

Claverack  
Zoning Board of Appeals  
P.O. Box V  
Mellenville, NY 12544  
Meeting: May 25, 2011  
7:30 p.m.

APPROVED 6/29/11

Chairman Frank Clegg called the May 25, 2011 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:30 PM.

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

Members in attendance were: Chairman Clegg, Stephen Melnyk, Norma Barnard, David Graziano, Oliver Milot, Paul Gundrum, Jock Winch, Engineer; George Schmidt, Attorney; Rob Fitzsimmons, and Secretary; Jodi Keyser

Chairman Clegg asked members of the Board if the June meeting date could be changed from June 22<sup>nd</sup> to the following week of June 29<sup>th</sup> due to the Secretary having a prior commitment. Members of the Board agreed to change the date to the 5<sup>th</sup> Wednesday of June. Meeting changed to June 29, 2011 at 7:30 PM.

Motion to approve the minutes of March 23, 2011 meeting was made by David Graziano with a second from Norma Barnard. All members were in favor. Motion carried.

**New cases for 5/25/11:**

**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.

Ron Fortune, authorized agent for Drake Petroleum was present for the application. Mr. Fortune informed the Board that his client was granted a Special Exception in 1985 allowing them to operate during the hours of 7:00 AM to 10:00 PM. Mr. Fortune continued that his client then appeared before the TOC ZBA in 2007 asking to expand their hours of operation to 6:00 AM to 12:00 AM. In 2007 the TOC ZBA granted Drake Petroleum to operated during the hours of 7:00 AM to 10:00 PM. Mr. Fortune informed the Board that the client base is asking for the expansion in hours, truckers are asking for an earlier opening, and the employees are looking for more hours. Chairman Frank Clegg asked the Board members their opinions. Jock Winch suggested that the expansion of hours is a detriment to the village. Paul Gundrum asked why they are back asking only two years later. Stephen Melnyk informed Mr. Fortune that the establishment has been opening at 5:00 AM clearly disregarding the TOC ZBA determination in 2007. David Graziano stated that he approached a store clerk of the establishment and asked about the 5:00 AM opening. The store clerk informed David Graziano that they could open at 5:00 AM. David Graziano informed the clerk that the approved hours of operation were 6:00 AM to 10:00 PM. Mr. Graziano continued that the previous request for expansion of the hours had many of the neighbors resistant to the idea. Mr. Graziano stated that in his opinion Xtra Mart had ignored the approval of the TOC ZBA and did what they wanted. Stephen Melnyk stated that the business is in the middle of the hamlet of Claverack and not out in a sparsely populated area as the other two Xtra Marts. Mr. Melnyk stated that the noise and lights are a problem for the residences that surround the business. Paul Gundrum stated that he can't understand what has changed in the past 3-years that would make the clients ask for more hours. Jock Winch stated that in his opinion opening at 6:00 AM and closing at 10:00 PM is fair considering the area of the store. Norma Barnard agreed. Paul Gundrum asked the hours of operation for the other Xtra Mart stores in the area. Mr. Fortune stated that the store located at Bells Pond intersection is open 24-hours a day but it is a bit of a distance away for the public. Mr. Fortune continued that the Craryville store is open from 6:00 AM to 10:00 PM. Mr. Fortune informed the Board that his client is in the process of a major makeover with new tanks and is also before this Board for a sign Variance so they thought the hours of operation could also be addressed at this time due to the need. Stephen Melnyk stated that the store is different from the other stores and it is unique being directly in the middle of a densely populated hamlet. Rob Fitzsimmons stated that the Board could hold a public hearing in conjunction with the Variance for the signage.

**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. Fortune also represented the applicant for the Area Variance. Mr. Fortune informed the Board that his client is seeking to replace two existing signs with a single sign at the corner of NYS Route 23 –23B and 9-H. Mr. Fortune stated that this upgrade is in conjunction with a tank replacement project and the client wishes to rebrand the signage which is not part of the application. Mr. Fortune stated that the two existing signs total 97' square feet and the new sign will total 84' square feet. Rob Fitzsimmons informed the Board that even though the client is moving in the right direction by lowering the size of the signage the new sign still exceeds the limit for signs in the TOC ZBA code. Oliver Milot stated that the proposed sign sits much lower than the existing signs, which might obstruct traffic views. Jock Winch stated that the new signs do not keep the architectural integrity of the area. Jock Winch continued that sticking a big sign at the corner takes away from the village and the old signs should stay. Paul Gundrum stated that in his opinion the public could tell that the site is a gas station/convenience store without having a big sign. David Graziano asked what type of sign, any flashing lights, and scrolling words. Mr. Fortune stated that the sign would consist of lighted numbers and words with some brand types of signs. Mr. Fortune stated that the sign illumination could be lowered at night for the neighborhood. Stephen Melnyk asked if a new sign is the wish of the client or of Citgo requesting a newer sign for advertising. Mr. Fortune stated that his client is not looking for a special sign but the old signs are getting difficult to maintain. Rob Fitzsimmons informed the Board that the applicant could change the two existing signs, as they want because the TOC does not have a content restriction on signs. Paul Gundrum stated in his opinion a new sign is not an improvement. Stephen Melnyk stated that if the ZBA approves this new sign then everyone would want to have the same type of signs. Chairman Frank Clegg stated that the client should refurbish the existing signs. Rob Fitzsimmons asked the Board if they would like any other information i.e. a smaller sign, different location, etc. Mr. Fortune stated that he will bring the ZBA concerns and might come back with something different. David Graziano then read from the TOC ZBA Zoning Law codes stating that signs containing red and green lights are require a 75-foot setback from the roadway and that no flashing lights are allowed. Mr. Fortune asked about reconfiguring the existing signs remaining in the same footprint. Rob Fitzsimmons stated that he would need to check with the TOC Building Department for the regulations. Set for public hearing for the June 29, 2011 meeting.

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

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

Russell Beck was present for the application. Mr. Beck is seeking to construct an 80-foot by 108-foot, 5 bay garage on his site for the storage of his fleet of trucks. Mr. Beck stated that he has contracted Dan Russell of Crawford and Associates for the engineering and Site Plan. Mr. Beck stated that his fleet of business vehicles are currently housed outdoors. Rob Fitzsimmons asked what type of utilities would be supplied to the new building. Mr. Beck stated that the new building would have water and electric supplies. Mr. Beck continued that the building would not have a bathroom, only sinks for washing hands and water for washing the trucks. Chairman Frank Clegg then asked since water will be supplied to the building will there be a septic system. Mr. Beck replied no the wastewater is collected in an oil/water separator that the business currently uses for washing the trucks outside. Mr. Beck continued that the wastewater is collected, separated, and then emptied into the nearby stream. Mr. Beck stated that he has a NYS DEC SPEDES permit for the system. George Schmidt informed Mr. Beck that DEC would most likely require a revised plan for the new building. Mr. Schmidt continued that there a few items that he will address in the comment letter for Mr. Beck's engineer including the separator system. Rob Fitzsimmons stated that the ZBA and NYS DEC can not stop parking but could have issues with the truck washing and well monitoring. Chairman Clegg asked about the two existing monitoring wells. Mr. Beck stated that there are actually three monitoring wells on the site. Chairman Clegg asked what well supplies the current office. Mr. Beck replied the office is supplied by a well on Millbrook Rd. and another by the Keeler property. Chairman Clegg asked if the main entrance is on Millbrook Rd. Mr. Beck stated that the main entrance is from NYS Rte. 9-H but he is planning another entrance from Millbrook Rd. George Schmidt informed Mr. Beck that he might want to look at the TOC ZBA code because the Town of Claverack has standards for commercial driveways. Mr. Schmidt also informed Mr. Beck that the project requires complete engineering plan not just a surveyors drawing for a Site Plan showing site grades, stormwater plan, and extent of disturbance, lighting, drainage details, and NYS DOT permits. Mr. Beck stated that NYS DOT is existing for the current driveway. Mr. Schmidt stated that the permit is good if the current entrance is maintained but if it is changed that will require a new permit from NYS DOT. Rob Fitzsimmons informed Mr. Beck that the Town of Claverack engineer from Morris and Associates would draft a comment letter with details on issues that will need to be addressed by his engineer. Rob Fitzsimmons informed Mr. Beck that the ZBA is not restricting from constructing a garage but in order for the ZBA to make a determination there are issues that need to be addressed. Mr. Beck asked how long the process could take possibly a couple of months. Chairman Clegg stated that the process will take at least another month but the items can be addressed quickly. George Schmidt stated that Morris and Associates would draft a comment letter ASAP to Mr. Beck to expedite the process. Continued to June 29, 2011.

**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.

Mr. Daniel Russell contacted ZBA Secretary informing her that he was recently contracted by the applicant to survey the property. Mr. Russell stated that he had not had sufficient time and was not yet ready to appear before the ZBA. Continued to June 29, 2011 meeting.

**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.

Mr. Ron Perez, President, Dave Robinson, Scott Shallo, and Peter Hogan from the Board of Directors were present for the application. Dave Robinson informed the Board that the Columbia-Greene Humane Society has been trying for the past 15 years to secure a site and build a new facility. Mr. Robinson continued that there was an agreement with the Casivant farm but due to a death the plan fell through. Mr. Robinson stated that they have

Found a new 80-acre parcel directly across from the existing property. Mr. Robinson informed the Board that the Humane Society is before the ZBA seeking an Interpretation before proceeding with a full Site Plan Review. Mr. Robinson continued that the Humane Society use is not included in the Table of Use regulations of the TOC ZBA laws. Mr. Robinson stated that veterinary clinics or veterinarians are allowed and the Humane Society use correlates with their use of the property which is proven in the written argument that was supplied to the Board members. David Graziano stated that he agrees with the use and felt that the argument was very well written. Mr. Robinson stated that they are seeking a determination on the Interpretation and if favorable will then proceed with a full Site Plan Review because they do not want to purchase the property without feeling secure that the project will go forward. Stephen Melnyk asked if the plan calls for using the entire 80-acre parcel. Mr. Perez stated that eventually the plan would be to use as much as possible to care for larger animals that are currently boarded off site. Stephen Melnyk then asked what will the old building be used for. Mr. Perez stated the current building would possibly be used for storage for a time. Mr. Robinson stated that the current facility is falling apart and costing a great deal of money to maintain. Chairman Clegg polled the Board members for opinion. All ZBA members were favorable of the plan. Chairman Clegg informed the applicant of a letter from a neighbor, Ms Sadofsky with a concern of noise. Mr. Robinson and Mr. Perez will contact Ms. Sadofsky regarding her concerns. Set for public hearing on June 29, 2011. Application is exempt from SEQRA

**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 called ZBA Secretary to continue the application to the June 29, 2011 meeting.

Motion to adjourn the meeting was made by Stephen Melnyk with a second from David Graziano. All members were in favor. Meeting adjourned at 8:25 PM

Respectfully submitted,  
Jodi Keyser  
Secretary