

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

Minutes: December 8, 2010
Combined November/December meeting
7:30 p.m.

APPROVED 1/26/11

Chairman Frank Clegg called the combined November/December 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 members with the Pledge of Allegiance.

Members in attendance were:

Chairman Frank Clegg, Stephen Melnyk, Norma Barnard, David Graziano, Oliver Milot, Paul Gundrum, Jock Winch, Engineer; Joe Romano, Attorney; Barrett Mack, and Secretary; Jodi Keyser

Correspondence:

Letter from Supervisor Robin Andrews regarding escrow accounts held by the Town of Claverack.

Letter from Supervisor Andrews regarding Town of Claverack year-end meeting on December 29th at 6:00 PM at the Town Hall building.

Preferred County Properties 3rd quarter housing sale activity for Columbia County.

Board members reviewed the minutes of October 27, 2010. David Graziano pointed to some minor corrections to the minutes.

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

Continuing Board cases for 12/8/10:

Davis, Peter & Ellen: Area Variance for Front Porch located at 499 Fish and Game Rd. Tax Map #(SBL) 111 . - 1 - 18.

Mr. & Mrs. Davis were present for their application. Mrs. Davis reminded the Board that she and her husband are seeking an Area Variance for the addition of an open front porch along their home. Mrs. Davis stated that the plan is to add an 8-foot X 48-foot onto their ranch home. Mrs. Davis continued that when they approached Stan Koloski for a building permit they found out that they did not meet the front yard set back. Mrs. Davis informed the Board that the set back calls for 50-feet and their porch has a 43-foot set back. Chairman Frank Clegg informed the Board that the application has been legally noticed for Public Hearing. Chairman Clegg opened the meeting to the Public Hearing at 7:35 P.M. No comments. Chairman Clegg closed the Public Hearing at 7:35 P.M.

Paul Gundrum made motion for negative declaration regarding the SEQRA with a second from Stephen Melnyk. All members were in favor. Motion carried.

Motion to approve Area Variance was made by David Graziano with a second from Norma Barnard. All members were in favor. Motion carried.

Brandon, Michael dba/ Brandon's: Tax Map # (SBL) 112 . 00 - 01 - 31

Use Variance for an Accessory Use for the purpose of selling used vehicles to be an additional use of a previously approved non-conforming use located at 400 Rte. 217

Mr. Brandon was present for the application. Mr. Brandon is seeking an expansion of his previously approved non-conforming Use Variance to be allowed to sell cars along with his repair business. Mr. Brandon stated that he had received a Use Variance from the Town of Claverack in 1989 but was told that he would need to decide

whether or to sell used cars or repair. Mr. Brandon stated that the business has existed since his father ran it during the 1970's. Mr. Brandon stated that when his father became ill he moved in with his parents and subsequently took over the business when his father was unable to work any longer. Mr. Brandon stated that at that time he decided to repair vehicles and would not sell used cars. Mr. Brandon informed the Board that the type of vehicles that he specializes in are foreign makes i.e. Volvo, VW, BMW, and Saab. Mr. Brandon continued that he has seen his repair business dwindle down over the past few years due to service warrantees with the vehicle companies. Mr. Brandon continued that he is no longer making enough money by only repairing vehicles so he seeks to add to his non-conforming use by selling used vehicles. Mr. Brandon informed the Board that he wants to sell only two vehicles at a time and that these vehicles would be by customer orders. Mr. Brandon stated that the new use is actually an accessory use to his current use. David Graziano asked Mr. Brandon asked if he intends on changing the property for the new use. Mr. Brandon stated no, the screening will remain and was a condition of the previously approved Use Variance. Chairman Frank Clegg informed the Board that the application has been legally noticed for Public Hearing. Chairman Clegg opened the meeting to Public Hearing at 7:40 P.M.

Nadine Gazzola of Rte 217 informed the Board that she is a neighbor of Mr. Brandon and has some issues with his application. Ms. Gazzola stated that she does not have a problem with Mr. Brandon selling used cars but asked the Board if it is considered a separate business and she felt that the application was hurried through the previous meeting. Board members informed Ms. Gazzola that the applicant is not seeking a new separate use but to be allowed to do what is already considered as a part of his current business.

Ms. Gazzola stated that she does not have a problem with Mr. Brandon having a total of 5 vehicles on his property but would have a concern if that number grew to more then 5 because her property in within direct view of Mr. Brandon's property. Mr. Brandon informed Ms. Gazzola that he has no interest in selling more then 2 vehicles at a time and that those vehicles will be only by special request from customers.

Ms. Gazzola then asked why the original Use Variance is in George Brandon's name and not in Mike Brandon's name. Mr. Brandon stated that the Use Variance is in Michael Brandon's name because he is the person that applied for the Use Variance.

Ms. Gazzola then asked if Mr. Brandon was to sell his property does the Use Variance remain with the property or leave with the sale.

Chairman Clegg informed Ms. Gazzola that a Use Variance remains with the property even after the sale of that property, but only if the Use continues. David Graziano continued that if the Use were to stop for a period of one year the Use Variance is dissolved and would require a new application and new approval from the Town of Claverack which is very difficult to obtain. Mr. Brandon addressed Ms. Gazzola that he did not agree with that rule either when he was the Chairman of the TOC ZBA but had no jurisdiction to change it. Chairman Clegg closed the Public Hearing at 7:45 P.M. Barrett Mack informed the Board that they need to decide whether the application is for a new Use Variance or an Interpretation of a current previously approved use. Board members determined that the application was for an interpretation of a current use. Mr. Brandon added that the NYS DMV does not require Town approval for the sale of used vehicles but does require approval for the repair of vehicles. Barrett Mack then informed the Board that Interpretations are exempt from SEQRA review.

Motion to interpret that the sale of used vehicles is Norma Barnard made an accessory use to the previously approved non-conforming use of a vehicle repair business with a second from Stephen Melnyk. All members were in favor. Motion carried.

Tabet, Kim & Brown, Chris dba/ Angus Farm LLC: Tax Map #(SBL)131 . – 1 – 47

Use Variance for the purpose of converting a storage garage to a residential dwelling for caretaker located at 80 Angus Lane

Strike one no show.

New Application(s):

Tri-Form Enterprises Inc.: Tax Map #(SBL) 141 . – 3 – 1 Special Permit for non-profit group/family home – membership club for individuals with disabilities. Located at former Stewardship on Millbrook Rd. property Pat Prendergast; engineer, David Ross; attorney, and Keith Bogardus; owner of Triform Enterprises were present for the application. Mr. Prendergast informed the Board that Mr. Bogardus has recently purchased the former Stewardship on Millbrook Rd. property consisting of 234 +/- acres in the Town of Claverack. Mr. Prendergast

continued that Mr. Bogardus purchased the previously approved 49-lot subdivision, which also contains 2 homes. Mr. Prendergast explained that Mr. Bogardus operates Triform Enterprises, which provides residential therapy for developmentally disabled youth from the ages of 18 to 30 years old and their families. Mr. Bogardus informed the Board that he currently owns property in the Town of Livingston and has outgrown that property so he began to seek another large parcel within a close proximity to the Livingston site. Mr. Bogardus continued that he purchased the former Stewardship on Millbrook Rd. property. Mr. Bogardus stated that the property has two homes that are currently occupied by Triform members and his family. Mr. Prendergast explained that Triform is seeking a Use Variance to form a club/membership organization on the property and to also combine the 234 acres back in to one parcel of land. Mr. Prendergast continued that the TOC is holding a \$500,000.00 roadway bond on the property. Mr. Bogardus is seeking for this roadway bond to be released because the roadway will become a private road maintained by Triform. Mr. Prendergast informed the Board that the roadway will become a private road therefore will not need to meet TOC roadway specs that the TOC is keeping the bonding for. David Graziano asked if Triform had a charter. Mr. Bogardus stated yes. Stephen Melnyk then asked if Triform pays taxes. Mr. Bogardus stated that Triform is tax exempt. Stephen Melnyk then stated that he agrees with the concept of Triform but is having a difficult time agreeing to another 234 acres of property in the TOC off of the tax roll. David Graziano asked if there were some other way that Triform might be able to provide funds to the TOC other than taxes i.e. PILOT program. Chairman Frank Clegg reminded the Board of two other large properties within the TOC that were recently approved by the ZBA and are tax exempt i.e. Hawthorne Valley on Rte 27-B and the Won Buddhist project. Pat Prendergast stated that Triform is not a drain on the school district because the students do not go to school and siblings of the clients attend Hawthorne Valley. Stephen Melnyk asked how Triform obtains money. Mr. Bogardus stated that Triform receives funding from NYS, donations, and tuition, but states that the families do spend money in the local community, which helps the economy. Pat Prendergast stated that it is too bad that the TOC will lose the tax funds on the property but it is a politically responsible act on the part of the TOC. Stephen Melnyk stated that no one has a negative feeling about what Triform does but it is difficult to swallow the tax-exempt issue. Mr. Melnyk continued that the property would have brought a great deal of tax money to the TOC if the economy was better and the houses were selling. Paul Gundrum stated that you couldn't even say that the TOC is losing money for 49 houses so the amount of taxes can not be estimated. Stephen Melnyk stated that if a full build-out for the Stewardship project were reached it would put 49 properties on the tax roll. Pat Prendergast stated that Triform is not planning to sell the property or sell the two houses that are on the property. Mr. Prendergast continued that Triform does intend to build 3 – 4 more houses in the future but it is an expensive venture to construct a home for a disabled individual and to also meet the NYS codes for such. In short Triform is seeking to dissolve the 49-lot subdivision and acquire a Special Use permit. David Graziano asked if the ZBA grants the Use Permit what happens to the \$500,000.00 roadway bond money. Stephen Melnyk stated that the developer paid the money for the bonding so does it go back to the developer for the Stewardship. Mr. Bogardus informed the Board that Triform is in the hole for the \$500,000.00, which was part of the purchase agreement, and they have a timeframe of one year to repay the bond money to the corporation. Mr. Bogardus stated that when the TOC releases the bond money Triform will repay the corporation but if they don't have the bond money then Triform is responsible to pay it back. Pat Prendergast informed the Board that Triform would farm the property, which is also, therapy for the residents. David Graziano stated that he agrees with the concept but the \$500,000.00 bond money being returned is hard to accept. Mr. Graziano continued that the TOC is actually getting nothing and is actually losing money. Joe Romano stated that the roadway bond was never the TOC's money but was a guarantee that the roadway for the Stewardship would be built to TOC specs because the roadway would become a TOC road. Norma Barnard stated that the roadway although private should still be constructed properly for emergency vehicles. Joe Romano stated that the TOC has no jurisdiction over private roads. Paul Gundrum stated that there is no difference between this private roadway and anyone's driveway. Barrett Mack suggested that a technical review would need to happen. Joe Romano informed the Board that the ZBA would approve the Special Use Permit after which new maps would be drawn and taken to the Planning Board. Nathan Chess informed the Board that the applicant approached the Town of Claverack Town Board seeking direction after they purchased the property. Mr. Chess continued that the proper sequence of resolving the use and dissolving the subdivision that should be followed. David Ross; attorney for the applicant stated that the first step is to obtain the approval for the Club/Membership use which would allow for the Planning Board the ability to grant an approval for multiple dwellings on a single parcel. Nathan Chess stated that instead of one parcel the property could be divided in to

two parcels containing a single dwelling, which would alleviate the issue of multiple dwellings on a single parcel. Mr. Ross stated that two parcels would then restrict any future buildings. Chairman Frank Clegg stated that the residents are really not children but more like young adults. Jock Winch asked what would be the total number of buildings in the end. Mr. Bogardus stated that he would estimate that within the next 10 years would build 3 more homes to house 30 more residents. Mr. Ross informed the Board that Triform is heavily regulated by NYS. Mr. Bogardus stated that NYS requires a higher set of regulations and codes for building this type of residence. Jock Winch asked if animals would be housed on the property and what types of farming would take place. Stephen Melnyk asked what about with the 30 steer indicated in the application, does Triform sell the meat, sell vegetables, or sell products made on the property. Mr. Bogardus stated that the residents attend farmers markets selling vegetables, baked goods and woven items for the social development, which is part of their therapy, and not done for the profit. Jock Winch asked if they collect taxes from buyers. Mr. Bogardus stated yes because they are required to pay taxes on those items. Edward Unkel a neighbor of the property asked Mr. Prendergast about an agreement with the former property owner to leave portions of the property forever wild. Nathan Chess then stated that the agreement was with the Stewardship if the 49 lots were built but now those 49 lots are being dissolved into one so the agreement is null and void. Joe Romano stated that leaving portions of the property forever wild could be a condition of the Special Use Permit approval. Mr. Unkel stated that he does not have a problem with the idea but depends on the property that borders his property remaining vacant due to a hunting business he operates. Mr. Unkel continued that he would not be able to rent his property out to hunters if a house were going to be built within 500-feet of his property. Pat Prendergast requested that the TOC ZBA set the public hearing on the application for the January 2011 meeting. David Graziano requested a copy of the deeds for the property. Paul Gundrum requested the applicant provide the Board with a total number of houses at full build-out. Set public hearing for January 26, 2011.

INFORMAL:

Shumsky, Steve & Jennifer:

The Shumskys appeared before the Zoning Board of Appeals seeking advice on subdividing their property located on a private road off of County Rte. 27 in Churchtown. The Shumskys explained that they live in a double wide home located on a parcel consisting of approximately 3 +/- acres. The problem is that the parcel also contains their parent's house and a large garage. The property is actually owned by Mr. Shumskys parents. Mr. Shumsky explained that his father is very ill and his mother is also not in the best of health so they would like to subdivide the property before anything happens. Mrs. Shumsky explained that the homes share a well but have separate septic systems. After reviewing the hand drawn map and listening to Nathan Chess the Board members suggested that they have their property surveyed professionally and to check with their bank because of the number of other issues involved. Members discussed issues of possible area variances for septic, well, and garage issues. The Board also discussed other issues with shared driveways, shared well, and frontage. Mrs. Shumsky informed the Board members that they believe the owners of the property are in financial difficulty at this time and have taken a Home Equity loan on the property. Board members then suggested that they obtain a letter from the owner's bank stating that they will agree to the separation of the property. Mr. & Mrs. Shumsky left the meeting with a list of issues that will need to be addressed before they make a formal submission of the Zoning Board.

Norma Barnard made a motion to adjourn meeting with a second from Stephen Melnyk. All members were in favor. Motion carried. Meeting adjourned at 9:00 P.M.

Respectfully submitted,
Jodi Keyser
Secretary