

APPROVED 8/1/22

TOWN OF CLAVERACK  
PLANNING BOARD  
Meeting Minutes  
July 7, 2022

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

Members in attendance were: Chairman Scott Cole, Virginia Ambrose, Lisa Bowe, Alberta Cox, Patricia Fecher, Stephen King, engineer; George Schmitt, attorney; Rob Fitzsimmons and secretary; Jodi Keyser

Absent: Tim Wyman

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

Motion to approve the minutes of June 6, 2022 was made by Stephen King with a second from Virginia Ambrose. All members were in favor. Motion carried.

Correspondence

CONTINUING APPLICATIONS FOR 7/7/22:

Emerson Solar, LLC Site Plan/Special Exception & Boundary Line Adjustment: Tax Map #(SBL)  
Boundary Line Adjustment for the installation of a Large Scale Solar Field.

Gillian Black, Danielle ? and Jennifer Gaviotti were present for the application. Mr. Black informed the Board that they have received the biodiversity plan and hope that this clears up the questions. Mr. Black also submitted stamped subdivision maps for the Boundary Line Adjustment. Mr. Black submitted a letter from the archeology company with a determination of negative impact and no finding of any archeological site on the project area. Rob Fitzsimmons informed the applicant that the County Planning Board has not yet reviewed the application and will meet on July 19<sup>th</sup> with this on the agenda. Rob Fitzsimmons continued that the Planning Board cannot move forward on the approval only for the SEQRA. Mr. Black stated that he sent completed conditions after the June meeting to Rob Fitzsimmons for the resolution. Chairman Cole stated that the Planning Board members were instructed to provide conditions to the Chairman for the meeting that would be discussed and possibly added to the final resolution. Alberta Cox asked if the Town Board will receive a yearly report to track the screening plan for the first few years and then possibly longer periods after that. Gillian Black answered yes for a few years. Lisa Bowe asked to define few. Gillian Black stated that the screening is monitored every year for the first five years after completion and then every 5 years after that. Stephen King asked about monitoring of the newly planted screening trees. Gillian Black stated that the screening plants are monitored for one year from installation and then annually for the next five years to ensure viability and health then after that time period the screening is monitored every 5 years after that. Stephen King stated that these monitoring reports should be submitted to the TOC CEO as well as to the Town Board. Gillian Black informed the Board that the biodiversity plan remains with the project even when the site is sold to different companies. Lisa Bowe asked when will the monitoring start after the plants are planted. Mr. Black answered that the screening is usually started after or toward the end of the construction then the CO is complete once all approvals from the TOC and National Grid are obtained so approximately one year from operation. Virginia Ambrose stated that she would like to suggest that the screening happen prior to the start of construction. Mr. Black stated that this might be difficult depending on the time of year to allow for optimum survival and it isn't the best idea to plant before construction due to the large equipment and construction vehicles moving through the site could cause damage.

Mr. Black stated that this would be difficult. Virginia Ambrose stated that it is important to her and to the neighbors to provide protection. Gillian Black stated that the Board could ask to plant when and where it is appropriate such as if construction starts in May of 2023 but if it is out until the Fall it might be too late. Chairman Cole stated that the previous large scale solar projects have returned asking for a 12 month extension and would this be something that could be added to the approval. Gillian Black stated that the soonest the project could start would be May of 2023 but could push it out until 2024 depending on all of the variables. Chairman Cole asked what the hours of operation/construction would be. Mr. Black stated that they typically start at 7:00 a.m. and end for the day at 5:00 p.m. Chairman Cole stated that to be fair to the neighbors he would ask that construction not begin before 8:00 a.m. and end at 5:00 p.m. with a Monday through Friday schedule, no weekends or holiday work especially no pounding prior to 8:00 a.m. Mr. Black stated that is a reasonable request but if after the poles are set could construction begin at 7:00 a.m. Lisa Bowe stated that this is a very busy roadway with busses and other traffic early in the morning and is concerned for adding construction vehicles and workers vehicles entering and exiting. Chairman Cole stated that the applicant has represented that the project will only disturb 5 acres at a time so the pounding will continue. Mr. Black stated that the 5 acre disturbance is part of the SWIPP compliance to prepare the property for the solar panels and once complete the entire site will be installed. Stephen King asked what is the approximate number of workers on site. Mr. Black answered approximately 20-30 vehicles on site per day with an ebb and flow and all parking is within the site. Alberta Cox asked what time of day would trucks enter and exit. Mr. Black answered all day. Mr. Black continued that the largest trucks would be during a 6-week period with those being concrete trucks, cranes, equipment deliveries. Mr. Black continued that at the site Lull forklift, golf carts, side by side ATV, drilling rigs and pounders will be used during the construction. Mr. Black continued that he is fine with the 8:00 p.m. start time during heavy equipment and pounding times but would ask to start at 7:00 a.m. during the panel installation. Virginia Ambrose stated that she would like to see all construction limited to 8:00 a.m. start time. Stephen King asked if there is someone onsite to coordinate deliveries and construction. Mr. Black answered yes there is a construction manager and other construction site leaders that will direct the operation and deliveries. Stephen King asked if Stottville Rd. should become damaged due to the heavy equipment would the company provide the needed repairs. Mr. Black answered that they have set up bonding for repairs in the past. George Schmitt informed the Board that this is done but he doesn't for see issues with the roadway and it should be able to handle the truck traffic. Rob Fitzsimmons asked the Board members if they are set with hours of operation of 8:00 a.m. to 5:00 p.m. Monday through Friday no holidays or weekend work. Lisa Bowe answered yes because the Board wants to be fair to the neighborhood and with school busses and people commuting to work the area needs to be safe. Virginia Ambrose stated that no work should happen on Saturday or Sunday. Mr. Black stated that the EAF states 7:00 a.m. to 5:00 p.m. but he can change that but it is totally up to the Board. Rob Fitzsimmons stated that a condition would be work start time limited to 8:00 a.m. to 5:00 p.m. with no work allowed on Saturdays, Sundays and holidays. Virginia Ambrose stated that she is concerned with the EAF referencing insecticides and wants more information especially with the proximity of the site to the Claverack Creek. Virginia Ambrose continued that she understands that there are ORI and OMRI approved pesticides and insecticides that are better but concerned with the possible use of insecticides and their impact. ? answered use of insecticides would be applied by a licensed professional if needed but the site is not an agricultural use and therefore no reason to use heavy insecticides to protect crops. ? continued that they use best management practices to control invasive species. ? continued that they would only use insecticides or herbicides to control invasive species that have not been controlled with other natural practices. Virginia Ambrose stated that the plan

calls for bee hives and is concerned that insecticides would harm the bee colonies. ? and Gillian Black stated that the author of their biodiversity plan states that glyphosate which is Roundup is used to control invasive plants. ? continued that Roundup is a brand name but an herbicide containing glyphosate is regularly used and is a standard for invasive control and is only used as a last resort. Lisa Bowe asked what is the first plan to control invasive species. ? answered that maintaining healthy plants and choosing healthy plants with management after they are planted, managing undesirable species by mowing or physically removing invasive species as they are found. Gillian Black stated that the use of a mixed seed, plants and shrubs have far less impact on the soils and Claverack Creek because there is much less runoff than a corn field and the plantings are regenerative to the soils rather than destroying the nutrients of the soils. Alberta Cox stated that she is happy to see bat houses and bluebird houses on the plan. Gillian Black informed the Board that she has recently read that the long-eared bat is making a comeback from the endangered species list which is good news. All Board members are ok with the plan. Chairman Cole stated that the conditions that were discussed will be included in the Resolution.

Chairman Cole continued the public hearing at 7:38 p.m. No comments. Motion to close the public hearing was made by Alberta Cox with a second from Stephen King. All members were in favor. Motion carried. George Schmitt read the SEQRA Part II for the Board. Motion to grant negative declaration for purposes of SEQRA was made by Lisa Bowe with a second from Alberta Cox. All members were in favor. Motion carried.

Rob Fitzsimmons will prepare the Final Resolution with added conditions of hours of operation limited to 8:00 a.m. to 5:00 p.m. with no Saturday, Sunday and holiday work.

Motion to approve the minor Boundary Line Adjustment as presented was made by Pat Fecher with a second from Stephen King. All members were in favor. Motion carried. Maps and stamps were stamped and signed.

Applicants will return for final approval at the August meeting.

**Patel, Mehul/Kasselman Solar Site Plan/Special Exception Review: Tax Map #(SBL)121 . 3 . 2 – 64 .**  
2 ground mounted solar array of 12.00kW.

Kasselman Solar representatives informed secretary Jodi Keyser that they were awaiting the survey maps and will return for the August meeting.

**Sutton, David & Masters, Victoria Special Exception/Site Plan: Tax Map #(SBL) 130 . – 1 – 6 . 112**  
Located at 195 Stone Mill Rd. Special Exception/Site Plan for the construction of a 56 panel ground mounted solar array, 1 SMA S87 inverter, 2 SMA S86 invertors.

Applicant's representative notified the Board that they are awaiting their survey and will return for the August meeting.

**Abeyatunge, Krishan & Lambert Site Plan/Special Exception: Tax Map #(SBL) 111 . – 1 – 11**  
Located at 148 Kittle Rd. Site Plan Special Exception to convert an existing 390-square foot garage into an accessory apartment.

Mr. Abeyatunge changed his application from a guest house to an accessory apartment. Mr. Abeyatunge initialed the change on the file application. Mr. Abeyatunge informed the Board that he has Dan Russell drawing up the survey. Mr. Abeyatunge asked the Board members what they need as proof from the CCDOH. George Schmitt informed Mr. Abeyatunge that the CCDOH will give

him a letter for the septic system. Mr. Abeyatunge understood. Stephen King informed Mr. Abeyatunge that the survey needs to show the new septic tank location. Continued to August.

**Cheffo Farms LLC & RPK Properties Boundary Line Adjustment:** Tax Map #(SBL) 120 . – 1 – 3 . 3  
Tax Map #(SBL) 120 . – 1 – 3 . 1. Boundary Line Adjustment located off Old Lane.

Fred Haley was present for the application. Mr. Haley informed the Board that he represents RPK, Richard Koskey and Cheffo Farms. Mr. Haley continued that Mr. Koskey owns 11 acres off of Old Lane in Claverack that was formerly the Hudson-Berkshire railroad tracks dating back to 1844. Mr. Haley continued that in 2009 this property was subdivided with a portion going to the Town of Claverack for the water tower. Mr. Haley continued that Mr. Koskey retained 9 acres at that time. Mr. Haley continued that the Cheffo Farm LLC recently purchased the Jutkofsky Farm. Mr. Haley continued that Mr. Koskey is seeking a Boundary Line Adjustment to add 4.5 acres of the remaining 9 acres of the railbed to Cheffo Farm LLC and he will retain 4.5 acres. Stephen King asked about a bridge that is shown on the survey maps and who is responsible for the maintenance. Mr. Haley answered that Cheffo Farms will be responsible for the bridge and will remove it after the Boundary Line Adjustment is approved. Mr. Haley stated that this is a minor Boundary Line Adjustment between two large parcels and nothing is changing. Rob Fitzsimmons informed the Board that the application is exempt from SEQRA and they are free to make a motion.

Motion to approve a 4.5 acre Boundary Line Adjustment from RPK Properties to Cheffo Farms LLC was made by Virginia Ambrose with a second from Patricia Fecher. All members were in favor. Motion carried. Maps were stamped and signed.

*Virginia Ambrose asked to be recused for the following application at 8:10 p.m.*

**Ambrose, Peter & Virginia Subdivision:** Tax Map #(SBL) 122 . – 1 – 67 . 11 Located at 29 Old Barrington Rd. Subdivision of 136.789 into 4 parcels consisting of 13.887, 10.718, 14.140 and 98.046 acres respectively.

Dan Russell was present for the application. Mr. Russell reviewed the maps for the members. Mr. Russell continued that the property is currently owned by the 3<sup>rd</sup> generation of family members Peter and Virginia Ambrose and they are seeking the subdivision to gift each of their three daughters with a parcel to continue the 4<sup>th</sup> generation of ownership. Mr. Russell continued that this is a 136.789 acre parcel that will have parcels of 14.14 acres, 10.78 acres and 13.88 acres. Mr. Russell informed the Board that the middle parcel has a septic approval and he is seeking for the Board to waive the septic approvals for the other two parcels due to their size and the recently approved system. Mr. Russell continued that the file also contains driveway permits for each parcel.

Chairman Cole opened the meeting to public hearing at 8:12 p.m. No comments were heard. Chairman Cole closed the public hearing at 8:13 p.m.

Motion to grant a negative declaration for purposes of SEQRA was made by Stephen King with a second from Alberta Cox. All members were in favor. Motion carried.

Motion to approve the 3-lot subdivision as presented in the survey supplied was made by Patricia Fecher with a second from Stephen King. All members were in favor. Motion carried.

Maps were stamped and signed. Mr. Russell paid final fees of \$4950.00.

*Virginia Ambrose reenters the meeting at 8:20 p.m.*

**Schnackenburg, Jurgen & Werner, Friedrich Subdivision: Tax Map #(SBL) 123 . – 1 – 63 . 111**

**Located at Donnelly & Preusser Rd. Subdivision of 128.55 acres into parcels of 60 acres and 68.55 acres respectively.**

**Dan Russell was present for the application. Mr. Russell informed the Board that this is a 128.55 acre parcel proposed to be subdivided into two parcels of 60 acres and 68.55 acres. Mr. Russell continued that the parcels have conservation easements with two ADA sites (acceptable development areas) that are the only areas where building is allowed. Mr. Russell continued that each ADA has CCDOH approvals. Mr. Russell continued that the one parcel will be accessed from Donnelly Rd. and the other will have access from Preusser Rd. Mr. Russell continued that in 2004 the parcel with Donnelly Rd. access received a driveway permit from the Town of Claverack Highway Dept. but he was unable to find a driveway permit for the Preusser Rd. parcel. Mr. Russell continued that the Preusser Rd. parcel has a driveway maintenance agreement that is not formal but is written into the deeds. Mr. Russell continued that there are two parcels that are essentially landlocked from many many years ago and are owned by Finklestein and Wilcox and no new driveways are proposed. Mr. Russell continued that no new development or subdivisions are proposed other than in the approved ADA areas as one will be situated on each parcel. Chairman Cole opened the meeting to public hearing at 8:25 p.m. No comments heard. Chairman Cole closed the public hearing at 8:26 p.m.**

**Motion to grant a negative declaration for purposes of SEQRA was made by Patricia Fecher with a second from Stephen King. All members were in favor. Motion carried.**

**Motion to approve the two-lot minor subdivision as presented in survey maps was made by Lisa Bowe with a second from Virginia Ambrose. All members were in favor. Motion carried.**

**Maps were stamped and signed. Mr. Russell paid final fees of \$1450.00.**

**Concra, Vincent Boundary Line Adjustment: Tax Map #(SBL) 121 . 3 – 3 – 12, 121 . 3 – 3 – 16 . 1, 121 . 3 – 3 – 16 . 2. Located at 624 NYS Rte. 23-B and 6167 NYS Rte. 9-H & 23. Boundary Line Adjustment creating lots of 1.255, 0.686 & 2.225 respectively.**

**Robert Ihlenburgh was present for the application. Mr. Ihlenburgh informed the Board that he is the surveyor and represents his client, Vincent Concra. Mr. Ihlenburgh continued that Mr. Concra owns three parcels at the intersection of NYS Rte. 23-B and NYS Rte. 9-H and is seeking a Boundary Line Adjustment. Mr. Ihlenburgh explained that one of the parcels is 1.8 acres of vacant land, one parcel contains the Subway sandwich shop and the third parcel contains an apartment building with an existing barn. Mr. Ihlenburgh continued that his client is seeking to move .4 acres if the parcel which contains the old barn from the parcel containing the apartment building and then add .2 acres from the Subway parcel to the apartment building parcel. Mr. Ihlenburgh continued that his client would like to sell the vacant parcel and feels that the parcel would be worth more with the barn attached to it than it is without it. Stephen King asked if there is a driveway plan. Mr. Ihlenburgh stated that the driveway that comes from NYS Rte. 9-H alongside the apartment building will be eliminated. Lisa Bowe asked how will they access the vacant parcel if the driveway is eliminated. George Schmitt suggested that the driveway be removed from the maps all together. Stephen King stated that due to the track record of the applicant he would want the maps clearly indicating where each driveway would be and that the existing driveway is removed. George Schmitt added that the map should have a note that the driveway is discontinued because when the maps are taken to the NYS DOT office for a driveway permit they will see another driveway access and would not grant the newer curb cut. Virginia Ambrose asked if the large vacant parcel could ever become a business. Rob Fitzsimmons answered yes. Mr. Ihlenburgh stated that if the vacant lot were to become a**

commercial use it would require a Site Plan Review. Chairman Cole reads that on 11/2/15 Mr. Concra was approved to turn an existing building into a Subway shop after several meetings with the condition that he would add green space along the entrances and at the corner. Chairman Cole continued that on 4/9/17 Mr. Concra returned for an amendment to his original Site Plan to add an awning, picnic tables and again to install green space as a condition of approval. Chairman Cole continued that on 5/1/17 Mr. Concra returned seeking approval to sell propane on the site and was asked where was the green space that was part of the previous approvals. Chairman Cole stated that he is hesitant to approve anything else until the green space is installed. Rob Fitzsimmons informed the Board that this is a code enforcement issue and the Planning Board members need to send a letter to the CEO stating that the Subway store is not in compliance with their approved Site Plan. Stephen King stated that he requests to see clarification on the Subdivision maps before he will agree. Chairman Cole stated that he will notify the CEO to make a visit to the Subway shop. George Schmitt informed Mr. Ihlenburgh that his client either needs to retain the existing driveway and add an easement or needs to show that the existing driveway is being removed and access is indicated from somewhere else. Virginia Ambrose stated that she wants to see NYS DOT curb cut letter. Mr. Ihlenburgh stated that the parcel already exists. Virginia Ambrose informed Mr. Ihlenburgh that the subdivision maps need to show access on the property with a curb cut letter from NYS DOT. Rob Fitzsimmons answered that is required if the existing driveway is being removed. Mr. Ihlenburgh asked if he would actually need a NYS DOT curb cut letter if the parcel is pre-existing. George Schmitt informed Mr. Ihlenburgh that he should inform NYS DOT that this is an existing parcel but they will want to see the access. Virginia Ambrose stated that the Board should be cautious as the applicant has history of not following through with conditions and she would advise the Board that they have some type of approval before they approve the subdivision maps to be safe. Mr. Ihlenburgh stated that the parcel was surveyed in 1986 and he did the survey and might be able to find a proposed driveway at that time on the map. Virginia Ambrose stated that the maps cannot just abandon an entrance without showing another entrance. Mr. Ihlenburgh will redraw the maps and will resubmit 10 days prior to the meeting.

#### **Old Business:**

Chairman Cole asked Rob Fitzsimmons if he had heard anything regarding the curb cuts for Jackson's BBQ. Rob Fitzsimmons informed the Board that he received a NYS DOT approval sketch that NYS DOT will allow berms with plantings instead of curbing. George Schmitt informed the Board that the owner's engineer Crawford and Associates will now draw up new maps with the approved berms and plantings and will resubmit for stamping. Stephen King stated that he is concerned that the berms will allow for water to rush across NYS Rte. 9-H and directly down behind the library building causing a big drainage problem for the library. George Schmitt stated that NYS DOT thinks that the berms will allow for water to sheet across the roadway and suggested that the library reach out to NYS DOT with their concerns and ask that this be looked at closer. George Schmitt continued that the Planning Board will need stamped official maps from Crawford and Associates with the approved NYS DOT driveway permit plan added. Virginia Ambrose stated that in theory all of the berms and plantings would be installed prior to any work on an enclosure. George Schmitt stated that the applicant needs to complete the curbing as permitted by NYS DOT before they start on the enclosure. Virginia Ambrose stated that someone needs to clearly inform Mr. Pomplun of these expectations and there should be a timeline for completion. George Schmitt agreed.

**Chairman Cole addressed the Board members that he recently was alerted to several advertised events happening at Quinnie's. Chairman Cole continued that the business was approved and presented by the owners as a small café with a small specialty grocery area with a few tables inside and outside for dining. Chairman Cold continued that the owners had appeared earlier in the year asking to hold a flea market and other events at the site and thought that these would be allowed under their approval. Chairman Cole reminded the Board that they were informed that the site is not approved for events and the Town of Claverack has an event application and events need to receive a permit. Chairman Cole continued that the Board discussed the limited parking, danger of patrons parking along NYS Rte. 9-H or NYS Rte. 66, number of accidents at the intersection, septic and water were not approved by the CCDOH for events and might not handle the load, CCDOH would need to revisit the use if events were to take place, etc. Owner Quinn Levine asked the Board that she would like to hold a small Easter Egg hunt for their friend's children. Board members stated that this would be ok if it were only for a few of her friend's children and as long as it is not publicized and is not a community wide event. Chairman Cole reminded the Board members that after a lengthy discussion the owners informed the Board that they would need to look at their options but did not return to the Planning Board to continue so it was assumed that they understood and would not hold events unless they modified their Site Plan and CCDOH septic and water as well as NYS DOT curb cuts. Rob Fitzsimmons informed the Board that he has sent the analysis to Rich Schulman the new Town of Claverack ZEO that the business is in violation and can be prosecuted.**

**Motion to adjourn was made by Virginia Ambrose with a second from Lisa Bowe. All members were in favor. Motion carried. Meeting adjourned at 9:15 p.m.**

**Respectfully submitted,**

**Jodi Keyser, Secretary**