

TOWN OF CLAVERACK  
PLANNING BOARD  
Meeting Minutes  
January 3, 2022

Chairman Scott Cole called the January 3, 2022 meeting of the Town of Claverack Planning Board to order at 7:00 p.m.

Chairman Cole led members of the Board and audience with the Pledge of Allegiance.

Motion to approve the Minutes of December 6, 2021 was made by Virginia Ambrose with a second from Rich Michael. All members were in favor. Motion carried.

**Correspondence:** George Schmitt informed the Board that he reached out to the NYS DOT regarding the Jackson's BBQ curb cuts and they are very interested in proposed curbing. George Schmitt continued that the NYS DOT representative stated that to his knowledge they have had no contact from Mr. Pomplun regarding the Jackson's site. George Schmitt continued that he shared the contact information with Mr. Pomplun after the previous engineer retired and informed the Board that Mr. Pomplun does need to complete a permit to the NYS DOT for the curb cuts and this is also a condition of the approval for the initial application and it has been almost two years now. George Schmitt continued that the curb cuts will require a permit from the NYS DOT and it needs to be addressed so the applicant is now seeking a modification of the previous approval but the engineering for the curb cuts needs to be addressed to start fresh. Stephen King asked how is the Planning Board supposed to require Mr. Pomplun to complete the curb cuts when the owner of the Subway shop had shown a curb cut plan showing plantings and greenspace that was approved but never completed. George Schmitt answered that the owner of the Subway shop had his curb cuts amended and they were approved by the NYS DOT where the greenspace was deleted without consulting with the Town of Claverack Planning Board but that is the system. Chairman Cole then stated that the applicant has another application before the Planning Board for a modification of his site plan without completing the conditions of the previous approval. Lisa Bowe stated that the applicant should be required to complete his previous conditions before he is allowed any modification. Mr. Pomplun via zoom stated that he has submitted his permit application to the NYS DOT as required but has heard nothing from them and due to the changes in administration found it increasingly difficult to reach anyone to speak to him. Mr. Pomplun stated that he is incomplete compliance with the previous approval because he hired an engineer to design the curb cuts and he submitted the design to the NYS DOT but was never contacted by the DOT or the Town of Claverack. Mr. Pomplun continued that he has done everything in his power and has gone to great lengths to start his business and spent thousands of dollars and demands that he be respected for all that he has done. Rob Fitzsimmons asked Mr. Pomplun to show proof of the plans that were submitted to the NYS DOT and that this loop eventually needs to be completed. Mr. Pomplun stated that he spent \$12,000.00 to hire an engineer to design curb cuts and submitted the curb cut designs to the NYS DOT but haven't heard back from them. George Schmitt stated that he understands the frustrations and he deals with the NYS DOT on a daily basis and that it is the applicant's responsibility to keep on top of the permit submission to make sure that it is progression and the applicant cannot just throw their hands up into the air and say well they haven't responded so I don't need to do anything because it most certainly is a condition of the approval. Mr. Pomplun stated that this is out of his control and he has done everything in his power to keep track of the NYS DOT because he is trying to run a business during a pandemic. Mr. Pomplun continued that he doesn't know how much longer he will be able to keep the business operational without enclosing the place. Virginia Ambrose stated that if Mr. Pomplun has jumped through the hoops she would need to see some sort of proof that contact with the NYS DOT was made on his behalf. Lisa Bowe stated that she needs to see that proof also before she can see the application proceed.

## CONTINUING APPLICATIONS FOR 1/3/22:

**Bloomfield, James & Riley, Jessica Subdivision: Tax Map #(SBL)121 . – 1 – 24 . 112 Located at 91 Courts Lane. Subdivision of 100.608 acres into three parcels of 10-acres, 28-acres and 62-acres respectively.**

Jess Riley, Pat Prendergast, Kevin Theiman, and Ms. Riley's husband were present for the application. Mr. Prendergast reviewed the 3-lot subdivision of an existing 100-acre horse farm. Mr. Prendergast continued that the three parcels will consist of parcel A will be a 62 acre parcel containing the horse farm, parcel B will have 28 acres will access from Pine Street, and parcel C will be 9.78 acres with access from Courts Lane. Mr. Prendergast submitted maps from surveyor Dan Russell and informed the Board that septic system plans have been submitted to the Columbia County Department of Health with minor comments needing to be addressed but not yet permitted. Mr. Prendergast stated that the septic systems that were designed were for a 4-foot fill bed system. Mr. Prendergast continued that they have applied to NYS DEC for SWPPS due to the site disturbance over an acre. Mr. Prendergast informed the Board that the site will have a driveway to parcel B of 1,000 +/- feet with an emergency pull off for emergency vehicles as will the 1,000 +/- foot driveway will both have emergency pull offs every 500 feet. Mr. Prendergast continued that he has labeled the number of bedrooms and submitted to CCDOH before Christmas but has not heard back as of the meeting. Lisa Bowe asked which parcel will have a house built. Mr. Prendergast answered both parcels B & C will have new construction and parcel A has an existing residence with parcel B owned by Ms. Riley and parcel C owned by Mr. Bloomfield. Chairman Cole asked members of the Board if they had any further questions. Lisa Bowe asked for the width of the driveway for parcel B from Pine Street. Mr. Prendergast answered that the driveway will be a standard 12 feet wide. Lisa Bowe asked if the driveway will create any drainage problems for Mr. Mortefolio's property. George Schmitt explained that the maps show that the parcel slopes away from Mr. Mortefolio's property. George Schmitt stated that the only outstanding issues are the NYS DEC SWIPPS permit for stormwater control and CCDOH for septic systems. No further Board questions.

Chairman Cole opened the 7: meeting up to the public hearing at 7:20 p.m.

Chad Mortefolio informed the Board that he is not against the subdivision and wants to be a good neighbor but he has retained an attorney who has submitted letters that have been ignored. Mr. Mortefolio continued that his attorney attended the previous meeting online and his lawyer was not heard. Mr. Mortefolio continued that the meeting online was difficult to hear everything that was going on. Rob Fitzsimmons stated that the applicant's attorney Mr. Theiman had written a response letter and that there are two different attorneys have two different opinions of the law. Rob Fitzsimmons continued that the applicant's have supplied deeds that represent that they have a legal right of way and have legal ingress and egress to their property. Rob Fitzsimmons continued that the applicant has demonstrated that they have frontage on a town roadway and wish to use the right of way to access their parcel. Mr. Mortefolio stated that the subdivision could be accessed another way and they don't have to use the right of way. Mr. Mortefolio continued that snow plowing will be an issue because there is nowhere to push the snow at the end of Pine Street other than at the right of way. Rob Fitzsimmons answered that the applicant has supplied a letter from the Town of Claverack Highway Supervisor stating that the driveway is permitted as designed and will not impede snow removal. Mr. Mortefolio stated that when the applicant submitted an application for the same subdivision 5 years ago Mr. Lamont wrote a letter against the driveway at the same site so what has changed in the past 5 years. Rob Fitzsimmons stated that a reasonable understanding between neighbors could be worked out. Mr. Mortefolio stated that the Board is biased in favor of the applicant at the meetings. Rob Fitzsimmons answered that Mr. Mortefolio has no reasonable evidence that there has been any bias. Chairman Cole informed Mr. Mortefolio that the Town of Claverack goes to great lengths

and expense to have an attorney and an engineer present at all meetings to make sure that everything that happens at the meetings is done within legal and ethical parameters. Mr. Mortefolio stated that the applicant is planning to take a narrow right of way and make it two times wider to use for a personal driveway. Mr. Mortefolio continued that the Town Laws require direct frontage to be used for a driveway and the right of way is to be used agricultural use only as stated in his deed. Mr. ? stated that the deed does not read to be used for agricultural uses only but for all uses. Mr. Mortefolio stated that in his opinion the Planning Board had their decision made before hearing his side of the story.

No further comments. Chairman Cole closed the public hearing at 7:35 p.m.

George Schmitt reviewed the SEQRA for the Board.

Motion to grant a negative declaration for purposes of SEQRA was made by Tim Wyman with a second from Virginia Ambrose. All members were in favor. Motion carried.

Motion to grant approval of a minor 3-lot subdivision was made by Virginia Ambrose with a second from Tim Wyman. All members were in favor. Motion approved.

Maps were stamped and signed. Final fees of \$1,600.00 were paid.

**Gellert, Philip & Cross, Scott & Darcy Boundary Line Adjustment: Tax Map #(SBL)133 . 00 – 2 – 50 & 133 . 00 – 2 – 48. Located at 91 Palmer Rd. Boundary Line of 5.8-acres from Gellert to Cross.**

Mr. Gellert was present for the application. Mr. Gellert supplied new revised maps as requested. Chairman Cole informed the Board that he recently met with Mr. Gellert to look over the revised maps and found them good to proceed. Mr. Gellert supplied maps all in black and white, showing additional lands remaining and a location map as requested by the Board. Mr. Gellert informed the Board that he is selling an additional 5-acre piece of property to be joined to the property of Scott and Darcy Cross to someday use to build another house for their family members. Mr. Gellert informed the Board that he has approximately 75-acres remaining that abuts the Taconic State Parkway and Forrest Lake.

Chairman Cole opened the meeting to public hearing at 7:45 p.m. No comments. Chairman Cole closed the public hearing at 7:46 p.m.

Rob Fitzsimmons informed the Board that the application is for a Boundary Line Adjustment and is exempt from SEQRA review.

Motion to approve a minor 5-acre Boundary Line Adjustment from Gellert to Cross was made by Stephen King with a second from Alberta Cox. All members were in favor. Motion carried.

Maps were stamped and signed.

No fees were required.

**Mokotoff, Moke-dba Claverack Farm LLC Special Exception: Tax Map #(SBL)120 . – 1 – 24 Located at 370 NYS Rte. 23B. Special Exception for the installation of a Tier 2, 20.025 kW ground-mounted solar array.**

Mr. Mokotoff, owner and Lauren Harvey, Kasselmann Solar LLC were present for the application. Stephen King asked Rob Fitzsimmons if the application would fall under Ag & Markets since it is an existing agricultural operation. Rob Fitzsimmons answered no. Chairman Cole asked if the new maps that were supplied will meet the criteria for engineer stamped and signed maps. George Schmitt answered yes

because they have the large stamp. Ms. Harvey reviewed the new materials showing a proposed fence along Webb Rd. for screening. Chairman Cole asked if the array could be concealed down the embankment. Mr. Mokotoff explained that the property along the bank is a separate parcel. Mr. Mokotoff continued that the property was a 43-acre parcel which was subdivided approximately 8 years ago and the bank is not part of the Claverack Farm LLC property. Mr. Mokotoff continued that the solar array needs to be positioned in a way that it gathers the most sunlight throughout the day. Ms. Harvey explained that the solar array was situated in the middle of the field. Virginia Ambrose asked if the solar array could be hidden better with screening other than a fence. Mr. Mokotoff stated that the fence will hide the array from the neighbors and someone would need to trespass on his property to view it. Chairman Cole stated that the homes on Webb Rd. will be able to see the array from their second story windows. Ms. Harvey stated that a second story should not be considered line of sight. Stephen King stated that the Board decided at the December meeting that a first floor view should be considered line of sight. Lisa Bowe asked how tall the array will be. Ms. Harvey answered it should be approximately 11-feet high. Lisa Bowe asked how high the fence will be. Ms. Harvey answered 6-feet as allowed. Stephen King stated that the distance from the fence to the array will make it difficult to see from the roadway or neighbors. Stephen King stated that he is more concerned that the plan does not show the disconnects at the site of the array and on the building. Chairman Cole instructed the applicant that the Town Code requires that the plan shows the disconnects at the array as well as at the building. Ms. Harvey answered that this is a building department issue not something that the Planning Board would need to determine approval. Chairman Cole stated that this would be a condition of approval. Virginia Ambrose asked if there is a plan to build a residence on the site. Mr. Mokotoff answered no there are three other parcels that are approved for building lots and this parcel will remain an agricultural use. Lisa Bowe asked about a camper that is located on the property and if anyone lives in it. Mr. Mokotoff answered that his farm manager does reside in the camper during the summer months while they work instead of commuting and if he reads the Town Code correctly this is allowed for 6 months of the year. No further questions.

Motion to accept the application as complete and set public hearing for February 7, 2022 was made by Tim Wyman with a second from William Michael. All members were in favor. Motion carried.

**Stewart's Shops Corp. Site Plan/Special Exception: Tax Map #(SBL) 101 . – 1 – 73 Located at 811 Rte. 66. Site Plan & Special Exception for the construction of a new Stewart's Shop (convenience store) with self-service gasoline filling.**

**Continued to February.**

**Pomplun, Kevin & Schwab, James dba Jackson's BBQ Special Exception: Tax Map #(SBL) 121 . 3 – 2 – 12 Located at 14 Rte. 9-H. Special Exception to expand the building by enclosing an existing concrete slab to allow for inside dining.**

Rob Fitzsimmons informed the Board that Mr. Pomplun sent him via email the stamped plans from Crawford and Assocs. For the driveway curb cuts addressed to the NYS DOT Region 8 permitting office in Poughkeepsie. George Schmitt stated that the plans should have been sent to the NYS DOT office on NYS Rte. 66 in Hudson. Mr. Pomplun stated that he sent the plans to the Region 8 office as directed. Mr. Pomplun stated that in March of 2020 he was given an exception for the curb cuts. Rob Fitzsimmons corrected Mr. Pomplun that he received a conditional approval allowing him to open the facility but the condition of the curb cuts completion would be a requirement. Rob Fitzsimmons continued that it is the applicant's responsibility to complete all of the conditions within a timely manner to complete the approval. Rob Fitzsimmons continued that Mr. Pomplun asked the Board for the approval with the condition of the curb cuts because he needed to open his establishment and the DOT was in the process of hiring a new engineer for the area. Rob Fitzsimmons continued that the Planning Board approved the Special Exception

with the condition that the applicant would complete curb cuts but that this approval is not an open ended condition but is the expectation of the Board and the Town of Claverack that the applicant will comply with the conditions in a timely manner. Tim Wyman stated that it is the applicant's responsibility to make efforts to be diligent and stay on top of an agency and just can't say well ok I tried to reach them but they didn't answer and it is their fault just isn't enough of an answer. Mr. Pomplun stated that with all due respect the NYS DOT is much like the IRS and is impossible to reach and he cannot be held responsible for their lack of response. Lisa Bowe asked if Mr. Pomplun had any other submissions or correspondence to the NYS DOT over the last 18 months other than the initial submission that he can supply to the Board. Mr. Pomplun stated that the NYS DOT has been through at least 5 people in the last couple of years and he doesn't think that it is his responsibility to notify the agency every time someone new is appointed and he isn't a bad guy but it is out of his hands. Tim Wyman stated that the Board does not think that Mr. Pomplun is a bad guy but it is his responsibility to make more effort to meet with the NYS DOT to complete the original condition of the original approval and now is asking for another approval without completing the conditions does not fare favorably with the Board members. Mr. Pomplun informed the Board that he performed a traffic study and since his opening hasn't witnessed any traffic accidents at the site but fears if he is forced to complete curb cuts it will certainly create a traffic situation that would be hazardous. Chairman Cole asked Mr. Pomplun if he would be willing to state that he will personally guarantee that he will have the curb cuts installed as per NYS DOT if the TOC Planning Board were to approve this second Special Exception. Mr. Pomplun informed the Board that he will make every effort to communicate with the NYS DOT and has nothing to hide. Tim Wyman asked Mr. Pomplun to communicate every time he reaches out to the NYS DOT with Town of Claverack Attorney Rob Fitzsimmons and also every communication from the NYS DOT also so that the Board is assured that the matter of the condition for the curb cuts is being handled. Chairman Cole stated that there is an issue with the proposed enclosure already 75% already enclosed. Mr. Pomplun stated that this figure includes the existing structure. Chairman Cole stated that the enclosure is only 25% complete. Mr. Pomplun informed the Board that his plan includes expanding the existing roof another 15-feet and enclosing the entire three sides with a new roof, installing windows and sliding glass doors. Mr. Pomplun continued that this extension is needed to get the business through these trying times during the pandemic. Lisa Bowe asked if there will be any type of ventilation and heat. Mr. Pomplun answered that he will have electric heat with fans during the colder months and will open the doors and windows in the summer months. Mr. Pomplun stated that this is not an expansion of the use because it will not create additional seating space because he will use tables and chairs instead of picnic tables. Chairman Cole asked if the septic system is adequate for this endeavor. George Schmitt answered that the CCDOH generally does not need to be involved unless they feel that there is increased seating or increased use but would suggest reaching out to the CCDOH for the bathroom facilities to be safe. Virginia Ambrose stated that she feels that the Board needs to be careful with this situation because they have already made an approval with a condition that has not been completed and now is being asked to make another approval with the previous conditions still an outstanding issue. Rob Fitzsimmons informed the Board and applicant that the NYS DOT also needs to respond to the applicant and permit the curb cuts or request a modification of the permit submittal. George Schmitt added that once the NYS DOT has made a permit to an applicant they expect that the work will be completed within a timely manner or they will pound pylons across the entire entrance until the curb cuts are completed as permitted. Rob Fitzsimmons stated that the Board requests monthly proof of communications between Mr. Pomplun and the NYS DOT.

Chairman Cole opened the meeting to the public hearing at 8:32 p.m.

Annie Ha lives across the street and has no issue with the business and she is totally good with the application. No further comments.

Chairman Cole closed the public hearing at 8:34 p.m.

George Schmitt reviews the SEQRA for the Board.

Motion to grant a negative declaration for purposes of SEQRA was made by Virginia Ambrose with a second from Tim Wyman. All members were in favor. Motion carried.

Motion to grant approval of a modification of a previously approved Site Plan with condition that the applicant pursue and supply proof of monthly correspondence with the NYS DOT regarding permitting and completion of curb cuts to Town of Claverack Attorney Rob Fitzsimmons in the absence of proof of progress on the DOT review and permitting the Town of Claverack will report to the New York State Department of Transportation, condition that curb cuts will be completed by the end of September 2022 at which time the issue may be revisited if in progress to allow extension of time for completion if needed, and condition that applicant will supply the Town of Claverack Building Inspector a letter from the Columbia County Department of Health approving the existing wastewater system is adequate for the extension prior to the Certificate of Occupancy is granted was made by Virginia Ambrose with a second from Tim Wyman. All members were in favor. Motion carried.

Mr. Pomplun was instructed that he needs to supply the Town of Claverack Building Department with a letter from the CCDOH regarding the wastewater prior to Certificate of Occupancy and will need to supply Rob Fitzsimmons with all correspondences between himself and the NYS DOT at the beginning of each month. Mr. Pomplun was informed that the NYS DOT curb cut permits are good for 1 year from the date of approval or permitting. Virginia Ambrose stated that she is concerned with the expansion with regard to the septic system because the previous use was for a part-time ice cream/BBQ take out not a sit-down restaurant. George Schmitt stated that the Town of Claverack does not have a sanitary code so he deferred the applicant to the CCDOH because they deal with existing businesses and make the determination if the expansion is an increase in use or not but it is not something that the TOC Planning Board can make just a good idea to have CCDOH determination letter on file.

Mr. Pomplun was informed that he owes fee in the amount of \$6.96 for the public hearing mailing to the abutting neighbors. Mr. Pomplun will make payment the next day. Jodi Keyser informed Mr. Pomplun that she will not yet have the approval form submitted to the Town Building Department for a few days.

Motion to adjourn was made by Virginia Ambrose with a second from Lisa Bowe. All members were in favor. Motion carried. Meeting adjourned at 8:55 p.m.

Respectfully submitted,

Jodi Keyser, secretary