

Town of Claverack
Zoning Board of Appeals
P.O. Box V
Mellenville, NY 12544
Meeting Minutes for January 25, 2012

APPROVED 2/22/12

Chairman Frank Clegg called the January 25, 2012 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:30 p.m.

Chairman Clegg led members of the ZBA and audience with the Pledge of Allegiance.

Members in attendance: Chairman Clegg, Steven Melnyk, David Graziano, Oliver Milot, Paul Gundrum, engineer Paul McCreary, attorney Barrett Mack, and secretary Jodi Keyser

Absent with regrets: Jock Winch

Correspondence:

Letter from Mr. Sturges regarding the Coyote Flaco application.

Secretary Jodi Keyser asked Barrett Mack if his office had received the revised maps for the approved Schnackenberg application. Mr. Mack stated that that he has not heard from the applicant's attorney, William Better nor has he received revised maps. Mr. Mack stated that as soon as the maps are received he will draw the resolution and supply two copies of both the map and resolution to the ZBA secretary.

Minutes of December 14, 2011 meeting.

Motion to approve the minutes of December 14, 2011 was made by Steve Melnyk with a second from Oliver Milot. All members were in favor. Motion carried

Continuing cases for 1/25/12:

Coyote Flaco/Elle Mae: 6032 Rte. 9-H/23 Hudson Tax Map #(SBL) 131 . – 1 – 5 Area Variance for the expansion of a non-conforming use.

Louis Lopez and Mr. Guerrero were present for the application. Mr. Guerrero reminded the Board that the addition was required by the CC DOH to keep bugs and dirt from entering the kitchen area every time the door was opened. Mr. Guerrero informed the Board that the addition was built out of necessity and not for additional seating. Mr. Guerrero also stated that the space is used to keep cleaning supplies like mops and brooms to get them out of the kitchen area. Chairman Clegg opened the meeting to public hearing at 7:35 p.m. Mr. Tallackson approached the Board submitting a letter from his clients Mary Ann Slovak and Mr. Sturges. Mr. Tallackson informed the Board that he was recently retained by the two to represent their concerns. Mr. Tallackson informed the Board that Mr. Sturges and Ms. Slovak are currently in Florida therefore he is representing them. Secretary Jodi Keyser informed Mr. Tallackson that a letter from his clients to that effect would be required. Mr. Tallackson stated that he will get a letter from them for the file. Mr. Tallackson excused his lack of information due to because his clients had only retained him a couple of days ago and therefore requests that the public hearing be continued so that he might be able to better prepare an argument on behalf of his clients. Mr. Tallackson submitted a letter on behalf of Mr. Sturges indicating issues he has with the application. Mr. Tallackson read that his clients sent a FOIL request for the application and feel that it is an incomplete application missing the names of the contractor, engineer, and electrician. Also Mr. Sturges stated that Mr. Lopez has indicated on the application that he is the owner of the property and this is incorrect. Mr. Tallackson continued that Mr. Sturges asked why the application is not required to have a Site Plan Review because it is a non-conforming use. Mr. Tallackson stated that a previous approved application stipulated not additions or modifications to the structure. Mr. Tallackson continued that his clients complain that the addition was constructed prior to obtaining a building permit. Mr. Tallackson stated that he questions the minimal aspect of the addition being 4-feet by 10-feet is quite large in his opinion for an extra entrance. Mr. Tallackson also asked if the applicants have a letter from the CC DOH regarding the need for a double entrance. Mr. Tallackson stated his clients are concerned that the ZBA is allowing the expansion of this non-conforming use instead of

eliminating or reducing it. Mr. Tallackson stated that his clients feel that the business is an eyesore to their neighborhood.

David Graziano informed Mr. Tallackson that the application clearly states on page two that Mr. Matt Michael signed and has certified that he is the owner of the property and Mr. Lopez is the renter/applicant for the business. Mr. Tallackson indicated that he now sees that Mr. Michael has signed the application as the property owner. Barrett Mack informed the Board that the business was previously declared a pre-existing non-conforming use by the TOC ZBA and therefore does not require a Site Plan Review. Mr. Guerrero informed the Board that he can provide a letter from the CC DOH regarding the double entrance. Mr. Guerrero continued that the addition was not built to increase seating or to make more money only to store cleaning supplies and keep heat/air conditioning inside and bugs/dirt out of the kitchen area. Mr. Guerrero apologized for not obtaining a building permit prior to construction of the addition. David Graziano stated that the ZBA is only dealing with an area variance for the addition. Barrett Mack reiterated that the application does not require a Site Plan Review. Steven Melnyk stated that he did not feel that the addition was that unsightly and could not even imagine how it would be used to seat customers to eat. Steven Melnyk continued that the addition was built out of a need not to make more money. Mr. Tallackson stated that there are items missing from the application. Barrett Mack informed the Board that the application is complete and there is nothing preventing the ZBA from granting or denying the application at this evenings meeting. Steven Melnyk stated to be diplomatic he feels that the public hearing can be continued to the February meeting but made it clear that the application will be decided in February one way or another. Mr. Tallackson stated that he will prepare more comments for his clients and appreciated the extra time. Mr. Guerrero stated that he is disturbed by Mr. Sturges' letter regarding expansions. Mr. Guerrero stated that this is the first time Mr. Lopez has ever made any changes to the building and it was done out of necessity not want. Mr. Tallackson stated that he misunderstood the letter and that his clients have other issues i.e. lighting, parking, and another addition on the other side of the building. Steven Melnyk stated that Mr. Sturges and Ms. Slovak have had many issues with every occupant of the building. Mr. Tallackson stated that he will have Mr. Sturges to be specific when he addresses issues. Steven Melnyk stated that Mr. Lopez did not expand the use to make room for more tables and more money. Mr. Guerrero stated that Mr. Lopez was just trying to save energy and make the necessary changes required by the CC DOH to maintain his kitchen. Mr. Guerrero stated that it was not their intention to harm anyone or make anyone upset and they did not know that it required a permit. Neighbor George Starr stated that this applicant was recently brought before the Board and thought that these issues were addressed then. Mr. Starr stated that he does not have any problems with the business. Barrett Mack read the requirements for an Area Variance but noted that it was still up to the Board to determine whether the public hearing should be continued or not. Barrett Mack continued that in his opinion he did not see any reason that the Board could not make a determination at this meeting. Steven Melnyk stated that he agrees that the application is solid to decide now but to felt it would be fair to extend a courtesy to Mr. Sturges and Ms. Slovak and continue the public hearing but noted that a decision either way would be made at the February meeting. Motion to continue public hearing was made by Steven Melnyk with a second from Paul Gundrum. All Board members were in favor. Motion carried. Mr. Lopez informed the ZBA that he will be out of the country during the month of February therefore unable to attend. Board members decided to continue the public comment to the March meeting. Mr. Lopez informed the ZBA that his family has several restaurants and have never had so much trouble. Mr. Lopez stated that he runs a good business, pays taxes, and is a good neighbor but is fed up with the Town of Claverack and is looking to move his business to another town. Continued to March meeting.

New Applications for 1/25/12:

Foundation for Agricultural Integrity: 347 County Rte. 12 Tax Map # (SBL) 141. – 1 – 53 . 100
Site Plan Review for the construction of a new 35' X 96' Hoop Barn/Greenhouse for storage on proposed dairy farm.

Foundation for Agricultural Integrity: 347 County Rte. 12 Tax Map # (SBL) 141. – 1 – 53 . 100
Special Exception for Dairy Farm with Farm Store/Farm Stand.

Rick Anderson, designer, Abby Rockefeller, owner and Laura Orlando were present for the application. Ms. Rockefeller informed the Board that her parents had owned this property for several years and that her father had passed it on to her. Ms. Rockefeller stated that it was her mother's wish to maintain and grow the small

independent farms in the Hudson Valley area. Ms. Rockefeller continued that the property was recently an application in front of this ZBA by Hawthorne Valley. Ms. Rockefeller stated that she and the previous applicants did not see things the same way and have severed their partnership. Ms. Rockefeller continued that her Hawthorne Valley doubled their operation from what she was told and she did not want to proceed. Ms. Rockefeller informed the Board that her vision is to have a not too small but not too big dairy farm of about 35 milking cows maintained by a young person with dairy farm knowledge. Ms. Rockefeller stated that Hawthorne Valley was seeking to work the farm for their gains and that is not what she wanted to do with the land. Ms. Rockefeller continued that her idea is for a self-sustaining farm and a farm store selling raw milk and dairy products directly from the land to the customers. Ms. Rockefeller informed the Board that many states allow the sale of raw milk and New York is one of them. Ms. Rockefeller stated that the sale of raw milk is becoming increasingly popular and the price of the raw milk is much higher than the supermarket milk so it is possible for the farmer to make it profitable. Chairman Clegg asked if 35 milking cows is enough to maintain the farm. Ms. Rockefeller stated yes, 35 milking cows is the best number for the property. Ms. Rockefeller stated that raw milk can be sold for about \$10.00 a gallon instead of the \$2.50 at the local store. Ms. Rockefeller continued that politics have a lot to do with the prices and the big milk companies refuse to purchase milk from the farms that sell raw milk, and because of the competition the price is too low for the farmer to make a profit. Ms. Rockefeller stated that this is why the small farms have been driven out of business. Steven Melnyk asked if New York State has any regulations for the sale of raw milk. Ms. Rockefeller stated that New York State allows the sale of raw milk from the farm only not a retail store. Steven Melnyk stated that the big co-ops have their thumbs on the milk business not allowing for the small farm to keep going. Chairman Clegg asked if the farm store will only sell items from the farm or will outside items be allowed. Ms. Rockefeller stated that she had not considered bringing outside items to the store to sell because there will be plenty of items from the farm itself to sell. Ms. Rockefeller informed the Board that along with the raw milk the farm store will sell cheese made on the premises, vegetables, fresh cream, etc. Paul Gundrum stated that the farm store seems very large for only using the products from 34 cows. Ms. Rockefeller stated that the farm will hold 34 milking cows but another 34 on the farm would be young non-milking cows. Ms. Rockefeller informed the Board that she has researched and visited this type of farm and feels that this property is perfect. Steven Melnyk asked if 34 milking cows are enough to sustain the operation. Ms. Rockefeller stated the 34 cows will be milked twice a day and it would be enough milk for the farm. Steven Melnyk asked if Hawthorne Valley was going to bring outside items not produced on the farm in to the farm store to sell. Ms. Rockefeller stated that Hawthorne Valley was planning to do just that and it was not what she wanted the farm to be. Ms. Rockefeller continued that Hawthorne Valley is a multi-million dollar operation and not what she wanted to see the land used for. Chairman Clegg asked the size of the property. Mr. Anderson stated that the property is approximately 250 acres with a small portion in the Town of Livingston. Paul Gundrum asked what is the Foundation for Agricultural Integrity? Ms. Rockefeller stated that it is her own invention to try to maintain and bring back the small farm to the area. George Starr informed the Board that he and his wife are the closest neighbors to the property and it has always been farmland. Mr. Starr continued that what he has seen so far and after talking with Ms. Rockefeller he feels that it is a great addition to the area. Jim Van Deusen informed the Board that this was where he was brought after he was born so the farm has some personal meaning to him. Mr. Van Deusen continued that the idea is currently in operation at a farm on Lakawanna Rd. in Copake. Mr. Van Deusen stated that he has visited this farm and it is a very successful operation. Chairman Clegg indicated that he would have a problem if the farm store started selling outside goods from China or elsewhere. Paul McCreary asked if the cheese production would be onsite. Mr. Anderson stated yes and indicated the cheese room on the site drawings. Paul McCreary asked what method would the farm use to get rid of the waste product from the cheese. Ms. Rockefeller stated that the waste products will be fed to the pigs. Steven Melnyk asked if the farm plans to have a smoke house. Ms. Rockefeller stated that maybe in future plans. Chairman Clegg informed the applicant that the application should be referred to the Columbia County Planning Board for review. Paul McCreary asked that adjacent towns be noticed also. Steven Melnyk asked if the entire infrastructure is within the TOC. Mr. Anderson stated yes. Steven Melnyk stated that this is a big undertaking for Ms. Rockefeller. David Graziano added that the plan seems like a positive addition to the town. Chairman Clegg asked if the farm has silos. Ms. Rockefeller stated no the cows will be grass-fed which makes for a healthier cow and that is why they need such a small number of cows to maintain feed. Mr. Anderson informed the Board that the farm store building and the milk-house are reclaimed 1840's buildings from New Hampshire that are currently being dismantled. Mr. Anderson and Ms. Rockefeller informed the Board that these

two buildings are very beautiful and very sturdy structures. Chairman Clegg informed the applicant that the Board will set public hearing for the February meeting.

Mr. Anderson then reviewed the Hoop House/Green House Site Plan for the Board. Mr. Anderson informed the Board that the hoop-house is made of plastic with a metal frame and used as a greenhouse for starting plants and for storage of equipment. Mr. Anderson continued that the hoop-house is seen through out the county at farms and would only be a temporary structure.

Continued to February 22, 2012 for Public Hearing.

Motion to adjourn the meeting was made by David Graziano with a second from Steven Melnyk. All members were in favor. Motion carried. Meeting adjourned at 8:30 p.m.

Respectfully submitted,

Jodi Keyser
Secretary