

**TOWN OF CLAVERACK
PLANNING BOARD**

Minutes: December 7, 2015

7:00 p.m.

APPROVED 1/4/16

Chairman Brian Goodrich called the December 7, 2015 meeting of the Town of Claverack Planning Board to order at 7:00 p.m.

Members in attendance were: Chairman Brian Goodrich, Judy Zink, Virginia Ambrose, Scott Cole, Gretchen Stearns, Richard Gerlach, Joseph Singleton, engineer; George Schmitt, attorney; Rob Fitzsimmons and secretary; Jodi Keyser

Members reviewed the minutes of the November 2, 2015 meeting. Minor corrections were made. Motion to approve the November 2, 2015 minutes with corrections was made by Virginia Ambrose with a second from Joseph Singleton. All members were in favor. Motion carried.

Correspondence: None

CONTINUING APPLICATIONS FOR 12/7/15:

Newsome, Jack & Louise dba State 11 Distillery: Tax Map # 121 . – 1 – 73 Located at 284 NYS Rte. 23. Special Exception for a farm distillery.

No representative present. Rob Fitzsimmons informed the Board that he had not received any correspondence from the applicant.

Columbia Greene Humane Society Special Exception Revision: Tax Map #(SBL) 100 . – 1 – 03 Located at 111 Humane Society Rd. Special Exception Revision of a previously approved Special Exception for the addition of a new building for a veterinary clinic and animal shelter.

Ron Perez was present for the application. Mr. Perez reviewed the application for the Board members. Mr. Perez informed the Board that this application is seeking an expansion of the current 2 year old facility to hold dogs recovering from surgery and for boarding of old and small types of dogs. Gretchen Stearns asked what constitutes an old dog. Mr. Perez answered that for a large dog the age would be 8 years old and up but for small dogs it is 12 and up. Joe Singleton asked how many acres the facility owns. Mr. Perez answered 80 acres. Joseph Singleton asked the distance between the facility and the closest neighbor. Mr. Perez answered about ½ mile down the roadway which is the house by Rte. 66. Joseph Singleton then asked if the old facility is now officially closed down. Mr. Perez answered that the old facility is no longer being used as a shelter but is used for storage and could be used in the case of a large cruelty case but it would not be the best situation.

Chairman Goodrich opened the meeting to the public hearing at 7:07 p.m.

Chairman Goodrich informed the Board that their packets contained a correspondence from local veterinarian Meryl Johnson which includes an article recently in the Register Star about the shelter receiving a grant and another article about low cost vet services and boarding.

Marybeth Barruta – 73 Rte. 66 sent a correspondence in opposition to the expansion because of increased noise and traffic in the neighborhood.

Elaine Sadofsky – Resident of Humane Society Rd. Ms. Sadofsky stated that she does not have a problem with the shelter but does have an issue with the boarding end and the vet clinic because of the increase in traffic on the roadway and the increase in noise. Ms. Sadofsky continued that the clinic and boarding are taking away from local small businesses. Ms. Sadofsky informed the Board that she offered to pay for the sound proofing herself but the Humane Society did not contact her. Ms. Sadofsky stated that the Humane Society is not being a good neighbor like promised, not cleaning up after dogs when the staff walk them on the road, dogs get loose and run around on her property, noise is a disruption and keeps her from enjoying her property. Ms. Sadofsky stated that her opinion is that the facility is large enough no need for addition. Ms. Sadofsky finished that the shelter has impacted her neighborhood's integrity.

Linda Stoddard manager of Dutch Village. Ms. Stoddard informed the Board that she was unaware of the hearing because she did not receive a notice via mail and asked why not certified. Ms. Stoddard informed the Board that she has been the manager of Dutch Village for 10 years. Ms. Stoddard continued that the amount of noise has increased over the past 2 years to the point of being a nuisance. Ms. Stoddard stated that the mobile home park has 124 units with a possibility within the next few years of increasing that another 64 units but she fears that with the noise the lots will go unsold. Ms. Stoddard informed the Board that she has returned several dogs and cats that have escaped from the facility. Ms. Stoddard continued that about half of the park residents have complained about the noise and the other half are hard of hearing.

Ron Casivant – Mr. Casivant informed the Board that his family has owned the property for 4 generations and his grandfather donated the property for the shelter. Mr. Casivant continued that he built his home in 2006 and liked to walk and ride bikes but because of the increased traffic he is afraid to walk or ride his bike. Mr. Casivant estimated that the traffic has increased to approximately 150 cars per day. Mr. Casivant continued that the mission statement of the Humane Society was to help animals that had fallen through the cracks but now it is a vet clinic, boarding facility and a grooming shop. Mr. Casivant continued that these uses are taking away from local businesses and the shelter does not pay taxes.

Dr. Johnson informed the Board that he is a long time local veterinarian and that his father helped fund the original facility. Dr. Johnson informed the Board that he has provided low cost vet services for his entire career but he cannot compete with a facility that is supplied with large grants and tax free donations. Dr. Johnson continued that he has written off thousands of dollars of services through the years but his tax bill has to be paid. Dr. Johnson informed the Board that a kennel is a noisy operation by nature.

Chairman Goodrich closed the public comment at 7:35 p.m. Chairman Goodrich reminded the Board members of the criteria that they need to consider on pages 127 and 128 of the Town of Claverack Zoning Law. Chairman Goodrich continued that the Planning Board can only determine the Site Plan only and that the non-profit vs small business is out of the realm of the Planning Board's jurisdiction.

Ron Perez informed the Board that he respects Dr. Johnson and his years of helping area animals but he wants the Board to know that the vet clinic at the shelter is not for everyone. Mr. Perez continued that the patrons of the clinic are of limited income and are required to present a DSS benefit card to be eligible for services. Mr. Perez stated that if these animals were not helped by the shelter clinic then they would be at risk because the owners would not be able to pay for services at a regular vet office so it the shelter clinic is filling a gap in the community. Mr. Perez informed the Board that the shelter also gives out over 30,000 lbs. of dog and cat food each year from the shelter food bank so there is a big need for low cost services. Mr. Perez explained that the addition would allow for the shelter to have a larger recovery area for the animals and move them out of the surgery area. Mr. Perez stated that the old shelter had noise also. Mr. Perez informed the Board that he met at least 2 times with Ms. Sadofsky and even redesigned the shelter to her liking. Mr. Perez continued that the workers have been sensitive to the noise by rotating the more vocal dogs but all of the dogs need to be outside for some time to keep them in good mental health. Mr. Perez informed the Board that the boarded dogs also need time outside for exercise.

Mr. Perez informed the Board that the shelter is two parts, a non-profit side with the shelter and a for profit side which is the boarding and grooming portion of which full taxes are paid. Mr. Perez continued that the vet clinic is open 3 days a week. Mr. Perez informed the Board that the vet clinic does not receive government subsidies and it is run only by donations and the profits from the boarding/grooming services.

Ms. Sadofsky informed the Board that they have had a recent survey made and the survey shows that they own the roadway and not the Town of Claverack. Mr. Perez stated that he did not know who owned the roadway but his staff members have always walked dogs on the roadway as long as the shelter has been in operation. Mr. Perez continued that there is a security fence surrounding the entire shelter property so he is sure that dogs are not getting out from the facility but people do dump dogs on the roadway. Chairman Goodrich asked if all of the dogs at the facility are walked on Humane Society Rd. Mr. Perez answered that only shelter dogs are walked not boarding dogs. Mr. Perez stated that he will have his staff members start walking dogs on the old logging road.

Mr. Perez informed the Board that the addition will be a recovery area for the clinic and also boarding for older dogs that do not do well with the younger boarding dogs. Gretchen Stearns asked why the shelter needs additional boarding areas. Mr. Perez answered that the boarding helps to provide revenue to pay for the 22 employees and to offset the low cost vet clinic. Chairman Goodrich asked what the charge is for boarding. Mr.

Perez answered the cost for boarding is \$25 per overnight which is the going rate for boarding in the area. Gretchen Stearns asked if there is anything that can be done to mitigate the noise. Scott Cole stated that the old shelter was more closed in and was surrounded by dense trees which kept the noise contained. Virginia Ambrose asked if the open runs could be covered with some sort of sound proofing. Mr. Perez informed the Board that he met with Ms. Sadofsky during the planning for the new shelter and after having the engineer look at the project they were told that the existing trees and the 100 acres would be enough of a buffer. Scott Cole asked if relocating the proposed addition to further in the back could help. Mr. Perez stated that the dogs in the proposed addition will not be making noise because they will be recovering from surgery and the boarded dogs will be older. Mr. Perez continued that the planning process for the shelter found the topography of the area dropped off and had many mature trees so the noise would not be an issue for the neighbors. Gretchen Stearns stated that the shelter received a Special Exception permit for the vet clinic. Mr. Perez answered yes. Chairman Goodrich asked how many times per year are animals dropped on the road. Mr. Perez stated that cats are dropped off all of the time but they do have about 2 dogs dropped off every year. Mr. Perez informed the Board that the shelter has a protocol for dumped animals and he did not receive any report of a loose dog last week as Ms. Sadofsky said happened but he will look into the matter. Chairman Goodrich asked if the estimate of 150 cars per day is accurate. Mr. Perez stated that about 30 cats are spayed per clinic so about 60 trips 3 times per week and the well clinic might have about 50 car trips 2 times a week but the shelter does have events a few times per year for fundraising purposes.

Joseph Singleton stated that the roadway issue is out of the jurisdiction of the Planning Board but the noise issue could be controlled. Joe Singleton asked Rob Fitzsimmons if the Town of Claverack has a noise ordinance. Rob Fitzsimmons answered he didn't think so. Mr. Perez stated that he could curtail the amount of time dogs are outside. Joe Singleton asked what times the dogs are outside. Mr. Perez answered that dogs are outside from 8:30 a.m. to 3:30 p.m. on a rotating schedule of 9 dogs at a time for an hour each. Joe Singleton asked if the noise at the new facility is less inside. Mr. Perez stated the new facility has state of the art construction materials. Mr. Perez continued that he may limit things from going further but would lose profit. Mr. Perez stated that it is not the intention of the shelter to be a competition with local veterinarians but to only offer services for animals that would otherwise go without needed care. Gretchen Stearns suggested that the shelter could lessen the hours dogs are outside, not walk dogs on the roadway and look into the possibility of relocating the kennels.

Chairman Goodrich asked George Schmitt if there is something that could mitigate the outside noise like planting berms or walls with sound absorbing materials. George Schmitt answered that berms send the sound upward and vegetation needs to be extremely thick to keep noise from spreading. Ron Perez informed the Board that the design of the runs is connected and close to the building. Mr. Perez continued that this addition will not see many of the dogs even going outside and it is all under a roof. Gretchen Stearns stated that the issues with the current facility need to be addressed. Scott Cole asked the applicant to submit a detailed design of the building and the proposed addition. Gretchen Stearns stated that more berms could be planted. Virginia Ambrose stated that the issues with the current facility should be addressed before any additional space is allowed. Mr. Perez asked where new berms should be planted. George Schmitt suggested Mr. Perez seek the advice of an engineer to perform a noise study and design either berms or walls with sound absorbing material. Virginia Ambrose stated that the proposal requires further review and possibly reducing the time dogs are outside could be studied. Ron Perez stated that it is difficult to contain a dog's bark. George Schmitt stated that noise is difficult to study because it is subjective and a baseline for the area sound is needed to be able to determine if the additional noise is a nuisance or not. Mr. Perez asked if the noise study is for the proposed addition or for the current facility.

Rob Fitzsimmons informed the applicant that at this time the Planning Board wants to review the issues raised by the public hearing regarding issues of noise and traffic with the current facility before the addition so they are continuing the public hearing and are asking the applicant to see if there are any changes to mitigate the issues before they proceed.

George Schmitt informed Mr. Perez to gauge the level of noise in the area a couple of different times and during different weather conditions and he should also have a traffic study performed.

Motion to continue application and public hearing for further information on increased traffic, sound analysis, and possible sound mitigation designs and sketch design of the proposed addition was made by Scott Cole with a second from Judy Zink. All members were in favor. Motion carried.

InSite Towers Development LLC Special Exception Renewal for a telecommunication tower: Tax Map #(SBL) 143 . – 1 – 42 Located at NYS Rte. 23 Forrest Lake. Renewal of the previously approved Special Exception for a telecommunication tower located at Forrest Lake. (Formerly known as Homeland Tower) Doug Ward from Snyder & Snyder LLC was present for the application. Mr. Ward submitted the affidavit of certified mailing for abutters and a letter of receipt for the public hearing notice sign for the file. Mr. Ward informed the Board the application is for a Special Exception Permit Renewal as required every 5 years per Town Zoning Law for telecommunication facilities. Mr. Ward informed the Board that the facility is a monopole type of telecommunication tower and it services Verizon cellular and the Rip Van Winkle amateur radio antenna. Mr. Ward continued that the facility is exactly the same as the originally approved Special Exception. George Schmitt informed the Board that he did not see any issues. Chairman Brian Goodrich opened the meeting to the public hearing at 8:12 p.m.

Katy Cashen of the Town of Claverack Town Board asked the representative if he is aware of a new type of technology that would allow for the expansion of broadband access to parts of the Town of Claverack to the east of the Taconic State Parkway that is currently underserved and in most places totally without broadband access. Ms. Cashen continued to ask Mr. Ward what the range is for the tower. Mr. Ward informed Ms. Cashen that he knows that the range for the Verizon antenna will be different from other carriers on the tower but he is not sure of the exact area of coverage. Mr. Ward instructed Ms. Cashen to contact InSite Towers to get more detailed information. Joseph Singleton asked how a lease with the tower works and that he doesn't want to see the Town of Claverack get dinged for adding a broadband carrier to give part of the town access. Mr. Ward informed the Board that the tower owner is very interested in having other carriers use their tower. Rob Fitzsimmons informed the Board that the Village of Philmont receives revenue from this tower and worked directly on this lease agreement so he is familiar with the issue.

No further comments. Chairman Goodrich closed the Public hearing at 8:00 p.m.

George Schmitt reviewed the SEQRA for the Board. Rob Fitzsimmons reminded the Board that they classified the application as a Type II for purposes of SEQRA and is therefore exempt from SEQRA.

Motion for a negative declaration for purposes of SEQRA was made by Virginia Ambrose with a second from Scott Cole. All members were in favor. Motion carried.

Motion to grant the Special Exception Permit renewal for another 5 years was made by Virginia Ambrose with a second from Judy Zink. All members were in favor. Motion carried.

NEW APPLICATIONS FOR 12/7/15:

Brimberg-Vandeboe Subdivision: 3 parcel subdivision of 130 +/- acres located at 35 Harlemville Rd. Stop 175.

Allen Miller was present for the application. Mr. Miller informed the Board that he represents Mr. Brimberg who is an elderly gentleman having financial difficulties and his friends are in the process of protecting his property from foreclosure by reorganizing his debt. Mr. Miller explains a proposed 3 lot subdivision of the Brimberg property with the potential to divide lot #3 into two parcels at a later date to make it easier for a direct marketing venture. Chairman Goodrich stated then it is actually a 4 lot subdivision. Mr. Miller answered that the banks involved want to have the loan current which is currently an array of unsecured debt and 2 junior creditors. Chairman Goodrich asked if the property is located on a town or state roadway. Mr. Miller stated that he has researched the property and found that the roadway was abandoned in the 1970's but that is a moot point because the deed recites that in 1804 it was a user roadway and in 1850 an easement was to run with the roadway. Mr. Miller continued that the Town of Claverack approved a subdivision next to the Brimberg property which also cited a user roadway and in 1970's it was sold in a tax sale to Quality Agrigates but the attorney for the sale made a mess of the deeds and therefore the law favors Mr. Brimberg. Chairman Goodrich informed Mr. Miller that he did not see where the parcels have frontage on a Town of Claverack roadway. Mr. Miller informed the Board that Lots 1 & 2 have frontage rights on the user roadway. Chairman Goodrich asked if the parcels have frontage on a Town of Claverack roadway that is maintained by the Town of Claverack. Mr. Miller answered no but he does not want to ask the Town of Claverack to reclaim the roadway and he will seek a private roadway rights. Mr. Miller continued that he needs the roadway to be private to be able to market the parcels. Mr. Miller continued that he needs a letter from the Town of Claverack Planning Board which indicates

that the proposed subdivision will be approved in the future. Mr. Miller continued that the Bank and other debtors need this document to try to keep the property from being sold in a foreclosure but rather to be able to market the parcels to the neighbors. Mr. Miller stated that the judge will set a price for the property which will allow the bottom feeders to snatch it up well below market value. Mr. Miller stated that Mr. Brimberg's friends are trying to keep this from happening so that Mr. Brimberg can get a good price for his property. Mr. Miller continued that the hope is that the neighboring property owners will want to purchase the properties that border theirs. Joseph Singleton asked Rob Fitzsimmons if the Planning Board could approve a subdivision of this property with the current roadway situation. Mr. Miller stated that if the parcels are considered flag lots then the access is over 800 feet of roadway. Rob Fitzsimmons informed Mr. Miller that the TOC would then require a cul-de-sac or turn around which is required by TOC Zoning Laws. Rob Fitzsimmons informed Mr. Miller that this is not considered a Town of Claverack roadway. Virginia Ambrose asked if the roadway is maintained and passable. Mr. Miller answered that the roadway is maintained by Louis Lamont and the TOC highway up until Mr. Bennett put a log across the roadway to stop access. Chairman Goodrich suggested that the property could be subdivided as boundary line adjustments with the three adjoining property owners who Mr. Miller stated are interested in purchasing the parcels. Chairman Goodrich informed Mr. Miller that this would work because all of the neighbors have frontage on a Town of Claverack roadway. Mr. Miller read the Town of Claverack Zoning rules for flag lots. Rob Fitzsimmons informed Mr. Miller that these rules apply to developments when they need a cul-de-sac. Gretchen Stearns informed Mr. Miller that at no time will a flag lot be allowed to access a private roadway. Mr. Miller stated that these parcels will not be flag lots in the future. Mr. Miller informed the Board that if this is not allowed then the bank will take the property and cut it up in such a way that it will be impossible to make sellable, pleasant, large parcels. Mr. Miller asked the Planning Board to consider giving a conditional approval so that the parcels can be purchased by Mr. Brimberg's friends. Gretchen Stearns informed Mr. Miller that this proposal cannot be done. Chairman Goodrich stated that he cannot understand why Mr. Brimberg has not gone to his neighbors like the Wangs to purchase by doing boundary line adjustments. Mr. Miller informed the Board that this is because of the recent sale of First Niagara Bank to Key Bank and the bank requirement of seeing that a subdivision is in the process, sort of a promise that the owner is in the process of making the property marketable. Mr. Miller continued that he just needs a promise from the Planning Board to stop the bank from selling the property as one big parcel. Mr. Miller continued that he understood in the past that if an applicant had an application currently under review for a subdivision the bank would allow take the subdivision into consideration when dealing with the foreclosure. Virginia Ambrose asked if there is a home on the property. Mr. Miller answered yes Mr. Brimberg resides in a home located on proposed Lot #1 which he will lose in approximately 6 months. Gretchen Stearns informed Mr. Miller that adjoining flag lots are prohibited. Mr. Miller again stated that he just needs a letter from the Town of Claverack Planning Board stating that they will allow the subdivision in the future to take to the judge to show that the process is in the works. Virginia Ambrose asked if the friends of Mr. Brimberg are planning to purchase the property. Mr. Miller stated yes. Mr. Miller continued that Mr. Brimberg is an 80 year old financial broker that had his firm tank during the Wall Street crash and he is in financial hardship at this time and his property is in foreclosure. Mr. Miller informed the Board that there is a group of people that plan to purchase the property and allow Mr. Brimberg to remain in his home until the day he dies. Chairman Goodrich suggested that Mr. Miller set up a meeting with Stan Koloski and submit a formal application. Mr. Miller asked if the Board would allow him to go to inform the banks that this proposal is under review. Chairman Goodrich directed Mr. Miller to meet with Stan Koloski and submit a formal application. Joseph Singleton suggested to Mr. Miller that Mr. Wang could possibly purchase the property in its entirety. Mr. Miller stated that he is trying to avoid the foreclosure or one person purchasing the property to allow Mr. Brimberg the ability to get the best price for the property. Mr. Miller continued that the property has magnificent views and he was hoping to avoid the issue of the abandoned roadway because it could be used as part of a planned community. Chairman Goodrich informed Mr. Miller that the Planning Board will not provide a letter of any future approval and to go to Stan Koloski.

VanDeusen/VanDeusen/Holmes/Bowe/Zasorin Subdivision: Boundary Line Adjustments of land belonging to James C. & Richard C. Van Deusen, Robert Holmes Jr., Nicholas Zasorin, Lisa Bowe Located at 102 Rte. 23 Claverack. James Van Deusen and Matt Bowe were present for the application. Matt Bowe informed the Board that his client is seeking 4 boundary line adjustments with neighbors. Mr. Bowe continued that one of the boundary line adjustments is Mr. Van Deusen will be adding a small section of property from his brother

Richard Van Deusen and the other 3 boundary line adjustments will be taking 3 +/- acres of Mr. Van Deusen's property and adding it to Nick Zasorin's property and then adding less than .25 acres to Robert Holmes' and Lisa Bowe's properties respectively. Board members reviewed the maps. Mr. Bowe explained that the boundary line adjustments will leave a 1 +/- acre parcel on Van Wyck Lane. George Schmitt informed the applicant that due to the wetlands in the area the parcel will require a perk test because the Board cannot approve a lot that will not perk. Mr. Van Deusen stated that he will not do a perk test and asked Mr. Zasorin if he would purchase that 1 +/- acre along with the 3 +/- acres. Mr. Bowe will redraw the maps. Rob Fitzsimmons informed the applicant that they will need to submit deed descriptions to his office before the January meeting. Motion to accept the application as complete, classify as an unlisted action for purposes of SEQRA and set for public hearing at the January 4, 2016 meeting was made by Scott Cole with a second from Judy Zink. All members were in favor. Motion carried.

Other Business:

Katy Cashen informed the Board that Steve Winkley will present the wellhead protection analysis during a public hearing on January 4, 2016 beginning at 6:00 p.m. prior to the regular Planning Board meeting. Ms. Cashen informed the Board that this is a joint meeting for the members of the Town Board, Planning Board and Zoning Board of Appeals and is open to the public.

Motion to adjourn the meeting was made by Virginia Ambrose with a second from Scott Cole. All members were in favor. Motion carried. Meeting adjourned at 9:30 p.m.

Respectfully submitted,
Jodi Keyser, Secretary