

Town of Claverack  
Zoning Board of Appeals  
P.O. Box V  
Mellenville, NY 12544  
Minutes: August 24, 2011  
7:30 p.m.

Approved 9/28/11

Chairman Frank Clegg called the August 24, 2011 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 with the Pledge of Allegiance.

Members in attendance were Chairman Clegg, Norma Barnard, David Graziano, Oliver Milot, Paul Gundrum, Jock Winch, engineer Paul McCreary, attorney Rob Fitzsimmons, Secretary Jodi Keyser. Absent with regrets: Stephen Melnyk

Correspondence;

Letter from Town of Claverack Building Inspector Stan Koloski regarding the Stringham application.

Trends newsletter.

New maps from Drake Petroleum

Board members reviewed the minutes of July 27, 2011 meeting.

Motion to approve the July 27, 2011 minutes as written was made by Norma Barnard with a second from Oliver Milot. All members were in favor. Motion approved.

**Continuing cases for 8/24/11:**

**Drake Petroleum Co. Inc.:** XtraMart - Rte 23 & 9-H Tax Map #(SBL) 121 . 3 – 2 – 13

Area Variance for installation of a new 84 square-foot sign to replace two existing signs. New sign exceeds allowed square footage.

Ron Fortune was present to represent the application. Mr. Fortune explained the newly submitted maps showing modifications to the application. Mr. Fortune explained that his client's initial application was seeking to remove the two existing non-conforming signs with one non-conforming sign at the intersection of NYS Rtes. 9-H & 23. Mr. Fortune submitted new maps seeking to modify the two existing signs with two new updated signs in the same locations. Mr. Fortune explained that the existing signs total 49 square feet each and the new replacement signs will total 45 square feet each. Chairman Clegg opened the meeting to the continuing public hearing at 7:33 p.m. No comments. Chairman Clegg closed the public hearing at 7:33 p.m.

Mr. Fortune explained that the new signs will be illuminated from within with an LED pricing sign. Mr. Fortune explained that the canopy will only have bands of color and no advertising or branding. David Graziano asked for the luminescence figures. Mr. Fortune stated that he was not able to get those figures but added that the signs will be turned off when the station is closed. Rob Fitzsimmons reviewed the SEQRA for the Board.

Motion for a negative declaration with regard to SEQRA was made by Jock Winch with a second from Paul Gundrum. All members were in favor. Motion carried.

Motion to accept the signage as proposed with the replacement and modification of the existing signage was made by Paul Gundrum with a second from Norma Barnard. All members were in favor. Motion carried.

**Polyak, Serafima:** 60 Eagle St. Philmont Tax Map #(SBL) 113 . – 1 – 51 Use Variance for Additional Home Occupation of dog grooming, keep existing Home Occupation of growing and selling of fish, and removing Home Occupation of Boiler Maintenance.

Serafima Polyak was present for her application. Ms. Polyak is seeking to remove a home occupation of boiler repair and replace this use with a dog grooming business and to keep the home occupation use of raising exotic fish. Ms. Polyak informed the Board that she is hoping to groom approximately three or four dogs a week with no overnight boarding of any animals. Chairman Clegg opened the meeting to the public at 7:40 p.m. No comments. Closed the public hearing at 7:40 p.m. Rob Fitzsimmons reviewed the SEQRA for the Board.

Motion to find negative declaration with regard to SEQRA was made by Paul Gundrum with a second from Oliver Milot. All members were in favor. Motion carried.

Motion to grant removal of home occupation boiler repair use and replace with a small dog grooming home occupation use was made by Paul Gundrum with a second from Jock Winch. All members were in favor. Motion carried.

Rob Fitzsimmons asked to be recused from the meeting due to conflict of interest.

**County of Columbia Special Exception:** 201 Main St. Philmont Tax Map #(SBL) 113 . – 1 – 20 . 110 Special Exception for the construction and replacement of a 190-foot telecommunication tower and removal of existing tower and water tank located at Pine Haven

David Robinson was present for the application. Mr. Robinson informed the Board that the certified mailings were sent to the abutters and signs were posted for notification of public hearing. Mr. Robinson reviewed the application for the Board. Mr. Robinson reminded the Board that Columbia County currently owns a cellular tower which is located on a water tower at the Pine Haven Nursing Home in Philmont. Mr. Robinson explained that the County currently has leases with two carriers, Sprint and AT&T and is under contract to add the third carrier Verizon. Mr. Robinson stated that the existing tower would need to be painted in order for the new carrier to be secured. Mr. Robinson continued that the County began to explore painting the tower they discovered that it would cost less to replace the existing tower with a new telecommunications tower and remove the water tower then to paint them. Mr. Robinson also informed the Board that the existing tower is at 115 feet for the antennas which provides poor cellular service. Mr. Robinson continued that a propagation study was performed and it provided information that in order to improve service the antenna would need to be at the height of 175 feet with a total tower height of 195 feet. Mr. Robinson stated that the antennas would be located at 175 feet, 165 feet and 155 feet. Mr. Robinson also informed the Board that the TOC Zoning Code specifies for cellular carriers to co-locate on a tower. Mr. Robinson stated that eventually the tower will have emergency communications antenna to help the County emergency agencies with communications. Paul McCreary informed the Board that he reviewed the application and TOC Zoning Code and feels that this application should be considered as a new tower at an existing site. Mr. McCreary supplied a letter outlining some concerns. Mr. McCreary stated that one concern is that the required 1 ½ times area setback is not met at along the side by the dental office. Mr. Robinson stated that he would apply for an Area Variance if that would be a requirement of the ZBA. Mr. Robinson stated that the dental office is approximately 202 feet from the tower but didn't feel that it was a problem because it is a business use and not a residential use. Mr. Robinson stated that he does understand the setback requirement but he would like to keep the new tower within the same footprint as the existing footprint. Mr. Robinson stated that he did not have time to respond to Mr. McCreary's comment letter because he received it just prior to the meeting.

Chairman Frank Clegg opened the meeting to public hearing at 7:52 p.m. No comments. Chairman Clegg continued the public hearing until the September meeting to give Mr. Robinson time to respond to the engineering comments and setback issue. Mr. Robinson asked the Board members if there were any questions or concerns. Chairman Clegg asked if the County is planning a visual balloon test for the tower. Mr. Robinson stated that he does not want to perform a balloon test but will do whatever the Board asks. Mr. Robinson stated that his office sent out numerous letters to the abutters and noted that no negative responses or comments have been received. Continued to September.

## New Cases for 8/24/11

**Schnackenberg, Jureen:** 79 Donnelly Rd. Tax Map #(SBL) 123 . – 1 – 63 . 111 Site Plan Review for construction of 28' X 40' barn to house hay, firewood, and utility room equipped with solar panels. Dan Russell and William Better were present to represent the applicant. Mr. Better submitted a letter from Mr. Schnackenberg giving him permission to appear on behalf of his application. Mr. Better stated that Mr. Schnackenberg owns approximately 120 acres on which he has constructed a barn. Mr. Better explained that Mr. Schnackenberg stated to him that he felt that he had approval to build the barn from the TOC Building Department. Mr. Better continued that Mr. Schnackenberg stated that he went to the TOC Building Department about constructing a barn and was told to go ahead and that he would have the building permit that afternoon. Mr. Better continued that Mr. Schnackenberg stated that after several days past he went ahead and built the barn only to receive a stop work order from the TOC Building Department. Mr. Better stated that Mr. Schnackenberg constructed the barn for agricultural use and does not have electric, septic, or water. Mr. Better continued that Mr. Schnackenberg's property is in a Columbia County Land Conservancy easement. Mr. Better stated that Mr. Schnackenberg has spoken to the CCLC and the CCLC is in agreement that Mr. Schnackenberg has the right to do whatever he wants to on his property within an agricultural use. Mr. Better stated that the barn is strictly an agricultural use because it has not plumbing or electric only to store hay and firewood. Mr. Better stated that he was aware that TOC Code requires new agricultural buildings to have a Site Plan Review and asks what the requirements are. Mr. Better continued that there have been numerous accusations and non-truths regarding the barn and use of the barn because it has concrete floors. Mr. Better stated that his client is only seeking a Site Plan Review for an agricultural use as per TOC Code 14.18.2. Mr. Better stated that he has heard that other agricultural buildings have been before the TOC ZBA for review very informally and now his client is being asked to supply detailed information and go through a more formal review than others have been in the past. Chairman Frank Clegg asked Mr. Better if Mr. Schnackenberg is a farmer. Dan Russell stated yes Mr. Schnackenberg is a fruit farmer. Chairman Clegg then asked what Mr. Schnackenberg needs hay for if he has no cows. Jock Winch stated that he has known Mr. Schnackenberg for many years and he is a retired contractor. Paul Gundrum asked Mr. Better what the purpose of the barn is for Mr. Schnackenberg. Mr. Better stated that Mr. Schnackenberg is planning to use the barn for storage of hay and firewood. Mr. Russell informed the Board that Mr. Schnackenberg is currently storing hay in the barn. Rob Fitzsimmons informed the Board that Ag. & Markets asks the TOC ZBA to assist agricultural uses and not impede new agricultural uses. Chairman Clegg asked Mr. Better why Mr. Schnackenberg needs such a large barn for storing hay if he does not have any cows. Mr. Better stated that he personally has a big barn with hay but has no cows. Mr. Better stated that he rents the storage to other farmers in his barn. Norma Barnard stated that Mr. Schnackenberg built the barn without permission. Mr. Better stated that his client felt that he had permission. Jock Winch stated that the TOC Building Department had sent Mr. Schnackenberg a stop work order but Mr. Schnackenberg continued to build the barn. Mr. Winch then asked if Mr. Schnackenberg has TOC Highway Department curb cut permits. Mr. Russell stated that he believed that Mr. Schnackenberg had TOC Highway permits issued in the 1980's or 1990's. Jock Winch stated that the regulations have changed over the years and Mr. Schnackenberg should have received new TOC Highway permits prior to the construction. Norma Barnard stated that she drove by the driveway and noticed numerous ruts. Mr. Russell stated that he was on the driveway just that morning and found it smooth. Jock Winch stated he feels that Mr. Schnackenberg was trying to avoid the TOC ZBA with the application and that bothered him. Mr. Better then stated that he hopes that his client will have a fair and level review but sensed prejudice and some members of the ZBA should not be allowed to hear the application because of it. Rob Fitzsimmons informed the Board to indicate any items that they want the applicant to provide to the ZBA. David Graziano stated that the applicant should provide full maps. Norma Barnard asked for a site visit. Mr. Better asked if this is a requirement. Norma Barnard stated that the ZBA has required site visits in past applications. Jock Winch asked that the applicant supply TOC Highway curb cut permits. Chairman Frank Clegg asked why the applicant needs solar panels on the storage/utility room. Mr. Better stated that the solar panels are not on the barn but that is something Mr. Schnackenberg is planning for the future.

Oliver Milot asked for detailed drawings of the barn with elevations measurements. Rob Fitzsimmons asked the ZBA members to decide on a time that would be the best for a site visit. David Graziano asked Mr. Russell to provide map notes or a narrative. Paul McCreary informed Mr. Better and Mr. Russell that the TOC ZBA wants the applicant to meet all TOC ZBA Code requirements. Rob Fitzsimmons informed Mr. Better that the application should answer well, septic, and electric. Mr. McCreary asked if the building was inaccessible from any other portion of the property. Mr. Russell stated that the driveway was set aside for access. Mr. McCreary stated that the applicant should make note that the barn is for agricultural use with no need for lighting or plumbing. Mr. Russell stated that the barn does not have lighting or plumbing. Mr. McCreary asked the applicant to provide the amount of area disturbed, grading, and area cleared. Mr. Russell stated that the property the barn is sitting on is mainly flat and wooded area and he is not sure the total amount of disturbance. Chairman Clegg stated that it must be difficult to grow hay on a wooded lot. Mr. Russell stated that Mr. Schnackenberg grows the hay on other property. Oliver Milot asked if the barn has safety equipment in case of fire. Mr. Better stated that you would not want to fight a hay fire with water. Continued to September.

**Ellie Mae Inc. Use Variance:** 6032 NYS Rte. 9-H Tax Map #(SBL) 131 . – 1 – 5 Use Variance to use existing patio area for dining.  
No show or contact. 2<sup>nd</sup> strike

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

Respectfully submitted,

Jodi Keyser  
Secretary