

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

**Minutes: October 27, 2010
7:30 p.m.**

APPROVED 12/8/10

Chairman Frank Clegg called the October 27, 2010 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:30 PM.

Members in attendance were: Chairman Frank Clegg, Stephen Melnyk, Norma Barnard, David Graziano, Oliver Milot, Paul Gundrum, Engineer; Joe Romano, Attorney; Rob Fitzsimmons, Secretary; Jodi Keyser

Absent with regrets: Jock Winch

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

Correspondence

Bond, Schoeneck & King, PLLC newsletter titled Land Use Case Law Update.

Members reviewed the minutes of September 22, 2010.

Motion to approve the September 22, 2010 minutes was made by Norma Barnard with a second from Oliver Milot. All members were in favor. Motion carried.

Board members discussed the possibility that the November and December ZBA meetings may have to be changed because of the Thanksgiving and Christmas holidays. Members agreed to combine the November and December meetings and hold that combined meeting on December 8, 2010 at 7:30 PM.

New Zoning Board of Appeals cases for 10/27/10:

Davis, Peter & Ellen: Area Variance for Front Porch located at 499 Fish and Game Rd. Tax Map #(SBL) 111 . – 1 – 18. Ellen and Peter Davis were present for their application. Mr. & Mrs. Davis are seeking an Area Variance to construct an open front porch onto their ranch style home located at 499 Fish and Game Rd. Ellen Davis explained that the proposed front porch will be 8' wide. Mrs. Davis continued that the porch will be 43' from Fish and Game Rd. and the ZBA code requires 50' from the roadway. David Graziano asked the Davis' to sign the certification of ownership on the application. Mr. & Mrs. Davis signed the application. Mrs. Davis paid \$19.44 for the certified mailing for the application. Board members agreed that the application is ready for public hearing at the December 8, 2010 meeting. Rob Fitzsimmons instructed the applicants to obtain a public hearing sign from the Town of Claverack Clerk, MaryJean Hoose and erect that sign at least two weeks prior to the meeting.

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

Mike Brandon was present for his application. Mr. Brandon is asking for an accessory use to his previously approved non-conforming variance use. Mr. Brandon explained that he has operated a vehicle repair shop at his residence for which he received a variance in 1992. Mr. Brandon continued that his father operated the repair business until he became too ill. Mr. Brandon moved his family to his parents home and continued his fathers repair business. Mr. Brandon explained that in 1978 he became a registered NYS repair shop and in 1979 was granted a NYS Dealers license. Mr. Brandon is seeking a use variance to be able to have vehicles for sale along with his repair business. Mr. Brandon continued that he wants to have no more than 5 vehicles on site consisting of 3 vehicles for customer repairs and two for sale. Mr. Brandon explained that he would have sale vehicles by order. Chairman Frank Clegg asked if the vehicles for sale would be placed in front of his barn. Mr. Brandon stated no because he will only obtain a vehicle on contract. Rob Fitzsimmons explained that Mr. Brandon currently operates his repair business with a use variance for a non-conforming use so the ZBA could consider the new use as an accessory to the approved non-conforming use. David Graziano stated that in his opinion the sale of used vehicles goes hand in hand with the repair business. Basically the same type of use. Mr. Brandon stated that he his insurance carrier has tacked on large premium for liability but the premium would be significantly smaller if he set up the business to sell vehicles also. Mr. Brandon explained that he met with TOC Building Inspector regarding this issue which Mr. Koloski stated he did not understand why the TOC considered them separate uses. Mr. Brandon stated that he would use one set of books for the business, which was big issue for the ZBA in 1992. David Graziano stated that financial record keeping is not

an issue for the ZBA. Stephen Melnyk asked Mr. Brandon if he was sure that he wanted to limit his vehicles to two and not more. Mr. Brandon stated that two vehicles along with the 3 that are allowed for the repair business brings the total to 5 vehicles on the property at any time which is enough. Stephen Melnyk stated that the application is an auxiliary use to the current repair business and does not really need a use variance. Rob Fitzsimmons stated that the application is actually an Interpretation. ZBA members agreed. Set public hearing for December 8, 2010 meeting for Interpretation. David Graziano added that the new use is not an expansion of the use but part of the same use. Norma Barnard stated that Mr. Brandon's father had everything there at one point. Mr. Brandon stated that he wanted to do things correctly and reminded the ZBA members that he has been ticketed in the past by the TOC building and code enforcement. Joe Romano stated that there is no need for SEQRA review or County Planning review because it is not a Use Variance but only an Interpretation. Mr. Brandon paid certified mail fees of \$25.92. Continued to the December 8, 2010 meeting for public hearing.

Claverack Library Association:

Sue Roberts and Jennifer Post appeared informally before the Zoning Board of Appeals asking for the Town of Claverack ZBA to act as lead agency. Mrs. Post explained that the Library Board is seeking to purchase the A.B. Shaw Firehouse to relocate the library. Mrs. Post continued that the Library is seeking a grant to help with the purchase of the firehouse. Mrs. Post informed the Board that a stipulation of the grant is to submit a SEQRA with lead agency for the grant application. Mrs. Roberts asked the ZBA if they would agree to the lead agency status on the SEQRA for the grant. Rob Fitzsimmons asked Mrs. Post and Mrs. Roberts if the Library is seeking lead agency status from the ZBA or negative declaration of the SEQRA? Mrs. Roberts stated they need to have a lead agency on the SEQRA form. Rob Fitzsimmons informed the Library representatives that the ZBA can take lead agency status but could not declare a negative declaration of the SEQRA until the ZBA has had a full site plan review. Rob Fitzsimmons continued that if the grant needs a declaration on the SEQRA the Library Board should meet and determine if there is or isn't a negative impact with regard to SEQRA then the Library Board could sign off on the SEQRA until the Site Plan Review.

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.

James Romanchuk was present to represent the application. Mr. Romanchuk is the contractor for the applicants. Mr. Romanchuk explained that his client is seeking to change the use of the garage to a residential dwelling for a caretaker for the property. Norma Barnard stated that the application is contradictory asking for changing the use of a garage into a residential dwelling and also asking for construction of a new building. Stephen Melnyk asked if the garage is existing at this time. Mr. Romanchuk stated that there is a foundation for the garage and he has approval with a building permit for the garage. Mr. Romanchuk continued that after he received the building permit his client asked if he could reconfigure part of the structure for a caretaker's residence. Mr. Romanchuk stated that he then went to the TOC Building Department and was sent to the ZBA for a Use Variance. Mr. Romanchuk stated that the property has two residences currently. One is the owner's residence and the other is a small guesthouse. Mr. Romanchuk stated that his clients want a residence for the caretakers of the property and do not want to use the guesthouse for this purpose. Chairman Clegg asked about the size of the new building. Mr. Romanchuk stated that the plan is for a 27' X 68' building with one end for living quarters and the other for pool bathroom and storage. Mr. Romanchuk stated that his clients own 256 acres and are not here because they live full time in NYC therefore they need a caretaker to oversee this property. Chairman Frank Clegg asked if there is an existing septic. Mr. Romanchuk stated yes continuing that the leach field needed to be relocated and expanded as per the CC DOH. Mr. Romanchuk stated the leach field work is in progress now. Joe Romano asked for a copy of the CC DOH permit for the file and to review. Rob Fitzsimmons asked if the property is a working farm? Mr. Romanchuk stated yes. Rob Fitzsimmons then informed the Board that a Special Exception could be considered for migrant workers, which the applicant could pursue, but they would need to file migrant information and other items. Stephen Melnyk stated that the application shows the property is being leased to the Lo-Nan Farm and is using their agricultural exemption. Mr. Romanchuk stated that the Lo-Nan Farm is using the property for sheep. Stephen Melnyk stated that the caretaker housing is not a migrant situation. Chairman Frank Clegg stated that the applicant would need a part. 15 of the State Health code which is difficult to obtain. David Graziano stated that the application is lacking the signature of the owners at the Owner Certification line and also needs to have the letter granting representation notarized. Norma Barnard stated that the applicant is seeking a caretaker dwelling and not migrant living quarters. Mr. Romanchuk stated that he wanted to do the right and legal thing by coming to the ZBA but this type of thing is done all the time. Mr. Romanchuk stated that he advised the owners to do legally and not hidden. Mr. Romanchuk stated that the applicant is not seeking multiple residences on one property but own a large property that needs a caretaker to oversee it. Mr. Romanchuk continued that the owners are not seeking to have multiple people living on the property. The owners are not here very often. Chairman Frank Clegg asked if the caretaker could live in the guesthouse. Mr. Romanchuk stated that it is rarely used but the owners do not want the guesthouse used for a caretaker only for weekend guests. David Graziano stated that it is an application for a new dwelling which needs to be built and not the change of use for an existing building because he wants to make sure it is documented properly. Mr. Romanchuk stated that

the building is approved on paper for a garage, which he has a building permit for but his client wanted to make the change. David Graziano stated that he wants clarification whether the application is seeking a caretaker residence, migrant living quarter or living space for farm workers. Mr. Romanchuk stated caretaker residence. Chairman Frank Clegg asked if the Lo-Nan farm staff is living on the property? Mr. Romanchuk stated no only a caretaker for the owners. Rob Fitzsimmons stated that before the ZBA sends out the certified mailings does the ZBA feel that this is a use variance. Mr. Fitzsimmons continued that this would be the third use on the property, which is a pre-existing non-conforming already. Rob Fitzsimmons continued that it was determined that the property is not a pure farming operation but the application is seeking a residential dwelling which is not for a farm worker. No ag. and markets imposed because the caretaker is not for the farming operation but for the personal property. Not a migrant dwelling purely a use variance. Rob Fitzsimmons stated that he does not want to drag through ZBA but wants the applicant to know how difficult it would be. David Graziano stated that the application does not meet the criteria for granting a Use Variance because the alleged hardship not being self-created would be hard to prove. David Graziano stated that to grant a Use Variance the applicant is required to prove the 5 criteria. Rob Fitzsimmons stated that the owners knew when they purchased the property that there was not a caretaker residence with the guesthouse and primary residence. Mr. Romanchuk stated that the roadway is considered a town road so the applicant could possibly subdivide. Rob Fitzsimmons informed Mr. Romanchuk that the roadway was at one time a town road but was turned back to the owners and is considered a private road now. Rob Fitzsimmons stated that the new zoning laws might allow for multiple dwellings on a single property but at this time only allows for one residence. David Graziano and Rob Fitzsimmons both agreed that the owner has not proven the non self-created hardship criteria. Rob Fitzsimmons instructed Mr. Romanchuk to consult with his client before spending the time and money for something that would not be allowed. Mr. Romanchuk stated that possibly separating a parcel would be the best way to go. Joe Romano stated that the properties would require separate well and septic sites. Mr. Romanchuk will consult with his client and advise Secretary Jodi Keyser of their decision prior to the next meeting. Mr. Romanchuk was advised he had to notify the Secretary no later than November 17th.

INFORMAL:

George Schmidt from Morris Associates appeared before the ZBA with a new application. Mr. Schmidt stated that the application is for a Site Plan Review for a new building within the Columbia County Commerce Park for a landscaping company. Mr. Schmidt stated that the plan calls for a 30' x 50' building consisting of an office and a garage bay for equipment. Mr. Schmidt stated that he met with CC DPW. Mr. Schmidt stated that the property was once two separate lots, which were merged into one single parcel. Mr. Schmidt stated that the maps show an imaginary line that was there prior to the merger. Rob Fitzsimmons stated that the application would require a typical site plan showing lighting, planting, signage, parking with handicapped parking, and hours of operation. Joe Romano asked if the application would require SPEDES permit. Mr. Schmidt stated that the level of disruption is under one acre so will not require SPEDES permits. Joe Romano asked the ZBA if they advise CHA to perform a full technical review and will need to set up escrow account. Mr. Schmidt will contact Mr. Romano. Mr. Schmidt was advised to meet with Building Inspector Stan Koloski to file a formal application prior to November 15, 2010.

Motion to adjourn meeting was made by Norma Barnard with a second from Stephen Melnyk at 8:35 PM. All members were in favor. Motion carried.

Respectfully submitted,
Jodi Keyser
Secretary