

TOWN OF CLAVERACK  
PLANNING BOARD  
Minutes: August 1, 2016

Members in attendance were: Chairman Brian Goodrich, Judy Zink, Virginia Ambrose, Scott Cole, Gretchen Stearns, Joseph Singleton, Stephen King, town attorney; Rob Fitzsimmons, town engineer; George Schmitt and secretary; Jodi Keyser  
Chairman Goodrich called the August 1, 2016 meeting of the Town of Claverack Planning Board to order at 7:00 p.m.

**Correspondence:**

No correspondence received.

Board members reviewed the Minutes of the July 6, 2016 meeting.

Motion to approve the minutes as written was made by Scott Cole with a second from Judy Zink. All members were in favor. Motion carried.

Chairman Goodrich informed the Planning Board members and applicants that the September Planning Board meeting date falls on Labor Day therefore the meeting date will need to be rescheduled. Board members discussed different dates and decided to move the September Planning Board meeting to the following Wednesday, September 7<sup>th</sup> at the regular 7:00 p.m. starting time.

**CONTINUING APPLICATIONS FOR 8/1/16:**

**ABS Satellite Special Exception:** Tax Map #(SBL) 101 . – 2 – 11 . 200 Located at 829 Rte. 66. Special Exception for the installation of two 9 meter satellite telecommunication transmitting/receiving antennas at the rear of the building.

Secretary Keyser informed the Board that she received a phone call from Tom Yung on July 28<sup>th</sup> informing her that the applicant's engineer was still in the process of gathering the requested data and compiling the requested report therefore they will not be appearing for the application at this meeting. Secretary Keyser continued that Mr. Yung stated he will keep her informed of the progress for the September meeting.

**Hess, Kenneth John/ Trillium Acres LLC Subdivision:** Tax Map #122 – 01 – 78. Located at 248 Roxbury Rd. Subdivision of 112 acres.

Secretary Keyser informed the Board that the applicant called her on July 29<sup>th</sup> to let the Board know that they are waiting for the perk testing and requested that their application be continued.

**Milling-Smith, Patrick Special Exception/Site Plan:** Tax Map # 112 . – 1 – 3 . 111 Located at 623 Fish & Game Rd. County Rte. 18. Special Exception/Site Plan Review for the renovation of an existing barn into a caretaker dwelling.

Contractor Brian Vosburgh was present for the application. Mr. Vosburgh reviewed the project for the Board members. Mr. Vosburgh stated that his client is seeking approval for an 1,100 square foot renovation of the bottom of his existing barn for a caretaker dwelling. Mr. Vosburgh continued that he has met with CC DOH regarding the septic system modification and expects this approval by August 3<sup>rd</sup>. Mr. Vosburgh informed the Board that the existing septic will be modified to accommodate the two proposed bathrooms.

Gretchen Stearns informed Mr. Vosburgh that the zoning laws are not perfect in the Town of Claverack and the Town is aware that modifications need to be made in some areas but the current law requires that in order to have a caretaker/guest dwelling this property must be the owner's permanent residence. Mr. Vosburgh answered that he thought this was Mr. Milling-Smith's permanent residence. Gretchen Stearns then stated that the application named an address in Beverly Hills California as the applicant's address. Mr. Vosburgh stated that he thinks this is the address for Mr. Milling-Smith's business.

Gretchen Stearns then stated that the application will require an Area Variance because the renovation is 3,000 + square feet not 1,100 square which would make it over the allowed size for a caretaker dwelling. Mr. Vosburgh informed the Board that the caretaker dwelling is the only renovation being requested because the entertainment area was approved in 2010 by the Town of Claverack Building Inspector Stan Koloski. Gretchen Stearns stated that the plan is showing new windows, a fireplace and a powder room being added to the entertainment area. Mr. Vosburgh answered that the application is only for the 1,100 square foot caretaker dwelling and the renovations to the entertainment area were the result of a meeting with TOC Building Inspector Stan Koloski who required the replacement of outward opening doors for emergency evacuation of the entertainment area and that Mr. Milling-Smith would like to add the fireplace and powder room for his guest's convenience when he is entertaining. Gretchen Stearns then stated that she found that the owner filed for an agricultural exemption in 2015. Mr. Vosburgh answered that he is unaware of this detail. Gretchen Stearns informed Mr. Vosburgh that an agricultural exemption has a limited timeframe for the property to actually become a farming operation before it times out. Mr. Vosburgh informed the Board that there are cows and sheep on the property and there is wheat grown also. Gretchen Stearns informed Mr. Vosburgh that the existence of a farming operation allows such that this caretaker dwelling could be considered farmworker housing as an option which could be expanded if needed. Mr. Vosburgh stated that his client is only seeking a caretaker dwelling at this time. Gretchen Stearns continued that there is a new boom around the area with farming operations being used as agro-tourism venues for weddings, concerts and other large gatherings that are held under the farming umbrella. Gretchen Stearns asked if a condition could be added to the approval that would prohibit large events such as 3 day concerts and other heavily attended events at this property so that the neighbors are not disturbed. Mr. Vosburgh stated that his client was granted approval for the entertainment area in 2010 which he uses to entertain out of town guests from time to time but it is regularly used as a big playroom for his children. Gretchen Stearns stated that the premise of agro-tourism is to allow farming operations the ability to show off their products in a promotional venue such as petting zoo, corn mazes but not 3 day concerts or large events and she urged the Board to consider restrictions on the approval. Mr. Vosburgh informed the Board that the main house is very tight and to accommodate his children and guests he uses the entertainment area in the old barn.

Joseph Singleton asked the town attorney Rob Fitzsimmons what steps would be required if the applicant or any other farming operation wanted to hold a 3 day concert or wedding. Rob Fitzsimmons answered that the event would require a permit which is granted from the TOC Building Department. Joseph Singleton then stated that weddings and events are allowed under the NYS Agriculture and Markets law which makes this a gray area and how can the Town of Claverack Planning Board make this type of restriction. Rob Fitzsimmons informed the Board that Ag. & Markets does allow for farm weddings and other such events if the farm provides a particular product or crop for that purpose. Virginia Ambrose asked Mr. Vosburgh if Mr. Milling-Smith has a plan to hold large events at the property. Mr. Vosburgh stated that his client is only requesting a renovation of the bottom floor of the existing barn for a caretaker dwelling and uses the first floor of the barn for entertaining guests and as a playroom for his children. Virginia Ambrose then asked if the caretaker dwelling is for a full time caretaker or a part-time caretaker. Mr. Vosburgh answered that it is for a part-time caretaker mainly during the winter months to make sure that the pipes do not freeze and any other maintenance issues. Gretchen Stearns asked if Mr. Milling-Smith plans to grow any other crops or have any farm animals. Mr. Vosburgh answered that he did not know the answer about different crops but thinks that cattle and chickens are there now.

Chairman Goodrich asked if the Board had any other comments or questions. No other questions from the Board members.

Chairman Goodrich opened the meeting for the public hearing at 7:18 p.m.

John Campeta of Fish & Game Rd. informed the Board that he is Mr. Milling-Smith's closest neighbor and he has no issues with the application. Mr. Campeta stated that Mr. Milling-Smith is a good friend and a good neighbor.

No further public comments.

Chairman Goodrich closed the public hearing at 7:19 p.m.

Chairman Goodrich then asked town engineer George Schmitt if he had any comments or concerns. George Schmitt informed the Board that a few the SEQRA responses were incorrect and he made changes to questions

#2 changed to yes, #3 changed to less than 1/10<sup>th</sup> of an acre, #9 changed to yes and # 13 changed to yes. Motion to grant a negative declaration with regard to the SEQRA was made by Judy Zink with a second from Virginia Ambrose.

Motion to grant the Special Exception and Site Plan Review for the remodeling of an existing barn to be used for caretaker dwelling contingent on Columbia County Department of Health approval for the necessary revision to the existing septic system and with the condition that no commercial events are to be held on site was made by Virginia Ambrose with a second from Judy Zink. Chairman Brian Goodrich asked for a line vote of the Board members. Stephen King- yes, Joseph Singleton-yes but made the comment that agro-tourism uses should be looked at, Scott Cole-yes, Gretchen Stearns-yes, Virginia Ambrose-yes, Judy Zink-yes and Chairman Goodrich-yes.

All members were in favor. Motion carried.

Plans were stamped and signed. Final fee for mailing abutter notices was paid with a check from Mr. Vosburgh. Joseph Singleton informed the Board that he feels placing conditions such as the previous application could become a problem especially because NYS Ag & Markets states that gatherings such as weddings are allowed. Town attorney Rob Fitzsimmons stated that the applicant applied for and was granted the use of a barn for entertaining space and for a caretaker dwelling and if in the future he plans to hold a large event such as a concert he would be required to apply for a permit. Rob Fitzsimmons continued that as with a previous large gathering application the applicant would also need to apply to the Planning Board for a Site Plan Review or a Special Exception Use with the Planning Board and at that time the Planning Board could allow or disallow the event. Rob Fitzsimmons continued that it is ultimately up to the Town what they will allow. John Campeta asked from the audience about what if Mr. Milling-Smith wanted to hold a Farm On event at his property would this condition not allow him to hold such an event. Rob Fitzsimmons answered that it is unknown for certain if the property has an agricultural exemption or not but if they do and the owner was asking to hold hayrides, have a farm distillery, corn mazes, etc. they would need to get a permit from the Town of Claverack to do so and if they were denied the permit for some reason they can appeal to the NYS Ag. & Markets who would then review the application and then Ag. & Markets would send back a letter to the applicant and the Town stating that the Town zoning laws are too restrictive for these types of events. Rob Fitzsimmons continued that this does not mean that an agro-tourism type of event or use gets a free pass because the Town of Claverack has the right to review and to protect all of the neighbors and has the final approval or denial of such events.

Another audience member asked what if the owner of a farm wanted to have an event for a not for profit organization as a fundraiser would this be allowed because it is not really a commercial event. Rob Fitzsimmons reminded that a recent applicant that has a farming operation that were holding large events under the farm umbrella was informed that the property was approved for a farming operation and not as an event site and that it is still a commercial event even if it is a fundraiser for a not for profit agency. Joseph Singleton asked if these events still require a permit. John Campeta stated that he was told they did not need a permit. Rob Fitzsimmons stated that all such events where there are large gatherings of the public require a permit and also are required to go through a review by the Planning Board and the Town Board. Rob Fitzsimmons continued that if something is not in the Town of Claverack Zoning Law then it is not permitted. Gretchen Stearns stated that the Town Board might need to look at the Town Zoning Laws and compare them to the Ag. Markets laws and come to some type of compromise because when these types of large gatherings take place either at a farm or at another spot there are people who do complain.

## **NEW APPLICATIONS FOR 8/1/16:**

**Cheffo, Mark & Beverly Special Exception:** Tax Map #(SBL) 102 . – 1 – 1 Located at 313 Gahbauer Rd. Special Exception for remote/ground mounted solar array.

Carlos Newcomb was present for the application. Mr. Newcomb works for Hudson Solar the company that is installing the solar array. Mr. Newcomb explained that the installation is really an expansion of an existing ground mounted solar array that was installed in 2007. Mr. Newcomb continued that the new solar array will use the existing conduit for the wiring and the new panels will be located right next to the existing panels but will be constructed on a metal frame instead of the pressure treated wood frame that the existing panels are

mounted on. Gretchen Stearns asked if the solar array is screened from the roadway and neighbors. Mr. Newcomb explained that the existing and expansion of the solar array is located in the back pasture so it is well screened. Stephen King asked how large the property is. Mr. Newcomb answered that the property is approximately 44 acres. Virginia Ambrose asked if this will double the existing solar array. Mr. Newcomb answered yes. Chairman Goodrich asked if anything has changed in the technology since 2007 for solar arrays. George Schmitt answered that to his knowledge there is nothing that the Planning Board needs to worry about it is for the Building Department to be aware of changes and updated solar technology. Chairman Goodrich asked the Planning Board members if they would like to see additional screening. Gretchen Stearns answered that the solar array is far enough away from the roadway and neighbors that there is sufficient screening in place. Motion to classify as an unlisted action for purposes of SEQRA, deem the application complete and set public hearing for September 7<sup>th</sup> was made by Virginia Ambrose with a second from Judy Zink. All members were in favor. Motion carried. Mr. Newcomb was instructed to obtain a public hearing sign from the Town Clerk's office and to post the sign at least two weeks prior to the meeting.

**Hayes, Daniel & Peter Subdivision/Boundary Line Adjustment/Subdivision:** Tax Map #(SBL) 112 . 2 – 2 – 46 & 112 . 2 – 2 – 49. Boundary Line Adjustment/ Subdivision

Peter Hayes was present for the application. Mr. Hayes informed the Board that he is the owner of the property at 92 Church St. and after his father's recent death he is looking to take back a portion of property from the other property located at 793 NYS Rte. 217 that belongs to his father's estate. Mr. Hayes continued that this boundary line adjustment puts his property back to the original configuration. Mr. Hayes continued that the property had a boundary line adjustment several years ago after his grandmother died and left the property to his father who then performed the Boundary Line adjustment to add to his property. Mr. Hayes informed the Board that after the boundary line adjustment the property located on NYS Rte. 217 will be sold. George Schmitt asked if the properties have an easement for the water supply. Mr. Hayes stated that he was unaware of any easement. Rob Fitzsimmons informed the applicant that the water lines need to be shown on the map and he will need an easement for them or it will be a condition of the approval. Rob Fitzsimmons continued that the easement can also be placed in the deed too. Gretchen Stearns informed the applicant that the rear setback is not at the allowed distance. Scott Cole stated that the rear setback shows 20.5 feet and it is required to be 30 feet from the back of the house to the property line. Scott Cole informed the applicant that he needs a SEQRA and an Ag. Data form completed and submitted. Rob Fitzsimmons informed Mr. Hayes that he will either need to go to the Town of Claverack Zoning Board of Appeals and request an area variance of 9.5 feet or move the property line to allow for the rear setback to be 30 feet. Rob Fitzsimmons continued that the applicant could use the argument that he is returning the property back to the original configuration when it was owned by his grandfather. Rob Fitzsimmons instructed the applicant to seek the advice of his surveyor Robert Ihlenburgh. Joseph Singleton asked how the Board members felt about the possibility of the area variance so that a letter could be drafted for the Zoning Board of Appeals. Rob Fitzsimmons stated that it is a good idea for the Planning Board to inform the Zoning Board of Appeals that they have no issues with an area variance as guidance. Mr. Hayes was advised of his options and that he needs to submit a SEQRA and Ag Data statement and to keep the Planning Board secretary advised of his decision. Planning Board Secretary Jodi Keyser informed the applicant that he needs to pay the application fee of \$300.00 also.

**INFORMAL:**

**Wright, Frederica Subdivision:**

Sam Wright and Frederica Wright were presenting a proposed subdivision of 31.5 acres on Dunbar Rd. and Stevers Crossing Rd. into three parcels. Stephen King asked if the mobile home park shown on the maps was an approved mobile home park in the Town of Claverack. Mr. Wright answered yes and that they are all on separate septic systems. Stephen King informed the applicant that the septic systems need to be shown on the maps as well as the water lines and well sites for each trailer. Gretchen Stearns asked the applicant when the mobile home park came to be. Mr. Wright answered that the park was there in the early 1970's. Gretchen Stearns then stated that it is not a sanctioned mobile home park but it is a preexisting condition. Mr. Wright

informed the Board that it was occupied prior to the Zoning laws and the occupants rent the property with water and septic provided. Mr. Wright continued that one of the renters is interested in purchasing the property to continue the mobile home park. Gretchen Stearns stated that this could be an issue. Rob Fitzsimmons informed the applicant that he will need to establish that the mobile home park is a pre-existing non-conforming use prior to the 1973 Zoning laws and that the mobile home park is registered. Rob Fitzsimmons recommended that the applicant seek information on the mobile home park from the Town of Claverack Building Department. Ms. Wright stated that she has all of the information needed. Joseph Singleton asked if any of the trailers could be replaced. Rob Fitzsimmons answered that the trailers could be replaced if within the same footprint and if not then the Zoning Board could allow the one time only replacement. Rob Fitzsimmons asked if the parcels have municipal water. Frederica Wright answered that two of the parcels have municipal water but that parcel #2 has no water. Sam Wright asked the Board if he will be required to have perk testing on the largest parcel because the Planning Board has exempted him in the past on large parcels. Joseph Singleton stated that the Planning Board will require perk testing on each lot and in the 17 months he has been a member of the Planning Board they have required perk testing on every parcel. Rob Fitzsimmons instructed the applicant to obtain the pre-existing nonconforming documentation from the TOC Building Department, show the waterlines on the map, perk testing on parcel #2, septic locations for parcel #3, contact Mike DiRuzzio and Louis LaMont for driveways. Gretchen Stearns asked that the driveway for the mobile home park be clarified because the maps how it going across the neighboring parcel SEQRA and Ag Data forms completed and \$300.00 application fee is due prior to the September meeting. Rob Fitzsimmons informed the applicant that the subdivision is in two municipalities the TOC Planning Board should notice the Village of Philmont and send a map of the proposed subdivision.

### **OLD BUSINESS:**

#### **Coons Self Storage:**

Conrad Coons was present for the amendment to his previously approved site plan and special exception for self-storage units. Mr. Coons informed the Board that he has made minor changes to the previous site plan making building #2 40 feet instead of 45 feet and making the driveways 3 feet narrower allowed for a 6<sup>th</sup> building. Mr. Coons informed the Board that this will alleviate the light spillage into the neighbor's property and the back of the building will face this neighbor so no car lights will impact his property. Gretchen Stearns asked when the internally illuminated sign was approved because these are never allowed. Mr. Coons answered that the sign was approved during the first site plan review in 2013. Gretchen Stearns informed the applicant that this is an illegal sign. Chairman Goodrich asked if the retaining wall was added to the map. George Schmitt answered that the retaining wall was added to the map as requested. Rob Fitzsimmons asked if the Stormwater changes were reviewed. George Schmitt answered that he received a letter regarding the retention pond and that the note #6 was added stating that access to the rear of building #6 is not allowed and that building #6 was shifted to be completely in the Highway Commercial Zone. George Schmitt informed the Board that all of the concerns were addressed to his satisfaction. Rob Fitzsimmons informed the Board that Mr. Coons presented this revision as informal at the July meeting and the Board members voted that it was a minor revision which did not require a public hearing so long as the storm-water plan did not need significant changes. Motion to approve the minor change to the previously approved Site Plan/Special Exception as depicted on plan set dated 7/1/16 was made by Joseph Singleton with a second from Scott Cole. All members were in favor. Motion carried. Maps were stamped and signed.

Motion to adjourn the meeting was made by Scott Cole with a second from Joseph Singleton. All members were in favor. Motion carried. Meeting adjourned at 8:45 p.m.

Respectfully submitted,  
Jodi Keyser, Secretary