

**Zoning Board of Appeals
Town of Claverack
91 Church Street
Mellenville, NY 12544**

Approved May 24, 2006

Minutes of the April 26, 2006 meeting of the Town of Claverack Zoning Board of Appeals.

Meeting was called to order by board chairman, Mike Brandon at 7:34 PM. Members in attendance: Chairman Brandon, Mr. Frank Clegg, Mrs. Norma Barnard, Mr. Paul Gundrum, Mr. Steven Melnyk, Mr. Jock Winch, Town Engineer; Joseph Romano, Town Attorney Robert Fitzsimmons, and Secretary Jodi Keyser
Absent for meeting Steven Harder

Mr. Brandon asked everyone to stand for the Pledge of Allegiance. Mr. Brandon introduced himself and members of the Zoning Board of Appeals to the audience and read the cases before the Board for this meeting.

Chairman Brandon informed the members of the Board and audience members that this meeting would be taped by Mr. Howard Brandston.

Board members reviewed the draft minutes of the March 22, 2006 ZBA meeting.

Chairman Brandon asked members of the Board for a motion to accept as written the March minutes.

Motion was made by Mrs. Norma Barnard to accept the March 22, 2006 ZBA minutes as written with a 2nd from Mr. Jock Winch. Chairman Brandon asked the members to accept the motion and with all members in favor the motion was carried.

Cases for April 26, 2006:

1. Columbia Land Conservancy (112.-2-61) *High Falls Project, Roxbury Rd. Site Plan Review for parking spaces, rail fence, and sign at public conservation area involving 5.2 acres in Claverack jurisdiction off Roxbury Rd.*
Notification was received on 3/20 from Joyce Carol regarding the Conservancy's inability to attend the March meeting and they would call about the April or May meeting. Without further notification they were put on the agenda for the April meeting. Chairman Brandon informed the Board and audience that he would give the Conservancy 3 times during the meeting to show. 1st call at 7:36 PM, 2nd call at 7:59 PM, and 3rd call at 8:15 PM. Chairman Brandon wanted the record to show that the ZBA considers this no show as the 2nd strike against the Columbia Land Conservancy.
2. First/Birch North Claverack Development Group (101.00.02.25 and 101-2-23-110): *Planned Residential Community*
Chairman Brandon informed the Board that he had a personal conversation with the applicants. The applicant was not able to attend the meeting. Chairman Brandon informed the Board that he told the applicant to submit an official application before they appear again.
3. Stewardship at Millbrook Road
Andy Gilchrist and Mr. Tim Lundquist were present. Mr. Gilchrist informed the Board that the FEIS on the project was complete and each member had received a copy along with the area libraries, Town office, and website. Additional information regarding traffic and groundwater were received. 5 more test well sites and a letter was received regarding water quality (letter in file). Wetlands have delineation from DEC and ACOE. Asking the Board tonight to accept the FEIS as complete and accept the Resolution regarding the FEIS. (submitted to file)
Chairman Brandon asked if the applicant had a restriction on hours of construction. Hours are listed, as 8 AM – 6 PM weekdays and no weekends. Could this change due to time and weather delays? Mr. Lundquist answered that heavy equipment will not be permitted during the weekends but may have caretaking i.e. lawn mowing, inside work, and framing as not to create noise issues.
Chairman Brandon asked the applicant if they had any objections to the TOC highway superintendent inspecting the roadway to insure the construction meets town code. Applicant has no objections to this and welcomes Mr. LaMont's inspections.
Mrs. Barnard suggested that the Board receive the agreement in writing from the applicant. Mr. Gilchrist agreed and will write letter for file.
Chairman Brandon asked if the project is sold would the new owner need to reappear before ZBA? Rob Fitzsimmons answered no.
Chairman Brandon asked if the applicant removed the idea of cluster housing from the plan? Mr. Gilchrist respond the plan was redesigned with respect to the cluster housing sites. All lot sizes conform to regulations only need a site plan review and do not need variances.
Mr. Frank Clegg asked if the plan calls for wells to be installed prior to building? Mr. Lundquist answered that as homes are built the wells will be installed and tested. Some may require water filtration systems due to the high amount of iron in some areas of the site. This will be the homeowner's responsibility.
Chairman Brandon asked if Ron Fitzsimmons felt that the project needed a more in-depth paleontology survey due to the Phase 1 findings showing 4 areas that may contain artifacts. Mr. Gilchrist answered that all 4 site are shown on the maps and will be avoided. Sites were submitted to the Historical Society. Will be marked on plat plans and may require signage or delineation.
Mr. Clegg voiced his opinion that the wells be drilled prior to construction Mr. Lundquist answered that it was already the plan.
Mr. Clegg asked about an old bridge on Millbrook Rd. and whether the bridge could sustain the heavy truck traffic. Mr. Gilchrist answered that the truck traffic would be limited to Orchard Rd and Millbrook Rd as to avoid the bridge. Chairman Brandon asked town attorney Rob Fitzsimmons if the town required signage for the roadway and construction vehicles? Mr. Fitzsimmons answered yea and the town will have to be reimbursed for the cost. Will need this added to the findings statement so to make it binding.
Mr. Romano Town Engineer regarding the April 12th letter to the ZBA. This letter does not contain a final design plan with detailed roadways and gardens. A more final detailed design plan needs to be submitted.
Chairman Brandon asked if the meeting needed to be opened to public comment at this time? Mr. Fitzsimmons answered that was already done at previous meetings.
Chairman Brandon asked the members of the ZBA for a motion.
Mr. Jock Winch made a motion to accept the FEIS submitted by the Stewardship on Millbrook Rd. as complete and accepted pursuant to 6NYCRR §617.9 with a 2nd by Mr. Frank Clegg.
Chairman Brandon polled the members of the ZBA individually:
Mrs. Barnard – yea, Mr. Clegg – yea, Mr. Melnyk – yea, Mr. Gundrum – yea, Mr. Winch – yea, and Chairman Brandon – yea. Motion was carried unanimously.
Mr. Gilchrist informed the ZBA members that after the Resolution on the FEIS is accepted there is a 10-day review process. Copies of the FEIS are available at the Town Office building, local libraries, and electronically via the Town of Claverack web site that has a link to the document.
Mr. Melnyk asked the applicant about letters from a neighbor of the project and her concerns. Are they addressing them? Mr. Bossolini, attorney representing Deirdre Carson was present at the meeting and informed the ZBA members that the two parties are in negotiations at the present time and it is looking favorable at this time for both. Mr. Lundquist stated that they are going on good faith with both parties.
Dr. Stearns asked if she could address concerns regarding the plan and the need for further public comment. So noted by Chairman Brandon.
Chairman Brandon answered that this ZBA meeting was not open for public comment, but he suggested the Dr. Stearns attend the May 1st meeting of the TOC Planning Board, they have a scheduled public hearing on the proposed project.
4. Won Buddhism of America (122.-1-. 53) *Rte. 23 Claverack. Site Plan Review for seminary, museum, and 2 residences*
Mr. Karp, applicant's attorney and the applicant's engineer were present to review with the board the progress of the proposed project. Brezavar & Brezavar Architects for the applicant were also present to review the changes that have been made after comments received at the March ZBA meeting. Mr. Karp informed the ZBA that the applicant had decided to only move forward with the "Phase I" portion of the project and they are only seeking the ZBA approval on this part at

this time. The "Phase II" portion may be considered at a later date and will require re-applying for approval. Parking lot was moved to the eastern side of the building at the request of the land seller. Height of the main building will be only 30 feet high at the maximum and the large circle will be lowered to ground level and is modified to a smaller glass enclosed half circle containing a monumental staircase. 3rd floor moved off to the side of the building making the main building only 2 stories and in compliance with the height regulations. The main building will consist of approximately the same amount of square footage. Outside dimensions are approximately 140 ft. by 110 ft. extreme outside measurements. Flood Plan management will be forthcoming from the State and wetlands issues will be addressed by DEC inspection on May 1st. Chairman Brandon informed the applicant that after a recent heavy rain he drove through the site and noticed about a 3 " amount of standing water. Applicant's engineer answered that the water issue will be address and that an accurate topographical mapping of the area will happen but at this time the wetland issues are priority. Jock Winch asked where the aqueduct is now located because he does not see it. Sarah Brezavar answered that the aqueduct is removed from the plan at this time as well as the museum. The applicant is eager to start construction within the next 12 months so they are only going with the "Phase I" portion. Mr. Karp informed the ZBA that it is expected that groundbreaking will be after November 2006 but hopes that it will not take until May of 2007. Chairman Brandon asked the ZBA members if they had any questions of the applicant's representation. Joe Romano wanted the applicant to submit an accurate wetland survey ASAP. Chairman Brandon opened the meeting to public comment at 8:11 PM. Member of the audience wanted to know about the taxes that the applicant would pay to support fire fighting equipment, water, sewage, etc. Mr. Karp answered that the applicant falls under the 501C tax-exempt status. But the applicant wishes to be a good neighbor so they may participate as to help defray the cost if such is needed. They may be PILOT. Mr. Brandston asked how the project could go through the SEQRA process all at once not piece by piece. Rob Fitzsimmons answered that the SEQRA is only preliminary at this time for all phases. Many more questions still need answers, i.e. stormwater, wetlands, septic. Mr. Brandston asked about a study for the impact and view.

Mr. Karp answered that the site will be completely reviewed. Steve Melnyk asked if the septic is being designed for the future phase also. The applicant engineer answered that there is enough room to do a system for all the phases but not designed as of yet and may not require such an extensive system if the other phase is not pursued. He also stated that DOH needs to sign off on the design but should not be a problem due to the gravel located at the site. Without further comments project is continued to the May meeting.

Chairman Brandon commented to all that applicants need to be mindful of getting their applications submitted on time and that there is a cutoff of May 3rd for the May meeting.

5. William Spampinato on half of Almstead Nursery (101-2-02.111) *Rte. 66 Claverack for Site Plan Review for a nursery and mulch drying business.*
Mr. Spampinato and Mr. Sullivan were present along with Mr. Almstead. Mr. Spampinato addressed the ZBA with regard to the many issues brought up at the last meeting. He is now familiar, as is the applicant with the LongHorned Beetle. His research found that the beetle in question was acted on by Ag. And Markets about 8 – 10 years ago. They have detailed plan that designates 3 quarantined zones all located within the NYC area and they are mapped right down to the streets. Mr. Spampinato commented that he has never seen such a strict plan and aggressive action from Ag & Markets in his career. There are as of this date no reports of infestation outside of these areas. Strict enforcement of tree removal exists and Ag & Markets information along with a compliance agreement were submitted for file. Permits are required for moving trees from any of the zoned areas. SEQRA was modified and a full SEQRA was submitted. The height, length, and width of the mulch piles will be maximum a size of 20 feet by 35 feet in width and containing a 12 foot aisle in between the rows of piles. Equipment specs with decibel rates was included in file. Chipping operation is located within the Town of Ghent and was reviewed by the Ghent ZBA and Mr. Stiffler submitted a letter from them with regard to the site plan of the project and its approval. Hours of operation are 7:00 AM to 6:00 PM Monday through Saturday and these hours are consistent with previous agricultural activities. No Sunday operation ever. Mr. Almstead submitted a letter regarding the issue of combustibility. It states the minimal risk of combustion. Only pure green wood is shredded and the product contains no pesticides or microbial products. Mulch piles will contain monitors to read temperature and moisture levels. Most are removed in the chipping process. Mr. Spampinato informed the ZBA that Mr. Almstead is certified by Ag. & Markets as far as the regulations and dealing with the LongHorned Beetle and pesticides. His employees are also certified under the strict standards. Mr. Almstead will submit this information to the file. Mr. Sullivan has already address the issue of stormwater drainage. Copy of DOT comment letter submitted for curb cuts. All of the above information was submitted to the Almstead Nursery file. Chairman Brandon asked the ZBA members for questions. Mrs. Barnard commented that Mr. Spampinato did a good job with addressing the previous meeting issues raised by the ZBA. Mr. Winch agreed and stated that information supplied with regards to the LongHorned Beetle was interesting and informative.
Mike Cardis of Claverack asked about the decibels level of the Komatsu loader, stump grinder, and shredder may be within the Town of Ghent but the noise will travel to Claverack. Chairman Brandon answered that the ZBA has no jurisdiction in this matter it is located in the Town of Ghent and approved by their ZBA. Mr. Spampinato also informed the ZBA that the equipment decibels were reviewed in depth by the Town of Ghent. The equipment will also be housed within a building. Mr. Cardis then asked if the mulching process intent on staying in Ghent. Mr. Spampinato answered yes and only the mulch drying and nursery business would be located in Claverack. Chairman Brandon then closed the public hearing. Chairman Brandon asked Joe Romano if he had any problems with regard to the application. Mr. Romano reviewed the Long form SEQRA. Chairman Brandon asked for a motion for negative SEQRA. Mr. Jock Winch made a motion to accept a negative SEQRA declaration with a 2nd from Mr. Frank Clegg. Motion carried by all.
Chairman Brandon asked the ZBA for a motion to accept. Jock Winch made the motion to accept the site plan as submitted with a 2nd from Frank Clegg. Chairman Brandon polled the ZBA with 5 members in favor and 1 opposed (Mr. Gundrum) the motion was carried. Chairman Brandon signed the Full SEQRA. Applicant paid fees of \$11.16 for certified mailings.
6. Drumm, LeeAnn (112.-2-5) *401 Rte. 217 Hudson, Site Plan Review for Area Variance to replace an existing mobile home with a new modular home.*
Ms. Drumm is appearing before the ZBA after finding a Modular home to replace her existing mobile home. Ms. Drumm was before this ZBA in late 2005 with a request to replace existing mobile home with another mobile home without a decision. She informed the ZBA that she has found a Modular home that is better than the doublewide she first appeared with. She is seeking an area variance for set backs from her neighbor to the rear of her property. Chairman Brandon reviewed the set backs for her Modular home and informed the ZBA that she was only off the mark minimally. Chairman Brandon then reviewed the 5 steps to consider when making the determination to accept or decline an area variance with the members. He read each step and with a negative determination for each the members all agreed that the applicant should be granted an area variance. Chairman Brandon also felt that the Modular home was a better choice for the applicant. With no questions from the ZBA members Chairman Brandon opened the meeting to public hearing. Mrs. Betty Lou Meltz of 483 Rte 217 informed the ZBA that she was a neighbor of Ms. Drumm and she was very much in favor of Ms. Drumm's proposal. Mrs. Meltz felt that it would be an improvement to the neighborhood. Joe Romano reviewed the Full SEQRA form and declared it to have a negative declaration. Motion was made by Steve Melnyk for a negative SEQRA declaration with a 2nd from Jock Winch. All members in favor. Motion carried. Motion to accept the Area Variance as applied was made by Jock Winch with a 2nd from Norma Barnard. All members in favor. Motion was carried. Applicant paid fees of \$30.69 for certified mailings.

Informal

7. McCagg Excavating (101.-2-02.111) *33 Bender Rd. Columbia County Commerce Center.*
Site application submitted to ZBA members. Dan Proper of Crawford and Assoc. representing the applicant Jamie McCagg informed the ZBA that the applicant is currently housing his excavating equipment on Rte. 9-H just before the Red Barn restaurant. The applicant plans to move into the Commerce Center. Primary use for storage and maintenance of equipment which may include some sand/salt/gravel. Lot is between the 2 Cantele properties on Bender Rd. The back of the property borders Rte 9-H but is not exposed to 9-H because of wetlands on site. Site will contain 2 entrances and they will be paved. Mrs. Barnard reminded the ZBA that another business within the Commerce Center might have a problem with the application due to the dust levels that the trucks and equipment may make. The other business uses very sensitive monitoring equipment and that dust was an issue with a previous application before this ZBA. Mr. Proper informed the ZBA that Mr. McCagg has not yet purchased the lot in question because he needs ZBA approval for a special non nuisance industrial use site. Application was submitted too late to be set up for public hearing for this month. Applicant and representative will appear before this ZBA at the May 24, 2006 meeting. Chairman Brandon asked for a motion to adjourn.
Motion to adjourn was made at 9:25 by Frank Clegg with a 2nd from Norma Barnard. All in favor and the motion was carried.

Respectfully submitted,

Jodi Keyser
Secretary