

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

Minutes: September 23, 2009
7:30 p.m.

Approved 10/28/09

Chairman Frank Clegg called the September 23, 2009 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:30 p.m. Chairman Clegg led the Board members and audience in the Pledge of Allegiance. Members in attendance were: Chairman Frank Clegg, Stephen Melnyk, Norma Barnard, David Graziano, Oliver Milot, Jock Winch, Paul Gundrum, Engineer; Joseph Romano, Attorney; Rob Fitzsimmons, and Secretary; Jodi Keyser.

Correspondence: No correspondence received.

Minutes of August 26, 2008 were reviewed by the Board. Motion to approve the August 26, 2009 minutes as written was made by Norma Barnard with a second from Stephen Melnyk. All members were in favor. Motion carried.

Continuing Board cases for 9/23/09:

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.

Mr. Stringham called ZBA Secretary Jodi Keyser on September 22nd to inform her that he would not be attending the ZBA meeting on September 23rd due to personal matters and not yet meeting with Rob Fitzsimmons and Joe Romano regarding the DEC report.

Mary Daly submitted a memo from concerned neighbors of the site. Mrs. Daly informed the Board that the neighborhood wanted to know when the ZBA will make a decision on the application. Mrs. Daly stated that the neighbors are concerned that the applicant is allowed to rent out the space to a Commercial use in a Rural Residential zone. They feel that the applicant is dragging his feet with the application because the Board has allowed him to rent the space without a decision and he will continue to do this as long as the Board allows it to go on..

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.

No show Strike 3

Rob Fitzsimmons reviewed the application for the Board reminding them that at the applicant failed to attend the last months meeting also. Rob Fitzsimmons continued that the Board decided to have him draft a letter to the applicant addressing the no shows and the appeal of the Building Department determination before the Town regarding the property. Rob Fitzsimmons stated that as of the meeting tonight he has had no response from the applicant. Mr. Tallackson submitted a brief he prepared for his clients, Ms Slovak and Mr. Sturges. David Graziano stated that due to the fact that he has received the brief just prior to the meeting he does not feel ready to discuss it at this time. Needs to study. Jock Winch stated that this may give the applicant one more month to show for a meeting. Ms Slovak and Mr. Sturges will await Board review of the brief and will return to the October meeting for deliberations. Rob Fitzsimmons stated that the applicant has not responded to his letter or attended the meetings for the last few months therefore he will send another letter with stronger language via certified mail discussing the appeal that has been filed by Mr. Tallackson's clients. Rob will also hand deliver a copy of the letter in hopes to speak to the applicant face to face. Continued to October. Mr. Tallackson asked that if the applicant appeared after he and his clients are gone that the Board defer them until the October meeting. Rob Fitzsimmons agreed.

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.

Mrs. Baer was present for the application. Rob Fitzsimmons informed the Board that the applicant has supplied a narrative, sketch plan, and site plan for the application. Jock Winch stated that due to the fact that he was unable to

attend the August meeting he did not receive a copy of these items to review. Norma Barnard stated that the Board decided in August that the application was complete. Chairman Frank Clegg then opened the meeting to public hearing at 7:42 p.m. No comments closed the public hearing at 7:43 p.m. Jock Winch stated that he requested a DOT letter. Mrs. Baer stated that this was submitted in August. Jock Winch asked if Mrs. Baer had approval from Nils Backlund. Mrs. Baer stated yes she has spoken to his son. Jock Winch stated that he took issue with that because Mr. Backlund is the owner of the property not his son and therefore should require written approval from Mr. Backlund. Jock Winch then stated that he has an issue with the shed because he does not think that the proper permits were done for it. Jock Winch continued that he just wants things done correctly. Mrs. Baer stated that they only plan to erect a fence from the building to the shed along the property line to shield the donations. Joe Romano then reviewed the SEQRA for the Board members. Motion for negative declaration with regards to the SEQRA was made by Paul Gundrum with a second from David Graziano. All members were in favor. Motion carried. Motion to approve Habitat for Humanity re-store Site Plan Review was made by David Graziano with a second from Norma Barnard. All members were in favor. Motion carried.

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

Mr. Howard was present for his application. Chairman Frank Clegg asked Mr. Howard why didn't the Building Inspector find the height problem prior to the house being completed. Mr. Howard stated that he was unsure how it happened that his house exceeded the height limitation for the TOC Zoning. Mr. Howard stated that his house was measured at 34' 6" and the limit is 30'. Mr. Howard's developer Tim Lundquist did state that the contractor came across some very hard rock when digging the foundation which caused the foundation to be up higher and therefore made the house higher. Chairman Frank Clegg opened the meeting to public hearing at 8:50 p.m. Renate Reiss of Roxbury Rd. stated that she did not have an issue with the house but asked if allowing this time will this set a precedent for other houses that exceed the height limits. Chairman Frank Clegg stated no each time this happens it needs to be addressed separately by the Board on a case by case basis. Mary King of Thielman Rd. asked if this decision is for this house only or other houses within the area that Mr. Howard owns. Rob Fitzsimmons stated that this is only for Mr. Howard's house. Public comment closed at 8:54 p.m. David Graziano stated that he is concerned with how this happened because the original plans call for 30' and does not understand how the house ended up being 34' 6". Mr. Howard stated that he did not know how it happened but possibly because of the foundation problems. Rob Fitzsimmons read a letter from the TOC Building Department Stan Koloski explaining his findings. Rob Fitzsimmons read statutes for Area Variances. Board members found that the benefit outweighs the detriment. Motion to declare negative SEQRA was made by Norma Barnard with a second from David Graziano. All members were in favor. Motion to approve Area Variance for height of house exceeding 30' limit as per table 5-3 subsection 5 by being 34' 6" was made by Paul Gundrum with a second from Norma Barnard. All members were in favor. Motion carried.

New Applications:

Filli Pizza/Claverack Corners LLC: Tax Map # (SBL) 121 . 03 – 3 – 16 Located at 634 Rte 23-B Claverack. Site Plan Review for restaurant.

Damon Filli and Dana Skabowski were present for the application. They are applying to operate a pizza restaurant at the corner of 9-H and 23B. Mr. Filli explained that the restaurant will accommodate 44 people for sit down and will also have a take out. The restaurant will be open Monday through Sunday 11:00 a.m. to 8:30 p.m. Mr. Filli explained that he is able to accommodate the number of people because the building does not need storage because he will use his store across the street for storage and freezer space. Dana Skabowski submitted DOH plans prepared by Pat Prendergast for the file. Chairman Frank Clegg informed the applicant that the Board can not make any decision until DOH approves the plans. Chairman Frank Clegg asked if the applicant will own or rent the property. Mrs. Skabowski stated that they are renting the property. Rob Fitzsimmons stated that DOH will need to issue a permit and show that the septic and water are adequate. Damon Filli stated that the plans also show the curb cuts for the property. David Graziano informed the applicant that the signs shown on the Site Plan are too large at 30 square feet and should be 24 square feet. Joe Romano stated that he found a few items i.e. handicapped parking spaces require stripped aisle next to them, lighting for parking should be shown, letter from owner of the property to act on his behalf, NYS DOT curb cut permits. Joe Romano stated that he will submit comments directly to Pat Prendergast.

Dana Skabowski will send any revisions to the Secretary Jodi Keyser by October 7th for the Board packets. Mrs. Skabowski stated that no alcohol will be served only food, and no apartments. Enid Futterman asked if the public could view the plans. Mrs. Skabowski stated that the owner is doing the improvements to the building. Need DOH, NYS DOT, lighting design, revised signs, handicapped parking stripping, letter from owner. Continued to October meeting.

Kristjansson, Kristjan: Tax Map #(SBL) 131 . – 1 – 89 . 111 Located at 76 Catskillview Rd. Site Plan Review for expansion of horse barn and addition of 2- 12' x 24' sheds.

Mr. Kristjansson was present for his application asking for an expansion onto a barn and the addition of two running sheds for his Icelandic horses. Mr. Kristjansson needs the sheds and addition to the barn due to increased interest in the horses that he breeds and sells. The Icelandic horses are prone to skin infections due to the black flies in this area. The horses do not encounter these in their native country but here the flies cause many problems. Chairman Frank Clegg asked why the applicant was sent to the ZBA and not just to the Building Inspector. Mr. Kristjansson informed the Board that the Building Inspector sent him to the ZBA because the property contains barns but no residence. Mr. Kristjansson was previously before the ZBA asking for a Variance to construct the current barn on the site because of no primary residence on the site. Rob Fitzsimmons informed the Board that the Board will still need to run through the process even though is covered under the Ag & Markets law. Chairman Clegg asked the applicant if the sheds are similar to the previously constructed sheds. Mr. Kristjansson answered yes that the addition to the barn will add 8 more stalls and the two more sheds for approximately 25 horses. Norma Barnard asked if the applicant raises the horses for show, sale, or personal use. Mr. Kristjansson informed the Board that he sells the horses for breeding, riding, and competitions. Norma Barnard asked how many acres are owned by the applicant. Mr. Kristjansson answered that he owns approximately 70 acres. Stephen Melnyk asked how many sheds are needed. Mr. Kristjansson stated that he needs two sheds at this time but will need more in the future. Stephen Melnyk stated that the applicant should ask for the complete build-out for all of the future buildings and sheds that he may want now instead of waiting and doing the process again and again. Rob Fitzsimmons informed the applicant that he could amend his application to include future buildings and submit the details to the ZBA Secretary by October 7, 2009. Mr. Kristjansson agreed and will make the necessary changes and bring the 10 copies to Stan Koloski. Continued to October meeting.

Vormer, Mattus: Tax Map #(SBL) 123 . – 2 – 15 Located at 1293 Martindale Rd. Area Variance for side and rear setbacks to construct housing for wood burning boiler.

Mr. Vormern was present before the Board asking to place a wood burning furnace at the rear of the building which does not meet setbacks but would be out of site for the neighbors and therefore a better site. Stephen Melnyk asked Mr. Vormer what type of wood burning furnace is he planning to have. Mr. Vormer stated that it is a gasification unit, which burns the wood slowly without producing very much smoke but using the gases to produce heat. The unit needs a small housing unit to protect it and a smoke stack as high as the building for combustion. Rob Fitzsimmons informed the Board that outdoor furnaces are becoming a big issued around the area. Rob Fitzsimmons asked if Mr. Vormer had any information for the Board members to review. Mr. Vormer stated that he will provide the Board with all the information regarding the furnace. Chairman Frank Clegg asked if the area that he intends to put the furnace is visible from any neighbors or roadways. Mr. Vormer stated that the Taconic State Parkway is directly behind his building and you can not see anything. Stephen Melnyk asked how big the furnace is. Mr. Vormer stated that the furnace is 210,000 BTU's. Jock Winch asked how big in size? Mr. Vormer stated 2' x 5' x 2' approximately. Mr. Vormer stated that his building is well insulated according to a company that performed a heat loss survey for him. Mr. Vormer stated that he figures on starting a fire and let it burn until it goes out each day. Rob Fitzsimmons stated that the applicant needs to provide information regarding the gasification unit by 10/7/09 and will set public hearing to consider Area Variance for 10/28/09.

Motion to adjourn the meeting was made by Paul Gundrum with a second from Jock Winch. All members were in favor. Meeting adjourned at 8:45 p.m.

Respectfully submitted,

Jodi Keyser
Secretary