

Town of Claverack
Zoning Board of Appeals
P.O. Box V
Mellenville, NY 12544
Minutes for meeting of February 25, 2009
7:30 p.m.

Approved 3/25/09

Chairman Frank Clegg called the February 25, 2009 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:37 p.m.

The Pledge of Allegiance was led by Chairman Clegg.

Members in attendance were: Chairman Frank Clegg, Steven Melnyk, Norma Barnard, David Graziano, Paul Gundrum, Jock Winch, Oliver Milot, Engineer; Joe Romano, Attorney; Rob Fitzsimmons, Secretary; Jodi Keyser.

The Board members reviewed the minutes of December 10, 2008. Motion to approve the minutes as written was made by 1st Norma Barnard with a 2nd from Steven Melnyk. All members were in favor. Motion carried.

Continuing Board cases for 2/25/09:

Almstead Nursery Company, Inc.: Tax Map #(SBL) 101 – 2 – 53 Located at 905

Route 66 in the Columbia County Commerce Park. Site Plan Review for the expansion/modification of on-site processing of natural wood mulch.

William Spampinato representing the applicant reviewed the plan for the Board members. Jock Winch stated that although he felt that the applicant has done a great job with the site. Mr. Winch continued that he is happy that the applicant had the presence of mind to use the heavy shale base for the roadway for the site, which has stopped any tracking of mud and clay onto NYS Rte. 66. He does however have 4 minor concerns with the Site Plan. The first concern he has is that on the Site Plan there is nursery stock shown as being planted behind the buffer on the NYS Rte. 66 side. When he inspected the site he found that a pile of mulch is there instead of the plantings. Mr. Spampinato stated that the Site Plan is just an illustrative plan drawing and the applicant has exceeded the number of plantings at the site by double. Mr. Spampinato continued to state that the plantings on the site are more than sufficient for screening. Jock Winch then stated that on his inspection he discovered that the sign is illuminated with a light that is located on the ground and not attached to the sign itself. Mr. Winch stated that ZBA regulations specify that lighting for signs has to be attached to the sign.

Jock Winch stated that his third concern is that he found a shed on site that he felt might have setback issues with the property line. Mr. Spampinato stated that the shed is not a permanent structure, which can be moved. Mr. Spampinato continued that he did get approval from the TOC building department. Jock Winch continued that this is not a major issue but he felt that the dimensions and distances should be shown on the Site Plan maps. Jock Winch stated that his last concern is that he found a 500-gallon fuel storage tank on the site. Jock Winch added that it was his understanding the original Site Plan stated there would not be fuel storage on site. Mr. Spampinato stated that the fuel tank is portable on skids to be moved between the two sites in the Commerce Park. Jock Winch stated that he observed that the fuel tank was not on skids but was sitting on the ground. Jock Winch then stated that the plantings on the Site Plan is not a big item but should be changed if they are not going to be planted. Jock Winch stated that the Site Plan should be just as it was going to be built. Mr. Winch then stated that the three concerns that need to be addressed are the fuel tank, lighting of the sign, and the setbacks for the shed. Mr. Spampinato stated that he was informed by the applicant that the fuel storage would be mobile and he will check with them to clear up this item. Norma Barnard stated that the lighting of the sign is not a negotiable item and needs to comply with the ZBA regulations. Mr. Spampinato stated that he would check on the setbacks of the shed with the TOC building department even though they did give approval. Norma Barnard then asked what the applicant should do because the temporary permit will expire on March 12, 2009 and the Site Plan is not yet ready for approval. Rob Fitzsimmons stated that the

ZBA could grant a conditional approval pending all items are addressed on the Site Plan or the ZBA can extend the temporary permit as long as the applicant is proceeding to mitigate the concerns addressed at this meeting. Joe Romano is fine with all of the items that he reviewed. Continued to the March 25, 2009 meeting.

McNamee, James M. Claverack Bank: Intersection of County Rte 27 & Rte 9-H Claverack, Tax Map # (SBL) 131 . – 1 – 45 . 120 and 131 . – 1 – 45 . 112 seeking Special Exception and Use Permit to operate a sand and gravel bank.

James McNamee and Paul Griggs were present for the meeting. Chairman Frank Clegg informed the applicant that TOC engineer Joe Romano of Clough Harbour and Associates is still awaiting a response to his comment letter dated December 29, 2008. Paul Griggs and James McNamee both stated that they did not receive the comment letter and were unaware of this letter. Joe Romano then reviewed the letter for the applicants and the Board members. Joe Romano stated that comments which should be detailed on the mining plan are: location of the secure gate and the details for the gate, hours of operation clarified, more detailed information regarding the Mined Land Use Plan, Mine Plan, and Reclamation Plan, stormwater management plan should address treatment of sediment laden run-off entering the proposed basin and groundwater infiltration, NYS DEC SPDES permitting should be verified, erosion and sediment control measures should be depicted for each phase, and details of the proposed stabilized construction entrance. Paul Griggs stated that he will have a written response to Joe Romano's comment letter before the March meeting. Mr. Griggs continued that he is able to address some of the items verbally at this meeting. Mr. Griggs stated that the secure gate will be located at the end of the haul road closer to the mining operation and not at the CC Rte 27 end. This site will alleviate the need for trucks to park along CC Rte. 27 incase the mine is not open for business at that time. Mr. Griggs stated that the hours of operation will be Monday through Friday 7:00 am to 6:00 p.m. as a maximum needed for the DEC permit but will most likely be 7:00 am to 4:00 p.m. Hours of operation on Saturdays will be 7:00 am to 2:00 p.m. or 8:00 am to 2:00 p.m. for local homeowners needing gravel for home projects. Mr. Griggs stated that he has not yet run the Stormwater calculations for the 100-year storm but will do so for the full buildout and full details for pretreatment prior to infiltration will be provided in written response. Mr. Griggs stated that because there is no offsite drainage there is no need for a NYSDEC SPDES permit. Mr. Griggs stated that erosion control and prevention will be shown on maps along with the details of the stabilized entrance. Rob Fitzsimmons asked Mr. Griggs why a NYSDEC SPDES permit is not needed. Mr. Griggs responded that it is a new DEC regulation that there is no need for a SPDES permit if the site can contain a 100-year storm. Joe Romano stated that this is needed in most situations and he is concerned with the impacts of downstream properties should something happen. Rob Fitzsimmons asked Mr. Griggs how close to the NYSDEC permit being granted. Mr. Griggs stated that he thinks that the application is close to having a permit. James McNamee stated that he spoke to Mike Higgins of NYSDEC who stated that the application is almost through the process. Chairman Frank Clegg asked the Board members if anyone had any questions. No Board questions. James McNamee asked that he be copied for all correspondences in the future because of the missing December 29, 2008 comment letter, which has now set them back over a month with the ZBA. Joe Romano stated that he will add him to be copied but usually accomplished between the consultants. Continued to the March 25, 2009 meeting.

Won Buddhism of America: Tax Map # SBL (122. –1-. 53) Rte. 23 Claverack. Site Plan Review for Buddhist Residence and Ministry

Pat Prendergast was present to represent the application. Submitted new Site Plan maps with minor note added for CCDOH. New maps show bell tower structure now moved to the other side of the driveway. Added handicapped parking and signage at all buildings. Pretreatment of stormwater and the grading at the back of the maintenance shed is show on the maps. Also a temporary site for the storage of topsoil near the maintenance shed. New sign with solar lights attached to the sign are shown. Minor adjustment to the size and placement of the stone walls was made to allow better site onto Rte 24. Pat Prendergast continued that at the last meeting Joe Romano asked for more details for the planting plan should be on the Site Plan. Pat Prendergast stated that this issue is addressed by the Buddhist intent to start the site by planting saplings that are indigenous to the area and allowing these plantings to mature naturally. Also the Columbia County Land

Conservancy has granted permission to the Buddhist center to transplant saplings from their adjacent property. Paul Gundrum stated that he feels that the Site Plan is misleading because it shows the plantings as being mature and not saplings. Paul Gundrum continued that usually on a Site Plan the exact types and sizes of plantings are detailed not what the plantings will be after a period of time. DOH approval of septic submitted. Joe Romano stated that all of the issues he commented on have been addressed. Joe Romano asked for details on the driveway at the point where it goes from being paved to gravel. Pat Prendergast stated that the driveway and parking areas will be paved but the Buddhist Center asked that the paths and drives to the buildings be gravel to make it a more natural feeling upon entering the buildings. Pat Prendergast continued that the gravel will be crusher run which packs better and contains less dust. Pat Prendergast informed the Board that the applicant plans to start construction of the project Spring of 2009. Chairman Frank Clegg asked the ZBA members if they had any questions. Paul Gundrum asked about the disturbance of the wetlands. Pat Prendergast answered that this issue was addressed in the original Site Plan with approval letter from the ACOE. Chairman Frank Clegg opened the meeting to the public at 8:18 p.m. One audience member stated that they were in favor of the plan and think that it is a great idea. No further comments public hearing closed at 8:19 p.m. Rob Fitzsimmons reviewed the Long Form EAF SEQRA for the Board members. After review a Motion for Negative declaration of the SEQRA was made by 1st Paul Gundrum with a 2nd from David Graziano. All members were in favor. Motion for Negative SEQRA declaration carried. Motion to approve the new Site Plan was made by 1st David Graziano with a 2nd from Steven Melnyk. All members were in favor. Motion carried. Site Plans were stamped and signed.

Informal:

Stringham, Varick: Tax Map # (SBL) 120 . 2 – 1 – 4 and 120 . 2 – 1 – 10 Located at 406 Rte. 23-B Interpretation of Use.

Mr. Varick Stringham and his representation Attorney Kleinbaum were present. Mr. Stringham is looking for an Interpretation of Use for the former Hudson Valley Cement Line building on Rte. 23-B. Mr. Stringham opened a motorcycle repair shop on the site a few months ago and was issued a stop work order by the Town of Claverack Building Department. The TOC received a complaint that someone was removing fill and replacing the fill, changed a roadway to Webb Rd and this caused the TOC building department to investigate. The TOC building department was not consulted and the applicant did not apply for a building permit. A subsequent hearing was held and Judge Brandon issued a finding that the applicant must apply for a Site Plan Review. Rob Fitzsimmons then informed the Board that Judge Brandon agreed that the applicant improved the site but he did not obtain the proper permits that the TOC building department required. Judge Brandon felt that the applicant should seek guidance from the ZBA whether they would require a Site Plan Review or what they would suggest. Mr. Stringham argues that he bought the site at the time it was a truck repair business. Mr. Stringham and his attorney suggest that renting out this space to a motorcycle repair business is not a change of use and therefore should be allowed under the Zoning Laws. Mr. Kleinbaum stated that since the site housed a repair business previous to Mr. Stringham's purchase then it is not a change of use. Norma Barnard stated that she thought that the site was not used as a repair business for several years. Mr. Kleinbaum stated that the building did have a change of use in 1999 from a trucking terminal to a repair shop. Mr. Kleinbaum then produced a letter from Connor, Curran and Schramm on behalf of the Town of Claverack stating that in 1995 the site was approved for a truck terminal and then in 1999 a change of use was granted for a repair shop. Someone named Ackerman then owned the building and rented the space to a truck repair business East Coast Trucking. Steve Melnyk stated that the applicant should be required to apply for a Site Plan so that any current and further issues are cleared up. Chairman Clegg agreed that a Site Plan is needed to keep applicant out of trouble and to protect the TOC. Mr. Kleinbaum argued that according to the TOC ZBA Law a Site Plan is not required within the Highway Commercial Zone. Mr. Kleinbaum cited § 6.1.1.4 of the TOC Zoning Law states that Site Plan Review is required for any business within the BC and LC zones but does not show HC zone. Rob Fitzsimmons informed the applicant that § 14.18.2 trumps all other provisions and states that all other buildings or uses require Site Plan Review. Mr. Kleinbaum stated that he has two arguments the first being that the repair business does not require a Site Plan Review because it is a previously

approved use and second the TOC Zoning Law does not require a Site Plan Review within the Highway Commercial Zone. Mr. Stringham stated that the Zones were illegally mapped out by the TOC because the Highway Commercial Zone and Rural Residential Zone dissects his building. Rob Fitzsimmons stated that the parcel is within two different zones. Rob Fitzsimmons then suggested that the application be formally added to the agenda for the March 25, 2009 meeting. Rob Fitzsimmons informed the applicant that he needs to provide the ZBA proof that the building was continually used as a repair business from 1999 until the present. Rob Fitzsimmons continued that the burden of proof is the applicant's responsibility and they need to prove that the use of the site was not abandoned for anytime. Rob Fitzsimmons will speak with Stan Koloski and Dennis Callahan for files of pervious Site Plan Reviews for the site. Returning March meeting.

Motion to adjourn meeting was made by 1st Norma Barnard with a 2nd from Steven Melnyk. All members were in favor. Motion carried. Meeting adjourned at 9:10 p.m.

Respectfully submitted,

Jodi Keyser
Secretary