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**Town of Claverack
Zoning Board of Appeals
Meeting Minutes for
October 25, 2023**

Chairman David Graziano called the October 25, 2023 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:30 p.m.

Members in attendance were: Chairman Graziano, John Porto, Chris Post, Dino Zito, Rob Fitzsimmons; attorney, Bryce Recer for George Schmitt; engineer and Jodi Keyser; secretary

Absent for purposes of recusal: Steven Melnyk

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

Review Minutes of September 27, 2023. Chairman David Graziano requested a couple minor corrections.

Motion to approve the minutes of September 27, 2023 with corrections was made by John Porto with a second from Chris Post. All members were in favor. Motion carried.

Continuing Applications for:

Todd Courtney Event Venue Area Variance: Tax Map #(SBL) 110 . – 1 – 29 . 120 Located at 28 Fish & Game Rd. Requesting Area Variances of 129 feet to the west, 237 feet to the north and 314 feet to the east for venue setback from the property line where 500 feet is required for the proposed use of the property as an event venue.

Mr. Courtney and his engineer Brandee Nelson were present for the application.

Chairman Graziano informed the applicant that numbers 10 & 11 of the EAF questions were blank and need to be answered. Chairman Graziano continued that question #10 asks about the potable water supply on site and if no describe the potable water supply to be used. Ms. Nelson answered that the applicant will supply bottled water during events. Chairman Graziano stated that EAF question #11 asks about the septic supply to the venue. Ms. Nelson stated that she spoke to Mike DiRuzzio from the Columbia County Department of Health and has personally represented several event venues where portable, temporary restrooms have been allowed for infrequent needs such as event venues. Chairman Graziano stated that with those questions answered he has questions regarding the revised maps that were submitted. Chairman Graziano questioned the exact size of the property because there are two different numbers being submitted. Chairman Graziano stated that the submitted plan indicates 17 acres but the EAF form and tax map shows 19 acres. Ms. Nelson stated that the correct amount is 17 acres. Chairman Graziano stated that the tax map bill shows 19 acres as well. Ms. Nelson stated that tax map bills are deemed not historically accurate. Chairman Graziano continued

that if it were his property, he would definitely make sure that he wasn't paying taxes for 19 acres when he actually owns 17 acres. Chairman Graziano continued that he stated that there are a couple of buildings on the parcel basically tying into the Air B&B but he drove by the property the other day and thinks that there are other buildings that are not indicated on the plan. Ms. Nelson stated that she was not aware of any other buildings and she understands that these items would be required for the Site Plan application but not for an Area Variance which is what this application is requesting. Chairman Graziano continued that there are so many mixed numbers that it is his suggestion that the applicant obtain a survey of the property. Ms. Nelson stated that her client is trying to test the waters to see if the Area Variance would be allowed before he spends even more money for something that won't be approved. Chairman Graziano suggested an informal vote from the Zoning Board members if the applicant wishes. Rob Fitzsimmons asked if the informal vote would be a vote on approval or to have the applicant supply a survey. Chairman Graziano stated the approval. Rob Fitzsimmons suggested that the Board should allow the applicant to describe the project and variance since the application is set up for public hearing and there are neighbors present. Chairman Graziano continued that he is requesting a formal survey from the applicant. Ms. Nelson asked how a survey relates to an Area Variance. Chairman Graziano referred to the checklist requiring all buildings be shown on the survey. Ms. Nelson stated that there aren't any new buildings on the site. Mr. Courtney reviewed the supplied plan showing all of the existing buildings. Chairman Graziano asked about a different building that he saw. Mr. Courtney stated that this is a barrel sauna and is not a permanent structure. Chairman Graziano asked where the Air B&B building is located. Mr. Courtney explained that there is an old ice house and farm store and he has converted the existing farmworker housing into Air B&B. Mr. Courtney continued that there is a hen house, goat milk barn and once the goats are on site, he will get the milk barn certified with the DOH. Mr. Courtney continued that there is an inactive cattle barn but he plans to someday get some cattle to raise for beef. Mr. Courtney continued that there is a new pasture but no fence so he can't have the cattle yet. Chairman Graziano apologized and was mistaking a new building for the barrel sauna but he understands this isn't a permanent structure. John Porto asked about the narrative on page 2 showing the main house and guest cottage for overnight accommodations. Mr. Courtney stated that this would be a separate use from the event venue. Mr. Courtney continued that his main goal was to save the old barn. Mr. Courtney continued that he and his wife fell in love with the barn and have spent a great deal of time and money to restore all of the buildings but mainly the barn. Mr. Courtney continued that there isn't anything like this barn in Illinois where he is from so, he wanted to save the barn. Mr. Courtney continued that his main goal is to recoup money that he has spent to fix up the farm buildings. Chairman Graziano stated that this brings up the issue that was described at the September meeting about the fact that there are multiple uses happening on the property at the current time which is against the Zoning Code in the Rural Residential Zone and adding an event venue only makes this more of an issue. Rob Fitzsimmons stated that this is correct and when the Planning Board reviews the plan there is only one use per property allowed within the Rural Residential Zone which may be a big hurdle to jump. Ms. Nelson stated that she needs clarification in terms of user in a Rural Agriculture Zone a farm store is an accessory to the farm and specifically the Air B&B is such to this property. Chairman Graziano stated that Mr. Courtney's website indicates that there are a few other uses on the property but this is an enforcement issue for the Town and not a Zoning Board of Appeals issue. Ms. Nelson continued that in terms of events and Agrotourism under the Ag & Markets law events are allowed in terms of uses. Chairman Graziano stated that the applicant is not applying under Agrotourism. Ms. Nelson stated that it

is her understanding from the Building Department that her client needed to apply under the Event Venue Law not Agrotourism. Rob Fitzsimmons answered yes that the Agrotourism Law allows for events on farms but those events are required to be directly associated with the farm and agriculture such as lectures, farm tours, gardening events such as farmers markets but not for concerts or outside of the agrotourism sense as it relates to the farming operation. Rob Fitzsimmons continued that the Foundation for Agricultural Integrity recently applied for a Site Plan to use the farmworker house as a bed and breakfast facility as an agricultural use under the agrotourism laws. Rob Fitzsimmons continued that during the review by the Town of Claverack Planning Board the issue of other events was brought up such as star gazing, Shakespeare plays and other events that were not an agricultural event with respect to the farm operation. Rob Fitzsimmons continued that the Town of Claverack Agrotourism Law clearly indicates what is allowed to be considered agrotourism. Rob Fitzsimmons continued that the Town of Claverack Planning Board granted the bed and breakfast with conditions that the guests staying must be there to attend educational lectures, farm functions, gardening walks, etc. that are directly associated with the operation of the farm and not to just stay to visit Hudson or ski. Ms. Nelson stated that she spoke with someone that told her if the primary use of the property is over 50% agricultural then it is a farm. Chairman Graziano stated that this is not relevant to the Area Variance. Chairman Graziano continued that he is concerned about the Area Variance and specifically the lack of a survey map, two different parcel sizes of 19 acres and 17 acres, site plan showing different numbers and distances. Chairman Graziano continued that it is important that the numbers of the distances are exact because the applicant is seeking a significant Area Variance. Chairman Graziano continued that the company that made the survey that is being used for the variance is no longer in business and he doesn't know the ins and outs of getting the survey from whoever took over but the Zoning Board of Appeals needs to have an accurate survey with accurate numbers. Ms. Nelson stated that at the time of the application the survey was not available, but in any case, the barn is in the same spot and wasn't moved. Chairman Graziano stated that he doesn't argue this but one plan shows 17 acres and the tax bill shows 19 acres numbers are going to be off somewhere and the Zoning Board needs to have correct numbers because they grant a set amount of feet for an Area Variance. John Porto stated that without the survey and accurate measurements the applicant cannot move forward in his opinion. Chris Post stated that the Town of Claverack Zoning Board of Appeals is very liberal with Area Variances in the past but they still need accurate survey and accurate measurements. Ms. Nelson stated that the Board is saying that the old survey doesn't suffice and this now becomes a hardship for the applicant. Chairman Graziano stated that the Zoning Board of Appeals needs to be supplied with accurate measurements for Area Variances to protect themselves from someone encroaching onto someone else's property. Chairman Graziano continued that the survey will make sure that the property is either 17 or 19 acres as well. Ms. Nelson stated that the Variance is not asking for coverage but for an Area Variance for the barn to host weddings and events. Bryce Recer stated that he had spoken to Town Engineer George Schmitt earlier in the day to gather more knowledge before attending the meeting and it makes perfect sense to request a survey and a survey is required to move forward with the Site Plan so in the grand scheme a survey is needed. Mr. Courtney stated that this would create an economic hardship because he needs to utilize the space to maintain the farm. Ms. Nelson informed the Board that this is an investment for Mr. Courtney. Rob Fitzsimmons informed the applicant and Ms. Nelson that the review letter from George Schmitt states that the Boundary Line Adjustment plan that has been submitted as the map is not a survey but in respect to the survey if the Board agrees the applicant can have a surveyor shoot hard points to the barn and as such it

should clear up the acreage discrepancy going forward. Rob Fitzsimmons continued that the Board needs to have hard points to be able to have accuracy when making a final decision. Ms. Nelson stated that she will need to discuss this with her client. Mr. Courtney stated that this would still be an expense for him and he would appreciate the Board's opinion to determine if he is to proceed. Chairman Graziano answered no because the application is set for public hearing and the public needs to be heard.

Motion to deem the application incomplete and not accepted was made by John Porto with a second from Chris Post. All members were in favor. Motion carried.

Chairman Graziano informed Mr. Courtney and Ms. Nelson that it was explained at the September meeting that a sign noticing the public hearing was required to be obtained from the Town Clerk and erected on the property at least 10 days prior to the meeting. Chairman Graziano continued that he noticed that the sign was not on the property and he inquired at the Town Office to find out that the sign was picked up the Tuesday before the meeting which isn't the proper amount of time so he is extending the public hearing to the November meeting. Chairman Graziano asked Mr. Courtney to review his application for the members of the public that are in attendance. Ms. Nelson explains that she is from the engineering firm of Tighe and Bond and explains that her client Mr. Courtney owns both parcels and is exploring the idea if he could use the existing barn for an event venue. Ms. Nelson continued that the plan is to use the barn for 12 events per year but that is determined by the Town of Claverack Planning Board under the Site Plan Review. Ms. Nelson continued that this application deals with the Town of Claverack Event Law which states that event venues are required to be 500 feet from the neighboring property lines which is the need for the Area Variance request Mr. Courtney's barn is not 500 feet from some of the property lines. Chairman Graziano asked the Zoning Board members for questions. John Porto stated that he is just curious as to what type of farming the applicant is doing at the site. Mr. Courtney stated that he has tried to have a raised bed garden but the deer ate all of the plants, he plans to have cattle for beef in the future but needs to fence in the pasture. Mr. Courtney continued that he has hens and is selling eggs at the farm stand as well as honey from a local beekeeper as well as other items from local craftspeople. Mr. Courtney continued that he purchased the property in 2018 and was married on the farm. Mr. Courtney continued that he also had a child and that has put him behind in getting the farm up to the place he envisions. John Porto asked Mr. Courtney how many farm animals he plans to have on the farm. Mr. Courtney answered 50 beef and 500 chickens as well as goats. Mr. Courtney continued that the farm buildings needed a great deal of repair before he could get his farming operation going. Mr. Courtney continued that he has spent a lot of time and money fixing up the barn but he wanted to do it right so it would hold up for many years to come. Mr. Courtney stated that he is about 2/3 of the way finished with the barn. Mr. Courtney continued that he has a farm stand that supplements the farm and his repairs but it isn't enough. Mr. Courtney continued that he fixed up the farmworker housing and is renting out as Air B&B to offset costs. Mr. Courtney continued that he has aspirations of increasing his beef cattle and will use pasture rotation for the crops. Mr. Porto asked where are the cows at this time. Mr. Courtney answered that the cows are housed off site. Mr. Courtney stated that he will fence in the new pasture for Nigerian goats to get a goat milking operation up and running at some point in the future. Mr. Courtney continued that he and his wife had a daughter in 2021 and that put things on hold and he is embarrassed by the farmstand and his crop production the past few years but will work to get things up to par soon. Mr. Courtney stated that he has tried to grow several different crops but has been unsuccessful. Mr. Courtney continued that he tried to grow hemp but it

was not successful either. Mr. Courtney stated that he has a partnership with Cornell Cooperative Extension to hire a couple of kids for the summer. Mr. Courtney stated that he is just a middle-class family trying to make a small farm work. Chairman Graziano asked Rob Fitzsimmons if Mr. Courtney's focus is mainly agricultural and he has multiple uses can he also add an event venue to the mix. Rob Fitzsimmons stated that they can apply for the use. Ms. Nelson stated that when she met with the building department, she was unaware of the multiple uses. Rob Fitzsimmons stated that a use as it relates to agrotourism it can be allowed but if it is like car repair in a hair salon then it is questionable. Rob Fitzsimmons then read the Town of Claverack Zoning Law pertaining to Agricultural Tourism: § 2.16. AGRICULTURAL TOURISM. Agricultural uses, such as farms, ranches, and vineyards that, through promotion and advertising, facilities, and activities seek to attract visitors, guests, and vacationers. Agricultural tourism includes but is not limited to dude ranches, u-pick operations, and hay mazes. Chairman Graziano explained to the applicant and the Board members that the application actually requests 3 Area Variances. Chairman Graziano continued that one area variance is 129 feet which is a 29% requested variance, 237 feet which is 47.4% requested variance and 314 which is 62.8% requested variance which could be resolved with a boundary line adjustment with Mr. Courtney's adjoining parcel. Chairman Graziano stated that he is hesitant of a contingent approval because they get lost with enforcement. Ms. Nelson stated that she is understanding that because Mr. Courtney owns both parcels but because they are two separate lots the distance needs to be measured from the boundary line. Chairman Graziano answered yes.

Chairman Graziano opened the meeting to public hearing at 8:25 p.m.

Ms. Panadis informed the Board that she lives right next to the farm at the corner of Fish & Game Rd. and Rte. 66. Ms. Panadis continued that she has resided in her home for 35 years. Ms. Panadis stated that there have been events throughout the summer at the property with noise, DJ with microphones until 1:00 am. Ms. Panadis continued that she has no problem with anyone using their property however they want but when it impacts the neighbors with loud noise it is a problem. Ms. Panadis continued that the events over the summer had people driving golf carts across the street from the physician's office parking lot back and forth. Ms. Panadis continued that there have been people in her yard and at the last event someone cut a barbed wire fence and entered her yard. Ms. Panadis continued that events and even the Air B&B has her concerned because the people don't know the boundaries of the property and are going into the neighboring yards to relieve themselves or who knows what. Ms. Panadis continued that she has young grandchildren that are at her house and live next door and she is concerned for their safety because she doesn't know the guests attending the events or the Air B&B. Ms. Panadis stated that the music and noise until 1:00 am is very disruptive to her family. Ms. Panadis suggested that the applicant install a 10-foot-high fence all along his property to help mitigate the noise and lights.

Mr. Tanzillo of 487 Rte. 66 stated that the events are loud and the guests have also set off fireworks until all hours of the night.

Ms. Panadis stated that it is not her place to tell someone else how to use their property but the events over the summer had people shooting off roman candles and the noise was very loud until well after an appropriate time. Ms. Panadis continued that the local fire departments have been called several times to the property for uncontrolled fires. Ms. Panadis continued that she requests that the Zoning Board of Appeals sets

some boundaries with the application and would like to see at least a 10 foot or higher fence installed all along her property line. Ms. Panadis stated that she doesn't want people venturing onto her property. Ms. Panadis continued that she owns a local business and is supportive of other small businesses but there has to be limits and boundaries set to protect the neighbors.

Mr. Tanzillo stated that he was not happy about the noise and fireworks until 1:00 am and would request that the applicant install a fence all along his property all the way past his house as well. Mr. Tanzillo continued that the higher a fence the better.

Mr. Courtney stated that the neighbors must be remembering when he and his wife were married on the property in 2019 and he understands their concerns.

Ms. Panadis stated that these events were very recent over this summer not in 2019. Mr. Tanzillo stated that the events were this summer and he is also concerned with the traffic at both intersections of Fish & Game Rd. with all of the accidents that occur at them. Chairman Graziano informed Mr. Tanzillo that the traffic issues would be something the Planning Board would need to address. Mr. Tanzillo stated that he doesn't want to tell someone how to use their property either but he wants his property protected with a high fence and would appreciate a time limit on the noise but wants a fence all along his property as well.

Chairman Graziano asked if the public hearing should be closed or remain open. Rob Fitzsimmons stated that the Zoning Board of Appeals hasn't accepted the application as complete and have asked for a survey so he advises continuing the public hearing. Rob Fitzsimmons continued that the Zoning Board of Appeals members are free to let the applicant know if they are in favor or not before he proceeds with a survey. Chairman Graziano stated that he sat on the committee for the creating the Town of Claverack Zoning Laws for Event Venues and making the 500-foot setback was done for a reason. Chairman Graziano continued that he has played in bands for many years and the noise can travel and for that reason he is hesitant to be in favor of granting variances of this significance. Chairman Graziano continued that a fence is a good idea but will not be able to contain noise with the distance it would only keep people from entering the neighboring properties. Chairman Graziano asked for a poll from the Zoning Board of Appeals members. Rob Fitzsimmons stated that this is being fair to the applicant before he continues spending money on survey and other items.

John Porto stated that he is not in favor because the negative impact to the neighbors is significant due to the amount of variance being requested.

Chris Post agreed and is not in favor and wouldn't want the applicant to spend any more money on the project.

Dino Zito stated that he is not in favor of the variance

Chairman Graziano stated that he is not in favor due to the amount of variance needed.

Chairman Graziano stated that a letter was received from the Cornell Cooperative Extension with concerns of the wetlands and the impact the project might have. Rob Fitzsimmons stated that they were noticed and they wanted to bring their concerns without attending. Rob Fitzsimmons continued that Cornell Cooperative Extension applied recently to have a daycare on their property but after appearing at the Planning Board they

withdrew the application and the daycare found another space. Chairman Graziano informed the Board and applicant that the next meeting of the Zoning Board of Appeals is scheduled for November 22, 2023. Ms. Nelson stated that she will consult with her client and will inform the Board if he wishes to proceed within the next week. Mr. Tanzillo stated that this property used to be part of the Lone Star Cement Company and it is their reclamation area. Mr. Tanzillo continued that he has numerous maps and surveys of the property if they would be of any help to the applicant.

Motion to adjourn the meeting was made by John Porto with a second from Dino Zito. All members were in favor. Motion carried. Meeting adjourned at 8:45 p.m.

Respectfully submitted,

Jodi Keyser, Secretary