

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

Minutes: September 22, 2010
7:30 p.m.

APPROVED 10/27/10

Chairman Frank Clegg called the September 22, 2010 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:35 p.m. Chairman Clegg led members of the Board and audience with the Pledge of Allegiance.

Members in attendance were:

Chairman Frank Clegg, Stephen Melnyk, Norma Barnard, David Graziano, Oliver Milot, Jock Winch, Engineer; Joe Romano, Attorney; Nelson Alford, Secretary; Jodi Keyser

Absent: Paul Gundrum

Correspondence were received by the following:

Town of Claverack Building Inspector Report for August 2010

New York Planning Federation conference in Lake Placid 9/26/10-9/28/10

Lorman training for Wetland Regulation for 11/12/10

Hudsonia Biodiversity conference for 9/30/10

Board members reviewed the minutes of the August 25, 2010 meeting. Motion to approve the minutes of 8/25/10 as written was made by Jock Winch with a second from Norma Barnard. All members were in favor. Motion carried.

Continuing Board cases for 9/22/10:

Mr. Nelson Alford addressed the Board members that he was advised of at least 3 post-hearing comments that were submitted to Secretary Jodi Keyser from members of the Rip Van Winkle Amateur Radio Club. Mr. Alford informed the Board that the public comment for each of the telecommunication applications was closed at the August 28, 2010 meeting and it is improper to receive any post-hearing comments unless the Board feels that they have not received enough information to make a determination. Mr. Alford continued that it is totally up to the Board members to decide if they have sufficient information to be able to make a decision on the applications. Mr. Alford informed the Board that Secretary Jodi Keyser brought these submissions to his attention. Mr. Alford stated that he advised Secretary Keyser not to allow these post-hearing submissions to the Board members. Members informed Mr. Alford that they received a letter from a member of the RVWARC individually. Mr. Alford then directed the members to decide if they feel that they have received sufficient information to be able to make a decision on the applications and that a vote not to re-open the public hearing would then need to be made.

Motion by the Board to not entertain any further public comment on the telecommunication tower applications was made by Jock Winch with a second from Norma Barnard. All members were in favor. Motion carried.

Board member Stephen Melnyk asked Mr. Alford to inform the RVWARC that the TOC ZBA will not hear any further comments and the ZBA Board members deserve an apology for the derogatory statements referring to the TOC ZBA members in the letter.

Mariner Tower II LLC: Tax Map # (SBL)143 . – 1 – 08 Located at 1631 County Rte. 11 Stop 100 Craryville Special Exception for development of new public utility/telecommunications facility including a monopole tower.

Chris Ciolfi was present for the application. Mr. Ciolfi submitted a Section 106 sign off for the NYSOPRHP and he will submit the final approval letter when he receives it. Mr. Alford informed the Board and Mr. Ciolfi that the CC Planning Department met on 9/21/10 and has submitted a favorable recommendation for the Board. Jock Winch expressed gratitude to Mr. Ciolfi for his professionalism and concise presentation of his application. Board members agreed. Joe Romano reviewed the SEQRA part II for the Board members. Motion for Negative Declaration regarding the SEQRA was made by Stephen Melnyk with a second from Jock Winch. All members were in favor. Motion carried.

Mr. Alford then reviewed the Resolution granting Area Variances for side-yard, rear-yard, and front-yard setbacks for the Board members.

Motion to approve Resolution and grant Area Variance was made by Jock Winch with a second from Stephen Melnyk. All members were in favor. Motion carried.

Mr. Alford then reviewed the Resolution for Final Approval of Special Exception for the construction of a Telecommunication tower. Board member David Graziano asked that items # 6, #7 and #8 should reference the paragraph of the TOC Zoning Law as previous items. Mr. Alford will add references to the Resolution.

Motion to approve the Resolution for Final Approval of Special Exception for the construction of a telecommunications tower with addition to Resolution referencing Town of Claverack Zoning Law to items # 6, 7, and 8 was made by Jock Winch with a second from Oliver Milot. All members were in favor. Motion carried. Mr. Alford informed the Board members that he will make the necessary corrections to the Resolution and then email them to Secretary Jodi Keyser.

Homeland Towers LLC NYNEX Mobile Limited Partnership 2 d/b/a Verizon Wireless:

Tax Map # (SBL)143 . – 1 – 42 Balance of Interest test for proposed Telecommunications facility at Forest Lake, Philmont NY

Mr. Visconti was present for the application. Mr. Alford and Joe Romano reminded the Board that they made a previous determination on the SEQRA Part II. Motion for Negative Declaration with regard to SEQRA was made by Stephen Melnyk with a second from Norma Barnard. All members were in favor. Motion carried.

Mr. Alford then informed the Board that the first Resolution deals with the applicant's request for Governmental Immunity from Town of Claverack Zoning Review because the tower will be located on municipal property owned by the Village of Philmont. Mr. Alford read the Resolution for Governmental Immunity which cited the NYS Court of Appeals case of the County of Monroe vs. the City of Rochester 72NY2d338(1988) as a balancing of public interest. Mr. Alford continued to read the Resolution which found that due to the fact that the Village of Philmont stands to benefit financially from the construction and operation of a telecommunications tower being located on Village of Philmont property the Resolution is made to deny the Request for Governmental Immunity. Jock Winch stated that there were two other similar applications that were also seeking Governmental Immunity in the past and they were also denied.

Motion to Deny Request for Governmental Immunity was made by Norma Barnard with a second from Jock Winch. All members were in favor. Motion carried.

Mr. Alford then read the Resolution for Area Variance for a Side-yard setback. Motion to approve Area Variance for a Side-yard setback was made by Stephen Melnyk with a second from Oliver Milot. All members were in favor. Motion carried.

Mr. Alford then reviewed the Resolution for Final Approval of Special Exception for the construction of a telecommunications tower at Forest Lake. David Graziano again asked that items #7 and #8 reference the paragraph of Zoning Law. Mr. Alford will add the references. Mr. Graziano also asked that the Resolution address the RVWARC antenna installation on the new tower and removal of the old whip antenna. Mr. Graziano suggested that the applicant should be held to a time limit for installation and removal of the RVWARC antenna. After some discussion the Board agreed that Homeland Tower LLC should be limited to a 3-month time frame for installation and removal of the RVWARC antenna from the date of completion of the Homeland Tower LLC Telecommunication tower. Mr. Visconti addressed the Board stating that his client would rather have a 6-month or longer time limit for the installation and removal of the RVWARC antenna because they are currently in negotiations with the radio club and have nothing in writing as of this meeting. Mr. Visconti stated that he would rather have extended time because they need to finalize things with the Radio club. Mr. Alford commented that at the previous meeting it was clearly stated by the Homeland Tower

representatives and representatives from the RVWARC that they had entered into and signed a written agreement as stated for the Board. Norma Barnard agreed. Mr. Visconti then agreed to the condition. Motion to Approve Special Exception for the construction of a telecommunication tower at Forest Lake with conditions that the new Rip Van Winkle Amateur Radio Club antenna be installed and the old Rip Van Winkle Amateur Radio Club whip antenna be removed within 3-months of the completion of the Homeland Tower Telecommunications tower and that Town of Claverack Zoning Law referenced in items # 7 & # 8 of the Resolution was made by David Graziano with a second from Stephen Melnyk. All members were in favor. Motion carried.

Motion to adjourn meeting was made by Stephen Melnyk with a second from David Graziano. All members were in favor. Motion carried. Meeting adjourned at 8:40 p.m.

Respectfully submitted,
Jodi Keyser
Secretary