

Town of Claverack
Zoning Board of Appeals
P.O. Box V
Mellenville, NY 12544
Minutes of March 23, 2016

Members in attendance were: Steven Melnyk, Kim Keil, David Graziano, John Porto, Chris Post, David Graziano, engineer; George Schmitt, attorney; Rob Fitzsimmons and secretary; Jodi Keyser
Absent: Chairman Frank Clegg

David Graziano was the acting Chairman for the meeting in the absence of the Chairman

Acting Chairman David Graziano called the March 23, 2016 meeting of the Town of Claverack Zoning Board of Appeals to order at 7:30 p.m.

Acting Chairman David Graziano led the Board and audience with the Pledge of Allegiance.

Correspondence: Training information from the Cary Institute regarding the future of oak forests will be held on 5/7/16 and registration information was attached.

Zoning Board members received copies of the new Zoning Laws adopted in December 2015.

Board members reviewed the minutes of the December 2, 2015 meeting. Acting Chairman David Graziano requested a change.

Motion to approve the amended minutes of December 2, 2015 was made by Steven Melnyk with a second from John Porto. All members were in favor. Motion carried.

NEW APPLICATIONS FOR March 23, 2016:

Town of Claverack Code Enforcement Officer and Building Inspector Stan Koloski asked if his interpretation could be heard first because he needed to be at another meeting.

Town of Claverack Building Department: Request for Interpretation of Commercial signs in a Residential Districts. NYS Rte. 23-B

Stan Koloski was present for the application. Mr. Koloski explained to the Board members that he is seeking an interpretation from the TOC ZBA regarding permanent business/farming signs within a residential area. Mr. Koloski continued that his intent is to help the ZBA members digest the new law. Mr. Koloski reminded the Board that agricultural uses are businesses too. Mr. Koloski informed the Board that he sent a memo to each ZBA member to help explain the jest of the problem. Mr. Koloski informed the Board that business signs in the residential zone is not addressed in the TOC Zoning Laws and this puts the Building Department in a sticky situation when a business seeks a sign within the residential zone. Mr. Koloski continued that TOC Zoning Law Table #3 speaks about signs at churches, schools, home occupations, etc. that are businesses or business like which are usually found in residential areas and that Table #4 specifically of business signs in the commercial zones. Mr. Koloski informed the Board that farms are businesses as per TOC Zoning Law Table #1 and that most farms are in residential areas so the difficulty is telling a farm business the specifics of a sign they are requesting because it is not clear to him. Mr. Koloski informed the Board that each request of this type would need a variance or interpretation from the TOC ZBA unless the Town Board implements a revision to the Zoning Laws but that will take several months and he has at least 3 applicants with this signage question. Mr. Koloski continued that if Table #3 were used the sign can only be 2 square feet. Mr. Koloski stated that he needs a general decision for signage within the residential zones. Mr. Koloski informed the Board that he considered bringing this issue to the Town Board members but knows that they have other more important issues and this minor change would take too long. Mr. Koloski informed the Board that he has a possible remedy to the issue with one of two

ways. Mr. Koloski explained that as a recommendation the Board could make an interpretation to allow the TOC Building Department to use the maximum allowable requirements for a temporary sign in TOC Zoning Law Section 14.4.12 (C) for a height of 5 feet with 15 square feet with a front setback of 15 feet and side setbacks of 5 feet or another recommendation is to adopt Zoning Law Table #4 for sign specifications for commercial use within the Hamlet Business Zone. Steven Melnyk asked if the building department has any current applicants with this issue. Mr. Koloski answered yes he has three with two of those being farm businesses. Mr. Koloski informed the Board that he is trying to forego the cost and time to these businesses because they would all need to pay \$150.00 each and apply for a Variance from the ZBA which takes at least two meetings. Kim Keil stated that she was surprised this hasn't been an issue before now. Acting Chairman David Graziano referred to TOC Attorney Rob Fitzsimmons for guidance. Rob Fitzsimmons informed the Board members that Stan Koloski contacted him and it is a void issue in the TOC Zoning Laws. Rob Fitzsimmons continued that they reviewed the current Zoning Laws and came up with the two different options as described by Mr. Koloski. Rob Fitzsimmons continued that the TOC Town Board will need to adopt a clear regulation for this issue but it will take several months so something needs to be used in the meantime. Stan Koloski informed the ZBA members that he needs guidance with signage size for these applicants. Steven Melnyk stated that he felt 15 square feet is too big for a residential area. Stan Koloski informed the ZBA that the square footage for a sign is determined using the two sides so that each side can only be 7.5 square feet each. Steven Melnyk stated that this issue of the two sides of a sign counting toward the square footage was discussed before and it doesn't make sense because this makes the signs small. Stan Koloski stated that the applicant could always ask for a variance if they wanted a larger sign so there are options to the regulations. Rob Fitzsimmons informed the Board that applying the sign regulations for business signs in the Hamlet Business Zone would allow for a 16 square foot sign. Steven Melnyk stated that there is not a big difference.

Motion to informally interpret the Town of Claverack Zoning Law as allowing the size regulations for a temporary sign as per the Town of Claverack Zoning Law § 14.4.12 (C) be used to determine the size requirements for a permanent sign for a business/farm within a residential zone. This allows for a sign height of 5 feet, size of 15 square feet, front setback of 15 feet and side setbacks of 5 feet per the temporary sign requirements, all other sign requirements would apply was made by Steven Melnyk with a second from Kim Keil. All members were in favor. Motion carried.

Thomas, John Use Variance: Tax Map #(SBL) 101 . – 2 – 27 . 110 Located at 632 Route 9-H. Applicant is seeking a Use Variance for the construction of a dog kennel in the Rural Agricultural Zone.

Michael Howard and John Thomas were present for the application. Mr. Howard informed the Board that Mr. Thomas resides at 139 Kittle Rd. and is a retired K-9 officer for the Hudson Police and has worked for the Columbia County Sheriff's office and US Department of Defense. Mr. Thomas has trained dogs for drug and bomb detection. Mr. Howard continued that Mr. Thomas is seeking to purchase a 5.3 acre property from Frank and Donna O'Neil which is contiguous to his property and sits along NYS Rte. 9-H. Mr. Howard explained that Mr. Thomas would like to construct a dog kennel for boarding, rehabilitation and training. Mr. Howard informed the Board that Mr. Thomas has the support of his neighbors. Mr. Thomas informed the Board that the kennel will be 40 feet by 60 feet. Mr. Howard informed the Board that the property is zoned Rural Agricultural but is neighbored by the Highway Commercial zone. Acting Chairman David Graziano informed the Board that the application packet contains a letter from the owner Frank O'Neil granting Mr. Thomas permission to act on his behalf. Kim Keil asked Mr. Thomas how many dogs he currently trains at his facility. Mr. Thomas stated that he currently does not have any training of dogs because he does not have a kennel. Acting Chairman Graziano asked how many dogs would be boarded/trained at one time. Mr. Thomas informed the Board that the kennel will have 20 runs for boarding and grooming so there is a maximum of 20 dogs. Mr. Thomas informed the Board that the dogs will be housed inside the kennel most of the time and will only be out in the enclosed runs during good weather. Kim Keil asked if this is like doggie daycare. Mr. Thomas answered yes. Kim Keil asked if all of the neighbors were in favor of the project. Mr. Howard stated that of the neighbors that all but two were in favor and those two could not be contacted for comment one way or the other. Kim Keil asked if the Haskin family was informed and asked if they were in favor of the project because she knows that all of the neighbors are not in favor of the project. Kim Keil stated that she is a huge dog lover but does not think that this is the right place for this type of business. Mr. Howard informed the Board that the kennel will be situated along NYS Rte. 9-H and

not in the residential neighborhood. Steven Melnyk asked how will the applicant contain the noise from the dogs barking. Mr. Thomas informed the Board that his plan has a special noise barrier on the fencing that keeps the noise from spreading and instead it travels up. Mr. Thomas stated that he has used this sound mitigation before and it works great. Kim Keil asked if all types of dogs will use the kennel. Mr. Thomas answered yes all types of dogs will use the facility. Mr. Thomas continued that he will train bomb sniffing dogs and service dogs but will no longer train aggressive dogs. Rob Fitzsimmons informed the applicant that a Use Variance is the most difficult to obtain because the applicant needs to provide evidence to support the 5 criteria of approval. Rob Fitzsimmons continued that the self-created hardship criteria is the hardest and because Mr. Thomas is seeking to purchase the property knowing that this is not allowed within the zone he is creating the hardship with the purchase. Rob Fitzsimmons continued that the applicant needs to provide detailed dollars and cents proof and a lack of return by the current owner to prove that he can only sell the property to this buyer and a competent appraisal but this would set a precedent. Steven Melnyk stated that he had no issues with the project. Rob Fitzsimmons stated that it seems like a good business but not making any judgements because it is not a permitted use in the zone and informed the Board that the TOC Planning Board is currently reviewing a plan to expand the Columbia Greene Humane Society not far from this property and it is being met with a great deal of resistance from the neighborhood. Chris Post informed the applicant that the neighbors within 2600 feet of the Humane Society are complaining about the noise and houses are much closer to this project than that. Michael Howard asked about the self-created hardship issue. Rob Fitzsimmons explained that Mr. Thomas is creating this hardship by purchasing the property knowing that it is subject to zoning. Mr. Howard informed the Board that the property is adjacent to Highway Commercial zone. Mr. Howard informed the Board that when he was meeting with Stan Koloski regarding this project Mr. Koloski suggested that the TOC Town Board could change the zoning for this parcel and attach it to the Highway Commercial but that would take a long time. Acting Chairman David Graziano stated that this would seem like spot zoning. Rob Fitzsimmons stated that if the Highway Commercial Zone were contiguous to this property then it would be added but that is up to the TOC Town Board. Rob Fitzsimmons continued that the applicant has to overcome the self-created hardship. Kim Keil stated that she knows that all of the neighbors are not in favor of the plan. Rob Fitzsimmons informed the applicant that if the TOC Town Board changes the zone for the parcel or the Zoning Board of Appeals grants the Use Variance the applicant will then need to proceed with a Site Plan Review before the Planning Board. Michael Howard informed the Board that the only viable option is to appeal to the TOC Town Board to change the zoning for the parcel but is requesting that the application remain open before the ZBA while his client reviews the options. Town Board member Brian Keeler informed the applicant and the ZBA members that the Town Board is looking at the Rte. 9-H corridor for this specific reason and suggested that the applicant and representative attend the TOC Town Board workshop on Monday 3/28. Chris Post informed the applicant that there are several vacant properties within the town that are in the Highway Commercial Zone. Mr. Howard informed the Board that this parcel is contiguous to Mr. Thomas' residence and would allow for him to have greater access and a water source. Acting Chairman David Graziano asked if the kennel will have a septic system. Mr. Thomas answered yes. Mr. Howard informed the Board that he will consult with his client and will be in contact.

Motion to adjourn the meeting was made by Kim Keil with a second from Oliver Milot. All members were in favor. Motion carried. Meeting adjourned at 8:15 p.m.

Respectfully submitted,
Jodi Keyser, Secretary