

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

Minutes: February 24, 2010
7:30 p.m.

Approved March 24, 2010

Chairman Frank Clegg called the February 24, 2010 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:30 p.m.

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

Members in attendance were: Chairman Frank Clegg, Norma Barnard, David Graziano, Oliver Milot, Paul Gundrum, Attorney; Rob Fitzsimmons, Engineer; Joe Romano, and Secretary; Jodi Keyser

Members reviewed the minutes of January 27, 2010. Minor changes and corrections were made.

Motion to approve the January 27, 2010 minutes with corrections was made by David Graziano with a second from Oliver Milot.

Continuing Board cases for 2/24/10:

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.

Mr. Freeman, Mr. Lopez, and Mr. Michaels were present for the application. Mr. Freeman submitted a completed application for an Area Variance for signs. Mr. Freeman explained to his understanding that if the applicant was seeking a change in signage an Area Variance is required which his clients have done. Mr. Freeman stated that his client is seeking to erect signs that are allowed by TOC zoning regulations in the Highway Commercial zone and for this type of business as being a 24 square foot sign on the building and one 24 square foot monument sign. Mr. Freeman stated that his client is only seeking to have the allowed square footage for signs on the building with no monument sign. Mr. Freeman continued that there was also an issue of possible abandonment of the pre-existing non-conforming use. Mr. Freeman stated that he felt that the historical information submitted at the January 27, 2010 meeting was sufficient evidence to prove continued non-conforming pre-existing use. Chairman Frank Clegg then asked if any of the Board members had any questions. David Graziano asked Mr. Freeman if the affidavits were written by the witnesses or drafted by Mr. Freeman because of the wording "Bar/Restaurant" were continuous. Mr. Freeman stated that he had conversations with all of the witnesses whom stated that they recalled food being served as a sit down restaurant and alcohol was also served at a bar. Mr. Freeman continued that the affidavits were not pre-prepared and taken to the witnesses but used their statements. Chairman Frank Clegg stated that this issue was already agreed to by the Board and that many of the Board members themselves were patrons of the establishment and concurred that it was a restaurant and bar serving both food and alcohol. Chairman Frank Clegg then asked if anyone had any questions. Mr. Tallackson, representing Ms. Slovak and Mr. Sturges, submitted a packet to each Board member and also to Mr. Freeman. Mr. Tallackson stated that he is dropping the pre-existing non-conforming use issue even though he still disagrees with the type of use he feels that the Board has made their determination. Mr. Tallackson stated that his clients were not adequately noticed of the public hearing scheduled for this meeting. Jodi Keyser showed cancelled certified mailing receipts dated 6/09. Mr. Tallackson stated that notice should be sent out to each neighbor again. Rob Fitzsimmons informed Mr. Tallackson that the TOC ZBA sends out notice at the start of each new application so that interested parties are aware early in the process and can attend regular meetings. Mr. Tallackson also stated that the applicant did not erect the proper sign to notice the meeting either. Mr. Freeman asked about a meeting sign and was directed by Rob Fitzsimmons how to obtain the signs from the Town Office building. Mr. Freeman stated that he will make sure that the signs are up in front of the establishment in the required time frame for the March 24, 2010 meeting. Rob Fitzsimmons informed the Board that this application does not require County Planning referral. Mr.

Tallackson continued that signs are permitted for the use but it clearly states in the TOC Zoning laws that penants are not permitted. Mr. Tallackson also argued that the applicant has not met the 5 criteria required for a Variance. David Graziano then asked Mr. Tallackson if the defining issue is that the applicant bought the establishment with certain signs and therefore should have to keep his signs within the existing signage. Mr. Tallackson stated absolutely. If the signs were remaining the same there would not be an issue. Mr. Freeman then stated that is what the applicant is seeking. Signs on the front posts and on the roof. Mr. Freeman reminded Mr. Tallackson and the Board that this was established at the January 27, 2010 meeting. David Graziano stated that he did not remember the type of signs that were existing on the building. Building owner Matt Michaels stated that when he purchased the building it had signs on the roof and on the posts in the front. Paul Gundrum and Norma Barnard also stated that they remember many different types of signs on the building over the years even neon. Chairman Frank Clegg then continued the application to the March 24, 2010 meeting for public hearing. Secretary Jodi Keyser will send notice of the public hearing planned for the March 24, 2010 to all neighbors within 300 feet of the business via certified mailing.

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

Pat Prendergast and Dana Skabowski were present for the application Letter submitted from Columbia County Planning giving approval. Septic approval from DOH received previously. Pat Prendergast informed the Board that the NYS DEC has given O.K. to plug the test wells at the site with no time frame. Mr. Prendergast stated that NYS DEC will be notified when the wells are plugged. Mr. Prendergast stated that he has contacted NYS DOT for curb cut approval but DOT will not review until the TOC ZBA declares a Negative Declaration for SEQRA. Chairman Frank Clegg then asked the Board if they had any further questions. No questions. Chairman Frank Clegg opened the public hearing at 8:10 p.m. Ian Nitchke stated that he was representing his wife Peggy Lampman asked if the business will be using the new public water system. Dana Skabowski stated yes the building was hooked into the public water. Rob Fitzsimmons then reviewed the SEQRA form and asked if anyone felt that pizza would cause negative impact. Motion for negative declaration for SEQRA was made by David Graziano with a second from Norma Barnard. All members were in favor. Motion carried.

Motion to approve the Site Plan Review for Filli Pizza with conditions of NYS DOT curb cut approval and NYS DEC test wells plugged and approved was made by Norma Barnard with a second from Oliver Milot. All members were in favor. Motion carried.

Motion to adjourn meeting at 8:20 p.m. was made by Norma Barnard with a second from Paul Gundrum. All members were in favor. Motion carried. Meeting adjourned.

Respectfully submitted,
Jodi Keyser
Secretary