

Town of Claverack
Zoning Board of Appeals
P.O. Box V
Mellenville, NY 12544
Minutes
Meeting: August 26, 2009

Approved 9/23/09

Chairman Frank Clegg called the August 26, 2009 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:34 p.m.

Chairman Frank Clegg led the Board and audience in the Pledge of Allegiance.

Members in attendance were: Chairman Clegg, Stephen Melnyk, Norma Barnard, David Graziano, Paul Gundrum, Attorney; Rob Fitzsimmons, Engineer; Joe Romano, and Secretary; Jodi Keyser

Absent with regrets were: Jock Winch and Oliver Milot

Correspondence: None

Members reviewed the Minutes of July 22, 2009. With a typo found by member David Graziano and noted by Secretary Jodi Keyser.

Paul Gundrum made a motion to approve the corrected July 22, 2009 minutes with a second from David Graziano. All members were in favor. Motion carried.

Continuing Board cases for 8/26/09:

With Attorney Rob Fitzsimmons delay due to a Philmont Village meeting the Stringham application was held until his arrival.

Stringham, Varick: Tax Map # (SBL) 120 . 2 – 1 – 4 and 120 . 2 – 1 – 10 Located at 406 Rte. 23-B Site Plan Review to operate a repair business.

Gary Steenburn informed the Board that he was video taping this portion of the meeting.

Mr. Stringham submitted a letter from the NYS DOT regarding the curb cuts. Mr. Stringham informed the Board that a letter from the CC DOH is pending. Mr. Stringham informed the Board that he has the NYS DEC report regarding their investigation of the site in question. Mr. Stringham continued that he is not submitting the DEC report until he has an opportunity to review the report with Rob Fitzsimmons and Joe Romano to determine which items pertain to this application instead of submitting the entire report. Joe Romano informed Mr. Stringham that anything he submits for review by the Engineer and or the Attorney is also required to be submitted to the entire ZBA. Joe Romano stated that the NYS DOT letter calls for a horseshoe shaped driveway. Mr. Stringham stated that the driveway is shown on the newly submitted maps. Joe Romano stated that the measurements of the driveway should be on the maps. Joe Romano continued that the sizes of the different uses of the building were shown on the maps. David Graziano stated that he did not understand the line marking the area that the applicant wishes to expand the Highway Commercial Zone into the Rural Residential Zone. Mr. Stringham stated that he line is carried over from the 1995 map. Joe Romano informed Mr. Stringham that the lines of encroachment and lines for the limits of use need to be added to the maps. David Graziano added that the actual area of use should be on the maps. Joe Romano added that the number of parking spaces along with handicapped parking spots should be shown with lines and signage. Chairman Frank Clegg then asked the applicant what the emergency/maintenance access roadway will be used for. Mr. Stringham stated that only emergency vehicles and maintenance of the property would be using this roadway. Chairman Frank Clegg stated that the conditions of the emergency/maintenance roadway should be added as a note on the Site Plan. Norma Barnard also stated that conditions for the roadway will also be added to the Final Approval wording. Chairman Frank Clegg then asked the use of the large area of the building marked as personal. Mr. Stringham stated that the area is for his own personal recreational use, which requires a large open space. Chairman Clegg then asked if the applicant ever intends to rent out this large portion of the building. Mr. Stringham stated yes at some point but he would need to add heating to the area first. Joe Romano

stated that if the applicant intends to add new lighting or keep the existing lighting this also should be shown on the maps. Norma Barnard asked if the applicant if he will be using the existing signs for the building. Mr. Stringham stated that he will use the existing signs. Joe Romano then reminded the applicant that the application still needs the NYS DEC report and a letter from the CC DOH. Joe Romano also reminded the applicant that anything submitted to either Rob Fitzsimmons or him to review also has to be submitted to the ZBA and the TOC. Norma Barnard asked why the application shows 5 spaces in the front of the building and only 1 at the rear of the building where the repair shop will be housed. Mr. Stringham stated that he is willing to add parking spaces in the back if requested to. Chairman Frank Clegg then asked how many bathrooms are in the building. Mr. Stringham stated that the building has 1 bathroom, which is located at the front of the building near the personal area. Chairman Clegg then asked how many employees COARC has at the site. Mr. Stringham answered that COARC has one full time employee and one per diem employee that works doing diagnostic duties once in a while. Mr. Stringham then stated that he will return to the September meeting and will contact Rob Fitzsimmons regarding the NYS DEC report.

Luis Lopez / DBA Coyote Flaco: Tax Map # (SBL) 131 . – 1 – 5 Located at 6032 Route 9-H & 23. Area Variance to expand outside usage area and new signs for business.

2nd Strike no show/no contact. Rob Fitzsimmons will contact the applicant for further details as to his non-attendance at this meeting and the previous month's meeting.

Khalifeh, Tareq/dba Philmont Family Dentistry: 1078 Rte 217 Philmont. Tax Map #(SBL) 113 . – 1 – 20 . 120 Modification to a previously approved Special Permit.

Geno Khalifeh and Ray Doty were present for the application. Mr. Khalifeh reviewed his application for the Board regarding the problems discovered after approval of his previous application. Mr. Khalifeh explained that his dental practice hired a dental equipment company to purchase newer equipment for the office. The practice then needed to expand their building to accommodate the new equipment. Mr. Khalifeh and Mr. Doty, his contractor for the project applied for a Special Permit and subsequently received approval by the TOC ZBA. As the project progressed they discovered that the addition would not allow for adequate room for the new equipment and space for staff and the Dr. Khalifeh to move around and perform their duties. Mr. Khalifeh and Mr. Doty changed the design to add an additional 300 square feet. Mr. Khalifeh continued that they have now applied for approval for this re-designed addition. Mr. Khalifeh then submitted a letter from Columbia County Department of Health stating that the septic system is adequate which was a condition of the previous approval. The application was legally noticed for public hearing at the August 26, 2009 meeting. Chairman Frank Clegg opened the meeting to the public at 7:39 p.m. and after no comments closed the public comment at 7:40 p.m. Stephen Melnyk made a motion to approve the Special Permit for the re-designed addition to the Philmont Family Dentistry with a second from David Graziano. All members were in favor. Motion carried.

Columbia County Habitat for Humanity: Tax Map # (SBL)101 . – 2 – 11 . 200 Located at 829 Route 66 Claverack. Site Plan for not-for-profit retail outlet of building supplies.

Patricia Baer was present for the application. Rob Fitzsimmons reminded the Board about issues raised at the previous meeting and that he has since spoken to representatives from Habitat for Humanity regarding these issues. Mrs. Baer submitted new Site Plan maps showing both the entire parcel and one map showing just the layout of the building. Submitted a narrative addressing the use of the building. Submitted a letter from NYS DOT for curb cuts. Submitted letter from Columbia County DOH regarding the septic system. Submitted a notarized letter from the owner of the building giving Habitat for Humanity permission to go forward with their project. Signage for Re-Store showing one sign at the entrance and one on the building. Submitted pictures of the signs, building, and loading dock. Shared entrance with Village Dodge off of NYS Rte. 66 Submitted deeds of agreement with owners of property and Village Dodge. Proposing to take over part of building currently being used by a dance studio. Mrs. Baer informed the Board that the site is perfect for a re-store because of the location and the large open space. Mrs. Baer continued to show the Board members the plans for the building. Office space, 2 ADA restrooms, and a display area. Mrs. Baer informed the Board that the re-store will be open to the public on Fridays from 9:00 a.m. to 5:00 p.m. and Saturdays from 10:00 a.m. to 4:00 p.m. employing one full time paid employee with the remaining 3-4 people being volunteers to restock and take deliveries. Chairman Frank Clegg asked what type donations are accepted. Mrs. Baer stated that donations from Lowe's, Homedepot, etc. in the form of new overstocked items, surplus items from construction sites, leftovers from contractors. Chairman Frank Clegg then asked if everything is

being stored inside the building. Mrs. Baer stated that there is an existing shed and will fence the area from the building to the shed so nothing is seen. Paul Gundrum then asked if everything that is stored outside will be kept behind the fence and shed. Mrs. Baer stated yes. Stephen Melnyk asked what the proceeds from the sale of the donations would be used for. Mrs. Baer stated that the proceeds will fund Habitat for Humanity to build more homes in our area. Stephen Melnyk then asked if private homeowners could donate items. Mrs. Baer stated yes they would accept un-opened paint, stain, varnish, gently used cabinets, doors, etc. and also new and gently used appliances. Mrs. Baer informed the Board that this type of re-store also keeps these items from landfills, tax deductions, keeps costs to public low, and is a major source of revenue for Habitat for Humanity. Stephen Melnyk asked if Habitat for Humanity is leasing the building. Mrs. Baer answered yes only the dance studio currently but hope to expand into the remaining portion of the building after the current tenant leaves. Norma Barnard informed the applicant that at the previous meeting Mr. Backlund owner of Village Dodge had issues with the property owner and the shared driveway maintenance. Mrs. Baer stated that she met with Mr. Backlund and he is fine with the idea and he and Mr. Linton, property owner, will continue to maintain the driveway. Norma Barnard stated that Mrs. Baer should get the agreement in writing for security. Rob Fitzsimmons stated that the applicant has submitted a narrative, NYS DOT, DOH, and driveway issues so if the Board feels that the application is complete then could be wrapped up at the next meeting. Board members agreed that the application was complete. Mrs. Baer was informed that a sign is needed from the Town of Claverack office to notice the meeting at least two weeks prior to the next meeting. Continued to September meeting for public hearing.

New Applications:

Howard, Michael: Tax Map # 122 . - 1 - 22 . 10 Located at 48 Stever's Crossing Rd.. Area Variance for residence exceeding height limitations.

Michael Howard was present for his application. Mr. Howard explained to the ZBA that he is in the process of building his home on Stever's Crossing Rd. Mr. Howard continued that after inspection from the Building Department it was discovered that the house exceeds the height limitations for the TOC. Mr. Howard stated that the house is 3.5 feet too high. Stephen Melnyk asked how this happened. Mr. Howard stated that he is unsure how but during the foundation excavation the ground became too hard to dig in and therefore the foundation was built up slightly (see Tim Lundquist letter) David Graziano then stated that he is unsure where the measurement is started at the foundation or at the grade of the ground. Mr. Howard stated that the measurement is from grade. David Graziano stated that the measurement could be different depending on the place it starts and he has an issue with there not being a set measurement site. Mr. Howard stated that the house is built and there now and subsequently measured showing it to be too high. Norma Barnard stated that Stan Koloski also addresses a third story and sprinkler system. Mr. Howard stated that he has met and cleared that issue up with Stan Koloski. There is not a third floor but two stories with an attic. Stephen Melnyk then asked if the attic contains walk through trusses. Mr. Howard stated that the attic is not livable space due to the pipes and tubes for the solar heating and cooling system. Norma Barnard asked if the house obstructed the view for any of the neighbors. Mr. Howard stated that he can not see other houses and they can't see his house due to the trees. Rob Fitzsimmons stated that the Area Variance is for a single-family residence therefore no need for County Planning approval. Mr. Howard was instructed to get signs for notice of the public hearing from the TOC office at least two weeks prior to the September meeting. Public hearing set for September. Continued.

Informal:

Weigelt, Clifford:

Mr. Weigelt is the owner of property on Swiss Farm Rd. which is a private road owned by his family members and himself. Mr. Weigelt is asking for advice on how he can subdivide his property and build a home. Mr. Weigelt informed the Board that currently 12 houses are located on the roadway belonging to members of his family. Mr. Weigelt owns approximately 10 acres and is looking to give a piece of property to his children to build a home. Mr. Weigelt stated that he has addressed his issue with the TOC Planning Board to subdivide and was denied because the property does not have frontage on a TOC roadway. Mr. Weigelt informed the Board that he has no intention of having the TOC take over the roadway and does not want to build the roadway to TOC specs. Chairman Frank Clegg answered that the TOC ZBA has to abide by the Zoning Laws and can not allow. Chairman Clegg continued that he understands the problem and understands the dilemma that Mr. Weigelt is in but if this were allowed for one

then would have to be allowed for everyone. Chairman Clegg continued that if the ZBA allows him to subdivide on a private roadway without building the roadway to TOC specs then developers would expect the same. Norma Barnard asked how emergency vehicles access his property if something happens. Mr. Weigelt stated that if there is an emergency and the proper authorities are unable to have access to the properties then it is his fault along with the other property owners on the road not the Town's fault. Mr. Weigelt then asked if the roadway is left as is and enough room is left deeded incase the future owners want to build roadway to TOC specs why is that not enough. Joe Romano answered that this becomes an issue not with the first set of owners but in the future with subsequent owners not wanting to maintain the roadway and they then come to the TOC demanding that the TOC maintain the roadway. Mr. Weigelt stated that the laws do not make it fair for someone who owns a large amount of property to be able to subdivide that property and give to future generations. Pays taxes but can't have a home on the land. How can these issues be changed? Paul Gundrum asked if there should be one law for developer then different law for other property owners. Rob Fitzsimmons stated that a possible way around this is with a homeowner's agreement signed by all of the property owners. Stephen Melnyk agreed that family members should be able to give property to other family members and children but the ZBA still needs to abide by the laws keeping everything equal for all. Mr. Weigelt then stated that he would study the issue farther with the TOC Board and the Comprehensive Plan Committee. Stephen Melnyk stated that has no issue with changing the law just craft the law properly so fair for everyone.

Motion to adjourn the meeting was made at 8:54 p.m. by Norma Barnard with a second from David Graziano. All members were in favor. Motion carried.

Respectfully submitted,
Jodi Keyser
Secretary