

Approved 1/3/24

**TOWN OF CLAVERACK
PLANNING BOARD
Meeting Minutes
October 2, 2023**

Chairman Scott Cole called the October 2, 2023 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, Pat Fecher, Stephen King, attorney; Rob Fitzsimmons, engineer; George Schmitt 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 September 6, 2023 was made by Pat Fecher with a second from Alberta Cox. All members were in favor. Motion carried.

Correspondence

CONTINUING APPLICATIONS FOR 10/2/23:

**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 in-law/guest house accessory living.**

Mr. Abeyatunge was present for the application. Mr. Abeyatunge submitted new maps. Mr. Abeyatunge continued that he met with CCDOH Mike DiRuzzio who looked at the plans. Mr. Abeyatunge continued that his engineer, Colin ? reviewed and addressed the comments and updated the septic design. Copies of the new septic design and map was handed to George Schmitt for review. George Schmitt stated that the conditional survey and septic design is not the permitted septic from the CCDOH but housekeeping items were addressed. Virginia Ambrose asked Mr. Abeyatunge asked the applicant to explain the application once again since there has been some time since the initial submission. Mr. Abeyatunge explained that he and his wife moved her from California and their families live in California and Michigan. Mr. Abeyatunge continued that his wife was feeling lonely and they both missed their family. Mr. Abeyatunge continued that he is seeking to renovate an existing garage into an in-law/guest apartment for their parents to stay in when they come and visit. Pat Fecher asked Mr. Abeyatunge if this is his primary residence. Mr. Abeyatunge answered yes. Stephen King asked if the new septic design will be added to the engineering plan. Mr. Abeyatunge answered yes. Chairman Cole informed the Board that this application was set for public hearing in February and was continued. Chairman Cole continued that several issues had risen and Mr. Abeyatunge was unable to make meetings and was also awaiting the CCDOH to visit the site. Pat Fecher asked what will happen to the approval because Mr. Abeyatunge isn't immediately ready to proceed with construction. Chairman Cole informed Mr. Abeyatunge that he has 60-days to draw a building permit from the Town of Claverack Building Department which would need to be renewed yearly. Mr. Abeyatunge stated that he plans to fix up the inside of the garage and then do the outside repairs in the spring when the weather is better but all should be completed by the end of the spring. Pat Fecher asked if the Building Department will inform Mr. Abeyatunge the time frame for the building permit. Rob Fitzsimmons answered yes the Building Department will let them know the extent of the timing. Chairman

Cole then stated that then the Planning Board could then grant extra time. George Schmitt stated that extra time is not up to the Planning Board to decide.

Chairman Cole continued the Public Hearing at 7:15 p.m.

Katy Cashen stated that she hopes that this project happens soon for Mr. Abeyatunge and for the Planning Board.

Mr. Abeyatunge thanked the Board for their patience. No further comments were heard.

Chairman Cole closed the Public Hearing at 7:17 p.m.

George Schmitt reviews the SEQRA for the Board members.

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

Motion to approve the Site Plan/Special Exception for the conversion of an existing garage into a guest/in-law accessory living structure was made by Pat Fecher with a second from Virginia Ambrose. All members were in favor. Motion carried.

Maps were stamped and signed.

Foundation for Agricultural Integrity 501(c)(3) d/b/a Churchtown Dairy Site Plan: Tax Map #(SBL) 141 . – 1 – 53 . 100 Located at 357 County Rte. 12. Site Plan Application for a farm-stay Bed & Breakfast.

Mr. Cabral was present for the application. Chairman Scott Cole informed Mr. Cabral that he recently read an article in the Columbia Paper regarding another event that was held at the dairy consisting of Shakespeare plays. Chairman Cole continued that he cannot figure out what Shakespeare has to do with a dairy farm but this is the type of events that has raised some concerns with the Town of Claverack Planning Board members and the Building Department. Rob Fitzsimmons informed the Board and Mr. Cabral that previously the Town of Claverack Building CEO Jay Trapp had several complaints about the dairy because they were hosting special events that were not related to the agricultural operations and were then subject to enforcement in the past. Mr. Cabral answered that he did not know the details of the events in the past or the Shakespeare event. Chairman Cole stated that he wanted to make everyone aware of the events and the concerns and that there were several neighbors that raised concerns about the events and other things at the farm. Chairman Cole continued that these concerns were raised during the public hearing at the September meeting and then right after that this article was in the newspaper. Chairman Cole continued that after the September public hearing the Planning Board members decided to put the application on hold for one month to gather additional information and questions. Lisa Bowe asked Mr. Cabral if there is any plan for any owner to live at the house during stays. Mr. Cabral answered that the Foundation for Agricultural Integrity is a not for profit 501(c)(3) and is therefore run by a Board of Directors with no sole owner because the Board is the owner. Mr. Cabral continued that there are farmworkers on site at all times and in his opinion, this fits the Town of Claverack Zoning Code. Mr. Cabral continued that the farmworkers are on the farm tending to the animals, working the store, maintaining the gardens, etc. so in essence there are staff on site. Stephen King asked Town Attorney Rob Fitzsimmons if a not for profit could deem a caretaker. Rob Fitzsimmons answered yes and to think of this use as that of an Air B & B with rental of rooms but it isn't a Ramada Inn either. Rob Fitzsimmons continued that the Planning Board could set conditions that would have some control. Mr. Cabral stated that the stays would probably be during the summer and fall and at the other times the farmhouse would be used for farmworker housing. Lisa Bowe

asked if the farmhouse was built for farmworker housing. Mr. Cabral answered yes, it is used for the farm manager at different times as needed and for internships which allows for the flexibility of the dairy. Pat Fecher asked if the Planning Board can have something written that addresses the maximum number of days per month that could be used for farm stays. Mr. Cabral stated that they have had discussions but the applicants would like more flexibility but they are expecting to hold farm stays on a limited basis possibly on weekends only or 15 days per month with the stays centered around lectures or special farm events. Alberta Cox asked if there will be someone to coordinate the help for the guests. Mr. Cabral answered that the farm staff will be onsite to tend to the guests. Lisa Bowe stated that the farm staff will also be cross trained as inn keepers. Mr. Cabral stated that farm staff will be present to clean the farmhouse just as they do the same at the barns. Lisa Bowe asked what the ratio of farmworkers is to the number of guests and if this maximum allows for two people per room. Mr. Cabral stated that the Foundation for Agricultural Integrity is only seeking to use the farmhouse for the farm stays a couple of weekends per month that would allow visitors attending a certain agricultural lecture or event, the availability to stay in the farmhouse. Lisa Bowe asked where the farmworkers then stay if guests are staying in the farmhouse. Mr. Cabral answered that the farm has other farmworker housing on and off site. Lisa Bowe asked if the farmworkers are housed off site who will be at the farmhouse if there is an emergency or to tend to the guests at the late hours. Mr. Cabral stated that farmworkers are on the farm very early mornings and evenings and are only a short distance away at all times. Lisa Bowe asked where the other farmworker housing is located, how close is it, driving or walking distance. Mr. Cabral stated that he is unsure but in the Churchtown center. Lisa Bowe asked is it near the store or farther away. Stephen King asked if there is an emergency at 3:00 am and the house is full of guests is there someone that they can contact for assistance. Mr. Cabral answered that there might be someone on site but they may need to call someone that could be at the farm in a few minutes. Stephen King stated that this is an issue because the Town of Claverack Zoning Code states that there needs to be someone on site at all times and he understands that this is not a conventional bed and breakfast but the Town Code states that someone needs to be physically present at all times. Mr. Cabral stated that there will be information posted in each room on emergency protocol and how to reach someone for assistance. Stephen King continued that he understands the premise but he feels that the Planning Board is being asked to interpret the use as a bed and breakfast but bend the requirements of the Zoning Code. Stephen King continued that if the farmworker house has a 5th bedroom why can't someone from the Foundation of Agricultural Integrity stay in that bedroom to tend to the guests. Mr. Cabral answered that because of the nature of the house it is not conducive to have someone from the farm staff stay in the 5th bedroom because the FAI feels that this would impede on the guest's privacy. Mr. Cabral emphasized that there will be farm staff on site all the time for the farm and will be available for the guests. Mr. Cabral continued that the dairy employes 26 people and guests would be very well taken care of. Mr. Cabral continued that there will also be staff that are available 24-7 on call for guests but maybe not at 3:00 am per say. Lisa Bowe stated that this is exactly what is required for safety and someone needs to be present or available within a short distance in case something happens in the wee hours of the night when as we all know is the time when if something is going to happen it usually does. Mr. Cabral stated that the farmhouse is situated in the middle of the entire farm and is always a short distance for the farm staff. Rob Fitzsimmons stated that the Planning Board could make a condition that there is a local onsite or on call person which would be someone that the guests could contact if the need should arise. Stephen King stated that for the FAI's own liability he would think that they would want someone in charge even if they are sleeping but at least a contact for emergencies like someone falling down the stairs. Stephen King continued that the FAI should figure out a way to have someone onsite during all hours while there are guests at the farmhouse. Pat Fecher stated that she has worked in somewhat of the same situation and understands that the owners are a group of people but the guests should always know who to call or the name and number of a responsible person that they have a cell number to contact

should they need assistance. Stephen King stated that by the applicant's own words the farmhouse will not be filled to capacity at all times but more intermittently so he doesn't understand why they can't allocate someone to stay in the 5th bedroom during occupancy. Virginia Ambrose stated that she doesn't understand the need to keep the 5th bedroom vacant either. Ms. Case answered that the Town Code allows for only 4 bedrooms to be used for the maximum in a bed and breakfast. Mr. Cabral stated that the FAI wants to keep the 5th bedroom vacant to allow for guest privacy. Alberta Cox asked if there is any kitchen available for the guests to use. Mr. Cabral answered yes. Virginia Ambrose stated that the farmhouse is actually used for double uses. Virginia Ambrose continued that it sounds like the farmhouse is used to house interns and also now for a bed and breakfast. Mr. Cabral answered that is correct and the interns are considered farmworkers which the farmhouse was approved use for. Virginia Ambrose stated that the bed and breakfast guests are not really considered interns. Mr. Cabral answered correct the house is used at different times of the year for different things one of which that is approved is farmworker housing which consists of interns. Mr. Cabral continued that the farm-stay bed and breakfast is different because the FAI will charge guests to stay for a number of days to participate in farming events or lectures pertaining to agriculture and the interns are workers at the farm and are not charged. Maria Case, farmhouse manager as a part-time basis. Virginia Ambrose asked if she would be managing the guests if she is the farmhouse manager. Ms. Case answered no she lives in Hudson and is only the farmhouse manager to manage the house. Lisa Bowe again asked who will be responsible that lives close enough to the farmhouse if there is an emergency. Pat Fecher asked why the FAI wouldn't want someone staying in the 5th bedroom during farm-stays. Mr. Cabral answered that it is too awkward because there isn't enough separation for the guests' privacy. Lisa Bowe stated that she feels that there should be someone onsite at all times during farm-stays. Mr. Cabral stated that they will make sure that there are farm staff available for guests to call if they need assistance. Lisa Bowe stated that for someone to live near the church in Churchtown they would need to drive to the farm if they were called and this isn't close enough in her opinion. Stephen King stated that he understands that the language is that the FAI are the owners and therefore their workers are in essence the managers of the farm but someone responsible should be at least onsite or living in another dwelling on the farm property at least. Mr. Cabral stated that he understands the Board's concerns with the increase in Air B & Bs in the area and municipalities trying to deal with them. Mr. Cabral continued that the local municipalities are seeing homes being purchased as commercial entities and not as family homes and the owners are not around or sometimes even in the same state and there is a big lack of accountability. Mr. Cabral continued that the Foundation for Agricultural Integrity is not trying to run an Air B & B and he understands the Board's concerns about absentee owners but this is a vibrant and active farming operation with many employees that will maintain the safety and rules will be posted and enforced. Mr. Cabral continued that the Board should view the Foundation for Agricultural Integrity as a not-for-profit owner that occupies via employees. Lisa Bowe stated that she understands the concept of an Air B & B and this is not that type of thing but she has concerns that someone is not physically present. Lisa Bowe continued that she feels that this should be sent to the Town of Claverack Zoning Board of Appeals for an interpretation. Chairman Cole asked the Planning Board members if they feel that the application should be sent to the Town of Claverack Zoning Board of Appeals for an interpretation. Stephen King stated that he feels the Planning Board might be able to figure it out if they can get around the owner-occupied dwelling issue. Lisa Bowe stated that it should be sent to the TOC ZBA for further review of the Zoning Codes as applied to the application. Rob Fitzsimmons informed the Board that they have the ability to deny the application as not an owner-occupied dwelling or approve and set conditions such as limiting the number of days per month that can be used for stays, limit to only 4 bedrooms, guests are only staying for farm activities and FAI employees should be a local on call person(s) for guests needs. Mr. Cabral stated that he understands that the Board needs to feel comfortable. Stephen King stated that the Town of Claverack is looking into the issues with Air B & Bs and trying as other communities to set some sort of laws and

regulations such as the owner or representative of the Air B & B needs to be within 30 minutes of the residence. Stephen King asked if the Planning Board has any authority for provisional. Rob Fitzsimmons answered no. Ms. Case asked the Board what they mean by local on call representative. Rob Fitzsimmons answered that this would be someone designated by the FAI that lives within the area to come deal with issues. Stephen King stated that at the least the guests should have access to numbers and names of someone to contact and fire escape directions for emergencies. Chairman Cole stated that his biggest concern in his opinion is that if the Planning Board approves this use, then they have opened up the situation for everyone to come for the same thing and they will be forced to approve because they have set a precedence. George Schmitt stated that if the Planning Board sends this application to the Town of Claverack Zoning Board of Appeals it is a permitted use under Agri-tourism and without conditions. George Schmitt continued that it would make sense to approve with conditions. Mr. Cabral stated that if individual owner using as an Air B & B it might be an LLC to protect the owners from liability. Chairman Cole stated that farming type of things like the cabin farm stay on Stone Mill Rd. that was approved a few years ago was only approved if the owners made the property as their primary residence and the Planning Board would not allow unless the primary house was constructed first and they were living in that house before any of the cabins were constructed. Chairman Cole continued that to his knowledge this property still isn't the farm stay that the applicant's had applied for and haven't built any cabins. Chairman Cole continued that he understands the special circumstances of the FAI applications but to make it mandatory for one farm stay to have the owner occupy the residence then not for the FAI he worries that it might cause some issues in the future. Mr. Cabral stated that the FAI application is just like a couple with a guest house that rent it out as a bed and breakfast they don't stay in the same house. Mr. Cabral stated that all of the operations of FAI have the same owner and own the properties nearby the farm that allows the employees to have 24-7-365 access to the farm and the farm animals as well as the guests. Mr. Cabral continued that this application is for use of the 4 bedrooms within the farm house for guests that will be attending farm lectures or farm centered events without the owner sleeping in the residence is the same thing as someone with a guest house. Lisa Bowe stated that she would like to have the ZBA interpret the application. Chairman Cole asked Town Board members Stephen Hook and Katy Cashen for their perspective. Ms. Cashen stated that she knows the farm and has been in the house and it is beautiful and if the Planning Board sets conditions seem to covering all the basis. Stephen Hook stated that he has a bad taste in his mouth with the short cuts in the past and when he was the chairman of the Planning Board, he witnessed applications receive approvals with conditions that were set by the Board and then the applicant just did whatever they felt like. Alberta Cox asked if they plan to hold anymore weddings or party events in the future. Ms. Case answer no way. Chairman Cole stated that FAI has held several events in the past that had nothing to do with the farming operation such as the recent Shake sphere event. Rob Fitzsimmons stated that the website advertises garden walks, garden tours, farm tours, caroling to cows etc. but the Town found out about weddings and they were found in violation. Rob Fitzsimmons continued that the events must be related to the farming/agricultural use of the property and wedding are not. Mr. Cabral stated that the Foundation for Agricultural Integrity's vision is to connect the farm events such as lectures, tours, presentations and allow those visitors that attend these events the availability to stay overnight. Mr. Cabral continued that this would allow the not for profit to re-coup some money to help the farm be able to keep running.

Chairman Cole poled the Board members on their decision.

Rob Fitzsimmons created a motion for the Board:

Motion to grant approval of the Special Exception Use of a farm stay bed and breakfast with the conditions that the Foundation for Agricultural Integrity is only using only 4 out of the 5 bedrooms in the farmhouse,

maximum of 15 days per month allowed for use as the bed and breakfast, guests can only stay to attend agricultural events at the farm, onsite or on call property representatives during guest stays and contact numbers for farm representatives posted in each guest room and throughout the house.

Virginia Ambrose stated she was comfortable with the conditions and this is a unique situation

Alberta Cox no because someone should be on call for the guests and should be staying at the house.

Pat Fecher ok with conditions

Stephen King agrees to move to approval with conditions set forth

Lisa Bowe asked to send the application to the Town of Claverack Zoning Board of Appeals for interpretation and feels that someone should be staying at the farmhouse while guests are staying.

Chairman Cole stated that he is hesitant to approve because of the past history with the applicant but will say yes with the conditions.

George Schmitt reviews the SEQRA for the Board.

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

Motion to grant approval of the Special Exception Use of a farm stay bed and breakfast with the conditions that the Foundation for Agricultural Integrity is only using only 4 out of the 5 bedrooms in the farmhouse, maximum of 15 days per month allowed for use as the bed and breakfast, guests can only stay to attend agricultural events at the farm, onsite or on call property representatives available during guest stays and contact numbers for farm representatives and emergency numbers are to be posted in each guest room and throughout the house was made by Virginia Ambrose with a second from Pat Fecher. Stephen King, Chairman Cole - Yeah. Lisa Bowe & Alberta Cox – Nay. Motion passed by majority.

Chairman Cole informed the applicant that he did some investigating that they had missed 11 abutters addresses according to the county mapping system. Chairman Cole continued that it is not the Town of Claverack Assessor's office job to gather abutter addresses for applicants to use the County mapping system in the future.

Motion to adjourn the meeting was made by Pat Fecher with a second from Stephen King. All members were in favor. Motion carried.

Meeting adjourned at 8:35 p.m.

Respectfully submitted,

Jodi Keyser, Secretary