

Town of Claverack
Zoning Board of Appeals
P.O. Box V
Mellenville, NY 12544
Minutes
Meeting: April 23, 2008
7:30 p.m.

Approved 5/28/08

The April 23, 2008 meeting of the Town of Claverack Zoning Board of Appeals was called to order by Chairman Frank Clegg at 7:30 p.m.

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

Chairman Frank Clegg led pledge of Allegiance.

The Board members reviewed minutes of March 26, 2008. Motion to approve the minutes of the March 26, 2008 meeting was made by 1st Norma Barnard with a 2nd from Paul Gundrum. All members were in favor. Motion to approve 3/26/08 minutes was carried. Audience member Mr. Conrad Coons addressed the Board with concerns regarding the approval of his self-storage unit site plan approval. Mr. Coons is having an issue with the approval, which states that, the planting plan. Mr. Coons stated that he has started the Stormwater management construction. The minutes from 3/26/08 show that the site plan approval carried the conditions of full build-out for the Stormwater management plan and full screening plan build-out also. Mr. Coons is asking the Board to be allowed to start the construction of the buildings prior to all of the other items. Mr. Coons stated that it would be better to plant the trees as per the planting design in the fall because it is getting too late in the season to start planting. Mr. Coons is asking that the motion for site plan be changed so that he can obtain a building permit to start construction of the buildings. Joe Romano suggested to the Board that they require the applicant to bond for the trees. Rob Fitzsimmons suggested that the Board make a motion on bonding for the trees and set a time frame for completion of the plantings. Joe Romano informed the applicant that he would still require the full build-out for the stormwater plan prior to any construction.

Motion to approve revision to a previously approved Site Plan with conditions of engineer estimating landscape amount to e bonded by applicant, approved by attorney, and the construction order to be Stormwater completed to full build-out and planting plan to be completed by the end of November 2008 was made by 1st Steven Melnyk with a 2nd from Norma Barnard. All members were in favor. Motion carried.

Continuing Board cases for 4/23/08:

Columbia Park Equities: 17 Bender Blvd. Columbia County Commerce Park. Tax Map # (SBL) 101 . - 2 - 49 . Construction of a warehouse/storage building for records storage and manufacturing of pole barn components.

Mr. Schermerhorn was present. Joe Romano informed the Board that he reviewed the 2nd revision dated 4/14/08. Clough Harbour sent comment letter to Crawford. Crawford revised and answered Joe Romano's questions. Verified that the plan was submitted to the County Planning Department for review. Rob Fitzsimmons reviewed the County Planning letter, which recommended fire suppression or review from local fire official. Letter submitted from Michael Cesternino Chief of West Ghent Fire Company with no objections to the plan. Chairman Frank Clegg opened the meeting to the public for comments at 8:07 p.m. No comments public hearing closed at 8:07 p.m. David Graziano asked Joe Romano if the applicant had addressed all of the issues he had raised at the 11/2007 meeting. Joe Romano answered yes and referred to his comment letter. Rob Fitzsimmons reviewed the SEQRA part II for the Board to determine if the plan would cause significant environmental impact. Also this use is allowed within the Commerce Park. 1st Paul Gundrum made motion for negative declaration with regard to the SEQRA with a 2nd from Steven Harder. All members were in favor. Motion for negative SEQRA declaration was carried.

Motion to approve Site Plan with conditions that plan be in conformity with the revised plan was made by 1st Steven Melnyk with a 2nd from Paul Gundrum. All members were in favor. Motion carried.

Culoso, Salvatore/Vormer, Mattijs: 1293 Martindale Rd. Philmont. Tax Map # (SBL) 123 - 2 - 15 Use Variance for custom cabinet making facility.

Mr. Spampinato and Mr. Vormer were present. Joe Romano addressed correspondence regarding needing curb cut approval from the County highway dept. Mr. Spampinato expected to be granted conditional approval. Curb cut design was submitted to Dean Knox of CCDOT. Joe Romano reviewed items needing to be addressed in Site Plan. Landscaping needs to be shown on maps. Wants a limit of pavement to be removed. Mr. Spampinato stated that the map is showing slop. Not actually driveway pavement just excess concrete spilled from trucks but still needs to be removed. Joe Romano stated that on the maps this looks like a fully paved area and would suggest a clarification. Joe Romano also addressed note #7 regarding screening and planting in phases. Trees not being

planting at the same time. Suggested that the applicant should specify a time frame for assurance of the Board. Mr. Spampinato informed the Board that there is a tremendous amount of cleanup of the site prior to planting. Concrete walls and sidewalks need to be removed before they can even begin to start to plant trees. Mr., Spampinato informed the Board that at the very beginning of the Site Plan review he informed the Board about the amount of cleanup needed at the site. Mr. Vormer has agreed to the full cleanup but will require a 1 (one)-year time frame for completion of the cleanup. Mr. Spampinato is asking for a 1 (one)-year time frame for cleanup and then a 3 (three)-year time frame to full screening plan completion. Jock Winch asked how far from the roadway are the trees being planted. He did not see this information on the map. Mr. Spampinato stated that the information is not on the Site Plan because the CCDOT will determine how far the plantings should be from the roadway. Joe Romano asked for information regarding Note #5 of the Site Plan regarding another driveway. Mr. Spampinato informed Mr. Romano that the section of property is not a driveway but is an easement back to vacant land. The deed for the easement was filed with the Site Plan. Rob Fitzsimmons addressed the area of the plan as being within the wellhead overlay zone. Letter submitted 4/16/08 regarding wellhead overlay zone. Mr. Spampinato stated that the Site Plan maps are showing the CCDOT highway specifications. Mr. Spampinato will concede to a 1 (one)-year time frame for the cleanup with plantings to take place immediately after cleanup complete. Joe Romano stated that the revisions be shown on the Site Plan. Mr. Spampinato informed the Board that the applicant would lose the property if they don't receive at least conditional approval tonight.

Motion to approve Site Plan subject to Columbia County Department of Transportation approval and conditions of cleanup of property and plantings for screening plan to be completed within 2 (two) years from the date of approval. Applicant to provide additional information regarding distance of trees at curb cut and to correct Note #5 on Site Plan. Submission of plans to TOC engineer for conformity with above conditions was made by 1st Paul Gundrum with a 2nd from Steven Melnyk. All were in favor Motion carried.

Claverack Corners LLC– 344 State Rte 23-B Claverack. Tax Map # (SBL) 121 . 3 – 1 – 16. Use Variance, Site Plan Review, Special Exception Construction of 6500 foot, two story building containing 3 office/retail units and a restaurant on level #1 with 4 apartment units on level #2.

Mr. Andrew Howard appeared before the Board representing the applicant. At the last meeting a question regarding the monitoring wells at the abandoned gas station. Mr. Howard submitted a letter from NYS DEC stating that the wells were closed and monitoring of the site was ceased. Mr. Howard addressed the Board regarding the plan. At this time the applicant is asking for a use variance because the site will have multiple uses. All of the uses are allowed within the Highway Commercial Zone but not all at one site. Mr. Howard states that it would be in the best interest of the community to allow the multiple use dwelling at the site for a number of reasons. First the plan would improve the site by replacing a falling down abandoned gas station with a new building that would conform to the existing neighborhood and area. Second to allow all of the uses on one 6,000 square foot print at the site allows for 9,000 square feet of total usage space. If all of the uses were to be split into different sites and buildings would require 27,000 square feet of space therefore making the most of the space available. Mr. Clegg asked Mr. Howard what types of retail businesses do the developers expect to rent these spaces? Mr. Howard stated that the developer wishes that the office/retail spaces house professionals, not-for-profit agencies, i.e. lawyer, accountant, small newspaper. The developer wants assurance from the Board before they move forward and spend more money. Chairman Clegg asked the number of apartments and bedrooms. Mr. Howard stated that there will be one 2-bedroom apartment and one studio apartment. Norma Barnard asked about a building on the site labeled repair garage. Mr. Howard explained that the building is an existing building and will be used for storage no commercial use. Norma Barnard and Steven Melnyk informed Mr. Howard that the site plan maps should specify storage and not repair garage because some might think there is a repair shop on site. Jock Winch asked Mr. Howard how many uses are actually proposed for the site. Mr. Howard stated 4 possibly 5 uses– bar/restaurant, retail, office, residential. Mr. Howard stressed that each of the uses is allowed within the Highway Commercial Zone. Mr. Howard also stressed to the Board that it is within their best interest to use the 9,000 square foot area for all of the uses instead of splitting them up and using 27,000 square feet. David Graziano asked Mr. Howard to show income streams from all of the uses as opposed to one use at the site. Mr. Howard asked the Board if they have ever approved a multi-use on one site. Jock Winch stated yes but only two different uses not as many as this proposed project. Rob Fitzsimmons informed the Board that there are two issues with the proposed plan. First there is a monetary issue and second a self-created hardship issue. Mr. Howard stated that his clients are looking for direction from this Board before moving forward with the plan. Chairman Clegg stated that the issue is not whether the plan will improve the site but it needs to be done the right way. Norma Barnard stated to Mr. Howard that maybe they should hold off on the plan until the Comprehensive Plan is approved. Chairman Clegg asked the Board members if they felt that the plan is complete or should the applicant provide more information before the Board makes any decisions. Jock Winch stated that he would like to see the monetary return issue described. Rob Fitzsimmons stated that the applicant also needs to prove self-created hardship. Continued to the May meeting.

New Cases:

McNamee Self Storage / dba Jaymore, Inc. : 423 Rte. 23-B, Tax Map # 120.-1-07 & 102.02-1-37 seeking a use variance for placement of a commercial business.

Rob Morris and Lewis McNamee were present for the project. Mr. Morris was working with Stan Koloski. Property is split showing parcel A and parcel B. Property is within both the Highway Commercial Zone and the Rural Residential Zone. Most of the property is within the RR zone. Mr. Morris first asked the Board if the use of a storage unit facility is a permitted use within the Highway

Commercial Zone and second issue is that the applicant is requesting that his reality business remain on the site as well as the storage unit business. Mr. Morris stated that if the multiple use issue would create the difficulty then the applicant would remove it. Actually the business consists of only a reality phone at the site. Norma Barnard asked the applicant about a logging operation that has been using the site for the past few years. Mr. Morris stated that the applicant is no longer using the site for the logging. Chairman Clegg asked whether the site is wet or not. Mr. Morris stated that there are some wet areas in the back of the property. The site of the project is dry. The site would need some fill and grading over the current parking area. Norma Barnard asked about the National Grid easement along the property. Mr. McNamee stated that his property ends where the easement begins. Rob Fitzsimmons asked if the applicant is looking for a variance. Mr. Morris stated yes but initially looking for interpretation. Rob Fitzsimmons stated that he would need to see a narrative of the project. Mr. Morris asked the Board if a self-storage project was ever approved within a HC zone before. Steven Melnyk stated yes but it is located 15 miles from the village. Rob Fitzsimmons informed the Board that the applicant is looking for an interpretation before moving forward and applying for a use variance. If the Board deems the application is complete for interpretation of use then a public hearing could be held at the next meeting and this would allow the applicant to apply for a use variance. Board members agreed. Public hearing for interpretation of use will be held at the May meeting. Chairman Frank Clegg informed the applicant to obtain a public hearing sign from the Town office and post the sign at least two weeks prior to the May meeting. Continued to May.

Dow, Kenneth & Jacks, Elizabeth: 22 County Rte. 9 Mellenville, Tax Map # (SBL) 112 . 2 – 1 – 43 seeking Special Exception for small scale animal husbandry

Mr. Dow was present to address the Board with his project. Mr. Dow has 14 acres of old pasture land directly across from the Mellenville Firehouse. Mr. Dow is asking to make the property available for some sheep, goats, chickens, and a few cows to graze. Mr. Dow stated that his plan is to allow for no more than 20 grazing animals with no more than 5 cows, but would change to no more than 15 grazing animals with not more than 3 cows if the Board were more likely to agree to the lower number of animals. Chairman Clegg asked the applicant how far the pasture is from the nearest home. Mr. Dow stated that he owns the closest house along with the home he occupies. Jock Winch asked if the chickens are going to be free-range or cooped. Mr. Dow stated that in good weather the chickens will be free-range. Mr. Dow stated that the issue is that the property is within two different zones one of which is Rural Residential. Rob Fitzsimmons stated that this issue falls under the NY Department of Ag. & Markets. Rob Fitzsimmons informed the Board that the application should be referred to the Columbia County Planning Department for review and then the Board can set a public hearing for the May meeting. Application referred to County Planning and Mr. Dow paid fees of \$128.00 for his certified mailing. Continued to the May meeting for public hearing.

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.

Paul Griggs and James McNamee were present. Mr. Griggs is a geologist hired by the applicant. The proposed gravel mine is located behind the old Hawk Orchard building on the east side of County Route 27. Approximately 120 acres at the site with the proposal of mining only 18 acres of sand and gravel. Looking for Special Exception and Variance. Application for DEC mining permit submitted. Noise, traffic, and geological studies done. Average depth of mine area is from 5' to 15' deep. The site will have a low-profile screening plant. No crushing or blasting. Truck traffic will use existing driveway from mine to County Route 27 and then right onto State Route 9-H. Setbacks range from 200' to over 1,000' from residences. The area to be mined is located down at the base of the site, hidden from view by existing hills and banks. Operation will be open from April through November five days a week mostly mornings with some Saturday hours. Low intensity operation showing that on a busy day 50 to 60 trucks but most likely 20 to 30 trucks a day. Rob Fitzsimmons informed the Board that the proposed site is within the Mining Overlay Zone, which the Town of Claverack adopted. This application is mainly the responsibility of DEC but the Town of Claverack has the responsibility to oversee the process, determine the Mining Overlay Zone, and determine Special Exception. The Town can regulate setbacks, depth of buffer, barriers, screening, dust issues from crusher, hours of operation, impacts of other issues. The Town will be supplied any and all correspondence between the applicant and DEC. Rob Fitzsimmons stated that assuming the mine moves forward with the DEC permitting process the Town will require a reclamation bond and require that the Building Inspector and or Zoning Code Enforcement Officer have full access to the mine for inspection at any time. The applicant is requested to supply 2 (two) copies of all submitted material and the Town of Claverack will determine the escrow to be collected. Joe Romano informed the applicant that he will need to bring a copy of the application to Clough Harbour and Associates in order to determine the amount of escrow. Steven Melnyk asked the applicant the projected life of the mine. Mr. Griggs stated that the life of the mine is determined to be 5 – 10 years. Mr. Griggs stated that there is only 18 acres of mineable gravel on the site. Chairman Clegg asked if a pond would be needed at the site. Mr. Griggs stated that a small catch basin will be located at the lower end of the mine and the mine itself will be shallow in order to remain above the water table. Rob Fitzsimmons informed the Board and audience that the ZBA can not make any approvals until the applicant receives DEC permitting and approval. The ZBA will gather information, process the information, and continue to collect information. Mr. Griggs will make sure that Joe Romano receives copies of all DEC correspondence and will submit two copies for the file. Rob Fitzsimmons informed the applicant that to set protocol to inform him two weeks prior to the meeting whether they are planning to appear before the ZBA for the monthly meeting for notice on the agenda. Paul Gundrum asked the size of trucks that will be used for the mining. Mr. Griggs stated 12-wheelers. Paul Gundrum stated that the truck count seemed high. Mr. Griggs stated that the DEC application has to show the worst case scenario. Continued to May meeting.

Church of Jesus Christ of Latter Day Saints: 158 Rte 9-H, Tax Map # (SBL) 121 . – 1 – 19 . 100 seeking Site Plan approval to replace landscaping, sidewalks, and repave driveway and parking lot. Mr. Michael Bufi was present for the applicant. Mr. Bufi informed the Board that the applicant is asking to upgrade its current landscaping beds with new plantings. Beds will remain in same areas but need to be replanted with newer shrubs and plants. Sidewalks need to be replaced and they will also remain in the same areas with a small sidewalk leading to the storage shed in the back of the facility. Current parking area is in bad shape and needs to be re-paved. Both parking area and driveway will remain same size and area just re-paved. The handicapped parking spot will be relocated over toward the sidewalk. Also the entrance will be upgraded to NYS DOT standards with approval via Joe Visconti. A new sign will be erected at the same site as the current sign and will replace old wooden sign with a stone sign. No lighting on sign. Handicapped parking spots will change from the current 3 spots to 2 spots. A dumpster on site will be moved and hidden with a fence and/or plantings. Joe Romano informed the applicant they need to submit the NYS DOT approval. Motion to deem maintenance issue project and therefore exempt from Zoning Board of Appeals review but application should follow all building code regulations was made by 1st Norma Barnard with a 2nd from Paul Gundrum. All members were in favor. Motion carried.

Adjourn meeting