

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

Meeting: April 28, 2010
7:30 p.m.

APPROVED 5/26/10

Acting Chairman Jock Winch called the April 28, 2010 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:32 p.m.

Acting Chairman Winch led the members of the Board and audience in the Pledge of Allegiance.

Members in attendance were:

Acting Chairman Jock Winch, Stephen Melnyk, Norma Barnard, David Graziano, Oliver Milot, Engineer; Joe Romano, Attorney; Rob Fitzsimmons, and Secretary; Jodi Keyser

Absent with regrets: Chairman Frank Clegg and Paul Gundrum.

Correspondence:

Halfmoon LLC seminar "Using the Combination of Heat and Power"

Paradigm pipeline safety and emergency response seminar

Board members reviewed the minutes of March 24, 2010.

Motion to approve the March 24, 2010 minutes as written was made by Norma Barnard with a second from David Graziano.

All members were in favor. Motion carried.

Continuing Board cases for 4/28/10:

Rockefeller, David – Hawthorne Valley Association: Tax Map # (SBL) 141 . – 1 – 53 . 100 Located at County Rte. 12 between County Rte. 27 and Millbrook Rd. Site Plan Review for infrastructure to support an 85 – cow grass based dairy farm operation.

Mr. Martin Ping, Mr. Gary Ocean, and Mr. Stephen Schnieder were present for the application representing Hawthorne Valley Farms

Acting Chairman Jock Winch had a few questions regarding the application. Chairman Winch asked the representatives if they are planning to install signs identifying the farm. Mr. Schneider stated that he guessed that he would possibly only require a small sign, about 3' X 6' just to have the name of the farming operation which will be located off of the roadway near the milking parlor. Mr. Schneider continued that there would not be a need for a larger sign because there is no public access to the farm. Acting Chairman Jock Winch asked if the farm is planning on doing it's own pasteurization. Mr. Schneider stated no the raw milk would be shipped to the Hawthorne Valley site in Ghent. Acting Chairman Jock Winch asked if the farm plans to have any retail sales of the milk. Mr. Schneider stated that it is not planned. Acting Chairman Jock Winch asked if there would be any slaughtering on site. Mr. Schneider stated no. Norma Barnard asked what types of lighting are planned. Mr. Schneider and Mr. Ping both stated no fugitive lighting, gooseneck lighting only to illuminate the driveway. David Graziano stated that the applicant has filed a Short Form EAF statement and should this be a Long Form EAF. Rob Fitzsimmons replied yes but because of the Ag & Markets 3.5 A which allows for a lighter type of site plan for farms and agricultural projects because it does not want Zoning to be too limiting. Rob Fitzsimmons continued that for this action the Short Form EAF is sufficient because it is actually an expansion of a previous agricultural use. Norma Barnard then asked about Stormwater Plan. Joe Romano stated that it is not enough of a disturbance to the property, less than 5 acres total, to require an erosion plan and would require a DEC permit. Rob Fitzsimmons informed the Board that they are able to approve the Site Plan making it contingent on the DEC permit. Acting Chairman Jock Winch added that

septic and well approval for the residence will be required from CC DOH. Acting Chairman Jock Winch opened the meeting to public hearing at 7:41 P.M. James Miller of Churchtown stated that he and his wife have lived in the area very close to this project for 54 years. Mr. Miller continued that when he and his wife first moved in to their home there were 7 working dairy farms and 1 beef farm and now there is only one farm operating in the area being the Skoda farm. Mr. Miller stated that he is in favor of the project and would like to see the ZBA approve because the area could use more farms. With no further comments, Acting Chairman Jock Winch closed the public hearing at 7:43 P.M. Joe Romano reviewed the Short Form SEQRA for the Board.

Motion for Negative Declaration with regard to the SEQRA was made by Stephen Melnyk with a second from David Graziano. All members were in favor. Motion carried

Motion to approve Site Plan Review for the 85-head dairy operation contingent on signage plan and DEC approval for erosion and sediment control was made by David Graziano with a second from Oliver Milot. All members were in favor. Motion carried.

New Cases:

Mariner Tower II LLC: Tax Map # (SBL)143 . – 1 – 08 Located at 1631 County Rte. 11 Stop 100 Craryville Special Exception for development of new public utility/telecommunications facility including a monopole tower.

Chris Ciolfi Chief Development Officer for Mariner Tower was present for the application. Mr. Ciolfi informed the Board that his company is seeking to erect a monopole telecommunications tower on Columbia County Rte 11. Mr. Ciolfi informed the Board that his company has been looking at this parcel for a few years because of need for signal in area. Mr. Ciolfi stated that the property is owned by Kevin Cullen and is north of Forest Pond area of Philmont and west of CC Rte 11. Propagation study was performed and it determined the need for a stronger signal along the NYS Rte 23 corridor and the Taconic State Parkway for hand-held devices. Mr. Ciolfi stated that he has not yet notified abutting towns, municipalities, and CC Planning but will do so and will send certified receipts copies to the Board. ZBA Secretary Jodi Keyser informed the applicant and Board that certified mailing for the abutters within 2600' of the proposed site were mailed and receipts are in the file. Mr. Ciolfi stated that the site has a gravel access curb cut onto NYS Rte. 23 but he is not sure that it is an approved curb cut but will check with NYS DOT. Mr. Ciolfi continued that there currently is power and telephone lines running through the property. No need for sewer or gas, electric and telephone only. Monopole tower is designed according to TOC code. Mr. Ciolfi stated that currently only AT&T are signed on to lease space on the tower but he has talked with other interested parties but only AT&T this year. Mr. Ciolfi stated that the site will consist of the tower, a compound area of 70' X 80' with a modular equipment shed of 20' X 30' surrounded by a 6' high fence with barbed wire, locked and secured. Mr. Ciolfi stated that he would be willing to set up a balloon test whenever the ZBA would like. Joe Romano stated that he will need to do a technical review of the plan. Rob Fitzsimmons stated that the Area Variance for the compound needs to be addressed first and the balloon test should be done after public comment. Mr. Fitzsimmons stated that the procedure for holding a balloon test is in the TOC Zoning code. Mr. Fitzsimmons continued that the code reads that the applicant must set a date for balloon test to be held during 8-hours between sunrise and sunset. Also, it is the responsibility of the applicant to notice the test in the Register Star newspaper at 14 days and 7 days prior to the test and send certified letter to the neighboring municipalities, towns, and the Columbia County Planning Department. Joe Romano asked about a grading plan for the access road, which will need technical review. Mr. Ciolfi stated that a grading plan is being prepared and will be ready for the next meeting. Rob Fitzsimmons asked if escrow was collected. Mr. Ciolfi stated yes. Rob Fitzsimmons informed the applicant and the Board that there is another proposed cell tower on the agenda for the meeting. Continuing that these towers are in close proximity to each other which could create a decision on the basis of need. Mr. Fitzsimmons continued that the other proposed cell tower is in contract with the Village of Philmont and will be an issue for which he must reclude himself because of his association with the Village of Philmont as its legal council. Mr. Ciolfi stated that he is aware of the other proposed tower. Mr. Ciolfi continued that his client, AT&T is looking to gain better signal strength along the NYS Rte. 23 corridor and that is why they performed the propagation study. Mr. Ciolfi stated that his company has been working with Mr. Cullen since 2001 because of the location and marked the site but didn't have any interested renters

for the site at that time. Mr. Ciolfi stated that AT&T is not signed on to rent on the tower. Rob Fitzsimmons asked if the applicant has documentation showing the need and benefits for both towers even being so close to each other. Mr. Ciolfi stated that the study shows some overlapping but the other proposed tower will deliver coverage to areas that AT&T can't but the Cullen site covers parts that the Homeland site won't cover. Stephen Melnyk asked the percentage of overlapping between the two towers because that is very important information for the ZBA to make a decision. Norma Barnard asked if there is any overlapping between the proposed Mariner Tower and the existing tower on Snyder Rd. Mr. Ciolfi stated that his study shows no overlapping between Snyder Rd. Tower and this tower. Mr. Ciolfi informed the Board that the Taconic Hills Central School District is very interested in seeing this tower built because of no signal for the school busses to be able to contact school. Mr. Ciolfi continued that he has a letter from Taconic Hills stating such and will submit it for the ZBA. Mr. Ciolfi will also submit the percentage of overlap between the two proposed towers, frequency planning report and a dissertation of need by 5/5/10. Joe Romano will proceed with the technical review for the TOC ZBA. Check for \$155.52 was paid for the certified mailing. Continued to May meeting.

Rob Fitzsimmons recuses himself for the following application due to conflict of interest.

Mr. Neil Alford will represent the Town of Claverack for the Homeland Towers application.

Homeland Towers LLC NYNEX Mobile Limited Partnership 2 d/b/a Verizon Wireless:

Tax Map # (SBL)143 . – 1 – 42 Balance of Interest test for proposed Telecommunications facility at Forest Lake, Philmont NY

Mr. Robert Gaudio of Snyder and Snyder LLC the firm that is representing Homeland Towers and Robert Viscanti of Homeland Towers were present. Mr. Gaudio informed the Board that his client is currently under contract with the Village of Philmont to erect a 180' monopole telecommunications tower at Forest Pond property, which is owned by Village of Philmont. Mr. Gaudio states that Verizon Wireless d/b/a NYNEX Mobile, five other carriers, and municipal antennas will all lease space on the tower. Mr. Gaudio informed the Board that the site would house a 360 square foot shelter. Mr. Gaudio informed the Board that he has submitted a Site Plan that shows an existing access road that does not require modifications, little grading and some small diameter trees, approximately 25 will need to be removed. The site has existing utility lines and an existing guidewire type antenna used by County and Town entities but will re-locate users to the new tower. Small construction impacts. Mr. Gaudio submitted affidavits from Verizon engineers showing the need for tower at this site and the need for a new tower rather than using the existing tower. Mr. Gaudio stated that the new tower would encompass the guide-wire antenna currently used by the County and Town, Verizon Wireless, and other interested parties. Mr. Gaudio stated that the tower is not required to be lit and will submit supporting documentation. Norma Barnard stated that the applicant would need to prove that there is a definite need for a new tower instead of using the existing antenna. Mr. Gaudio stated that a structural report shows need for new tower instead of co-location on existing tower. Mr. Gaudio also submitted a request for the ZBA to deem the applicant exempt because the site is a village property within the Town of Claverack. Mr. Gaudio also stated that a single side yard setback for 107 feet from adjacent property line. Mr. Gaudio stated that his client is prepared to perform a balloon test on May 22, 2010 with a rain date of May 23, 2010 and each weekend date thereafter in case of rain. Mr. Gaudio will submit visual renderings for the June meeting. Mr. Alford suggested both applicants perform balloon tests on the same dates so that the public can see both at the same time and the proximity to one another. Mr. Gaudio for Homeland Towers and Mr. Ciolfi for Mariner were in agreement of the balloon tests. Each will contract with separate testing contractors and both will submit notice to the local Municipalities, towns, and to the Columbia County Planning Department, and at 7 and 14 days prior in the Register Star newspaper. Mr. Alford informed the Board that the applicant is under a threshold and is now asking to be exempt because the Village of Philmont is the owner of the property, which is within the Town of Claverack. Stephen Melnyk stated that in his opinion the Board would be more agreeable to granting the Balance of Interest and deem the application exempt from TOC ZBA if there weren't another proposed tower so close. Mr. Gaudio stated after public comment, balloon test, and review of supporting documentation the Board will be better informed. Mr. Gaudio continued that he does not want things rushed but would rather have a complete and full review so

that every item is addressed fully. Mr. Alford informed the Board that the applicant is under FCC shot-clock rule meaning that the TOC ZBA has to notify the applicant within 30-days that their application is either

complete or incomplete. This then starts another shot clock of 150-days for the TOC ZBA to make a decision on the application. Mr. Gaudioso stated that if this Board has not yet reached a decision and the 180-day timeframe is getting close but a good-faith agreement is reached it is possible to ask for an extension from the FCC to the shot-clock time. Stephen Melnyk asked why this was not an issue for the last application also. Rob Fitzsimmons stated from the audience that the FCC shot clock applies to both applications. Mr. Alford noted the necessary items needed from the applicants prior to 5/5/10 for the Board packets

- notices of balloon test on 5/22/10 or 5/23/10 to adjacent municipalities, towns, and Columbia County Planning Department
- documentation supporting need of towers and overlapping of coverage because of the closeness of both sites
- documentation of notice to adjoining property owners within 2600' of sites,
- documentation supporting each applicant's ability to provide enhanced coverage area over the other,
- documentation supporting inability of both applicants to co-locate on one site.

Mr. Alford continued that each applicant will be required to submit Visual Impact Assessments at the completion of the balloon tests in accordance with Section 9.4.18.10 of the Town of Claverack Zoning law.

Continued to May 26, 2010 meeting.

Motion to adjourn the meeting was made by Stephen Melnyk with a second from David Graziano. All members were in favor. Meeting adjourned at 8:40 p.m.

Respectfully submitted,
Jodi Keyser
Secretary