

**TOWN OF CLAVERACK  
PLANNING BOARD  
Minutes of December 5, 2016**

Chairman Scott Cole called the December 5, 2016 meeting of the Town of Claverack Planning Board to order at 7:00 p.m.

Members in attendance were: Chairman Scott Cole, Virginia Ambrose, Stephen King, Gretchen Stearns, Judy Zink, engineer; George Schmitt, attorney; Rob Fitzsimmons and secretary; Jodi Keyser.

Chairman Scott Cole informed the Board members that member Joseph Singleton will not be returning to the Planning Board due to illness. Chairman Cole continued that Mr. Singleton was a valued member of the Planning Board and will be deeply missed and he is thanked for his service to the Town of Claverack.

Chairman Cole informed the members of the Board that the next meeting is scheduled to fall on Monday, January 2<sup>nd</sup> which is the date for some that is a holiday due to New Year's Day falling on a Sunday.

Chairman Cole asked members if they wanted the meeting date changed or if the date would work.

Members discussed the date and possible changes and agreed that January 2, 2017 will work. Next meeting will be scheduled for Monday, January 2, 2017 at 7:00 p.m.

Board members reviewed the minutes of the November 7, 2016 meeting.

Motion to approve the November 7, 2016 minutes was made by Virginia Ambrose with a second from Gretchen Stearns. All members were in favor. Motion carried. Minutes approved.

**CONTINUING APPLICATIONS FOR 12/5/16:**

**ABS Satellite Special Exception:** Tax Map #(SBL) 101 . - 2 - 11 . 200 Located at 829 Rte. 66. Special Exception for the installation of two 9 meter satellite telecommunication transmitting/receiving antennas at the rear of the building.

Secretary Jodi Keyser informed the Board that she has had no contact from the applicant other than last month when Mr. Yung informed her that they are still awaiting the report showing that there are no hazardous impacts from the satellite dishes.

**Hayes, Daniel & Peter Subdivision/Boundary Line Adjustment/Subdivision:** Tax Map #(SBL) 112 . 2 - 2 - 46 & 112 . 2 - 2 - 49. Boundary Line Adjustment of property from the estate of Daniel Hayes at 793 NYS Rte. 217 to be merged with property of Peter Hayes located at 92 Church St.

Secretary Jodi Keyser informed the Board that Mr. Hayes is currently has an application before the Town of Claverack Zoning Board of Appeals for an Area Variance which is scheduled for a public hearing on December 14, 2016.

**NEW APPLICATIONS FOR 12/5/16:**

**Concra, Margaret & Vincent b/d/a Subway Site Plan Review:** Tax Map #\*(SBL)121 . 03 - 03 -16 . 100 Located at 634 NYS Rte. 23-B & NYS Rte. 9-H. Site Plan Review for the installation of an awning, install crate for the purpose of selling firewood, install cage and barriers for the purpose of selling/exchange of propane tanks and install picnic tables with umbrellas for the purpose of outside eating.

Margaret Concra was present for the application. Ms. Concra informed the Board that she is seeking to install a green awning across the entire front of the building to shield customers from the rain/snow and to help to keep the sidewalk clear for safety. Ms. Concra informed the Board that this awning will be completely green with no signage as per the TOC zoning code. Ms. Concra continued that she is also seeking to have a couple of picnic tables in the side and front of the building for customers to eat at the site because she doesn't have enough room inside for seating. Ms. Concra continued that she is also seeking the approval to allow for propane tank sales and exchange and for the sale of firewood bundles. Gretchen Stearns informed Ms. Concra that her original application for a Site Plan was for a sandwich shop and the sale of firewood and propane sale and exchange are accessory uses to the approved site plan and should be reviewed separate from the awning and picnic tables. Ms. Concra informed

the Board that she thought that selling firewood and propane tank sales and exchange was a permitted for her use because the Extra Mart across the street has the same things. Gretchen Stearns informed the applicant that the Extra Mart is a convenience store and her business was approved as a sandwich shop. Gretchen Stearns continued that the sale of firewood and propane tank exchange and sales are two separate businesses now attached to the original use according to the way the Zoning Law is written. Ms. Concra informed the Board that she thought that her business was approved as a Subway sandwich shop inside of a convenience store. Stephen King asked the applicant why she is now seeking approval for the additional uses when she has been selling firewood and propane for several months and used the picnic tables over the summer. Ms. Concra stated that she thought that these were allowed until she was cited after many months. Stephen King asked Ms. Concra if she has made sure that the propane is 500 feet away from the Claverack Free library due to the potential hazard. Stephen King continued that the picnic tables also should be screened in some way to protect people because cars go through the parking area to miss the light and also cars entering the parking lot could run into the picnic tables. Gretchen Stearns also informed Ms. Concra that she needs to show the number of picnic tables on her site plan along with the screening area and type of screening i.e. lattice/fence and placement of this space. Ms. Stearns continued by informing Ms. Concra that she has already strayed from her approved site plan because she has not installed the small amount of screening/greenery along the roadway that is shown. Gretchen Stearns also informed Ms. Concra that if she plans to have umbrellas on the picnic tables they are not allowed to have any signage on them. Ms. Concra asked why the Board is not allowing her to have signage when across the street at the Extra Mart they have Citgo on every gas tank and all over the area. Gretchen Stearns informed Ms. Concra that the Extra Mart was a grandfathered use and they recently were denied additional signage during a recent renovation of their gas pumps and were held to the same amount that they already had no additional signage. Gretchen Stearns informed Ms. Concra that the truck sign that she has had parked for several months right along the roadway is not allowed as per the TOC Zoning Code and this has now caused several businesses in the town to begin to do the same thing i.e. Roma Fence and Meyers Tree Service parking large vehicles by their offices as advertising. Ms. Concra stated that this is a NYS registered motor vehicle and it is legal for her to have signs on her business truck which is used for deliveries to and from her other sites and the Board cannot tell her that she can't have signs on her legally registered vehicle. Rob Fitzsimmons reads the TOC Zoning Code 14.4.3 which states that signs on vehicles are not allowed to be used as signage or parked in such a way as to promote the said business. Ms. Concra stated that she uses this vehicle for deliveries. Stephen King informed Ms. Concra that this vehicle has been parked in such a way that it is being used as signage and not for deliveries. Stephen King continued that the truck is parked along NYS Rte. 23-B for several days at a time, even overnights when the business is closed and is parked so it sticks out onto the roadway where the originally approved site plan shows the green space was supposed to be. Ms. Concra asked the Board members if the site plan was not completed to the design then how could she have received a certificate of occupancy for her business from the Town Building department if she was in violation. Gretchen Stearns informed Ms. Concra that she has added several items to the approved site plan that are illegal and now are asking for approval. Gretchen Stearns continued that the addition of picnic tables and an awning might be fine for the approved use but the firewood and propane make the application less attractive and should be looked at as a separate application because they are separate uses of the original business use. Rob Fitzsimmons agreed that the addition of firewood and propane sales make the business more of a convenience store rather than a Subway sandwich shop. Rob Fitzsimmons continued that this site was approved several years ago as a restaurant/pizza shop with an application from the Filli family. Rob Fitzsimmons informed Ms. Concra that her additional uses makes her use one of a convenience store rather than that of a restaurant/sandwich shop. Rob Fitzsimmons continued that the Extra Mart received approval for replacement of signs during a renovation but that this signage must be exactly the same size and amount that was being replaced and nothing more. Rob Fitzsimmons informed Ms. Concra that she can have a sign on her vehicle but that she cannot use this vehicle as signage and park the vehicle in such a way that is portrayed as signage. Ms. Concra asked why the Board is keeping her from using her vehicle for her business. Stephen King informed Ms. Concra that the Board is not telling her she can't use her vehicle for business deliveries but that it should be parked at the rear of the building and not in front along the roadway as a large sign. Ms. Concra informed the Board that she is only trying to run her business, provide jobs and feed people in the Town of Claverack but she needs to advertise her business to be successful and the Town of Claverack is not allowing her to advertise. Stephen King informed Ms. Concra that most applicants have attorneys and engineers to prepare Site Plans because they know what the Town would allow and this is a special intersection that is very important to the Town of Claverack residents and the residents of the hamlet so the

Planning Board must be extra careful when they approve uses in this area. Ms. Concra stated that she should not have to pay for a lawyer and an engineer for her simple business use. Rob Fitzsimmons informed Ms. Concra that there are several issues that the Planning Board members have with compliance of the original approved site plan with green space, parking the truck with signs in such a way that it is used as additional signage and the additions of sale of firewood and propane tanks. Rob Fitzsimmons continued that the additions of the sale of firewood and propane tanks changes the use of that of a restaurant/sandwich shop into that of a convenience store which is not allowed at this site and would require a Use Variance from the TOC Zoning Board of Appeals. Ms. Concra asked if it is against the law to sell firewood and propane tanks at a restaurant. Rob Fitzsimmons stated that the Planning Board has indicated at the meeting that these additional uses are traditionally not accessory uses of a restaurant use. Virginia Ambrose stated that when she purchased sandwiches at the site she purchased chips from vending machines and if these were removed it would create more room for seating inside. Ms. Concra informed the Board that the chips and drinks are a separate business and the vending machines are required because Subway does not sell the chips and drinks. Gretchen Stearns informed Ms. Concra that the Planning Board and the Town of Claverack does want her business to be successful but she must follow the rules. Ms. Concra answered that the business will not be successful because she is not allowed to have enough signage to advertise the business. Rob Fitzsimmons informed Ms. Concra that she should use an attorney and engineer to complete her site plan and possible Use Variance to help her through the process and they can assist her in understanding the laws. Ms. Concra stated again that she felt she should not need to hire an attorney and engineer for the site plan for a Subway shop. Rob Fitzsimmons informed Ms. Concra that the Planning Board has been very patient and has informed her every time she has appeared before them what she needed to do and what is and isn't allowed at this site and the Planning Board has been clear regarding signage and use. Ms. Concra stated that she was unaware that the business truck is considered signage and that she could not sell firewood and propane at the site. Ms. Concra stated that she thought that her previous Site Plan approval was granted for a Convenience store with a Subway shop. Rob Fitzsimmons informed Ms. Concra that the Planning Board will entertain the picnic tables and awning in this application because they are considered as part of the use of a restaurant. Ms. Concra asked if she could add the sale of firewood and propane tanks to the business. Rob Fitzsimmons informed Ms. Concra that she would need to file an application with the Building Department for a Use Variance to change the use into that of a Convenience store but reminded her that a Use Variance is the most difficult variance to obtain because the applicant must prove that there isn't a self-created hardship. George Schmitt informed the applicant that the Planning Board cannot accept and approve Site Plans that have data added by someone other than a licensed professional engineer. George Schmitt suggested that Ms. Concra go to the original engineer of the Site Plan to have him/her complete a new Site Plan drawing showing the actual picnic tables, fencing/screening and egresses of the property. George Schmitt added that the addition of picnic tables increases the use of the business with regard to the sanitation system which in turn requires the Columbia County Department of Health to review the septic system. Virginia Ambrose informed Ms. Concra to contact the CC DOH as her first step. George Schmitt stated that the first step is to meet with the original engineer of the Site Plan and add the additional seating then take the plan to the CC DOH for review. Rob Fitzsimmons informed the applicant that picnic tables and the awning are things that can be considered as part of a restaurant use pending the CC DOH review of the additional seating. Ms. Concra asked if she applies to the TOC ZBA for the Use Variance can she then sell firewood and propane. Rob Fitzsimmons informed Ms. Concra that the sale of firewood and propane tanks would change the use of the business from a restaurant/sandwich shop which is allowed to that of a convenience store which is not a permitted use of this site and it is very difficult to obtain a Use Variance for this use at this site. Continued to January. Ms. Concra was instructed to meet with her engineer to draw up a new Site Plan showing the exact amount, location and dimensions of the picnic tables and fencing/lattice/screening for them on the site plan along with the dimensions of the awning and the egress/ingress of the site for safety of patrons at the outside seating.

**Coyote Flaco Site Plan Special Exception Review:** Tax Map # 121 . 3 – 3 – 19 Located at 6 – 8 Park St. Claverack. Site Plan Review & Special Exception for a restaurant in the former Claverack Food Mart site. Ryan Morrison, Andrew Howard and Luis Lopez were present for the application. Mr. Howard informed the Board that they have addressed comments regarding septic and parking that were the major concerns from the Planning Board at the previous meeting. Ryan Morrison informed the Board that they redesigned the parking and will have enough room to provide employee parking to the rear of the building, east end of the building will have

15 feet of aisle width which is enough to allow for a turn-around area. Mr. Morrison continued that the plan shows for the installation of painted planters that will channel traffic but are removable to allow for the flexibility for snow removal. Mr. Morrison continued that parking was removed from the handicapped ramp and mailbox area. Mr. Morrison informed the Board that after exact measurements were made of the site it was determined that they could provide for 31 parking spaces which is what they would require. Mr. Morrison continued by showing the Board members the NYS DOT right of way with the 50 foot assumed line which hits along the southern most side of the parking area. Gretchen Stearns asked if the newly designed parking plan allows for the USPS truck to turn around. Chairman Scott Cole informed the Board that the USPS that delivers to the Claverack Post Office uses a smaller truck. Gretchen Stearns informed the applicant and Board members that she has counted the number of cars that are parked at the current Coyote Flaco site along with the number of cars that park along NYS Rte. 9-H and she feels that the parking plan for the proposed site might work but she is still concerned about the parking especially with 40 seats inside along with another 10 – 18 outside might be too many cars. Ryan Morrison informed the Board that the patio is included in the total square footage for the plan and he wants the Planning Board to understand that the plan might not meet the letter of the zoning law regarding screening and landscaping because of the unique nature of the site along with the number of parking spaces that are required but they will do the best to vastly improve the aesthetics of the site. Mr. Howard informed the Board that the plan calls to use the existing sign with and retrofit a new front for the Coyote Flaco restaurant. Gretchen Stearns informed the representatives that the existing sign is considered an abandon sign and is not conforming to the TOC Zoning regulations with a new sign that is not internally illuminated and is within the size that is allowed. Rob Fitzsimmons informed the applicant's representatives that the TOC Zoning Law allows for a sign that is 16 square feet that is attached to the building and is illuminated via outside lights. Mr. Howard informed the Board that the sign should not be considered as an abandon sign because it has only been less than a year from the time the Food Mart was in business. Gretchen Stearns informed the applicants that this is a new use for the site and it is directly opposite the Subway site and the TOC Planning Board is requiring them to uphold the TOC Zoning Laws for signage as should the Coyote Flaco site especially with the size of the signage also to make the site look better. Gretchen Stearns continued that she understands the need to advertise but the current business is so very popular and successful that making sure that the sign adheres to the Zoning code isn't going to change that and the Planning Board needs to be careful that they require all applicants to adhere to the same conditions. Gretchen Stearns also informed the applicant that the TOC requires all of the businesses in the hamlet to close at 10:00 p.m. and she wanted to make sure that Mr. Lopez understood this because the application does not indicate the hours of operation. Ryan Morrison informed the Board that they were unaware of this requirement and that they did not discuss the hours of operation with Mr. Lopez. Mr. Lopez informed the Board that he planned all along to close at 10:00 p.m. each night because the current restaurant closes at 10:00 p.m. Mr. Morrison then began to explain the sanitation systems to the Planning Board. Mr. Morrison informed the Board that the post office and the liquor store each have their own separate septic systems that were pumped out by Bill Baldwin who inspected the tanks and found them in good condition. Mr. Morrison continued that the former store has a different separate septic system that they know is undersized for the proposed use. Mr. Morrison stated that he has designed a new sanitation system and has submitted this plan to the NYS DEC and is waiting for their comment letter from Jayme Malcolm. Mr. Morrison asked the Board if they could begin the SEQRA process at this time. Rob Fitzsimmons asked what level of review should the SEQRA need because the use will still be commercial in nature. Gretchen Stearns asked about question #17 stormwater discharge. Mr. Morrison informed the Board that there is a current NYS DOT stormwater catch basin and this will be updated on the maps and they will provide updated SEQRA form. Virginia Ambrose asked about #12 archeological sensitive area. Mr. Morrison answered that the change will not create disturbance of the site so this is not an issue. George Schmitt stated that this site has already had the disturbance so any artifacts would have already been compromised. Gretchen Stearns informed the applicant that since the site is a pre-existing non-conforming with regard to the setbacks the plan should get approval for these area variances from the TOC ZBA. Mr. Howard stated that the TOC Zoning Law allows for the Planning Board to grant waivers for pre-existing non-conforming setbacks in applications like this one. Rob Fitzsimmons informed the Board that is correct and this is already a very active site. Gretchen Stearns warned that the Board needs to do the right thing to ensure the approval is not contested. Chairman Scott Cole asked the Board members if they feel that they have sufficient information to allow for the public hearing to be set up or should this wait. Mr. Morrison asked if the application could be approved or would the NYS DEC approval letter for the sanitation system be required. George Schmitt informed the applicant that the DEC approval and design for the sanitation system is figured by

the number of seats on the site and is the most important item of the application so these numbers need to be clear on the site plan. Gretchen Stearns stated that the Planning Board could begin the public hearing period. George Schmitt stated that it is better to begin the public hearing early in the process to allow the applicant time to address any public issues that might arise. The applicant needs to provide proof that the current sign is not an abandon sign and therefore can be reused, provide revised SEQRA and if the Board will grant a waiver for the setbacks. Motion to accept the application and set public hearing for 1/2/17 was made by Virginia Ambrose with a second from Gretchen Stearns. All members were in favor. Motion carried. Continued to January. Mr. Lopez paid the application fee for the Site Plan Review of \$150.00

#### INFORMAL:

Sano, Ralph Subdivision: Mr. Sano appeared informally before the Planning Board to seek guidance on the possible subdivision on property on NYS Rte. 9-H south of the traffic light across from the former Hawk Orchards. Mr. Sano would like to subdivide the approximately 66 acres into four parcels. Mr. Sano continued that one of the parcels, the largest will contain a single family home which he plans to live in. Mr. Sano informed the Board that his plan would call for three 2-family homes on the other three parcels. Mr. Sano described the 2-family homes as duplex type of structures that contain two floors each. Mr. Sano informed the Board that he had already met with NYS DOT Joe Visconti about the sight distance for a single driveway that would come in from NYS Rte. 9-H at the spot where there is a current farming road. Mr. Sano continued that Mr. Visconti informed him that this would be the best possible site for a driveway and this will be a shared driveway. Mr. Sano informed the Board that he has not yet purchased the property but wanted to share his plan with the Planning Board for feedback before he proceeds with the actual purchase. Gretchen Stearns informed Mr. Sano that if the property were to be sold in the future then no further subdivision could happen unless it is classified as a Conservation Subdivision. Gretchen Stearns continued that the definition and requirements for a Conservation Subdivision can be found on the Town of Claverack website. Chairman Scott Cole informed the applicant that he will need to provide a NYS DOT driveway permit. Gretchen Stearns suggested that the applicant hire an engineer and that he will need to have perk testing performed with CC DOH approval. Mr. Sano informed the Board that he sees a need in the community for nice rental units. Mr. Sano continued that he owns apartment buildings in Rhode Island, Long Island and New Jersey. Mr. Sano will provide brochures that show his properties. Gretchen Stearns informed the applicant that rental units are a new venture in the Town of Claverack so be sure the rules for handicap accessibility are followed. Rob Fitzsimmons informed Mr. Sano that he will need to submit a formal application with official Site Plan maps with well and sanitation information. Mr. Sano asked what the first step he needs to take. George Schmitt informed Mr. Sano that he needs to see an official Site Plan map to determine if stormwater mitigation is needed so he suggested that Mr. Sano retain an engineer who can explain the process. George Schmitt continued that technically the CC DOH closes on October 1<sup>st</sup> with doing perk testing so this might be on hold until spring but this depends on the type of winter but suggested again to retain an engineer and a surveyor. George Schmitt informed the applicant that the Planning Board will need an actual site plan, driveway approval from NYS DOT, easement, perk testing, amount of disturbance and grading design. Gretchen Stearns added that this type of project is consistent with the Town of Claverack Comprehensive Plan.

No other new business.

Motion to adjourn the meeting was made by Virginia Ambrose with a second from Judy Zink. All members were in favor. Motion carried, meeting adjourned at 8:30 p.m.

Respectfully submitted,  
Jodi Keyser, Secretary