

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

Minutes: Combined November - December 9, 2009  
7:30 p.m.

**Approved 1/27/10**

Chairman Frank Clegg called the November/December 2009 combined Zoning Board of Appeals meeting to order at 7:30 p.m.

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

Members in attendance were: Chairman Frank Clegg, Stephen Melnyk, Norma Barnard, David Graziano, Oliver Milot, Paul Gundrum, Jock Winch, Engineer; Joe Romano, Attorney; Barrett Mack, and Secretary; Jodi Keyser.

Board member David Graziano made a motion to approve the minutes of October 28, 2009 as written. Stephen Melnyk seconded the motion. All Board members were in favor. Motion carried.

**Continuing Board cases for 12/9/09:**

**Mr. Stringham had someone videotaping the meeting.**

**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. Varick Stringham was present for his application to extend the Highway Commercial Zone into the Rural Residential Zone on his property so that he can use the back of his building for a repair business. Chairman Frank Clegg informed the applicant, Board members and audience that the application was noticed for Public hearing during this meeting. Chairman Clegg opened the meeting to Public hearing at 7:33 p.m. Mary Daly of Webb Rd. asked if any of the ZBA members have done a site visit recently. David Graziano stated that he passes the site on a daily basis. Jock Winch stated that he recently drove to the back of the property. Mary Daly then asked if anything new was added to the Site Plan. Mr. Stringham stated that the property has not changed as far as survey needs and he has used his most recent survey for the Site Plan. Mrs. Daly asked that in June 2009 meeting the Board asked Mr. Stringham for an updated Site Plan, DOH approval, narrative, lighting, screening, etc. Chairman Clegg informed the audience and Board that the DOH will not review the septic due to less than 1,000 gallons of use. Mrs. Daly asked why the applicant is not required to have a new survey done to show changes to the parcel. Using a survey from 1993. Mr. Stringham stated that the parcel has not changed. Joe Romano stated that it is not necessary for the applicant to have a new survey same parcel just needs to represent the plan for extension of the HC Zone. Jock Winch stated that the maps are confusing as far as the change for use. Need more defined. Chairman Frank Clegg informed the audience that the most current Site Plan Map was updated in 2008. Mrs. Daly then asked if the NYS DEC report done in 2003 by a previous owner was adequate and signed off on by NYSDEC. Joe Romano and Barrett Mack both stated that they have reviewed the submitted material from the 2003 NYS DEC inspection and have found the submitted documentation adequate. Mrs. Daly then stated that in August of 2008 the ZBA declined an application for expansion of use by a very close neighbor so why are they considering approval of this application? Joe Romano stated that the 2008 applicant was asking to expand the H/C zone into a R/R zone where the R/R zone was a much larger area then the H/C zone to start with. Mr. Stringham's parcel is mainly within the H/C zone and asks to expand a small part into the R/R zone. Mrs. Daly then stated that in July 2009 she asked Rob Fitzsimmons if the applicant could at some point be able to operate two separate businesses at the site. Mrs. Daly stated that Rob Fitzsimmons stated yes. Mrs. Daly then asked how is this allowed. Jock Winch stated that the applicant would need to do another Site Plan Review for any changes. Chairman Frank Clegg then reviewed the application that asks for the H/C zone to be expanded to allow for a repair business in the rear of his building and the remainder of the building will be used for Mr. Stringham's personal use. Chairman Clegg stated that Mr. Stringham has stated that he is currently renting the space in question to COARC for repairing their fleet of buses and vehicles and will keep the remaining portions of the building for his personal use. Mrs. Daly then stated what will prevent Mr. Stringham from renting out his personal space to another business. Chairman Frank Clegg stated that any new use other then personal use would require Mr. Stringham to file a Site Plan Review with the Town of Claverack Zoning Board of Appeals. Mrs. Daly continued stating adding that Mr. Stringham has already added a business to the property without permission or approval so what will stop him in the future? Board members suggested that Mrs. Daly and the neighborhood need to make the TOC Building Department aware of any new business activities at the site. Mrs. Daly again asked why the 2008 application for Use Expansion was denied? Stephen Melnyk stated that the application was different in that the applicant had adequate room for his storage business within the H/C Zone but wanted to expand into the R/R zone and the ZBA felt that the expansion was not necessary. Jock Winch added that Mr. Stringham's building was cut by the zoning line, which left the back portion of his

building already within the R/R zone. Stewart Gill of Webb Rd. stated that he felt it is sad that the Board would even consider expanding a commercial use into a rural neighborhood. Mr. Gill continued that Mr. Stringham purchased the property in full knowledge of the zoning lines. Mr. Gill stated that he purchased his adjoining property 35 years ago and the previous owner was turning the parcel into a dump. Stephen Melnyk asked Mr. Gill if the current owner has or has not made improvements? Mr. Gill stated that the property was cleaned up but to a severe extent. Neighbors want to be able to look out of their back door and see trees or plantings not a parking area and major highway. Mr. Gill continued that the neighbors would have appreciated Mr. Stringham asking them for their input and concerns prior to his property change. Mr. Gill stated that he has lived with constant bulldozer and construction work for the past two years in his backyard. Mr. Gill stated that he would have appreciated it if Mr. Stringham left some plantings and a view shed. Chairman Frank Clegg read a letter submitted from Skip Hover stating that Mr. Stringham has made a great deal of improvements at the property and is happy to have him as a neighbor. Bob Tomaso of Webb Rd. stated that he does not begrudge anyone for having a business but he is concerned with the traffic on Webb Rd. and is concerned with the emergency roadway at the back of the property. Mr. Tomaso does not want to see an increase in truck traffic on Webb Rd. Mr. Tomaso continued that if the applicant closed the emergency roadway and planted some trees and shrubs the neighbors would not be so negative. Patricia Tomaso of Webb Rd. stated that the emergency roadway is the highest concern for the neighbors. Mrs. Tomaso continued that she and her husband walk Webb Rd. daily and suddenly noticed a roadway directly from Webb Rd. to Rte 23-B appeared. Mrs. Tomaso added that the roadway has given the neighborhood an unsettling feeling that the applicant is up to something else or that something else will be going on at the building and that a roadway suddenly appear without permission. Stephen Melnyk stated that the Webb Rd. neighborhood had a roadway appear but the Town of Claverack residents had Webb Rd. disappear from use. Now have basically a private roadway. Jock Winch asked how far back the applicant intends to move the H/C zone line on his property. Mr. Stringham stated that he intends to move the H/C zone line 50' into the R/R zone. Jock Winch then added that the applicant can not use any of the remaining property within the R/R zone for commercial use only the additional 50'. Barrett Mack stated that the applicant will only be allowed to use the added 50' for Highway Commercial use and the remaining property will remain Rural Residential. Stephen Melnyk asked Mr. Stringham if he would have a problem with planting trees along the zoning line or the back of the property. Mr. Stringham stated that he would be willing to plant trees and or shrubs along the back of his property and did try to plant trees along the Rte. 23-B side but found the ground too hard for planting. Mrs. Daly then added if there is more H/C property then R/R property on either side of this parcel, then why would the ZBA want to add more H/C to the area. Chairman Frank Clegg stated that the problem is that the H/C zone and the R/R zone run directly through Mr. Stringham's building. Mrs. Daly added that she wanted to remind the ZBA that Mr. Stringham is before the Board after he has already allowed commercial use of the property within the Rural Residential Zone so what is going to stop him in the future for doing something without approval. Chairman Frank Clegg stated that any new use would require Mr. Stringham to seek a new Site Plan Approval. Stewart Gill then asked if there would be restrictions of the property to keep trucks and other commercial vehicles from parking within the R/R zone. Jock Winch stated that no commercial vehicles or uses will be allowed within the remaining R/R zone and technically vehicles will not be allowed to park at the rear of the building anyway. Barrett Mack informed the audience that conditions will be written in a Formal Resolution, which will be drafted and reviewed at the January 2010 meeting. Joe Romano added that the Resolution formalizes the concerns better. Stewart Gill then asked if this type of activity is noticed then should the neighbors call the TOC Building Inspector? Chairman Frank Clegg stated yes. Mr. Gill then asked if the applicant will be required to restore the drainage because after the changes at the site he now has a basement that floods. Mr. Stringham stated that he has installed drainage. Norma Barnard asked if the Board should address the drainage concerns that Mr. Gill has informed them about. Mr. Stringham then stated that he has installed a culvert under the emergency roadway, cleaned the trench from 23-B to Webb Rd. and added a culvert behind the Link property that runs out to 23-B and has now dried the property. David Graziano asked Mr. Stringham if he could do with less property expanded into the R/R zone. Mr. Stringham stated that he has drawn the Site Plan up to make the least expansion and only squared off the zone area only approximately 75' at the longest line. Mary Daly asked if the proposed expansion clearly marked for the neighbors to view. Mr. Stringham stated yes he has marked the site. Chairman Clegg then stated that the Public hearing will be continued to the January 2010 meeting and Barrett Mack will consult with Mr. Stringham and compile a Resolution to be reviewed at the January meeting.

**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.

Applicant will return in January 2010 and submitted a letter from Mr. George Rodenhausen excusing himself from representing the applicant due to a conflict with previous representation.

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

Call from applicant stating they are still waiting for NYS DOT approval.

**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.

Mr. Robert Panasci represented the applicant. Mr. Panasci reminded the Board that his client Verizon Wireless is asking to replace its antenna on an existing telecommunication tower on Snyderstown Rd. Joe Romano informed the Board that Clough Harbor has reviewed the application and finds that the application is fine from an engineering standpoint. Mr. Panasci stated that at the October meeting the Board had two issues needing to be addressed. The first issue was the Removal Bond, which was submitted to the file. And the second issue was the Renewal of the Special Use/Special Exception Permit. Barrett Mack stated that the applicant should provide written permission from Crown Castle giving the right to represent for the Special Use Permit. Chairman Frank Clegg asked if the changes will have a significant impact on the existing structure. Joe Romano stated that Clough Harbour performed a full review on the full changes and found no problems. Signed off. Chairman Frank Clegg then opened the meeting to Public Hearing at 8:17 p.m. No comments closed the Public Comment at 8:18 p.m. Board member Stephen Melnyk made a motion for Negative Declaration with regard to SEQRA with a second from David Graziano. All members were in favor. Motion carried.

Board member David Graziano made a motion approve the Renewal of the Entire Cellular Tower/Special Use Permit inclusive of the proposed antenna changes by NYNEX Mobile Limited Partnership 2 d/b/a Verizon Wireless. Member Norma Barnard seconded the motion. All members were in favor. Motion carried.

### **New Applications:**

**Shafer, Gail dba MOH Physical Therapy:** Tax Map # (SBL)121 . 3 – 1 – 26 located at 81 State Rte. 9-H. Area Variance to expand home occupation physical therapy business to 1,000 square feet addition to primary residence.

Ms. Schafer was present for her application. Ms. Schafer informed the Board that she has operated a Physical Therapy practice for the past 7-½ years as a home occupation/personal residence at 81 Rte 9-H. Ms. Schafer continued that due to the space/area limits for a home occupation in the TOC Zoning law it restricts her office from being HIPPA compliant because she needs to use her office space as a waiting room. Ms. Schafer informed the Board that the equipment she needs to perform her therapy is too large for the space she is currently using. Ms. Schafer continued that this is unsafe for both the patients and herself. Not enough room to maneuver to assist patients or for patients with crutches, walkers, wheelchairs, etc. Ms. Schafer stated that the bathroom used by patients is a small, personal bathroom that is not handicapped accessible. Ms. Schafer is seeking approval for a 1,000 square foot addition to her residence which she will re-locate her entire Physical Therapy practice into with increased room, handicap bathroom, and a separate office area. Norma Barnard informed Ms. Schafer that the TOC Zoning law limits the space for a home occupation at 500 square-feet. Ms. Schafer stated that she is already approved for the 500 square-foot home occupancy therefore is only adding an additional 500 square-feet to her practice, moving the practice into the 1,000 square-foot addition, and taking back the 500 square-feet of her private residence she is currently using for her practice. Norma Barnard informed the applicant that the TOC Zoning law states that no alteration of the building is allowed. Jock Winch stated that an architectural drawing of the proposed addition would make it easier for the Board members to understand. Ms. Schafer agreed to provide an architectural drawing for the next meeting. Jock Winch stated that the addition would not be considered a home occupation area unless it was also used as a residence. Jock Winch then asked why the applicant needs a 1,000 square foot addition and not a 500 square-foot addition, which is allowed. Ms. Schafer stated that she not only needs the current 500 square-foot home occupation area, but also needs an additional 500 square-feet to allow her more space to allow for an additional exam room and hiring an assistant. Ms. Schafer continued that she would then be able to convert her home back into a residence. David Graziano stated that the addition would then actually be a professional use structure instead of a home occupancy. Jock Winch stated that the addition makes it a second use on one property and that a home occupancy needs to be within the home and not within separate structures. Ms. Schafer stated that the addition will be joined to the residence by a connector or breezeway type of structure. Norma Barnard stated that it seems like the applicant is building a whole new building for her business instead of having a home occupation. Paul Gundrum stated that in his view the TOC could not stop Ms. Schafer from building just a 1,000 square-foot addition but she is here just because she will be using the space for her business. Stephen Melnyk agreed that he can see how the applicant would need more space for the equipment she needs. Paul Gundrum also stated that he could understand the situation that the applicant is in but would need to see architectural drawings to understand the entire concept. Norma Barnard asked the applicant if she is also planning additional parking. Ms. Schafer answered that it is her intent to make the parking and driveway safer for patients. David Graziano asked how many patients per week are serviced. Ms. Schafer stated that approximately 30 to 40 patients are seen per week. Ms. Schafer also stated that she has met with NYS DOT and TOC Highway regarding the curb cuts. Norma Barnard asked if the application will require NYS DOT permit. Ms. Schafer answered yes and she is working with NYS DOT and TOC Highway. Joe Romano stated that he will need to review the driveway plans from both NYS DOT and TOC Highway. Ms. Schafer explained that she has explored every option from re-designing her residence to buying a larger home to purchasing a commercial property to building an addition and has found that after 2 years of drawings and estimates the 1,000 square-foot addition is the most affordable option. Ms. Schafer wants

to remain in Claverack close to her existing location. Ms. Schafer continued that the proposed addition is a very simple structure and keeps with the integrity of the existing residence. Jock Winch asked if the applicant needed to seek DOH approval like a previous dental office was required to do. Chairman Frank Clegg stated that only needed if increase in use. Joe Romano added that the dental practice was adding an exam chair and hygienist that requires increased water use. Paul Gundrum then asked if the applicant is only seeking to increase the size of the space and not increase the size of the practice by adding more patients. Ms. Schafer stated that she is only seeking the additional space and not increasing her patient load. Ms. Schafer continued that she needs the space to provide better care. Chairman Frank Clegg asked if the lot would accommodate the addition. Ms. Schafer stated that she has consulted with TOC Building Inspector Stan Koloski and the addition meets all requirements for set backs. Joe Romano informed Ms. Schafer that she will need to provide the Board members with a detailed architectural drawing and a Site Plan showing parking, handicapped parking, entrance, and landscaping. Stephen Melnyk stated that the applicant is here for an Area Variance because of HIPPA compliance, equipment needs, and space and he does not have an issue with the application as long as it is done tastefully. Norma Barnard stated that the applicant has used space within her home for a home occupancy but now wants to build an addition just for her business and that might create problems later. Norma Barnard also stated that one of the questions that needs to be answered by the Area Variance approval is this a self-created hardship. Stephen Melnyk stated that the ZBA should review every application on a case by case basis. Stephen Melnyk asked Ms. Schafer if she has contacted her neighbors for their input on the proposed addition. Ms. Schafer stated that her neighbors do not have a problem with her proposal. Joe Romano reminded the Board it is important to remember that Ms. Schafer is not seeking to increase the size of her practice only the space to provide care to her current clients. Chairman Frank Clegg stated the applicant will provide a detailed Site Plan with architectural drawings for the January 2010 meeting and schedule start of Public hearing to get input from the neighbors to address concerns in the beginning.

Joe Romano informed the Board that TOC Building Inspector, Stan Koloski is having difficulty understanding the Coons Self Storage approval from 2008 and he is requesting clarification from the ZBA. Mr. Coons has applied for an extension of his Building permit. Joe Romano will contact Mr. Koloski regarding the issue.

Paul Gundrum made a motion to adjourn the meeting at 9:03 p.m. with a second from Jock Winch. All members were in favor. Motion carried. Meeting adjourned.

Respectfully submitted,  
Jodi Keyser  
Secretary