

Town of Claverack
Zoning Board of Appeals
P.O. Box V
Mellenville, NY 12544

Meeting: May 28, 2008
7:30 p.m.
Minutes

Approved June 25, 2008

The Town of Claverack Zoning Board of Appeals meeting for May 28, 2008 was called to order by Chairman Frank Clegg at 7:30 p.m.

Pledge of Allegiance was led by Chairman Clegg.

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

Motion to accept the minutes of April 23, 2008 meeting was made by 1st Norma Barnard with a 2nd from David Graziano. All members were in favor. Motion carried.

Continuing Board cases for 5/28/08:

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.

Andy Howard attorney for the applicant and Mr. Thomas Quigley applicant were present. Last discussed nature of use variance. Looking to develop the corner of Rte. 9-H and 23. Proposed footprint of a 6,500 square foot building on approximately 2.5 acres. Permitted use for one use at 17,000 square foot building at site. All of the multi-uses proposed are allowed but not all on one site. Mr. Quigley wants to keep project in keeping with the area and the feel of the hamlet. David Graziano stated that he does not have a problem with the project but in order for the Board to approve the project needs to fall within the 4 basic criteria for granting of a Use Variance. Mr. Graziano stated that he has a problem with the owner claiming a non self-created hardship. He feels that the applicant knew the extent of the situation when they purchased the property therefore it is not a non-self-created hardship. Mr. Quigley stated that he and his wife purchased the property with the hopes of creating a nice building with a restaurant, retail space, and apartments. The project will end up costing \$1.5 million between purchase of the property and construction of the building. Mr. Quigley stated that he projects that he will not see a return on his project for at least 10 years. Mr. Quigley stated that he could use the existing building for one use and rent it out but would not make the area better. Andy Howard supplied the Board members with a cost analysis and income stream in order to justify. The property needs multiple uses in that small area to be profitable. Jock Winch stated that at the time Mr. and Mrs. Quigley purchased the property they should have researched it fully in order to decide what use they could have on the site. Mr. Winch informed the applicant that the Board needs to abide by the Zoning Laws that are now current. If the Zoning Laws change then they could go ahead with project but until changes the Board is tied to the Laws which state that only one use is permitted. Mr. Quigley stated that as with the self-storage unit project being called “scaring” of the area he is looking to enhance and better the corner. Mr. Melnyk informed the applicant that the project is good in theory but the Board is bound by the Zoning Laws. Mr. Howard then asked what the Board felt as far as approval of the project. David Graziano informed the applicant that if they show a non-self-created hardship and meet the criteria the Board may be able to grant. Rob Fitzsimmons informed the applicant and Board members that any of the proposed uses is allowable on the site but not the combination of uses. Mr. Fitzsimmons informed the Board that they could request the applicant supply further information regarding the non-self-created hardship issue. Mr. Howard asked the Board if in the past have applicants appeared before the ZBA asking for a Use Variance prior to purchasing a property. Board members answered affirmatively. Mr. Howard stated that this is the same type of issue. Steven Harder answered not really and it is his feeling that the applicant should have done their homework with respect to the site and multiple uses. Chairman Clegg asked the Board members whether more information regarding the non-self-created hardship issue and that public hearing regarding the site will be set for the June 25, 2008 meeting.

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 Morrison of LRC Group and Mr. Lewis McNamee were present. New maps were submitted. Review self-storage business on a parcel that is partly within the HC Zone and partly within the SR Zone. Mr. Morrison informed the Board that he has looked into the same type of business being allowed by the ZBA referring to the Coons self-storage unit project located on Rte 23 and the TSP. Chairman Clegg informed the Board and applicant that he sees self-storage as warehouse therefore it is an allowable use within the HC zone. Rob Fitzsimmons stated that there is a provision within the Zoning Code which allows for a business to expand from one zone into another if the business is same owner and same use. Mr. Fitzsimmons stated that the Board may look at a single permitted use at the site instead of several non-conforming uses as there are now. Chairman Clegg asked the applicant if he plans to keep the realty business on site in addition to the self-storage. Mr. McNamee informed the Board that he would remove the realty business and logging business using the site for only the self-storage units. He will keep some logs onsite to heat the existing building. Mr. Morrison stated that the new plan shows the existing building as being used as an office for the self-storage units. Mr. Morrison also stated that a self-storage business is a low-impact, low-noise, and low-traffic type of use. Rob Fitzsimmons informed the Board that depending on interpretation the applicant would need to apply for a full site plan review with stormwater plan. Rob Fitzsimmons then asked Mr. McNamee if he erected a sign announcing the public hearing for today and if the sign was up for the last two weeks. Mr. McNamee stated that he did indeed have the sign up in the front of his building. Chairman Clegg opened the meeting for public comment at 8:05 p.m. Chris Post 9-H and 23 resident asked whether the Board set precedence in the past with the granting of other projects that fall within two different zones. Rob Fitzsimmons stated that if a project falls within two different zones then it is at the Board's discretion. Steven Harder informed Mr. Post and the applicant that the Coons project was 90% within the HC zone. Mr. Morrison informed the Board that over one acre of the project is in the HC zone and one maybe one and a half acres are within the SR zone out of a total of 9.2 acres of the property. Peter Speers asked where the Coons project was located. Chairman Clegg answered at the intersection of Rte 23 and the TSP. Jock Winch asked he understood that 50% of the project is within the HC zone and 50% within the SR zone. Chairman Clegg asked the applicant what about the remaining 6.5 acres? Mr. Morrison stated that the remaining land will not be used at all. Joan Steiner of Rte 9-H stated that she felt the project was inappropriate for the area, which is the main entrance to a historic district, and there is a storage site at the other entrance to the town. Peter Bevacqua of Rte 23-B that he has written letters addressing the close proximity to the village, noise pollution, increased traffic, alarms going off at all hours. Feels inappropriate for area and property values will decrease because of storage units. Highly opposed. Mr. McNamee stated that the current building has an alarm system and the alarm does not go off ever. Mr. Bevacqua stated that the building only has one person entering and exiting therefore the alarm would not go off very frequently as with the number of people traffic at the storage units. Rob Fitzsimmons reminded the Board and audience that the purpose for the public comment and Board decision is first to interpret what type of use storage units fall under and the second is to decide what zones it can encompass. Mary Melino stated that the best meeting she has attended was a Comprehensive Plan Committee meeting. She is wondering where this type of business fits in with that plan that states to make more area residential and to not add commercial uses. Another audience member asked what the difference is between the Coons self-storage business and the McNamee business? Board members and audience members all stated that the McNamee project is much closer to single family homes and a historic area. Gretchen Stearns, a member of the Comprehensive Plan Committee, informed the audience members that the Comprehensive Plan will try to find ways to allow some light commercial industry to come into Claverack but not disturb the rural portions of the town. The Plan will devise a set of standards that will be worked on within the next year looking at types of businesses, designs for lighting. Will keep flavor of different areas separate as much as possible. Pat Longley asked what happens to the remaining portion of the land? Does it change to commercial or residential. Chairman Clegg stated that the remaining land will remain the same zone. Carolyn Merritt stated that she felt that storage units will look bad in area because of chain link fence, noise, and traffic. Not proper entrance for the historic hamlet. Chris Pomeroy stated that the Board should address the fact that 6 or 7 single-family homes will look directly on to the self-storage site. Mr. Pomeroy works in realty and in selling terms this type of business will be detrimental to area home sales. Jock Winch stated that the existing building is already running a commercial business. He has a problem with allowing expansion into the SR zone. Feels that applicant could change plans to keep business solely within the HC zone then this would not be an issue. Chairman Clegg closed the public comment at 8:10 p.m. Rob Fitzsimmons addressed the Board with the two parts of the application which are the interpretation of use and the expansion of commercial into the SR zone. Motion to determine that self-storage units are a permitted use within the Highway Commercial Zone was made by 1st Paul Gundrum with a 2nd from Steven Melnyk. All members were in favor. Motion was carried. Motion to allow expansion of commercial business into the residential zone as per section 4.5.7 of the TOC Zoning Code subject to full Site Plan Review was made by Paul Gundrum with a 2nd from Jock Winch. Board members were polled for vote as follows: Steven Harder – no, Jock Winch – yea, David Graziano – abstained, Paul Gundrum – yea, Norma Barnard – abstained, Steven Melnyk – abstained. Motion was not approved. Mr. Morrison addressed the Board that the plan is not the final plan for the project. He added that the Board should consider allowing expansion into the residential zone because the plan will take extra care in development due to

the area. David Seth Michaels representing the applicant stated that the applicant and developer will work very hard to make the residence happy with the plan but if the plan is killed now the applicant will not even have the opportunity to address changes that could be made to the plan. Asking for opportunity to go forward and address concerns with the Site Plan Review. Chairman Clegg informed him that if the project remained solely within the HC Zone this would not be an issue. Mr. McNamee asked if he then needs to only pay taxes on the HC Zoned property? Chairman Clegg asked the applicant why the plan could not be contained within the HC zone? Mr. Michaels answered that the project requires the entire area in order to make the business viable as far as income. Motion to allow extension of commercial business partly within the HC Zone be allowed to expand into the SR Zone was made by 1st Paul Gundrum with a 2nd from Jock Winch. Board members were polled individually as follows: Steven Harder – no, David Graziano – no, Paul Gundrum – yea, Norma Barnard – no, Steven Melnyk – no, Frank Clegg – yea, Jock Winch – yea
Motion was not passed. Extension denied.

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. Dowe was present. County approval letter submitted. Chairman Clegg asked the applicant what portion of the property is within the agriculture district. Mr. Dowe stated that none of the property is within the Ag District. Property is within Village residential and SR Zone. Opened to public comment at 8:55 p.m. Patty Brandon addressed the Board with an old Ag District map that shows the property is outside the Ag District. Rob Fitzsimmons answered that even though the property is outside the Ag District area the use could be permitted with approval of the Zoning Board of Appeals. Pat Longley whose parents own property on the opposite side of creek and has no problem with applicant but does have issues with the owner of the animals that Mr. Dowe is proposing to allow onto his property. Owner of animals named Aaron. Animals always roam onto their yards. Had to fence in her yard to keep animals out. Nancy Hood informed the Board that Mr. Dowe currently has animals at his site. Mr. Dowe informed the Board that he wishes to be a good neighbor and if the animals become an issue then he will not allow Aaron to keep them on his property. Concerned with animals and wanted to help out neighbor that is in need of grazing land. Mr. Dowe informed the audience that he will listen to any and all complaints and will address them promptly. Mr. Dowe informed the Board that he is not making any money from this venture. Mrs. Brandon of Kraft Lane asked what will happen to the animal waste. Will Aaron keep area clean and not allow waste to runoff into the creek. Mr. Dowe stated that he fishes the creek and would not like pollution from animals either but property is a couple hundred yards away from creek so should not be an issue. Again he stated that if the animals become a problem he will stop. Chairman Clegg closed the public comment at 9:05 p.m. Any Board questions. Norma Barnard stated that she would opt for limits on the number of animals and types of animals. Mr. Dowe stated that he would like to be allowed to have 15 goat, sheep, and 5 cows. Also a couple of chickens. Total number of grazing animals to be 20 with no more than of the grazing animals being cows housed within an electric solar powered fence with additionally one dozen hens plus chicks and no roosters housed within a movable coop but will be mostly free range animals. Jock Winch reminded the Board that they have had issues in the past with chickens. Feels should be fenced in to stop a potential problem. Mr. Dowe answered that the coop will be 100 to 200 yards from any neighbors. Motion for Negative Declaration with regard to the SEQRA was made by 1st Steven Melnyk with a 2nd from Norma Barnard. All members in favor. Motion carried. Motion to grant special exception with conditions of 20 grazing animals including no more than 5 cows maintained within an electric fence and one dozen hens plus chicks with no roosters maintained within a movable coop. Chickens are to be maintained within the property and if wandering applicant is then subject to violation was made by 1st Steven Melnyk with a 2nd from Norma Barnard. All members were in favor. Motion carried.

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. Applicant informed secretary that he had no new information regarding project and asked to be continued to June meeting.

Cantele, Timothy & Diane: 19 Salerno Drive/Columbia County Commerce Park, Tax Map # (SBL)101 . – 1 – 02 . 120 Site Plan Review for construction of 100' by 80' building for manufacture of pre-cast concrete products.

Timothy Cantele and Mr. Stiffler were present. Mr. Stiffler informed the Board that Mr. Cantele is not currently the owner of the property but has a signed contract of purchase. Full Site Plan Review for construction of a 100' x 80' building to manufacture pre-cast concrete products. Currently Mr. Cantele owns lots # 4, 5 & 6 in process of buying lot #7. Needs larger building because of size of pre-cast products he will be manufacturing. Building will house a 10-ton crane. Building is 30' high but because it sits down lower than other buildings will be same height. Letter from Shallo showing all parcels are to be combined into one with a single owner. Joe Romano informed the Board that the project would not disturb over an acre. Mr. Stiffler stated that the Commerce Park addressed the stormwater management for

the entire Commerce Park. Steven Harder asked the applicant about the direction flow of the gas line and water lines. Mr. Cantele did not know. Steven Harder suggested that the applicant find out this information for his own knowledge. Joe Romano asked the applicant if there will be facilities within the building. Mr. Cantele stated no only for storage. Facilities are available at other buildings. Mr. Cantele informed the Board that he employs 4 men, his wife, and himself. Joe Romano informed the applicant that the new maps should show all parcels now as one parcel with one tax map number, outdoor lighting design, dumpsters, storage outside, topographical showing tree line and these maps should be to Clough Harbour for Mr. Romano to review by June 1, 2008. Set public hearing for June 25, 2008. Need sign.

Luck, David & Susan: 150 Mellenville Rd. Tax Map # (SBL)102 . – 1 – 08 . 200 Site Plan Review for pre-build 16' by 11' by 8' shed to house chicken coop for 10 to 20 chickens.
No show.

Motion to adjourn meeting was made by Steven Melnyk with a 2nd from Steven Harder at 9:35 p.m. All members were in favor. Motion carried. Meeting adjourned.

Respectfully submitted,

Jodi Keyser
Secretary