

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

Minutes: October 26, 2011
7:30 p.m.

APPROVED 12/14/11

Chairman Frank Clegg called the October 26, 2011 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:30 p.m.

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

Members in attendance were: Chairman Frank Clegg, Norma Barnard, David Graziano, Oliver Milot, Jock Winch, Paul Gundrum, engineer Paul McCreary, attorney Rob Fitzsimmons, secretary Jodi Keyser

Absent: Steven Melnyk

Correspondence: Breakfast Briefing Zoning and Planning Case Law Update Training information from Bond Schoeneck & King.

Columbia County Land Conservancy Agriculture and Farmland Protection Board training on November 12, 2011 at Columbia Greene Community College.

Minutes of September 28, 2011 meeting:

Members reviewed the minutes of September 28, 2011.

Motion to approve the September 28, 2011 minutes was made by Jock Winch with a second from Oliver Milot. All members were in favor. Motion carried.

Members discussed the date for the November and December meetings and the holidays.

Members agreed to combine the November and December meetings and hold the combined meeting on Wednesday, December 14, 2011 at 7:30 p.m. at the Town Hall building.

Continuing cases for 10/26/11:

Schnackenberg, Jurgen: 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. William Better and Vernon Schnackenberg were present for the application. Mr. Better explained that Mr. Jurgen Schnackenberg was home ill and could not attend. Chairman Frank Clegg informed the Board and applicant that he has issues with former TOC ZBA decisions that were not followed by Mr. Schnackenberg. Chairman Clegg continued the public hearing at 7:35 p.m. Chris Eigeman of Donnelly Rd. spoke to the Board. Mr. Eigeman explained that David Robinson was out of town and asked him to represent the neighbors. Mr. Eigeman submitted a letter from Mr. Robinson and additional signatures on a petition. Mr. Eigeman informed the Board that approximately 96% of homeowners on Donnelly Rd. and surrounding Preusser Rd. have signed the petition against Mr. Schnackenberg's structure. Mr. Eigeman explained that the neighborhood contains a very diverse group of people from weekenders to young families to retired couples. Mr. Eigeman continued that everyone knows Mr. Schnackenberg and are clearly indicating that they don't want the ZBA to sweep this issue under the rug again. Mr. Eigeman stated that the neighbors are not happy with Mr. Schnackenberg constructing buildings without a building permit or approvals. Mr. Eigeman read a letter submitted from David Robinson. Mr. Robinson's letter indicated that the neighbors are confused by the several changes in use for the barn that Mr. Schnackenberg built. Mr. Robinson stated that the application states that the barn is for the storage of hay and firewood but at the September meeting Mr. Schnackenberg stated that he plans to raise black angus at the site and use the barn for birthing calves, and then heard maple syrup production, and most recently logging. Mr. Robinson stated that the ZBA meeting sign was not changed to reflect the correct meeting night and asked that the TOC ZBA continue the public hearing until the applicant meets the requirements of the Town of Claverack.

Fred Potts of 211 Tishouser Rd. was there to speak on behalf of the Pine Hill Lodge membership. Mr. Potts explained that the Pine Hill Lodge property shares a contiguous boundary with Mr. Schnackenberg's property. Mr. Potts informed the Board that his membership does not have a problem with Mr. Schnackenberg logging his property as he did in 1995 but would need to inform the members of any different plans for the property. Chairman Clegg started to close the public hearing. Mr. Eigeman asked that the ZBA members consider continuing the public hearing for an additional 30 days or until the November/December meeting to allow the entire neighborhood have the information and for additional information that is being prepared. Rob Fitzsimmons informed the Board that it is up to them to decide if they feel that the public hearing should be continued. Rob Fitzsimmons continued that the Board held a site visit, has heard two months of public comments, and has deemed the application complete. Mr. Fitzsimmons stated that if the Board feels that it has received significant new information then they can continue the public hearing. Mr. Better stated that the Board has held two months of public hearing due to the TOC ZBA secretary forgetting to mail the certified mailing to the abutters and that is not his clients fault. Chairman Frank Clegg stated again that he is concerned with previous ZBA decisions not being carried out and no master plan from Mr. Schnackenberg. David Graziano stated that he felt that the sign should be corrected to reflect the right public hearing date as directed at the September meeting. Rob Fitzsimmons reminded the Board that they were afforded a site visit, neighbors were notified via certified mail, and the public hearing was noticed in the Register Star so the sign is not the only source of informing the public of the hearing. Chairman Frank Clegg stated that the petition from the neighbors does cause concern. Mr. Eigeman asked if Mr. Schnackenberg built a shed without obtaining a permit so is it an enforcement issue. Rob Fitzsimmons indicated that he has been the TOC Attorney since 2003 and knows that Mr. Schnackenberg has a history of building first then asking for approval but the TOC ZBA can not require Mr. Schnackenberg to provide a master plan just because of his history. Rob Fitzsimmons continued that he understands that the neighbors are concerned but the TOC ZBA needs to make a determination. Mr. Better stated that the TOC Zoning laws have changed several times over the past 20 years. Mr. Better stated that according to the law Mr. Schnackenberg's use is agricultural and therefore does not require a building permit or ZBA approval. Mr. Better continued that the storage of hay and firewood in the barn is a permitted use within the Town of Claverack and his client is entitled to have his application approved. Rob Fitzsimmons informed Mr. Better that the TOC requires Site Plans for structures that are not used a residential structure. Mr. Fitzsimmons continued that it is the ZBA's issue to determine if the Site Plan provides information that the use of the barn is a permitted use according to TOC ZBA code. Paul McCreary stated that he is concerned that there were previous decisions from the TOC ZBA regarding this property and the ZBA set certain conditions on the property that the current ZBA should take into consideration before making any determinations. Rob Fitzsimmons stated that Mr. Robinson has made it clear in his letter that Mr. Schnackenberg had a history of subdividing the property and then seeking approval from the TOC ZBA and TOC Planning Board and that the TOC ZBA might have said no more subdivisions without certain guarantees but the current ZBA members have to either require the applicant to provide more information or deem the application complete and make a determination. David Graziano stated that he has an issue with the public hearing sign having the incorrect date. Mr. Graziano cited TOC Zoning Law stating a sign notifying neighbors of the property of the date, time and place of the public hearing is required. Mr. Graziano continued that he would feel better erring on the side of caution to require the applicant to correct the sign with the date of the public hearing. Mr. Graziano also stated that he had a problem with the application having several different uses i.e. animal husbandry, storage of hay and firewood, sugar house, etc. Mr. Graziano felt that he needed more information on the prior history of the property before he could make a decision. Chairman Frank Clegg asked if the public hearing could be continued to the next meeting. Rob Fitzsimmons stated that the ZBA Board needs to either require the applicant to provide additional information and what information they want provided or make a determination on the application. Chairman Frank Clegg polled the ZBA members to determine if they agreed or disagreed with continuing the public comment. All members were in agreement that they favored continuation of the public hearing to the next meeting. Jock Winch asked if over an acre of land was disturbed during the construction and if over an acre was disturbed does the application then require a DEC permit. Mr. Better stated that he is not sure of the exact amount of property disturbed but it did not appear to be over an acre. Jock Winch continued that the disturbance is not only for the barn but should include the driveway also. Mr. Better stated that the roadway was an existing roadway. Jock Winch stated that

might be true but it was only an access to the property and major upgrades were made making it a major roadway. Mr. Eigeman asked the ZBA members if the applicant is required to acquire DEC permits for the driveway because the silt and dirt runoff and have damaged his property during rain. Mr. Eigeman continued that the driveway was only a farming road and it was modified significantly into a very sturdy roadway. Jock Winch asked Mr. Better if the applicant had a copy of a building permit. Mr. Better answered that as he had stated previously his client received a verbal approval from the TOC Building Department prior to constructing the barn but did not get a paper permit. Mr. Better continued that he has tried to contact the TOC Building Department and speak to Stan Koloski to find out what happened but Mr. Koloski is out on an extended leave and he has not been able to speak to him personally. Mr. Eigeman asked if the barn does not require a building permit then why the TOC Building Department would issue a stop work order for the barn. Mr. Better stated that he suspects that the TOC Building Department realized that they had made a mistake and to remedy the mistake they issued a stop work order to correct it. Mr. Better stated that these things happen all of the time in other communities. Rob Fitzsimmons stated that the application is beyond that now. Mr. Better stated that he resides in the Town of Kinderhook and if he wants to build a barn he is not required to get a building permit because it is an agricultural use. Jock Winch stated that the structure is built and therefore it has become an enforcement issue. Mr. Better stated that he understands the concerns but stresses the barn can not be used for any other use then agricultural. Mr. Eigeman stated that the entire neighborhood has made it clear that they are asking the TOC ZBA to review the history of the applicant. Mr. Eigeman continued that it is the conscience of the neighbors that the building is not going to be used for agricultural use but is a garage built for a future residential structure. Mr. Eigeman continued that the TOC ZBA members stated that it is a very pretty barn. Mr. Better stated that the neighbors might be concerned but have been whipped into a fever pitch. Mr. Better reminded the ZBA members that they have visited the site and saw for themselves the only viable use for the building is for storage. Mr. Better continued that Mr. Schnackenberg has an arrangement with the Columbia Land Conservancy and he could build a house on the property and would not be required to do a Site Plan but only needs a building permit. Jock Winch stated that he agrees that the use is not detrimental to the area and does not need ZBA approval for a home but would like more information on any previous ZBA decisions. Chairman Clegg stated that he noticed 138 acres are there any other subdivisions of the property. Mr. Better stated that Mr. Schnackenberg sold the development rights but retained 2 parcels for possible future home site. David Graziano asked if this is just a Site Plan then question #7 on the SEQRA is answered yes then the applicant would be required to get approval from the Columbia Land Conservancy. Mr. Better stated that approval from the Columbia Land Conservancy is not needed for an agricultural use. Rob Fitzsimmons stated that his office has received correspondence from the Columbia Land Conservancy and they are fine. Mr. Better stated that he will provide a letter from the Columbia Land Conservancy for the application. Chairman Clegg stated that the application will be continued to the December 14, 2011 meeting. Rob Fitzsimmons stated that he will send Barrett Mack due to a conflict. Rob Fitzsimmons asked the ZBA members if there is any additional information they would like the applicant to provide at the combined November/December meeting. Chairman Clegg asked for a letter of approval from the Columbia Land Conservancy. Rob Fitzsimmons will contact the Director of the CCLC. Rob Fitzsimmons stated that the use is permitted within the Town of Claverack and the applicant is now well aware that he will be carefully watched by the neighbors for any changes. David Graziano added that he would like the applicant to provide a project description either keeping the use as storage of hay and firewood or animal husbandry or other use.

Continued to the December 14, 2011 meeting.

Continuing business:

Zoning Board members reviewed submitted Site Plan maps for the Pine Haven Telecommunications Tower and determined that the maps show the security fence and details that will surround the tower are adequate. Chairman Clegg stamped and signed the Pine Haven Telecommunication Tower Site Plan maps. Paul McCreary added that the applicant should provide the TOC ZBA a copy of the detailed plans and computations for the actual tower that is provided by the contracted company constructing the tower prior to construction

Motion to adjourn the meeting was made by Jock Winch with a second from David Graziano. All members were in favor. Motion carried. Meeting adjourned at 8:25 p.m.

Respectfully submitted,
Jodi Keyser
Secretary