

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

Minutes: September 28, 2011
7:30 p.m.

APPROVED 10/26/11

Chairman Frank Clegg called the September 28, 2011 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:30 pm. Chairman Clegg led Zoning Board members and the audience in the Pledge of Allegiance.

Members in attendance were: Chairman Frank Clegg, Steven Melnyk, Norma Barnard, Jock Winch, Oliver Milot, David Graziano, engineer Paul McCreary, attorney Barrett Mack, secretary Jodi Keyser.

Absent with regrets: Paul Gundrum

Correspondence

Letter from Rapport Meyers Whitbeck Attorneys at Law regarding a possible ZBA application for Tibet/Brown residence on Angus Lane.

Letter from TOC Building Inspector Stan Koloski regarding Tibet/Brown.

Board members reviewed the minutes of August 24, 2011 meeting.

Motion to approve the August 24, 2011 minutes with 2 minor changes was made by Steven Melnyk with a second from Norma Barnard. All members were in favor. Motion carried.

Continuing cases for 9/28/11:

TOC attorney Barrett Mack asked to be recused from the meeting during the Columbia County Special Exception due to conflicts of interest.

County of Columbia Special Exception: 201 Main St. Philmont Tax Map #(SBL) 113 . – 1 – 20 . 110
Special Exception for the construction and replacement of a 190-foot telecommunication tower and removal of existing tower and water tank located at Pine Haven

David Robinson and Dean Knox were present for the application. Mr. Robinson submitted a packet in response to Paul McCreary's comments on the proposed telecommunications tower. Mr. Robinson answered each comment. Mr. Robinson stated that the most controversial point made by the comment letter and the ZBA members were the setbacks of the tower especially along the property of Philmont Family Dentistry. Mr. Robinson informed the Board that the plans were modified to meet all of the required setbacks as per TOC code for telecommunications towers. After answering all of the comments from Morris and Associates Mr. McCreary indicated to the Board members that the applicant has modified the plans and corrected the largest issue by meeting all of the required setbacks for the site. David Graziano stated that he was glad that the plan was modified to meet the setbacks but did have an issue with the fact that the telecommunication tower would not be secured with a fence. Mr. Graziano stated that he did not feel comfortable with no fence and leaving the tower open. Mr. Robinson stated that the existing tower has never had fencing and this has never been an issue. Mr. Robinson stated that the siting of the tower at the Pine Haven Home made it a very secure site. Oliver Milot suggested that the applicant might look into different types of fence to make it aesthetically pleasing and non-obtrusive. Chairman Frank Clegg stated that the ZBA has reviewed other telecommunication towers in the past and has always required a fence and security measures in place. Chairman Clegg continued that towers like the Snyderstown Rd. tower are in extremely remote areas but they were required to have fencing and security. David Robinson stated that he did not see a problem with adding a fence to the site and would look into different types of fence at different heights. Board members suggested

the fence be high enough to make it secure and would not require the applicant to have barbed security wire on the fence because of the location.

Chairman Frank Clegg opened the meeting to public hearing at 8:00 pm. William Better asked how far the proposed telecommunication tower is from the Taconic State Parkway. Dean Knox answered that the site is approximately ¼ mile from the Taconic State Parkway. Mr. Better then stated that the Taconic State Parkway is a registered landmark on the National Registry of Historic Preservation and the height of the tower will be a negative visual impact along the TSP. Mr. Better informed the Board that the tower will be the same height of a 15 story building. Mr. Better continued that he relies on his cell phone just as much as anyone but the ZBA should be encouraging tourism in the area and within the county. Mr. Better asked the Board to carefully review the full visual impact of the application and the ZBA should be requiring Columbia County to provide a visual analysis. Mr. Better urged the ZBA to treat the County just as it has other applicants seeking to construct a telecommunication tower. Chairman Frank Clegg stated that recently approved Homeland Tower site is about a mile from the Taconic State Parkway and the Board required a balloon test for visual impacts. Jock Winch agreed that the applicant should be required to provide the same information and testing as all other applicants. Norma Barnard stated that the Snyderstown Rd. tower is visible from the Taconic State Parkway. David Graziano stated that the TOC Zoning Code states that the Board “may” require the applicant to perform visual impact tests but it is not required. Mr. Graziano continued that he did however understand the concern raised by Mr. Better. Mr. Robinson stated that he has complied with all of the Zoning Code requirements and requests of the ZBA. M. Robinson continued that the tower is a replacement of an existing tower even though the proposed tower is larger. Mr. Robinson continued explaining to the ZBA that the replaced tower will be a huge benefit to the community by providing better service to the village of Philmont and neighboring Mellenville area. Mr. Robinson also reminded the Board that eventually emergency services would benefit from the tower also. Mr. Robinson stated that over 350 neighbors of the site were notified via certified mailing of the application and neither he nor the ZBA has received any negative comments about the plan which replaces the existing tower. Mr. Better stated that the new tower would double the size of the existing tower. Chairman Frank Clegg stated that there is an existing tower at the site. David Graziano stated that the recently approved towers had a large audience of negative comments during the process and the current application has not had the same effect. Mr. Graziano continued that he also likes to see and maintain open space but also hears complaints of poor coverage. Chairman Clegg reminded the Board that the recent two towers indicated that in order to have complete service to areas a tower would be needed ever 5 miles. Mr. Robinson indicated that he has addressed all of the comments from Morris and Associates and requested the ZBA give approval to the Site Plan tonight. Jock Winch stated that the applicant has addressed the possible need of an area variance by modifying the application to meet the setback requirements. Jock Winch asked if the applicant had notified the Taconic State Parkway Authority. Mr. Robinson stated that everyone the Board required notified were noticed via certified mail. Chairman Clegg closed the public hearing at 8:12 pm. Paul McCreary reviewed the SEQRA for the Board. Paul McCreary indicated to the Board that Part I of the SEQRA was correct but he urged the Board to review the Visual EAF addendum for visual impacts. Jock Winch stated that he would prefer to have legal council for the final decision. Paul McCreary reviewed the 7 questions of the Visual EAF for the Board. Mr. McCreary informed the Board that the evaluation of the Visual Impact of the application allows them to make a determination on the question of visual impacts on the SEQRA form. Mr. McCreary read the 7 questions of the Visual EAF for the Board. Members then discussed the visual impacts and decided that the replacement tower would not have a significant visual impact with regard to the SEQRA.

Motion for negative declaration with regard to SEQRA was made by Jock Winch with a second from Steven Melnyk. All members were in favor. Motion carried.

Motion to grant Site Plan approval of the replacement of a telecommunication tower at Pine Haven with the condition of the addition of a 6-foot security fence with plantings to surround the tower site was made by Norma Barnard with a second from Steven Melnyk. All members were in favor. Motion carried.

Paul McCreary suggested that the ZBA members might want to formulate for the minutes the reasons and information that they used to determine that the applicant would not be required to perform a balloon test for the visual impact or prepare a visual impact statement.

Steven Melnyk stated that the Town of Claverack Zoning Board of Appeals has reviewed and discussed the visual impacts of the application and has determined that the applicant, Columbia County would not be required to perform a balloon test or prepare a visual impact statement because of the following reasons: The proposed telecommunication tower is a replacement of an existing tower located at the site. The proposed replacement telecommunication tower will make create better cellular service for the area. And, with the fact that the applicant receiving minimal negative comments after sending over 350 notices to neighboring residents via certified mailings notifying them of the application, 2 months of public hearings on the application, and notice of the application published in the local newspaper. Maps will be stamped and signed when they are modified to show the fence and planting details.

TOC Attorney Barrett Mack re-enters the meeting.

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. Schnackenberg, his surveyor Dan Russell, and attorney William Better were present for the application. Mr. Russell submitted revised Site Plan maps, EAF and two (2) driveway approval letters from TOC highway Louis Lamont. Chairman Frank Clegg, Norma Barnard, and Paul McCreary went to Mr. Schnackenberg's property for a site visit prior to the evenings meeting. Chairman Clegg commented that it is a very nice barn and seemed too nice for the storage of hay and firewood. Secretary Jodi Keyser informed the Board that the application is on the agenda for public hearing but the certified mailings for the application were not sent out. Jodi Keyser informed the applicant and Board that the certified notices will be mailed out prior to the October meeting. Barrett Mack informed the Board and applicant that the public hearing could be opened at this meeting and remain open until the October meetings for further comments after the notices are sent. Chairman Clegg asked why the barn needs solar panels. Mr. Better informed the Board that the solar panels are needed to keep his batteries that run the farm machinery warm during the winter. Mr. Schnackenberg continued that he is not using the radiant heat in the floor currently but eventually he plans to raise Angus on the property and it was easier to put the piping in when the concrete was poured. Mr. Schnackenberg stated that the heated floor is needed for when calves are born to keep them warm.

Jock Winch stated that the applicant is asking for the ZBA to determine if the barn is an agricultural use, the setbacks are met and the roadway is approved by TOC highway. Paul McCreary remembered reading over many emails regarding the application and some TOC Planning and Zoning Board decisions that have impacted this property and application. Mr. McCreary suggested that the ZBA research these issues before making a determination. Barrett Mack informed the Board that he will look into all previous determinations on this property. Chairman Frank Clegg opened the meeting to public hearing at 8:40 pm and the public hearing will remain open until the certified notices are sent to the abutters. David Robinson submitted a letter and petition signed by neighbors of the property. Mr. Robinson read the letter asking for the ZBA to research the history of the property and history of Mr. Schnackenberg with the Town of Claverack.. Mr. Robinson informed the Board that Mr. Schnackenberg failed to obtain a TOC Building permit for the barn, was denied a variance from the TOC ZBA in 1991 for the property, the property is not within an agricultural district, and Mr. Schnackenberg has not submitted a master plan for the property as requested from the TOC ZBA in 1991. Mr. Robinson asked that the ZBA research the history of the property and Mr. Schnackenberg, research why the TOC ZBA denied a variance for Mr. Schnackenberg in 1991, and request Mr. Schnackenberg submit a master plan for the parcel.

Chris Eigeman of 63 Donnelly Rd. stated to the Board that Mr. Robinson's account is accurate and the way much of the neighbors feel about Mr. Schnackenberg's barn. Mr. Eigeman continued that he would like to touch on a few points of the application. Mr. Eigeman stated that he was told that the roadway being built was to harvest timber from the property. Mr. Eigeman asked why the applicant was not required to acquire DEC approval for timber harvesting. Mr. Eigeman continued that Mr. Schnackenberg's roadway has caused damage to his property because every time it rains debris washes down the roadway, across Donnelly Rd. and onto his property. Mr. Eigeman stated that before the roadway was only an access to the property and he had

no problems. Mr. Eigeman stated he began to notice that the roadway was being changed and built for much heavier traffic. Mr. Eigeman continued that after he watched this major roadway go in approximately 5 days later the barn was up and built. Mr. Eigeman then stated that he found out that Mr. Schnackenberg was issued a stop work order from the TOC building department. Mr. Eigeman stated that the work stopped for a couple of days but then continued again. Mr. Eigeman stated that he does not have a problem with people using their property for agricultural uses but is finding it harder and harder to believe Mr. Schnackenberg's claims. Mr. Eigeman does not understand why the barn needs to have radiant heat for the storage of hay and firewood but radiant heat would make sense if Mr. Schnackenberg was using the barn as a garage for a yet to be built residence. Mr. Eigeman continued that another point is that he will take Mr. Schnackenberg's word if he states that he is using the barn for hay storage but requests that the TOC ZBA examine the application fully and require Mr. Schnackenberg to submit a master plan and hold him to that plan.

Terry Robinson stated that she understands that Mr. Schnackenberg claims that the barn is for the storage of hay and firewood but asks if the applicant has a plan for emergency access to the barn incase of fire. Mrs. Robinson continued that emergency access is going to be difficult on the 700 foot roadway that is gated and locked. Continued public hearing until October meeting.

Mr. Robinson informed the Board that Mr. Schnackenberg's comment regarding raising Angus on the property is considered animal husbandry and is the first time he has mentioned this idea on this application. David Robinson questioned the application asking why the applicant is now stating that he will have animals on the property. Mr. Robinson continued that raising animals was never mentioned in the application and where will the animals graze because the property is largely wooded. Mr. Schnackenberg stated that he was always planning on using the property to raise animals and has some of the Black Angus on his other property. Steven Melnyk asked why radiant heat is needed in a barn for animals. Mr. Schnackenberg stated that the radiant heat is only in the utility room and that the heifers need the heat for birthing calves. David Graziano stated that this is the first time the applicant has indicated that he will be raising animals on the property. Jock Winch stated that the applicant has mentioned a TOC Building permit and requested that a copy of the building permit be submitted to the file.

Mr. Better stated that he will reserve comment until the close of the public hearing.

Motion to adjourn the meeting was made by Norma Barnard with a second from Steven Melnyk. All members were in favor. Meeting adjourned at 9:15 pm.

Respectfully submitted,
Jodi Keyser
Secretary