

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

Meeting Minutes: June 29, 2011
7:30 p.m.

APPROVED 7/27/11

Chairman Frank Clegg called the June 29, 2011 meeting 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, Stephen Melnyk, Norma Barnard, David Graziano, Oliver Milot, Jock Winch, Paul Gundrum, Attorney; Rob Fitzsimmons, Engineer; Paul McCreary, Secretary; Jodi Keyser. Correspondence was received from Mariner Tower regarding issuance of a building permit for the Homeland Tower.

Board members reviewed the minutes of the May 25, 2011 meeting.

Minor corrections were noted for Jock Winch, Oliver Milot, and David Graziano.

Motion to approve the corrected minutes was made by Oliver Milot with a second from Norma Barnard. All members were in favor. Motion carried.

Continuing cases for 6/29/11:

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

Special Exception for expanding hours of operation from previously approved 6:00 a.m. to 10:00 p.m. to 5:00 a.m. to 11:00 p.m.

Mr. Parker Finley was present to represent the applicant standing in for Ron Fortune. Mr. Finley addressed the Board concerning the change of their hours of operation for the X-tra Mart at the corner of NYS Routes 9-H, 23-B, and 23. Mr. Finley informed the Board that the previous meeting Mr. Fortune asked that the hours of operation be modified to allow the store to open at 5:00 a.m. and remain open until 11:00 p.m. Mr. Finley stated that the current hours of operation are 6:00 a.m. to 10:00 p.m. Chairman Frank Clegg informed Mr. Finley that residents of the neighborhood had expressed concerns with a change in hours of operation 2 years ago because the store is directly in the middle of the hamlet. Rob Fitzsimmons informed the Board that they could get public comment on each application separately or together. Board members agreed to hear one public comment to address both applications.

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.

Mr. Finley supplied a new drawing of a new sign which is 50 square feet in size to replace the two existing signs which add up to 97 square feet. Jock Winch asked if the applicant considered each side of the sign for square footage because that makes the sign 100 square feet in size. Jock Winch continued that the existing signs currently do not meet TOC Zoning codes. Rob Fitzsimmons stated that statement was correct however the new signs exceed the code also but are moving in the right direction. Mr. Fortune informed the Board that the applicant is seeking brand change for the sign also to a Citgo station. Chairman Frank Clegg asked why the applicant could not just change the existing signage to say Citgo. Paul Gundrum asked what the setback for a sign is within the TOC Zoning code. Rob Fitzsimmons stated 5 feet from the roadway, which the applicant has shown on the map. Jock Winch asked if the applicant had obtained a building permit to replace the tanks that is currently under construction. Mr. Finley stated yes. Jock Winch then asked if the canopy is being replaced with that building permit and if the canopy will have signage which would also constitute additional square footage

for signage. Rob Fitzsimmons informed Mr. Finley that if the applicant intends to install signs on the canopy it is also considered signage and he will be talking with the TOC Building department to ask if the permit includes a new canopy with signs. Norma Barnard asked if Mr. Finley had any information regarding lighting of the canopy. Rob Fitzsimmons stated that the application before the TOC ZBA is seeking to replace the two existing signs with one new sign. Mr. Fitzsimmons continued that the applicant might need to come back to the TOC ZBA for a Site Plan Review for the replacement of the canopy, lighting of the canopy, and signage on the canopy.

Chairman Clegg opened the meeting for public comment at 7:50 p.m..

Greg Mackowski asked the Board why a neighbor received a notice of meeting over 30 days prior to the meeting but did not receive any notice two weeks prior to the public comment.

Board Secretary Jodi Keyser informed Mr. Mackowski that the ZBA notices the public at the start of an application to involve them early in the process to get their input, questions, and suggestions. Mr. Mackowski stated that he lives 2 houses west on Rte. 23 from the store. Mr. Mackowski asked if the new sign would be brighter than the existing signs. Rob Fitzsimmons stated that the old signs are illuminated from within and the new sign will be LED. Paul McCreary stated that the applicant has not explained or detailed information on the lighting of the new sign. David Graziano asked if the sign is going to have moving letters and numbers. Mr. Mackowski then stated that at the May meeting the applicant's representative stated that truckers are asking for the expansion of the hours of operation but he does not see any truckers really using the store. Mr. Mackowski continued that expanding the hours of operation would only bring additional traffic, noise, and people purchasing beer and cigarettes. Not for truckers. Mr. Mackowski stated that he resents the applicant asking the TOC ZBA for the expansion of hours 2 years after they have already not following the TOC ZBA ruling. Mr. Mackowski does not see why the applicant needs a new sign either and urged the Board to deny both of the applications.

Ian Nitschke lives at 602 Rte 23-B. Mr. Nitschke stated that the applicant has not been a good neighbor and has ignored the suggestions of the residents' ideas for plantings, lighting, and noise reduction. Mr. Nitschke stated that when the store built the existing canopy the lighting spread into the neighboring houses. He continued that the lighting on the canopy was supposed to be down facing and plantings along Rte. 23, Rte. 9-H, and also at the corner were promised and the only planting that remains is the one on the corner so what happened? Mr. Nitschke stated that he was walking near the recent tank excavation at the site and the smell of petroleum was very strong. Mr. Nitschke continued that his wife is a real estate broker and he knows that the two cottages next to the store on Rte. 23 have contaminated wells. Mr. Nitschke asked if the contamination is from this store or the other former station diagonal to the houses? Jock Winch informed Mr. Nitschke that there was litigation in the 1970's from this station. Mr. Nitschke feels that the neighbors have been lied to by the owner of the store.

Chairman Frank Clegg asked Mr. Nitschke if he had contacted NYS DEC regarding the smell of petroleum. Paul Gundrum informed Mr. Nitschke that he suggests he contact NYS DEC to report the smell. Mr. Nitschke closed his comment by stating he is worried what will happen 2 years down the road, will the applicant seek a 24-hour operation. Feels that the hamlet of Claverack has been spoiled by the gas stations and asked the ZBA to deny both applications.

Jenny Post spoke on behalf of the Claverack Library. Mrs. Post stated that the Library Board of Trustees has recently purchased the A. B. Shaw firehouse and will be before the TOC ZBA with a Site Plan review for a new library soon. Mrs. Post stated that the new library is trying very hard to maintain the character of Claverack and the integrity of the historic hamlet. Mrs. Post concluded that the Library Board of Trustees is not favorable of changing the signs or hours of operation of the X-tra mart and asks the ZBA to look at the application very close to ensure the plan is going in the right direction before making a decision.

Enid Futterman lives 4 +/- miles from the hamlet but is concerned with the new signs, canopy, hours, and lighting of the project. Ms. Futterman stated that the ZBA should be making the hamlet better instead of worse and the TOC ZBA should deny both the new sign and expansion of hours.

John Keeler of Webb Rd. stated that he has visited other communities with gas stations that fit within the architecture of the surroundings. Does not feel that the X-tra mart fits the historic climate of the Claverack hamlet. Bigger is not always better.

Howard Branston stated that he hoped the applicant has read the Comprehensive Plan when they were designing the new sign because there are specific details for the brightness that will be allowed.

Mr. Finley asked to bring the comments back to the applicant and for public comment to be continued to the July 27th meeting.

Valley Oil Co.: 5848 Route 9-H Tax Map #(SBL) 131 . – 01 – 20.

Site Plan for construction of new 80' x 108' garage.

Pat Prendergast; engineer and Russell Beck; owner were present for the application. Pat Prendergast submitted new site plan maps for the Board. Mr. Prendergast explained that the Valley Oil Company sits on approximately 8.3 acres of property. Mr. Beck is seeking to construct a new 80' by 108' garage. Mr. Prendergast continued that the plan calls for an additional driveway coming in off of Millbrook Rd. The garage will have two 14' X 14' overhead doors for the tanker trucks to be able to access from Millbrook Rd. allowing the trucks to drive through with five 12' X 12' overhead doors facing NYS Rte. 9-H. The site will have a large paved area. The garage will have (3) three 250-watt metal halogen lights that will reflect downward creating a glow onto the ground for security. Swell along driveway runs along roadway to the existing pond. Mr. Prendergast stated that he checked with the TOC Building Inspector's office regarding the pond and was informed that it is shown on the map as a Federal wetland, which does not require a permit or buffer. Chairman Clegg asked the applicant where he intends to wash the trucks. Mr. Beck informed the Board that truck washing would remain behind the office building as it is currently. Chairman Clegg stated that the washing of the trucks might still be a problem. Pat Prendergast stated that washing the trucks is not a problem and the applicant has modified his original request to have the washing housed in the proposed garage. Pat Prendergast informed the Board that the garage is a pole barn type of structure and the area of disruption will be less than an acre so no need for SPEDES permit. Mr. Prendergast continued that monitoring wells are on site as required for protection with one of the wells close to the proposed garage. Mr. Prendergast stated that there is no need for an archeological study for state permit but the entire area could raise some archeologically sensitive area. Jock Winch reminded the Board that a recent archeological study was performed within close proximity to this site for gravel mine and the study found nothing. Paul McCreary stated that the one monitoring well is only about 6-feet away from the proposed building and he has a concern with disturbance of the well during construction and after. Mr. Prendergast stated that the monitoring well will not be disturbed. Paul Gundrum asked who has jurisdiction over the monitoring wells. Chairman Clegg asked how deep are the wells. Mr. Beck stated that the wells are approximately 20-feet deep with 12 – 15 feet of ground water. Paul McCreary asked how large are the trucks that will be traveling over Millbrook Rd. to access the rear overhead doors and is there enough room. Mr. Beck stated that the large tanker trucks would be the trucks needing access to the rear doors to be able to pull through and there is enough room. Jock Winch asked who monitors the wells and how often are they inspected. Mr. Beck stated yes the state monitors the wells and they do this yearly. Paul McCreary asked about a culvert crossing on Millbrook Rd. Mr. McCreary also asked if any additional vegetation would be added for screening. Mr. Beck answered no additional screening would be planted. Mr. McCreary asked if the area would be lit all of the time. Mr. Beck answered that there is currently lighting on the office building and the tanks for security but he has not yet decided about lighting for the new building. Chairman Frank Clegg asked what the weight limit is on Millbrook Rd. for the tractor trailers. Mr. McCreary informed the applicant that the SHPO website shows archeologically sensitive areas to assist Town Boards and he has seen in a two-phase process on private, non-state projects. Stephen Melnyk asked what if something of an archeological find is made what would they do. Rob Fitzsimmons stated that if something is found then it is dug up, moved and preserved.

Set public hearing for July 27, 2011

Columbia-Greene Humane Society: 125 Humane Society Rd. Tax Map #(SBL) 100 . 00 – 01 – 03 Verify Use for construction of a new animal shelter for the Columbia-Greene Humane Society.

David Robinson, CGHS Board member and Ron Perez, Director of CGHS were present for the application. Mr. Robinson reviewed the Interpretation of Use application for the Board. Mr. Robinson stated that the Shelter is in the process of purchasing an 80-acre contiguous parcel for the construction of a new shelter. Mr. Robinson stated that after reviewing the TOC Zoning Regulations Table of Use the shelter does not clearly fall under any

definition therefore they are seeking an Interpretation of Use as a Vet Clinic. Mr. Robinson continued that if they are granted an Interpretation of Use as a Vet Clinic the CGHS Board of Directors would then purchase the 80-acre site and return with a Full Site Plan Review. Chairman Clegg asked how a new building would compare to the current buildings. Mr. Robinson provided a sketch of a possible building but not yet set in stone. Chairman Clegg asked how far would the new building be from the closest neighbor. Mr. Robinson informed the Board that the closest neighbor accesses their property from NYS Rte. 66. Mr. Robinson continued that the property being purchased is heavily wooded.

Chairman Clegg opened the meeting for public hearing at 8:40 p.m.

Elaine Sadofsky lives on Rte. 66. Ms. Sadofsky informed the Board that her family has owned her property since the 1800's. Ms. Sadofsky stated that she is very conflicted because she loves animals but does not agree with expanding the Humane Society. Ms. Sadofsky stated that the noise from the current building is unbearable especially during the weekends. Ms. Sadofsky continued that she can hear the dogs howling, abandoned animals are left on her property, and the CGHS has not been the best neighbor in the past. Ms. Sadofsky stated that building a new facility would cause the surrounding properties to depreciate in value. Ms. Sadofsky informed the Board that the 80-acre parcel that the CGHS is considering is mainly wet, soggy, and contains tributaries that do not make for a good building site. Ms. Sadofsky stated that she was concerned that she came home and found orange ribbons around trees that are on her property. Ms. Sadofsky stated that she would like some definite details of the project and would like to be kept informed about what is happening. Mr. Robinson informed Ms. Sadofsky that in preparing to purchase the property a survey is required which explains the orange ribbons. Mr. Robinson explained that the surveyor places the orange ribbons on items for a distance reading and he apologized to Ms. Sadofsky for people going on to her property. Ms. Sadofsky stated that the 80-acre parcel is landlocked. Mr. Robinson stated that this statement was just a rumor and the property is actually a contiguous parcel to the existing CGHS property and would therefore have frontage from Humane Society Rd. Mr. Robinson stated that in their investigation of the property it was discovered that the Tax maps were incorrectly drawn and the CGHS has contracted surveyor Jeff Plass to re-survey the property. Chairman Clegg asked about the noise issue that Ms. Sadofsky raised. Mr. Robinson stated that the proposed shelter building would be close to the current shelter building but on an 80-acre parcel of land. Mr. Robinson stated that no logging, hunting, or development will be allowed. Maintaining trees to buffer noise. Mr. Robinson continued that construction and building materials have changed significantly since the current shelter was built. New shelters are built to contain the noise. Mr. Robinson informed the Board that the CGHS Board of Directors has researched many different ideas for the shelter. Fixing the new shelter would cost too much money and not adequately improve the shelter, building on the existing site would not help the need for additional space, and they have looked at other sites away from Humane Society Rd. but those options did not make as much sense as building a new facility on a contiguous piece of property does. Ms. DiSalvo stated that the new shelter would ruin the surrounding properties and the current shelter is not a good site either. Frank Clegg addressed the Board and audience stating that the Columbia Greene Humane Society is an existing entity in the Town of Claverack and they can't just do away with the shelter nor to tear it down and to build new ones. Paul Gundrum asked how far away would the new shelter be from any residential structures. Mr. Robinson stated that the closest home would be 400-feet to 600-feet away. Stephen Melnyk asked if there are runs mainly outside or inside for the dogs. Mr. Perez stated that there are outside and inside runs for the animals but they are all inside at night. Ms. Sadofsky stated that she can hear dogs barking loudly whenever a vehicle drives down the road. Ms. Sadofsky stated that she can not enjoy her property and the Humane Society has not been a good neighbor. Mr. Robinson stated that the Columbia Greene Humane Society has a Board of Directors made up of many professional, well-respected members of the community and they run a wonderful shelter and they are seeking a solution with the least amount of impact. Chairman Clegg closed the public hearing at 8:57 p.m.

Rob Fitzsimmons informed the Board that the application is exempt from County referral and SEQRA review because it is an Interpretation.

Motion to Interpret and Classify the use of the Columbia Greene Humane Society as a Veterinary clinic was made by Stephen Melnyk with a second from Norma Barnard. All members were in favor. Motion carried.

New Cases for 6/29/11

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. ZBA Secretary received notice from Mr. Dan Russell that the applicant was still working on his application and would not be ready to attend this meeting.

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.

Ms. Polyak did not contact the ZBA Secretary. Strike 1

Stringham, Varick: 406 Rte. 23-B Tax Map #(SBL) 120 . 2 – 1 – 4 Site Plan Review for new professional dance studio.

Varick Stringham was present for his application. Mr. Stringham is seeking a Site Plan Review to change a use in his commercial building to a professional studio. Mr. Stringham started by addressing issues that he is having with his previously approved Site Plan of last year. Mr. Stringham continued that one of the conditions of the approval was that he plant screening along the rear of his property and along the front. Mr. Stringham stated that he has planted 75 – 150 trees but because of the poor soil conditions they have all died. Mr. Stringham asked for the Board's approval to modify the planting with a 4-foot stone wall with some soft grasses and shrubbery in the front but the rear of the property will require him to use heavy equipment to excavate down far enough to reach better soil and he would still need to bring in some top soil to plant the hemlocks. Mr. Stringham continued that he is seeking to rent out the front of the building to a dance studio. Chairman Clegg asked if he intends to get rid of the use by COARC in the back. Mr. Stringham stated that eventually he intends to but due to economic issues he is not able to stop COARC right now. Chairman Clegg asked Mr. Stringham if he remembered correctly that there was only one bathroom for the entire building. Mr. Stringham stated that the dance studio would use the bathroom. Chairman Clegg then asked what facilities would be available for COARC to use. Mr. Stringham stated that he intends to split the bathroom into two separate bathrooms giving access to one to the dance studio and the other to COARC. Norma Barnard stated to Mr. Stringham that he has not met the conditions of the previous approval yet. Mr. Stringham stated that he tried to meet the conditions but the trees died. Mr. Stringham stated that he is trying to gain a softer use of the building in the front with a dance studio, split the bathroom into two separate facilities, keep the COARC use in the back, maintain space for the mechanic, and have the middle of the building for his personal use. Chairman Frank Clegg asked how many people would occupy the building for the dance studio and what are the hours of operation. Mr. Stringham stated that the dance studio will have 6-10 students per class which will be in session Mondays through Wednesdays from 5:00 p.m. to 8:00 p.m. and Saturdays from 10:00 a.m. to 1:00 p.m. Norma Barnard stated that would make a total of 4 separate uses for the building. Norma Barnard also stated that the dance studio has a sign in the window of its current site advertising the move to this building on July 1st. Mr. Stringham stated that he was too late for the May agenda for the application so everything was put on hold. Chairman Clegg asked if the current septic system is large enough for the additional use. Mr. Stringham stated that the building has a 1,000-gallon septic tank with a leach field. Chairman Clegg asked for information on the condition of the existing leach field and soil. Mr. Stringham stated that he does not know the condition of the leach field or soil because he has not excavated the area. Chairman Clegg stated that Mr. Stringham needs to get CC DOH approval. Mr. Stringham stated that he had CC DOH approval previously. Paul McCreary informed Mr. Stringham that the Board is requiring CC DOH approval in writing and that he needs to make CC DOH the details of the previous use and the expansion. Rob Fitzsimmons informed Mr. Stringham that he is also required to supply the Board with a detailed planting design and listing of plants.

Set for public hearing on July 27, 2011.

Triform Enterprises Ltd.: Millbrook Rd. Tax Map #(SBL) 141 . – 3 – 22 Modification of Special Permit/Use for the construction of a new group/family home.

Pat Prendergast; engineer and Donald Pulfer; architect were present for the application. Mr. Prendergast began presenting a letter from Keith Bogdanovich giving him and Mr. Pulfer permission to represent Triform Enterprises for a Site Plan Review for a new group home at their site located on Millbrook Rd. Mr. Prendergast explained that a condition of the recent TOC Zoning Board Approval is that every new structure requires a full site plan review. Mr. Prendergast continues that the new group home will be located on lot #22 of the former Stewardship subdivision. Mr. Prendergast informed the Board that lot #22 has already received CC DOH septic & well approval. Mr. Prendergast informed the Board that the septic system is still being developed because they are considering a larger septic system across the street that will service 3-4 homes instead of separate systems for each house and they will get CC DOH approval for the new plan if necessary. Chairman Clegg asked if there is an existing well on lot #22. Mr. Pulfer stated yes there is an existing well on the parcel. Mr. Prendergast informed the Board that the private driveway will be called Clover Reach Rd. Mr. Pulfer then reviewed a drawing of the plans for the group home for the Board. Mr. Pulfer stated that the home will contain 10 bedrooms, 5-6 bathrooms, a kitchen, living room, study room, and dining room. Norma Barnard asked why the plan shows 10 parking spaces. Mr. Pulfer stated that the spaces are for the workers, volunteers, and visiting family members. Chairman Clegg informed Mr. Prendergast that CC DOH approval would be required prior to ZBA approval. Mr. Pulfer stated that the construction would disturb about 1-acre of land. Pat Prendergast stated that SHIPO is done and he has filled out an NOI, which is covered by the old stormwater plan. Paul McCreary asked why there are no handicapped parking spaces. Mr. Pulfer will add handicapped parking space on the final map. Mr. McCreary informed the applicants that they would need to apply to CC DOH for approval of the amendment to the septic system. Chairman Clegg asked if there is a fire safety plan. Mr. Pulfer stated that it is required to have sprinkler systems installed and 5 fire exits also the plan is reviewed by OMRDD and the State. Mr. Pulfer stated that NYS performs an onsite inspection before they will certify occupancy and allow residence to live at the house. Jock Winch asked if the house will use a private water supply and how will this be backed up. Mr. Pulfer stated yes the house will use a private well with enough storage for at least 30-minutes. Pat McCreary asked where the water storage would be located. Mr. Pulfer stated that they are not yet sure where the storage will be either in the house or off site water containment. Set public hearing for July 27, 2011.

Motion to adjourn the meeting was made by Norma Barnard with a second from David Graziano. Meeting was adjourned at 10:00 p.m. All members were in favor. Motion carried. Meeting adjourned

Respectfully submitted
Jodi Keyser
Secretary