

Town of Claverack  
Zoning Board of Appeals  
P.O. Box V  
Mellenville, NY 12544  
Minutes: September 25, 2013

APPROVED 10/23/13

Chairman Frank Clegg called the September 25, 2013 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:30 p.m.

Members in attendance were: Chairman Frank Clegg, David Graziano, Jock Winch, Kim Keil, Chris Post, attorney Barrett Mack, engineer Paul McCreary, and secretary Jodi Keyser

Absent: Oliver Milot and Steven Melnyk

Correspondence: Training offered by Hudsonia – Habitat Assessment Guidelines scheduled for 11/2/13 from 9:00 a.m. to 4:00 p.m. at the Ulster County Cooperative Extension in Kingston

Motion to approve the minutes of the August 28, 2013 meeting was made by Jock Winch with a second from David Graziano. All members were in favor. Motion carried.

**Continuing Applications for 9/25/13:**

**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, surveyor along with Mr. & Mrs. Skelley represented the application. Mr. Plass reviewed the application for the Board members. Mr. Plass continued that the Skelleys applied to the TOC Planning Board for a minor subdivision to find that the TOC Zoning Laws were changed and the 2.79 acre parcel was now a substandard sized lot and they were sent to the TOC Zoning Board of Appeals for an Area Variance. Mr. Skelley informed the Board that the property was passed down to him from his parents and he and his wife want to give the 2.79 acre parcel to their son and daughter-in-law to build a home. Chairman Frank Clegg opened the meeting to public hearing at 7:31 p.m. no public comment was heard. Chairman Frank Clegg closed the public hearing at 7:32 p.m. Mr. Plass informed the Board members that the Skelleys have paid taxes on approximately 9.7 acres for a number of years but when he was surveying the property for the subdivision the actual parcel is 8.2 acres. Mr. Skelley informed the Board that he has paid three different county tax bills and three different school tax bills for many years because the property is 3 different parcels that are on one deed. Mr. Skelley continued that the tax map bills equaled the 9.7 acres but when it was resurveyed the difference was found. Jock Winch stated that the property lines used to go to the middle of the roadways. Jeff Plass stated that this property does go to the middle of the roadway. Chris Post asked how the property remained three separate parcels but now needs a subdivision. Chris Post continued that if the Columbia County Real Property office and the Town of Claverack considered the property 3 separate parcels then why do then need to do a subdivision. Barrett Mack answered the parcel is only considered three separate parcels with regard to the tax bills but not deeded as three separate parcels. Barrett Mack continued that this is more common then it seems because people just keep them separate instead of going to the Assessor's office to have this fixed. Jeff Plass added that the Town of Claverack Planning Board considered the parcel one contiguous lot. Chairman Frank Clegg asked how this went on for so long. Jeff Plass stated that 40 + years ago property was just purchased because the owners just sold off hunks of land. Mr. Plass continued that the Skelleys have always planned to subdivide the property someday and they were unaware of the Zoning Law change. Chairman Frank Clegg stated that in his opinion if the TOC Zoning Board of Appeals grants this Area Variance then they will be expected to grant every person that asks for an Area Variance and that will become a problem. Jock Winch stated that every case is different. Chairman Clegg stated that is what he

keeps hearing but there will be a problem when you grant an Area Variance to one person then everyone that asks will expect theirs to be granted. Jeff Plass stated that the Skelleys always planned to subdivide the property they didn't know that the law was changed. Barrett Mack informed the Board that they need to consider the criteria for granting an Area Variance. Kim Keil stated that in her opinion this is a unique situation and each case should be considered differently due to the circumstances. Kim Keil continued that if the Zoning Board of Appeals voted against this application then they would have to vote against all Area Variance without looking at the circumstances. Chris Post stated that the Zoning Revision plan was not to keep people from subdividing their property it was to keep density under control. Jeff Plass reminded the TOC Zoning Board of Appeals members that if they grant the Area Variance to the Skelleys they still need to go to the TOC Planning Board for a subdivision approval and prove perk testing, availability of water, etc. David Graziano stated that part of the Area Variance is to try to seek other options instead. David Graziano continued by asking if the Skelleys have attempted to purchase enough property from the neighbor that owns the abutting large parcel to make the subdivision conform. Mrs. Skelley informed the Board that this property is owned by McGraw one of the owners of McGraw-Hill publishing company and he has no intention of selling anything. Jock Winch stated that there is no solution to the situation other than an Area Variance in his opinion. Mr. Skelley stated that this property was given to him by his parents and he has been fortunate enough to maintain it and now to be able to give a piece of property to have his son build a home next to them. Paul McCreary asked if any of the proposed subdivision lines fall on the current parcel lines. Jeff Plass answered no. Paul McCreary suggested that the Board members make the motion and use their reasoning for the decision so that it is recorded in the minutes to defend for future decisions that may seem the same. Paul McCreary asked Mr. Plass to describe the sizes of the neighboring parcels which were subdivided prior to the new zoning laws. Mr. Plass stated that the neighboring parcels range from 1 acre to 5+ acre parcels. Paul McCreary then stated then the 2.76 acre parcel that the Skelleys are seeking is within the same dimensions of the neighboring properties and therefore would not have a significant impact to the neighborhood. Barrett Mack reviewed the criteria for an Area Variance with the Board. Question #1 was answered no because no public comment and the size of the parcel is not out of the realm of the consistency of the neighborhood. Question #2 was answered no because of purchase of other properties and the neighbor is unwilling to sell any property. Question #3 was answered yes. Question #4 was answered no referring to the reasons in Question #1. Question #5 was answered yes. Barrett Mack informed the Board members that based on the answers to these questions the benefit to the applicant outweigh the detriment to the neighborhood or community. Barrett Mack suggested that the Board add the condition that Area Variance is only for this property and not to be considered as precedent for future properties.

Motion to declare negative declaration with regard to the SEQRA was made by Jock Winch with a second from Kim Keil.

Motion to grant Area Variance with the condition that Area Variance is only for this property and not to be considered as precedent for future properties was made by Jock Winch with a second from Kim Keil. Members in favor were Kim Keil, Jock Winch, David Graziano, and Chris Post. Chairman Frank Clegg voted against. Motion carried. Area Variance was granted by majority. Mailing fee of \$4.60 was paid by check #5022.

Motion to adjourn the September 25, 2013 Town of Claverack Zoning Board of Appeals meeting was made by David Graziano with a second from Chris Post. All members were in favor. Meeting adjourned at 8:10 p.m.

Respectfully submitted,  
Jodi Keyser, Secretary