

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

Meeting: July 27, 2011
7:30 p.m.

DRAFT COPY

Chairman Frank Clegg called the July 27, 2011 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 in the Pledge of Allegiance.

Members in attendance were as follows:

Chairman Frank Clegg, Stephen Melnyk, Norma Barnard, David Graziano, Oliver Milot, Paul Gundrum, Engineer Paul McCreary, Attorney Rob Fitzsimmons, Secretary Jodi Keyser

Absent with regret: Jock Winch

Correspondence:

TOC Building Dept. report

Board members reviewed the Minutes of the June 29, 2011 meeting.

Motion to approve corrected minutes was made by Stephen Melnyk with a second from Norma Barnard. All members were in favor. Motion carried.

Continuing cases for 7/27/11:

Drake Petroleum Co. Inc.: XtraMart - Rte. 23 & 9-H Tax Map #(SBL) 121 . 3 – 2 – 13

Special Exception for expanding hours of operation from previously approved 6:00 a.m. to 10:00 p.m. to 5:00 a.m. to 11:00 p.m.

Ron Fortune and Scott Carver, marketing representative were present for the application. Mr. Fortune reminded the Board that his client is seeking to expand the hours of operation for the X-tra Mart convenience store located at NYS Rtes. 9-H and 23 in Claverack. Mr. Fortune explained that the hours are currently 6:00 a.m. to 10:00 p.m. and his client is seeking to expand those hours to 5:00 a.m. to 11:00 p.m. Mr. Fortune continued that the closest gas station/convenience store is at least 3 miles away at the Bells Pond location which is a distance to travel and is not close enough. Stephen Melnyk stated that he does not feel that 3 miles away is a significant distance to require additional hours at this intersection. Mr. Carver stated that their customers have asked for the additional hours. Stephen Melnyk stated that the store is already opening earlier now. Mr. Carver stated that he was not aware of the store opening earlier, but there are employees on site earlier to get things ready for opening. Stephen Melnyk continued that the store is open for business earlier than the approved 6:00 a.m. not just for the employees to get things ready. David Graziano informed Mr. Carver that he had a conversation with a store employee a few months ago about opening earlier and the employee stated that he was told that he could open at 5:00 a.m. Norma Barnard asked Mr. Carver how he could not be aware that the store was opening earlier because the employees are being paid for their time. Mr. Carver again stated that he was unaware of the early opening. Chairman Clegg resumed the public hearing at 7:40 p.m.

Howard Branston stated that the expansion of hours is a benefit to the community and a benefit to the economic development for town center but feels that a larger sign might be a detriment.

Ed Sturges stated that he moved to the area for the quietness and he can not see the need for additional hours and the increased noise and lighting that will also increase.

Chairman Clegg closed the public comment at 7:43 p.m.

Motion to declare negative declaration with regard to the SEQRA was made by Stephen Melnyk with a second from David Graziano. All members were in favor. Motion was carried.

Motion to deny Special Exception for the expansion of the hours of operation was made by Paul Gundrum with a second from David Graziano. All members were in favor. Motion carried.

Drake Petroleum Co. Inc.: XtraMart - Rte 23 & 9-H Tax Map #(SBL) 121 . 3 – 2 – 13

Area Variance for installation of a new 84 square-foot sign to replace two existing signs. New sign exceeds allowed square footage.

Mr. Fortune reminded Board members that his client is seeking to replace the two existing signs with one sign to be located at the intersection of NYS Routes 9-H & 23. Mr. Fortune continued that the 84' foot sign is smaller and will replace the two existing signs which are greater in square footage. Mr. Fortune stated that the new sign will sit 8-feet above the ground to allow for adequate site distance at the intersection. Stephen Melnyk asked Mr. Fortune what orientation will the new sign sit at the intersection north – south or east-west. Mr. Fortune stated that the sign will sit at approximately a 45% angle to the intersection and will be placed directly at the corner. Chairman Clegg suggested that the existing signs are more visible from all roadways and directions of travel. Mr. Carver stated that the new signs are needed for the upgrade and it is better to replace the two large signs with one sign. Norma Barnard stated that she has had conversations with employees that are afraid to change the numbers on the existing signs because they could fall on them. Mr. Fortune informed the Board that Citgo has certain marketing requirements for advertising their logo and the current signs are deteriorating beyond repair. Chairman Clegg asked why the client could not just upgrade the current signs. Stephen Melnyk stated that if the new sign is not approved then the applicant could revamp the existing signs. Paul Gundrum asked the difference in square footage is for the new sign as opposed to the existing signs. Mr. Fortune stated that the existing signs are 48-square feet and 49-square feet respectively with the new sign being 50-square feet. Chairman Clegg stated that he could not understand the placement of the sign at the intersection because it will be less visible than the existing signs. Stephen Melnyk asked if the LED lights can be controlled for brightness. Mr. Fortune stated that the signs are turned up during the daylight and down in the evening. Norma Barnard asked how far the light is spread from the sign. Mr. Fortune stated that he did not know the spread of the light but the new location is farther from residences than the existing signs.

Chairman Clegg re-opened the public hearing at 7:55 p.m.

Howard Branston stated that the luminescence of the sign should be at the lowest level. Mr. Carver stated that he does not have the specifications on the luminescence of the sign. Howard Branston continued that LED signs are very bright especially at night and even more in this rural area. Mr. Branston suggested that the requirement for lighting is ½ the brightness of the moon. Mr. Fortune stated that he did not have the information on the sign but would gather the information for the next meeting. Ed Sturges asked if the existing vegetation and plantings will remain. Mr. Sturges stated that he has also seen signs at other locations that are low to the ground with plantings along them to be as unobtrusive as possible. Mr. Fortune stated that the ZBA has concerns with the sight distance at previous meetings so the plan was revised to raise the sign for increased visibility. Mr. Fortune also stated that the existing plantings will be removed in order to construct the foundation for the sign. Chairman Clegg closed the public hearing at 7:57 p.m.

Motion to declare negative declaration with regard to SEQRA was made by David Graziano with a second from Paul Gundrum. All members were in favor. Motion carried.

Members then discussed the application. Stephen Melnyk stated that he feels that replacing the two existing signs with one sign is the lesser of two evils but would require that the luminescence of the LED sign be controlled. Mr. Melnyk stated that he would rather see a sign without lighting if possible. Oliver Milot suggested that he is not in favor of the new location because of the site view at the intersection. Mr. Milot continued that he understands the need to replace the existing signs but the location of the new sign is a problem. Mr. Milot asked the applicants why they could not retrofit or modify the existing signs. Mr. Fortune stated that it would double the cost of the project to modify the existing signs. Paul Gundrum stated that he has issues with both the location and the size of the new sign. Mr. Gundrum suggested that the site is the only gas station in the hamlet therefore it can not be missed so is there a need for more signage. Chairman Clegg stated that he did not understand the location. David Graziano stated that he does not like the location either. Norma Barnard suggested placing the

sign at the site of the existing diesel sign might be a better site. Mr. Fortune stated that the sign could not be viewed from east-west if location is changed.

Mr. Fortune then provided the Board with a drawing of the canopy. Mr. Fortune stated that at this time the canopy is white but the applicant is seeking to add the Citgo logo, name and colored bands on every side. Stephen Melnyk stated that the colored bands are an enhancement but the triangle and Citgo name are advertising and considered additional signage. Mr. Fortune asked if this would require a new application. Board members answered yes. Mr. Fortune asked to be clear if only colored bands then to Stan Koloski for Building permit but if logo and name it would require ZBA approval for additional signage.

Continued to August 24, 2011.

Valley Oil Company: 5848 Route 9-H Tax Map #(SBL) 131 . – 01 – 20. Site Plan for construction of new 80' X 108' garage.

Pat Prendergast and Russell Beck were present for the application. Paul McCreary stated that he had reviewed the application but did not see proposed landscaping on plan to shield neighbors along Millbrook Rd. Mr. Beck stated that there are existing evergreens along the back of the property and they are all in good shape and this is not a problem but he would do additional plantings if required. David Graziano asked if the applicant noticed the public hearing by placing a meeting sign at the site. Mr. Beck stated yes he placed the sign directly in front of the office. Chairman Clegg opened the meeting to the public hearing at 8:15 p.m.

Jenny Post of NYS Rte 9-H asked if there is a plan to change the CC Rte. 27 and NYS Rte. 9-H intersection because of the large truck traffic. Mr. Beck stated that the large trucks will use the Millbrook Rd. entrance and all other trucks will use NYS Rte. 9-H. Pat Prendergast stated that he was unaware of the need to change the intersection. Chairman Clegg closed the public hearing at 8:17 p.m.

Motion to find negative declaration with regard to SEQRA was made by Stephen Melnyk with a second from Norma Barnard. All members were in favor. Motion carried.

Motion to approve Site Plan as presented was made by Norma Barnard with a second from Stephen Melnyk. All members were in favor. Motion carried. Site plan maps stamped and signed.

Stringham, Varick: 406 Route 23-B Tax Map #(SBL) 120 . 2 – 1 – 4 Site Plan Review for additional use of a new professional dance studio.

Mr. Varick Stringham was present for the application. Mr. Stringham is seeking to add an additional use of a professional dance studio at 406 NYS Rte. 23-B.

Chairman Clegg asked Mr. Stringham if he had received approval for the septic system from CC DOH. Mr. Stringham stated that he had spoken to Mike DiRuzzio of the CC DOH and was informed by Mr. DiRuzzio to clean out the existing septic tank but would not need to replace unless the existing system failed. Mr. Stringham stated that Mr. DiRuzzio also informed him to determine and develop a raised bed system and would also like to be notified where it is going.

Chairman Clegg opened the meeting to public hearing at 8:20 p.m. Mary Daly of Webb Rd. asked the Board if the applicant could be required to install the curbing that was a condition of the 2009/2010 approval. Mrs. Daly also stated that she does not have an issue with the addition of a dance studio but at the time of the previous approval the septic system was not an issue because of the type of use, but now the additional use of a dance studio should require CC DOH review. Mrs. Daly informed the Board that the applicant should be held to completing the conditions of the previous approval before allowing any new approvals because he has not fulfilled the previous conditions.

Chairman Clegg closed the public hearing at 8:22 p.m.

Norma Barnard asked if the applicant is planning to add an additional bathroom. Mr. Stringham stated that he is going to construct a wall and turn the current bathroom into two bathrooms. Norma Barnard then asked how many uses are currently housed at the building. Mr. Stringham stated that COARC rents the rear portion of the building to repair their fleet of vehicles, another repair business uses a portion to store his equipment, the dance studio will use the front of the building, and Mr. Stringham stated that he uses the center portion for his own personal use. Norma Barnard asked Mr. Stringham if he intends to remove the COARC and repair use with the

approval of the addition of the dance studio. Mr. Stringham stated that he is looking to change the use of the building to softer types of uses but at this time he can not afford to lose the revenue from COARC or the repair storage. Mr. Stringham stated that he could not give a definite time frame for removal of those uses. David Graziano asked Mr. Stringham if he has curb cut approval from NYS DOT. Mr. Stringham stated that he had NYS DOT letter dated 2009 with curb cut approval. Secretary Jodi Keyser found a letter from NYS DOT in the 2009 file detailing the requirements for curb cuts along NYS Rte.23-B but Mr. Stringham never had official engineered plans submitted therefore no NYS DOT permitted curb cuts. Rob Fitzsimmons informed Mr. Stringham that he is required to install NYS DOT approved curb cutting. Paul McCreary asked if there were engineered plans. Mr. Stringham stated that he has not had engineered curb cut plans designed. Rob Fitzsimmons informed Mr. Stringham that he will need to have curb cuts designed and engineered plans supplied to the NYS DOT for approval and install the curb cuts accordingly prior to the new use.

Motion to determine negative declaration with regard to SEQRA was made by Paul Gundrum with a second from Oliver Milot. All members were in favor. Motion carried.

Rob Fitzsimmons asked Board members if they had any issues with a dance studio use and a mechanic/repair use in the same building. Chairman Clegg stated that if there are issues with the septic system then the applicant will be required to obtain CC DOH approval. Mr. Stringham stated that he will seek CC DOH approval if there is a problem and will also obtain NYS DOT permits.

Board members discussed conditions of the approval as follows:

- 1) Plantings need to be installed as per the 2010 approval with a row of trees to the rear of the property to screen the Webb Rd. area and install a stone wall with small bushes and soft grasses along NYS Rte. 23-
- 2) NYS DOT curb cuts approved, permitted and installed as per engineered design.
- 3) Install engineered septic system in accordance with CC DOH standards in the event of a septic system failure.

Mr. Stringham informed the ZBA Secretary that the hours of operation of the dance studio will be 5:00 p.m. to 8:00 p.m. Mondays through Wednesdays and from 8:00 a.m. to 1:00 p.m. on Saturdays which was corrected from the July minutes.

Norma Barnard asked Mr. Stringham if he intends to advertise the new use. Mr. Stringham stated that he will use the existing signs on the building and at the roadway for advertising only changing content not size. Mary Daly asked if the existing access road from Webb Rd. still will not be used. Board members stated no as per previous approval.

Rob Fitzsimmons advised the Board that they could grant approval pending conditions #1 and #2 are completed prior to new use allowed to operate at site.

Motion to conditionally approve Site Plan for new use of addition of a Dance Studio / Professional office at 406 NYS Rte. 23-B and prohibit operation of dance studio pending completion of conditions #1 and #2 was made by Oliver Milot with a second from Paul Gundrum. All members were in favor. Motion carried.

Triform Enterprises Inc.: Millbrook Rd. Tax Map #(SBL) 141 . – 3 – 22 Modification of a previously approved Special Permit/Use for the construction of a new group/family home.

Pat Prendergast, engineer and Don Pulfer, architect were present. Pat Prendergast supplied maps showing a newly designed septic system. Mr. Prendergast stated that he and Mr. Bogdanovich have decided to design one large septic system instead of many separate systems. Mr. Prendergast stated that the design shows that the previous system was relocated to the former lot #17 and is designed as a gravity system for 63,000 gallons per day enough to handle 6 homes containing 7 bathrooms each. Chairman Clegg asked if the design has CC DOH approval. Mr. Prendergast stated that he has met with and supplied a copy of the plans to Mike DiRuzzio of CC DOH. Mr. Prendergast stated that he will need a general SPEDES permit from the state. Mr. Prendergast reminded the Board that all of the wells on the site were previously approved by CC DOH. Mr. Prendergast informed the Board that the plan shows a small heated barn that will house the reserve water supply which consists of two 5,000-gallon plastic water tanks set on top of each other. Mr. Pulfer then supplied a new set of Site Plan maps showing the new septic system, water and septic lines, handicapped parking space, existing well site and site boundary information. Mr. Pulfer stated that the map also indicates .8 acres of disturbance. Mr.

Prendergast stated that the Stormwater maintenance plan was also updated to show Triform Enterprises as the owner of the property. Paul McCreary stated that he has reviewed the improvements and added that the applicant is required to meet the soil erosion and stormwater runoff plans.

Chairman Clegg opened the meeting to public hearing at 8:53 p.m. Martin Baumgold asked if the homes have sprinkler systems installed. Pat Prendergast stated yes it is mandatory.

Chairman Clegg closed the public hearing at 8:54 p.m.

Motion to determine a negative declaration with regard to SEQRA was made by Stephen Melnyk with a second from Norma Barnard. All members were in favor. Motion carried.

Motion to approve Site Plan Review as presented pending receipt of NYS SPEDES permit was made by Stephen Melnyk with a second from Norma Barnard. All members were in favor. Motion carried. Maps were stamped and signed.

Polyak, Serafima: 60 Eagle St. Philmont Tax Map #(SBL) 113 . – 1 – 51 Use Variance for Additional Home Occupation of dog grooming, keep existing Home Occupation of growing and selling of fish, and removing Home Occupation of Boiler Maintenance.

Mrs. Polyak was present for her application. Mrs. Polyak informed the Board that she is appearing before the TOC ZBA because the majority of her property is within the Town of Claverack and a small portion is in the Village of Philmont. Mrs. Polyak informed the Board that she is seeking to add the use of dog grooming to her residence and remove the boiler repair use. Mrs. Polyak stated that the ornamental fish business will remain.

Mrs. Polyak stated that the dog grooming business will be housed in her basement and she will service approximately 2 – 3 small dogs per week for nail clipping, hair clipping, and washing. David Graziano asked Mrs. Polyak if this is her primary source of income. Mrs. Polyak stated yes. Chairman Clegg asked if the applicant intends to board dogs overnight. Mrs. Polyak stated no only during the day no overnight. Set for public hearing on August 24, 2011. Mrs. Polyak was directed to obtain public hearing notice sign from the TOC office at least two weeks prior to the 8/24/11 meeting. Continued to August.

New Cases for 8/24/11

Schnackenberg, Jureen Site Plan Review: 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 did not attend the July meeting which is the third meeting he has not attended. ZBA members advised ZBA Secretary to write a letter to Mr. Schnackenberg informing him his application is in jeopardy of withdrawal.

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 was present to give the ZBA an overview of the application. Mr. Robinson explained that Columbia County is the current owner of a telecommunication tower on a water tower located at Pine Haven in Philmont. Mr. Robinson explained that the water tower is currently in need of repair and painting before Verizon would locate to the existing tower. After looking into painting the tower and tank they discovered that the cost to remove the water tower and existing telecommunications tower was much less than painting. Mr. Robinson explained that the new tower will be 190-feet tall and have current carriers Sprint and AT&T and will add Verizon in the near future. Mr. Robinson also explained that the County receives much needed revenue from the tower. Mr. Robinson informed that the applicant is seeking a fee waiver from the Town of Claverack for the application fee, CO, and Building permit at this time. Chairman Clegg asked the applicant to notify the abutters because of the large number of neighbors within 2,600 feet of the proposed project. Mr. Robinson agreed to the request. ZBA Secretary will forward the legal notice to Dean Knox for the certified mailing. Mr. Knox will supply the ZBA Secretary with the cancelled certified tickets as proof of mailing. Set for public hearing at the August 24, 2011 meeting.

Continued to August.

Ellie Mae Inc. Use Variance: 6032 NYS Rte. 9-H Tax Map #(SBL) 131 . – 1 – 5 Use Variance to use existing patio area for dining.

Motion to adjourn the July 27, 2011 meeting was made by Paul Gundrum with a second from David Graziano. All members in favor. Meeting adjourned at 9:45 p.m.

Respectfully submitted,

Jodi Keyser
Secretary