

Zoning Board of Appeals  
P.O. Box V  
Mellenville, NY 12544  
Minutes of August 26, 2020

Chairman David Graziano called the Town of Claverack Zoning Board of Appeals meeting to order at 7:30 p.m. Chairman Graziano led members of the Board and audience with the Pledge of Allegiance.

Members in attendance were: Chairman David Graziano, Steven Melnyk, John Porto, Chris Post, attorney; Rob Fitzsimmons, engineer; George Schmitt and secretary; Jodi Keyser.

Absent with regrets: Roger Case

Correspondence: None received

Review the minutes of the July 22, 2020 meeting.

Motion to approve the minutes of the July 22, 2020 meeting was made by Steven Melnyk with a second from Chris Post. All members were in favor. Motion carried.

## **CONTINUING APPLICATIONS for 8/26/2020**

**Gaterio, Albert/Claverack Builders Area Variance: Tax Map #(SBL) 132 . – 2 – 38 . 3 Located at 139 Bate Rd. Craryville NY. Area Variance of 58.5 feet is being requested to construct a two car garage where 80 feet is required.**

Jock Winch was present for the application. Chairman Graziano reviewed the newly submitted materials for the Board members. Chairman Graziano informed the Board that the application was incomplete at the July meeting but Mr. Winch has submitted the notarized letter from the owner of the property allowing Mr. Winch to represent him for the application, list of abutters and the Board is good to accept the application as complete.

Motion to accept the application for a 58.5-foot Area Variance as presented was made by John Porto with a second from Chris Post. All members were in favor. Motion was carried.

Mr. Winch reviewed the application for the Board members. Mr. Winch informed the Board that his client is seeking to construct a garage on his property that is currently being used for a parking area for his residence. Mr. Winch continued that the property and topography do not allow for any other placement for a garage. Mr. Winch continued that the garage will be situated across Bate Rd. from the house because the property is split by Bate Rd. Mr. Winch continued that the parking area is the only viable place for the garage and due to a steep drop off on the other side of the parking area it isn't possible to achieve the 80-foot setback.

Chairman Graziano opened the meeting to public hearing at 7:35 p.m. No comments were received. Chairman Graziano closed the public hearing at 7:37 p.m. George Schmitt informed the Board that he is OK with the plans and the SEQRA.

Motion to grant a negative declaration for purposes of SEQRA was made by John Porto with a second from Steven Melnyk. All members were in favor. Motion carried.

Chairman Graziano reviewed the 5 criteria for meeting the Area Variance. Board members agreed that only #5 of the criteria were not met by the applicant which is that the issue is self-created because the applicant purchased the property without a garage and knowing that the property would be difficult.

Motion to approve the 58.5-foot Area Variance for the construction of a garage was made by Chris Post with a second from John Porto. All members were in favor. Motion carried.

Mr. Winch paid mailing fees of \$7.00.

## NEW APPLICATIONS FOR 8/26/20

### **Claverack Land Co. LLC/Pine Haven Nursing Home Area Variances: Tax Map # 113 . – 1 – 20 . 3**

**Located at 341 NYS Rte. 217 Claverack. Area Variances for the construction of a new 150 bed skilled nursing facility. Variances of 7' for height, 10' for side yard setback and 10' for the other side yard setback combined.**

Corey Auerback and David Schlasser were present for the application. Chairman Graziano informed the representatives that this application was on the agenda for the July meeting but they did not attend or notify the secretary. Mr. Auerback stated that he was unaware that he was on the agenda for the July meeting but apologized to the Board. Chairman Graziano reviewed the Area Variance for the Board members. Mr. Schlasser is the architect for the project. Chairman Graziano asked if this is for a new nursing home or assisted living facility. Mr. Schlasser answered yes, the Area Variances are needed for the construction of a new 150-bed assisted living facility. Corey Auerback reminded the Board that he appeared a while ago seeking an Area Variance for side yard setbacks with the existing skilled facility and the old abandoned building because the property line was through the existing building. Mr. Auerback continued that his client needed to accommodate the sale of the property therefore the property line needed to be moved which created the need for side yard setback area variance for both the existing skilled facility and the abandoned building. Mr. Auerback informed the Board that the application is currently before the Town of Claverack Planning Board for a Subdivision, Site Plan and Special Exception and will need two side yard setback Area Variances and an Area Variance for height of the building. Mr. Schlasser stated that the proposed facility will need a side yard setback because they need to position the building away from the big ravine. Mr. Schlasser informed the Board that the proposed facility will be a 150-bed assisted living facility which will complement the existing skilled nursing facility but is owned by a different owner. Mr. Schlasser stated that the proposed project seeks a subdivision to subdivide 8 acres for the existing facility, 9 acres for the proposed facility and leaves 47 acres. Mr. Schlasser continued that after much investigation and studying of the old abandoned building it was determined that the building was in terrible shape and in a state that wouldn't allow for use. Mr. Schlasser continued that the plan is to demolish the abandoned building and water tower and a shed. Mr. Schlasser stated that the former fire training tower and cell tower will remain. Mr. Schlasser stated that the existing curb cut will remain as well as the addition of a new curb cut. Mr. Schlasser stated that he is in discussion with the NYS DOT for the proposed curb cut. Mr. Schlasser continued that the proposed building will be in the horseshoe shape and will be a 4-story structure with the bottom floor below grade from the roadway but will be open in the back of the property. Mr. Schlasser continued that visitor will be in the existing parking area and employee and receiving will be at the rear of the building. Mr. Schlasser continued that the bottom level will have patios and recreation areas for residents and staff. Mr. Schlasser continued that the facility will have 68% private rooms with private bathrooms and the remaining rooms will be double occupancy with a shared bathroom. Mr. Schlasser continued that the facility will also have 27 memory care rooms that will be located on the lower level and will be controlled setting for safety with their own dining, activity and patio areas. Mr. Schlasser informed the Board that the front element of the building measures at 42 feet with a couple of the other roof areas measuring at 36.8 feet. Mr. Schlasser informed the Board that the height of the building is to maintain 11 feet between floors to maintain 8-9-foot ceilings. Mr. Schlasser stated that he has been in conversations with the Village of Philmont for water and sewer and with the Philmont Fire Chief Beaumont regarding the height of the building. Audience member Scott Cole informed the Board that Chief Beaumont plans to call Hudson ladder truck which would take at least 15 minutes to respond in an emergency and that jeopardizes firefighters and emergency personnel. Mr. Cole continued that this is an issue with the Planning Board also because the closest responding fire companies do not have a ladder to reach the roof. Mr. Auerback stated that he has a letter from Chief Beaumont and will submit for the file. Chairman Graziano informed Mr. Cole that he will need to make his concerns known during the public hearing for the application. Mr. Schlasser stated that the plan calls for 80 feet between the existing building and the

proposed building which will allow for an access road. Steven Melnyk asked if the side yard setback remains at 8 feet or has it been changed to 7 feet. Mr. Auerback answered that the project had been submitted in March but since that time the side yard setback variance has been modified to 7 feet but the height variance remains at 42 feet. Mr. Schlasser informed the Board that the plan allows for a varied roof line to create a sense of detail. Chairman Graziano asked if the Board had any questions. No Board questions. Chairman Graziano stated that the application has no outstanding items.

Motion to accept the application as complete and set for public hearing for September was made by Chris Post with a second from Steven Melnyk. All members were in favor. Motion carried.

Mr. Auerback asked for an uncoordinated review with the Planning Board as an unlisted action for purposes of SEQRA. Rob Fitzsimmons informed the Board that this request would be fine to set up the same as any other project. ZBA members were in favor. Rob Fitzsimmons reminded the applicants that they still need TOC Planning Board approval. Continued to September.

**Coons Self Storage Zoning Boundary Line Adjustment: Tax Map #(SBL)133 . – 2 – 13 Located at 1001 NYS Rte. 23. Requesting CI-1 Boundary Line be moved to accommodate a new 60' X 190' storage unit. Property for new unit is currently in the RA zone.**

Pat Prendergast and Conrad Coon were present to represent the application. Mr. Prendergast explained that his client's property is split by the Rural Agricultural Zone and the Commercial Industrial Zone. Mr. Prendergast continued that his client would like to construct one more storage unit but the area is in the Rural Agricultural Zone. Mr. Coons is seeking to have the Zoning line for the Highway Commercial Zone moved as to include the proposed storage unit building. Rob Fitzsimmons informed the Board that for full disclosure he has represented Mr. Coons for other matters in the past. Rob Fitzsimmons informed the Board that the TOC ZBA may permit this action where a zoning line drawn by the Town of Claverack dissects a property causing a split. Rob Fitzsimmons continued that the property owner can ask that the CIP Zone be expanded to include his entire parcel. Steven Melnyk asked what the red line on the map is showing if it is the new line. Pat Prendergast stated that his client is not seeking to have his entire parcel changed to the CIP Zone only a portion that would allow for enough room to construct a 60' X 190' storage unit. Mr. Prendergast continued that the topography of the site will allow for a building that is two stories in the back side and ground level in the front because the property drops off. Chairman Graziano asked the applicant that if the variance were granted for this expansion will he keep returning in the future to ask for more of the property to be changed into the CIP Zone. Pat Prendergast stated that the property only has a little bit of room that can be developed because of the amount of wetlands and the 100-foot buffer. Mr. Prendergast continued that the topography of the property doesn't lend itself to further development with only a small plateau left. Steven Melnyk asked will this new building be the full build out of the site. Mr. Coons answered no he would not want to commit to that statement until after the parcel is regraded then he would revisit the area left. Rob Fitzsimmons stated that the area should be delineated with the available area. Chairman Graziano reminded the applicant that there are criteria for granting a variance. Rob Fitzsimmons stated that the criteria do not apply for this application but the ZBA will discuss the Zoning map and the line cuts the property in half. Rob Fitzsimmons stated that the application is very straight forward and can be set for public hearing if the Board is satisfied then the applicant will need TOC PB approval. Chairman Graziano stated that this is a unique situation and the application is complete. Steven Melnyk asked the applicant that if this was approved would he want to move the line again later. Chairman Graziano informed the applicant that the TOC ZBA would grant the minimum required. Pat Prendergast informed the Board that he will submit maps showing the usable property to be included into the CIP zone. Rob Fitzsimmons informed the Board that in the past Mr. Coons has had issues of lighting with the neighbors. Chairman Graziano stated that he remembered this and stated that it took a while for the hedges to grow to shield the light and visual impact of the units from the neighbors. Chairman Graziano continued that the main storage buildings are not visible anymore. Chris Post asked if Mr. Coons owned both of the commercial parcels on that side of the Taconic State Parkway. Mr. Coons answered that he does own the commercial parcel that used to be two but were combined into one with a reverse subdivision. Steven Melnyk stated that this seems like something that can be accommodated now but is concerned that the applicant will want other extensions in the future. Mr. Prendergast answered that this is really the only usable space left. John Porto stated that the building will be mostly hidden from view and isn't really a big deal. Chairman Graziano asked if the SEQRA would be considered negative. Rob Fitzsimmons answered yes, it is an uncoordinated review.

Motion to accept the application as complete pending delineation of the requested expansion area and set public hearing for September was made by Steven Melnyk with a second from John Porto. All members were in favor. Motion carried. Continued to September. Informed applicant to get a public hearing sign.

**Claverack Creek Solar/Catskill View Solar Area Variances: Tax Map #(SBL) 100 . – 1 – 1 and Located at 151 Humane Society Rd. Area Variances for side yard setback o 15.8' where 100' is required making variance request for 84.2' for Claverack Creek.**

**Variance for side yard setback of 20' where 100' is required making variance request for 80' for Catskill View Solar.**

Gillian Black, Travis Miller and Hyde Clarke were present for the application. Chairman Graziano informed the applicant's representatives that there are items missing from the application. Chairman Graziano continued that a denial from the TOC CEO Jay Trapp and list of abutting property owners is missing. Rob Fitzsimmons reviewed the application for the ZBA members. Rob Fitzsimmons continued that the application is currently before the TOC Planning Board and was submitted back in January then COVID halted all meetings in the Town. Chairman Graziano stated that the application is still incomplete until the two items are submitted. Mr. Miller informed the Board that the application is for two large scale solar installations on Humane Society Rd. Mr. Miller continued that the property is currently before the TOC Planning Board for a 3-lot subdivision. Mr. Miller continued that the ZBA application is seeking an Area Variance for the two solar installations because they require 100-foot setbacks. Mr. Miller informed the Board that the TOC PB is the lead agency for the project. Mr. Miller stated that setbacks are usually to protect the neighbors but these set backs are between the two solar arrays. Steve Melnyk asked the applicant's representatives why the need for two solar fields. Gillian Black explained that it is because each solar farm is only allowed to send 5 MWs of AC to the grid. Mr. Black continued that the energy produced will be sent to two independent interconnections then down Pulcher Ave. via separate poles and lines. Steven Melnyk asked about article 10. Gillian Black explained that this project is considered community solar because they will sell discounted electric to the community. Mr. Black continued that they have paid National Grid to upgrade the lines and they built a roadway for them with 20-foot access. John Porto asked why the need for the Variances because by the maps it appears that there is plenty of property to have the solar fields both fit and have the setbacks. Gillian Black stated that they like to keep the surrounding property as dense as possible and to maintain some agricultural property without clearing trees as much as possible. John Porto asked how emergency access if something happens. Mr. Black answered that there is a 20-foot access roadway surrounding the site. Steven Melnyk asked if the solar panels are cemented into the ground. Mr. Black answered that the panels are on I-beams that are driven into the ground and they move with the sun throughout the day. Chairman Graziano asked to show the Area Variance sites. Mr. Miller informed the Board that at a point the set back is 20-feet and some at 15.9-feet. Chairman Graziano stated that the setbacks are set for safety and how would emergency vehicles access the site if a fire. Gillian Black stated that if no one is inside the site then the emergency vehicles would just be driving around the outside of the site. Chairman Graziano stated then it would just be allowed to burn out if there were a fire. Mr. Black answered yes. Chairman Graziano asked if the site would house any combustibles or hazardous materials. Mr. Black answered no. Chairman Graziano asked why two separate parcels owned by the same person. Mr. Black informed the Board that the property consists of 254-acre farm owned by Ed Casivant and is situated on a town roadway. Steven Melnyk asked if the yellow line depicts a fence. Mr. Black answered yes, an 8-foot agricultural type fence. John Porto asked where the access road is located and how is the perimeter maintained. Mr. Black explained that the rows of panels run from north to south with approximately 19 feet between each row. Mr. Black continued that the site will be seeded with a pollination friendly seed mix and possible community garden. John Porto asked what the plan is for the 3<sup>rd</sup> parcel. Mr. Black stated that they are currently exploring for a third solar field but the site has a large amount of wetlands so they are only subdividing at this point. John Porto stated that the 15-foot area doesn't seem like enough room for access. Chairman Graziano stated that the Board will need to err on the side of safety. Gillian Black stated that both parcels will be fenced. Steven Melnyk stated that he felt that the property affords enough room to be able to meet the setbacks with moving the field to the right. Mr. Black stated that they would still not have enough to meet the 100-foot setback on both parcels even if they moved the fields. Mr. Black stated that he needs to maintain the size and scale to maximize output. Mr. Black continued that moving the field to the right will require a lot of clearing to keep from having shaded areas. Mr. Miller stated that topography, shading, keeping to a minimum amount of disturbance and minimal

tree cutting is the idea. Gillian Black stated that they are not trying to cut trees and the project has not skimped on costs. Rob Fitzsimmons informed the Board that has asked for the applicant to consult with the local fire agencies and letters are requested to address any concerns. Chairman Graziano stated that the TOC ZBA will want letters from the fire chiefs before they make any decisions because personal safety is the priority. Steven Melnyk stated that the ZBA would want to see that all of the ducks are in a row. Gillian Black stated that they have requested a coordinated review with the TOC Planning Board. Steven Melnyk asked how the community purchases electricity. Mr. Black stated that every bit of electricity is sent to National Grid and converted into money and National Grid customers can opt in to the program and they will receive a 10% reduction in their electricity bills but they will need to sign up with Eden Renewables. Chairman Graziano asked the lifespan of the solar fields. Mr. Black answered 40-year lease. Mr. Black continued that a decommission plan is submitted and bond and irrevocable account to protect the property owner and town should the lease be broken. Mr. Black stated that a PIOLT will be set up with the Town, county and school district. Mr. Black informed the Board that the project is quite far along in the process and their goal is to keep the site as compact as possible so the least amount of land is used. Rob Fitzsimmons informed the Board that the CCPB has reviewed and returned a comment letter to the TOC Planning Board. Chairman Graziano thanked the applicants for the education and they need to submit the abutters address list along with the TOC CEO denials. Mr. Black stated that he will be meeting with the local fire chiefs and will address the comments from the CCPB. Rob Fitzsimmons informed the Board that the project can receive a coordinated review for SEQRA review and one public hearing. Rob Fitzsimmons suggested picking a special night for the public hearing because the Planning Board is holding public hearing for a second large scale solar project and it is easier for the applicant and public to comment if one hearing instead of two.

Change of venue and better zoom.

Meeting date will be checked but possible September 29<sup>th</sup> at 7:00 PM at the A. B. Shaw Fire house on NYS Rte. 23. Secretary Keyser will email the Planning Board members to poll availability for quorum. Rob Fitzsimmons informed the applicants that there is no need to appear on 9/23 for the regular ZBA meeting but need to obtain a public hearing sign and send in the list of abutters. Sign with special date and location will be coordinated with Mary Jeanne Hoose town clerk.

Motion to adjourn the meeting was made by Steven Melnyk with a second from Chris Post. All members were in favor. Meeting adjourned at 9:00 p.m. All members were in favor. Motion carried.

Respectfully submitted  
Jodi Keyser, Secretary