

Town of Claverack
Zoning Board of Appeals
P.O. Box V
Mellenville, NY 12544
Minutes: October 28, 2009
7:30 p.m.

Approved 12/9/09

Chairman Frank Clegg called to order the October 28, 2009 meeting of the Town of Claverack Zoning Board of Appeals at 8:00 p.m. Meeting delayed due to court business.

Norma Barnard made the motion to approve the minutes of September 23, 2009 with a second from Jock Winch. All members were in favor. Motion carried

Continuing Board cases for 10/28/09:

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.

Varick Stringham was present for the application. Mr. Stringham informed the Board members that he recently met with Rob Fitzsimmons and discussed the NYS DEC report. Mr. Stringham submitted and supplied a copy of the NYS DEC report for the file and Board members. Chairman Clegg asked Mr. Stringham about the new maps and DEC report. Rob Fitzsimmons reviewed the NYS DOT report for the entrance specs from Rte 23-B. Mr. Stringham asked if his application could be set for public hearing at the November/December meeting. Board members agreed and public comment will be set for the combined November/December meeting on December 9, 2009 at the Town Hall.

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

Mr. Lopez and Mr. Rodenhausen were present for the application. Mr. Rodenhausen is now representing Luis Lopez for the application but not the owner of the building Mr. Michaels. Rob Fitzsimmons reviewed the application for the Board and audience members. Rob Fitzsimmons reminded the Board and informed Mr. Rodenhausen that Jeffrey Tallackson has filed an appeal of the use of the property for his clients Slovak/Sturges. Mr. Rodenhausen informed the Board that he was recently retained by Mr. Luis Lopez regarding his application. Mr. Rodenhausen continued that he needs to respond to many different things and he is currently trying to sort out the issues. Mr. Rodenhausen informed the Board that Mr. Lopez owns two other restaurants in NY and his family members also own Mexican restaurants in MA and CT. Mr. Rodenhausen continued that his client applied for a CO from the TOC Building Department and on June 5, 2009 opened Coyote Flaco at the former Fatso's/Moosehead Tavern on Rte 9-H. Mr. Lopez had only one issue with the TOC Building Dept. regarding signs for the restaurant. Mr. Lopez applied for a Variance with Stan Koloski. Mr. Lopez wanted to replace the existing signs for the Moosehead Tavern with signs for his Mexican Restaurant. Mr. Rodenhausen then stated that Mr. Lopez then asked Mr. Koloski a question regarding possible expansion of the restaurant to be able to provide dining on an existing patio area at the south side of the building. Mr. Rodenhausen reminded the Board that Mr. Lopez has a current CO permit for an eating establishment, which also allows for dining on the front patio area which pre-existed Mr. Lopez but was previously approved for the property. Mr. Rodenhausen then stated that Stan Koloski suggested Mr. Lopez also apply for the expansion along with the sign issue. Mr. Rodenhausen then stated that Mr. Lopez is only seeking to replace the signs for the establishment and is not looking to expand the dining area at this time. Mr. Rodenhausen continued that Mr. Lopez wants to replace the existing signs with signs of the same dimensions and to replace the stuffed Moosehead over the front door with a sign, replace the sign on the top of the building, and replace signs on each column on the entrance to the front porch. Mr. Rodenhausen then asked why Mr. Lopez is being required to seek a Variance for replacing existing signs. Stephen Melnyk asked if the dimensions of the replacement signs matches the existing signs. Mr. Melnyk ask that the applicant supply the Board both the dimensions for the existing signs and for the signs Mr. Lopez wants to use to replace them with a total on each. Jock Winch informed the applicant that the application is incomplete and that an area of the application needs to be signed by the owner of the property. Mr. Rodenhausen acknowledged and will straighten out the application and submit a new application to elevate any confusion. Also the application will provide sign dimensions for existing and replacements. Dave Graziano informed the applicant that to his understanding signs are only for the identification of the business and

can not advertise goods and or services. Mr. Rodenhausen will check the Zoning laws and with the TOC Building Dept. for sign details. Mr. Rodenhausen informed the Board that his applicant only asked about the expansion of dining to the south patio to find out what would be required. Mr. Rodenhausen continued that Mr. Lopez is not interested in expanding to the south patio at this time but wants the Board to be aware that the CO permit does allow for dining on the front patio. This CO stipulation was confirmed by Rob Fitzsimmons. Mr. Rodenhausen is withdrawing the expansion of use on behalf of his client and will only use the southern patio for smoking, which was previously approved by the TOC Building Dept. Mr. Rodenhausen then stated that his client needs a Variance to replace the signs only and not a Site Plan Review because the applicant is not seeking to expand use. Mr. Rodenhausen then addressed the issue of the appeal filed by Slovak/Sturges. Mr. Rodenhausen stated that the building has been used for the same type of business for many years even before 1972 and the beginning of Zoning in Claverack. Mr. Rodenhausen continued that he can sequence the continuance of use to this date and that at no time was there a 12-month gap in use. Mr. Rodenhausen commented that he has not had adequate time to review the appeal but understands that the discussion revolves around the interpretation of Tavern as opposed to Restaurant. Mr. Rodenhausen stated that the TOC Zoning law addresses the definition of Tavern vs Eating Establishment within the HC Zone but this should not be an issue because it is already a non-conforming use grandfathered prior to 1972. Chairman Frank Clegg stated that DOH does define them. Mr. Rodenhausen stated that the applicant did what he thought was the right thing and consulted with CCDOH prior to opening the restaurant. Mr. Rodenhausen continued that Mr. Lopez replaced the old septic system with a new system and a new tank which was satisfactory for CCDOH. Mr. Lopez spent a great deal of money to update the septic system. Mr. Rodenhausen also informed the Board that Mr. Lopez also upgraded the kitchen. Mr. Rodenhausen informed the Board that the previous Moosehead Tavern and the current Coyote Flaco have the same number of seats for dining and the same number of seats for bar patrons. Mr. Rodenhausen stated that both business received CO's for the same Bar-Restaurant status from TOC and is therefore staying very close to the non-conforming use. Rob Fitzsimmons asked that Mr. Rodenhausen provide a written response to Mr. Tallackson's appeal for Slovak/Sturges. David Graziano asked for the use of the facility in 1972. Mr. Rodenhausen stated that the use was service of food and drink(liquor). Mr. Tallackson stated that the appeal is in argument for the definition of Tavern vs Bar and that he was not aware of the regulations for providing 10 copies for the Board members and that the copies need to be delivered by a certain date. Rob Fitzsimmons stated that any new information should be delivered to the TOC Office Building at least 3 weeks prior to the following ZBA meeting in order for Board members enough time to review materials. Rob Fitzsimmons then set a time line for submissions as follows: new application and argument to appeal by 12/9/09 then the reply by 1/6/10 for the ZBA meeting on 1/27/10. Continued.

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

Dana Skabowski supplied new maps but is asking to be continued due to no response from NYS DOT. Continued.

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 applied for 3 running sheds and an expansion on to his existing horse barn. Mr. Kristjansson informed the Board that he obtained a sign from the TOC and has displayed it for three weeks. Mr. Kristjansson informed the Board that he was previously seeking only 2 running sheds and the barn expansion but at ZBA suggestion amended his application to include another running shed that he would be building at a later date. Mr. Kristjansson stated that he will build two sheds and the expansion soon and understands that he has 1-year for the building permit and if construction is not completed will need to re-new the building permit with the TOC Building Dept. Chairman Frank Clegg opened the meeting to public comment at 8:45 p.m. No comments. Closed public comment at 8:45 p.m. Motion to declare a Negative Declaration with regard to SEQRA was made by Stephen Melnyk with a second from David Graziano. All members were in favor. Motion carried.

Motion to approve Site Plan for the expansion of an existing barn and construction of 3 running sheds was made by Oliver Milot with a second from Paul Gundrum. All members were in favor. Motion carried. Site Plan was signed and stamped.

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. Vormer was present for the application. Mr. Vormer provided the information materials for the wood burning boiler for the Board members to review. Members were sent the information in their packets. Mr. Vormer informed the Board that he has purchased the boiler already and found that he needs a variance due to the placement of the

boiler on his property. David Graziano commented that after he received the informational materials he looked on-line for other information. Mr. Graziano informed the Board that he learned the type of boiler Mr. Vormer has purchased is not EPA approved. Chairman Frank Clegg asked Mr. Vormer if the boiler burns the gases produced by the burning wood. Mr. Vormer stated yes it burns the gases and therefore does not emit smoke. Stephen Melnyk stated that EPA approval is not needed for the Board to approve the boiler. Mr. Melnyk stated that his research found that the boiler is not just some piece of junk. David Graziano stated that he does not think that it is a piece of junk either but is concerned that the issue of these wood burning boilers and furnaces are becoming something that the Board will need to address sooner than later. Mr. Graziano continued that even though the boiler burns the gases it still produces pollutants and therefore he feels that it is an impact with regard to the SEQRA form and should be looked into further. Chairman Frank Clegg opened the application to public comment at 8:52 p.m. No comments closed public comment at 8:52 p.m.

Motion for a Negative Declaration with regard to the SEQRA was made by Stephen Melnyk with a second from Paul Gundrum. Majority of the members were in favor with the exception of David Graziano who was opposed. Motion carried.

Motion to approve the Area Variance to install a wood burning boiler showing that the benefit to the applicant outweighed the detriment to the public was made by Jock Winch with a second from Paul Gundrum. Majority of the members were in favor with the exception of David Graziano who was opposed. Motion was carried. Site plan was stamped and signed.

New Applications:

NYNEX Mobile Limited Partnership 2 d/b/a Verizon Wireless: Tax Map #(SBL) 142 – 1 – 28 . 100 – 1 Located at 635 Snyderstown Rd. Churchtown. Site Plan Review – Special Exception Permit for an antenna change on an existing telecommunication tower.

David Brennan with Young Sommer LLC was present and representing the application. Mr. Brennan explained that his client Verizon Wireless is seeking approval to replace 12 antennas on the Snyderstown Rd. site with 12 slightly bigger more powerful antenna. Joe Romano informed the Board and applicant that he will need to review the structural information. Rob Fitzsimmons asked when the application for the original tower is set to expire. Mr. Brennan stated that the original tower was approved in 2000 by Crown Castle the owner of the tower and that Verizon Wireless is a leasee. Rob Fitzsimmons asked who supplies the removal bond. Mr. Brennan stated that usually the owner of the tower is responsible for the removal bond. Rob Fitzsimmons informed Mr. Brennan that he should see that the owner renews the permit because it has expired and that technically the owner is responsible to renew every 5 years so it makes sense to do it at this time. Joe Romano stated that Clough Harbour will need to review the entire tower. Mr. Brennan will check with Crown Castle for the removal bond. Rob Fitzsimmons stated that if the bond is lapsed then it will need to be renewed. Joe Romano stated that the escrow will include TOC engineer review fees. Joe Romano stated that he will have sufficient time to review with the next meeting not until 12/9/09. Rob Fitzsimmons stated that assuming there are no issues then the application can be set for public comment on 12/9/09. Continued to December 9, 2009.

Motion to adjourn the meeting was made by Jock Winch with a second from Norma Barnard at 9:07 p.m. All members were in favor. Motion carried. Meeting adjourned.

Respectfully submitted,
Jodi Keyser
Secretary