

**TOWN OF CLAVERACK
PLANNING BOARD
Minutes of: September 4, 2019**

**Chairman Scott Cole called the Town of Claverack Planning Board to order at 7:00 p.m. Members in attendance were: Chairman Scott Cole, Virginia Ambrose, Alberta Cox, Stephen King, William Michael, Jock Winch, George Schmitt; engineer, Rob Fitzsimmons; attorney and Jodi Keyser; secretary.
Absent: Robert Vecchi**

Board members reviewed the minutes of the August 5, 2019 meeting.

Motion to approve the minutes of August 5, 2019 was made by Stephen King with a second from Alberta Cox. All members were in favor. Motion carried.

Correspondence: NONE

CONTINUING APPLICATIONS FOR 9/4/19:

Erik Bell Special Exception: Tax Map #(SBL) 122 . – 1 – 39 . 120 Located at 14 Roxbury Rd. Special Exception for a microbrewery/farm distillery at the location.

No one present for the application. Chairman Cole informed the Board that he had heard that the applicant is not going forward with his plans and will be withdrawing his application.

NEW APPLICATIONS FOR 9/4/19:

Board member Jock Winch asked to be recused from the Columbia Tent Rental application because he is an abutting property owner. Mr. Winch was recused at 7:15 p.m.

Columbia Tent Rentals Site Plan/Special Exception: Tax Map #(SBL) 101 . – 2 – 2 . 11 Located on Bender Blvd. Columbia County Commerce Park. Site Plan/Special Exception for the construction of a 10,000 square foot warehouse with offices, showroom and an externally enclosed entry for the use of tent/party rental business.

Linda Chernewsky, engineer for the project and Matthew Gallagher from Freeman/Howard Law firm were present for the applicant Brice Dusenbery. Mrs. Chernewsky informed the Board that Kelly and David Reinkens had received an approval for this project in 2007 but after the approval they decided to hold off on construction. Mrs. Chernewsky continued that her client Brice Dusenbery has become an owner with the Reinkens a couple years ago and is now seeking to construct the 10,000 square foot building in the Columbia County Commerce Park. Mrs. Chernewsky informed the Board that her client is asking that the Town of Claverack Planning Board reapprove the previous plan and forego a public hearing so that Mr. Dusenbery can start construction as soon as possible. Mrs. Chernewsky informed the Board that the building has been delivered and is on the site. Mrs. Chernewsky informed the Board that the project is exactly the same as the 2007 project. Mrs. Chernewsky continued that she spoke to Patrice Perry from the Columbia County Planning Department who stated that her Board did not need to review the plan because it was reviewed in 2007 and no changes were made. Mrs. Chernewsky stated that she is asking the Board to move on the project tonight so that Mr. Dusenbery can begin the construction. Mr. Gallagher stated that he understood the Board's concerns because of the amount of time that has lapsed. Mrs. Chernewsky informed the Board that the Reinkens didn't know that there was a time out of a project if they didn't start construction. Chairman Cole reads from the Town of Claverack Zoning Laws 16.3.3 on

page 146 that allows for 18 months from the time of approval or the approval will be revoked. Chairman Cole also informed Mrs. Chernewsky that it is obvious that some of the abutters are missing from the list or have changed and the list needs to be updated. Mrs. Chernewsky stated that she met with the Town of Claverack Assessor and he gave her the list so she is surprised that it is missing names or has incorrect names. Chairman Cole also informed Mrs. Chernewsky that the application fee has not yet been paid and is due in the amount of \$150.00. Chairman Cole continued that the maps that have been submitted are not certified by a licensed surveyor and the plans are from Morris and Associates which is no longer in business. George Schmitt spoke with his boss and has no issue with the maps but cannot sign off on them but Mrs. Chernewsky has permission to use the maps. Rob Fitzsimmons informed the Board that there is a set of certified maps in the previous Site Plan/Special Exception file and that the Board can either re-stamp the plans or ask for more information and further review. Rob Fitzsimmons continued that the TOC Laws have changed somewhat since the previous approval but not significantly but it is up to the Board members what they would like to do. Stephen King stated that he has an issue with the plantings of burning bushes since this is an invasive species as per NYS DEC. Mrs. Chernewsky stated that they look nice and change colors. Stephen King suggested that another type of shrub be used in place of burning bush. Mrs. Chernewsky submitted the CC DOT driveway cut permit and the 911 address information. Rob Fitzsimmons and George Schmitt agreed that since the plans had not changed they would not need to have a detailed review so there isn't a need for an escrow account to be set up. Rob Fitzsimmons informed Mrs. Chernewsky that a narrative of the project i.e. hours of operation, number of employees, vehicles, etc. Mrs. Chernewsky read a narrative from the original application. Mrs. Chernewsky stated that the business began in 1980 and was purchased by David and Kelly Reinkens in 1996. Mrs. Chernewsky continued that the business is a party and event rental business for inside and outside parties. Mrs. Chernewsky continued that the business services a 100-mile radius supplying catering supplies and party designing employing 10 to 12 employees that are tent installers, Kelly Reinkens and two other employees are at the site full time for party planning services and tent rental reservations. Mrs. Chernewsky informed the Board that a full commercial kitchen using 1,000 gallons of water per week is planned and a grease trap will be installed as per CC DOH. Mrs. Chernewsky stated that the main portion of the facility will be used to store the tents and to hang the tents to dry along with dishes and party supplies on the upper level. Mrs. Chernewsky informed the Board that the original plan had 12 downward facing lights with certain outside storage. Mrs. Chernewsky stated that the plan shows 2 box trucks, a pickup truck and equipment trailer for a skid steer will be parked at the site. Virginia Ambrose asked Mrs. Chernewsky what will people do at the site. Mrs. Chernewsky stated that Mrs. Reinkens will meet with customers to plan events with colors of dishes, table linens, tent, chairs, etc. and part of the building will have displays of available options set up for people to view. Chairman Cole asked Mrs. Chernewsky if she had received anything in writing from Patrice Perry. Mrs. Chernewsky answered no. Rob Fitzsimmons stated that the owner is seeking reapproval so that he can hurry the process to be able to install the foundation before the weather get too cold. Rob Fitzsimmons continued that the review was previously approved by Clough & Harbour for stormwater which has not changed. George Schmitt stated that all of the stormwater regulations are the same as when the plan was originally approved in 2007. Rob Fitzsimmons informed the Board that this is a commercial site in the Columbia County Commerce Park. Stephen King stated that the burning bushes should all be removed and that due to the location along NYS Rte. 66 the screening along the side of the building facing the roadway should be increased significantly. Mrs. Chernewsky stated that in 2007 the screening was designed as such because of a large pipe between the building and the road. Stephen King stated that this is no longer Virginia Ambrose stated that as long as the burning bushes are replaced and the screening along NYS Rte. 66 is increased she can agree to the plan. Stephen King stated that the proposed building is very large and therefore needs significant screening along NYS Rte. 66. Mrs. Chernewsky stated that she could add 10 trees to the plan. Stephen King stated that 10 trees would not be enough because of the size of the building and the proximity to the roadway. Rob Fitzsimmons informed the Board that they have options to either accept the application and set up a public hearing or re-approve the previous plan which sets a precedence for future projects that allow their approvals to time out. Rob Fitzsimmons

continued that the Board is in a tight spot but they have been informed by the applicant's representatives that the plan has not changed and it is the same business as was previously approved. Stephen King stated that the time lapse is significant in his opinion. Rob Fitzsimmons informed the Board that it isn't often that approvals lapse so it shouldn't become an issue. George Schmitt informed the Board that the application received a full review of the EAF and stormwater for the same specific use with the same intensity of use and has technically no changes other than increased screening and prohibiting the use of burning bushes. Virginia Ambrose asked if there is anything in the TOC Zoning laws regarding time lapsed approvals other than 16.3.3. Rob Fitzsimmons stated that it really isn't a big deal because it is going to be the same as previously approved. Stephen King stated that he understands that the applicant is under a time constraint but he isn't for the re-approval without a public hearing. Stephen King stated that he understands that technically the plan hasn't changed but because of the amount of time that has lapsed and different abutters the neighboring abutters should have their time to look at the plan and voice their feelings. William Michael agreed with Mr. King that the abutters should be allowed to have a say and that the abutter list should be corrected and submitted. Mrs. Chernewsky stated that her client is asking that the Town of Claverack Planning Board hold a special meeting to just hold a public hearing and approval for this project. Mrs. Chernewsky informed the Board that Mr. Dusenbery will pay the Town of Claverack for the costs associated with a special meeting if the Board would agree.

Motion to accept the application as complete and set public hearing on October 7, 2019 was made by Stephen King with a second from William Michael. Virginia Ambrose abstained. All remaining members were in favor. Motion carried. Mrs. Chernewsky asked the Board to reconsider holding a special meeting to hurry the process so that Mr. Dusenbery can install the foundation. Chairman Cole informed Mrs. Chernewsky that the Town of Claverack requires 10 days for public hearing notifications to the abutters and that doesn't leave much time for this to happen. Chairman Cole continued that concrete can be poured in cold weather. Mrs. Chernewsky stated that it is more expensive to pour foundations in cold weather. Chairman Cole poled the Board for a special meeting. Board members felt that there wasn't a need for a special meeting and scheduling one would not work so the regularly scheduled meeting would be the public hearing set for October 7, 2019. Mrs. Chernewsky was informed that she would need to supply an updated abutters list, bring the application fee of \$150.00, updated narrative of business operations and updated landscaping design showing increased plantings along NYS Rte. 66 and the removal of burning bushes. Continued to October 7, 2019.

Jock Winch re-enters the meeting at 7:40 p.m.

Sano, Ralph Special Exception: Tax Map #(SBL) 111 . – 1 – 78 . 111 Located at 297 Route 9-H. Special Exception for the addition of accessory apartments to an existing multi-family dwelling.

Mr. Sano was present for his application. Mr. Sano explained to the Board that he is in the process of finishing construction of a two-family dwelling on NYS Rte. 9-H. Mr. Sano informed the Board that he is looking to construct another dwelling in the rear of the new house to use as an accessory apartment to live in. Mr. Sano continued that he has visited this area for over 40 years staying with a friend at the former Hawk Orchards. Mr. Sano continued that his friend has recently sold the orchard and buildings and he is no out of a place to stay. Mr. Sano explained that he is looking to build a small garage with an apartment above the garage and will utilize the existing well and septic system for the two-family home. Stephen King stated that he noticed that the two-family dwelling has a for sale and for rent sign. Mr. Sano answered yes, he is trying both approaches. Stephen King informed Mr. Sano that an accessory apartment is usually attached to or built alongside of an existing building. Stephen King also informed Mr. Sano that in order to be considered for an accessory apartment this would need to be his primary residence and not just a weekend apartment. Rob Fitzsimmons informed Mr. Sano that an accessory apartment was added to the TOC Zoning Laws as a way to allow for a family to add or build an accessory structure or addition for a family member or as a way to make additional income. Rob Fitzsimmons

continued that the Board is struggling with this application because it is already a two-family home which he does not reside in and adding another apartment above a separate garage makes this a three-family property. Stephen King stated that the two-family residence is already an accessory apartment and therefore adding another residence brings in the density issue. Stephen King stated that to have an accessory apartment the applicant would need to reside full time in the primary residence. Stephen King continued that Mr. Sano's application is backwards building the accessory apartment then the primary residence it seems. Rob Fitzsimmons stated that the Zoning Law allows for only one accessory apartment or dwelling per lot. Stephen King informed Mr. Sano that the Planning Board is unable to rule on the application unless he is granted an Interpretation from the Town of Claverack Zoning Board of Appeals. Rob Fitzsimmons informed Mr. Sano that he can apply to the TOC ZBA for an Interpretation of the Zoning Laws as it pertains to this application if he wished. Stephen King stated that the property is only 2.6 acres and it is barely over the allowed size for a single-family residence. Chairman Cole asked if the proposed building will be behind the existing building. Mr. Sano answered yes. Chairman Cole informed Mr. Sano that the accessory apartment cannot be more than 40% of the size of the primary dwelling and this would also be a problem. Chairman Cole continued that the applicant would need to determine which dwelling is the primary residence. Rob Fitzsimmons informed Mr. Sano that if he wishes to proceed with the application then he will need to apply for an Interpretation from the TOC ZBA. Mr. Sano stated that he was told by Crawford and Associates that he would be allowed to have an accessory dwelling to the two-family residence at this site as long as he lived above the garage and they showed him paperwork. Stephen King stated that in order to have an accessory apartment the applicant needs to reside on in a residence first then build the accessory apartment. Stephen King continued that you need a primary residence first then the Planning Board accesses the need for an accessory apartment with the primary residence owner occupied. Rob Fitzsimmons stated that the law was to allow a homeowner the ability to build or add an accessory structure to house family members i.e. elderly parents not as a multi-family commercial structure so Mr. Sano needs to go to the TOC ZBA.

Motion to send applicant to the Town of Claverack Zoning Board of Appeals for an Interpretation of Use was made by Stephen King with a second from Virginia Ambrose. All members were in favor. Motion carried.

Other Business:

Stephen Hook stated that it would be great if the Planning Board and Zoning Board of Appeals were able to meet with TOC CEO Jay Trapp to discuss upcoming applications or items that might help them with reviews.

Rob Fitzsimmons stated that legally anything could be FOIL requested. Stephen Hook stated that Stan Koloski used to send members of the Boards memos with concerns or more detailed explanations of his denials or findings.

Gretchen Stearns asked to address the Board with some concerns regarding the Comprehensive Plan and how it could be confused when reviewing subdivisions. Gretchen Stearns spoke about the density zoning and how to apply it in reference to the Katsivelos subdivision of 12.9 acres into 10.9 acre and 2 acre lots. That is legal under our current law as I quoted from section 6.3 Average Density and Monitoring Lot Splits. Gretchen Stearns read subsection 6.3.1. "... the Town of Claverack shall allow averaging of lot sizes...." Since that initial parcel size allowed one subdivision (two housing units total, a "housing unit" here referring to one main dwelling with or without legal accessory), even though the split left one parcel of 10.9 acres, that lot cannot be further subdivided.

Gretchen Stearns stated that she waded into the weeds of keeping track of lot splits is very important for the Planning Board members to keep track of. Gretchen Stearns was referencing the Hudson Grey application. Gretchen Stearns referenced section 6.3 as well as 2.209 in the definitions: Subdivision, Major: "The division of a lot, tract or parcel of land into five (5) or more lots...." Importantly, the definition goes

on to say: "Where lands have been previously subdivided pursuant to the Town of Claverack Subdivision Law, after the date of the current Law's adoption, as a minor subdivision, the previous lots created by the former subdivision, regardless of ownership, shall be considered in the lot count in evaluating if the proposed subdivision is a major or minor." Therefore, the current lot split of 3, counting in a contiguous lot of 20 acres, makes this a minor subdivision of 4. Any further subdivision would demand a Conservation Subdivision design as it would be a 5-lot subdivision.

Gretchen Stearns final point about counting contiguous lots is delineated in the section on Conservation Subdivision Design, Section 7.2.12 Future Subdivisions: "When an applicant includes only a portion of landowner's entire tract, a sketch layout according to this section shall be included showing future potential subdivision of all the contiguous lands belonging to the landowner to ensure that subdivision may be accomplished in accordance with this section." It goes on to say that review of this sketch does not constitute approval.

Gretchen Stearns stated that if the contiguous lot owned by the person subdividing the 52-acre lot had been split from that 52-acre lot sometime after 2012 when the new law took effect is true, then they already have a 4-lot subdivision. Gretchen Stearns stated it may be the scenario that of the 3 new lots, only 1 can be conveyed with the right to subdivide one time, (making 4 lots total of the original 52 acres), unless all lot owners agree to combine their lots and abide by the rules of the Conservation Subdivision Design, which would occur in the event of an additional split, making this a Major subdivision. Gretchen Stearns stressed that if this is the case then someone from the Town of Claverack should look into the original parcels, determine when subdivisions were approved and then to make the owner of the Hudson Grey's subdivision aware of these issues with regard to future subdivisions of the properties. Gretchen Stearns stated that without careful tracking of subdivisions then the density rules are not working as they should.

Board members discussed the possibility of having application information delivered digitally to save paper. George Schmitt and Rob Fitzsimmons stated that this is something that could be arranged for those that would prefer it.

Motion to adjourn the September 4, 2019 meeting of the Town of Claverack Planning Board was made by Alberta Cox with a second from Virginia Ambrose. All members were in favor. Motion carried. Meeting adjourned at 8:20 p.m.

Respectfully submitted,

Jodi Keyser, Secretary