

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

Meeting: February 23, 2011
7:30 p.m.

Approved 3/23/11

Chairman Frank Clegg called the February 23, 2011 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:30 p.m.

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

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

Correspondence received January 2011 Building Department report received from Town of Claverack Building Department.

Motion to approve the minutes of January 26, 2011 meeting with minor changes was made by Oliver Milot with a second from Stephen Melnyk. All members were in favor. Motion carried.

New Board cases for 2/23/11:

Shumsky, Stephen & Ann: Tax Map #(SBL) 141 . – 1 – 39 for an Area Variance for roadway frontage located at 2281 Rte 27 in the Town of Claverack.

Surveyor Jeff Plass, Stephen Shumsky were present for the application. Mr. Plass explained that the applicant is seeking a Variance for roadway frontage. Mr. Plass continued that Mr. Shumsky's parents are seeking the Variance so that their property can then be subdivided. Mr. Shumsky and his wife Jennifer live on his parent's property in a second residence. They are looking to subdivide the parcel into two parcels each containing a residence. Chairman Frank Clegg asked Mr. Shumsky if he was aware the year that the second residence was built. Mr. Shumsky stated that he was not sure but was many years ago. Mr. Shumsky continued that the property contained his parents' residence and an older trailer, which he and his wife replaced with a newer trailer in 2001. Mr. Plass informed the Board that the property is part of a large piece which has other parcels subdivided off of it over the years. Mr. Plass informed the Board that some of the parcels do not have roadway frontage on a Town of Claverack approved roadway, Shumsky property being one of them. Chairman Clegg informed the applicant that the number of parcels previously subdivided would make this a major subdivision per TOC subdivision laws. Mr. Plass informed the Board that he found that there were two parcels prior to 1972. Rob Fitzsimmons informed the Board that the applicant could not proceed to the Planning Board for subdivision until they receive a Variance for the frontage issue. Chairman Clegg asked who takes care of the shared roadway currently. Mr. Shumsky stated that he and the other residence of the road maintain the roadway. Rob Fitzsimmons asked Mr. Plass who owns the roadway. Mr. Plass stated that the Shumsky's own the roadway. Chairman Clegg noted that the two residences share a single well. Mr. Plass stated that there are two separate septic systems but it is true the two homes share a well. Chairman Clegg stated that the second residence would require its own well. Mr. Plass stated that clients are more than willing to drill their own well. Paul McCreary asked if the new well, existing well, and septic systems have adequate distance with such a tight subdivision and informed Mr. Plass that the maps should reflect the aforementioned items. Rob Fitzsimmons directed the Board to the letter from the TOC Building Department having issues with the roadway frontage. Mr. Fitzsimmons informed the applicant that the TOC Planning Board will require a written roadway agreement in order to proceed with subdivision so it would be a good idea to include it for the ZBA. Mr. McCreary asked if the roadway is a right of way or a shared driveway? Mr. McCreary stated that he is nervous that if the roadway is

deemed a right of way then the residences could possibly ask for the TOC to take it over in the future and the TOC would have a problem. Mr. McCreary stated that it should be deemed a shared driveway. Mr. Plass stated that it is considered a shared driveway now. Mr. Plass stated that the subdivision meets all other setback requirements but the roadway frontage. Rob Fitzsimmons stated for the Board that parcel #1 and parcel #2 do not have roadway frontage on a TOC approved roadway. Rob Fitzsimmons continued that this is a pre-existing non-conforming subdivision and the applicant can not create land to gain frontage. Rob Fitzsimmons continued that the ZBA would need to grant a variance to the applicant waiving the frontage and then the applicant can apply to the TOC Planning Board for subdivision. Mr. Fitzsimmons stated that the TOC ZBA makes a determination and then advises the TOC Planning Board of the shared roadway, septic, and well concerns so that they can clean up issues. David Graziano stated that if he understands the maps it appears that parcel #2 gets the roadway rights and parcel #1 has the repair and maintenance of the roadway. Mr. Plass stated it is an existing agreement. Rob Fitzsimmons requested that the application be sent to the County Planning Department for review at their next meeting. Set for public hearing at the March meeting. David Graziano asked if the applicant had any documentation from the bank allowing the property be subdivided. Mr. Graziano stated that he remembered asking for this documentation at the informal meeting. Mr. Shumsky stated that he has contacted the bank and they are in agreement. Stephen Melnyk informed the applicant that in light of the issues with loans on the property the ZBA would need to see approval from the lender before they can approve. Mr. Shumsky agreed.

Motion to adjourn meeting was made by Stephen Melnyk with a second from David Graziano. All members were in agreement. Motion carried. Meeting adjourned at 7:56 p.m.

Respectfully submitted,

Jodi Keyser
Secretary