback issue also. Rob Fitzsimmons asked engineer Paul McCreary if he felt that there would be access issues from NYS Rte. 9-H. Mr. Travins informed the Board that the driveway is an easement with the neighboring property. Rob Fitzsimmons instructed Mr. Travins to contact NYS DOT because the Town of Claverack Zoning Board of Appeals may determine the use as agricultural but the NYS DOT might see it as a commercial use and expect curb cuts which would be very costly. Paul McCreary agreed for the applicant to contact NYS DOT. Jock Winch stated that driveway easements create problems. Rob Fitzsimmons stated that the application could be set for public hearing at the September meeting. Mr. Travins informed the Board that he will be out of the country and asked that the public hearing be held at the October 23, 2013 meeting instead. ZBA members agreed. Set for public hearing October 23, 2013.

Katy Cashen handed out copies of the Town of Ghent's recently adopted mass gathering laws to use as a model for the Town of Claverack to begin the process of creating a mass gathering law. Ms. Cashen asked ZBA members to review the Ghent law and to think of ideas for the TOC mass gathering law.

Motion to adjourn the meeting was made by Kim Keil with a second from Steven Melnyk. All members were in favor. Motion carried. Meeting adjourned at 8:12 p.m.

Respectfully submitted,
Jodi Keyser, Secretary