

## D R A F T

**Please note that all referenced attachments, comprising approximately 66 pages, are on file with the Copake Town Clerk and in the Planning Board office. An annotated listing of those attachments appears at the end of this document.**

### **COPAKE PLANNING BOARD MINUTES OF SEPTEMBER 7, 2006**

A regular meeting of the Copake Planning Board was called to order at 7:00 p.m. by Edgar M. Masters, Chairman. Also present were Marcia Becker, Chris Grant and Terry Robbins. Lawrence E. Howard, Esq., attorney for the Planning Board substituting for Town Attorney Gifford Whitbeck, who has recused himself because of past work done for HRCC, also attended. Paulette Bonanno served as secretary of the meeting in order to record the minutes.

#### **ZONING BOARD OF APPEALS - Referrals**

Mac Simms, Chairman of the Zoning Board of Appeals, presented the Planning Board with the following referrals:

1. **Paul and Tammi Albers** – 332 No. Mountain Road, Copake Falls: area variance for installation of an in-ground pool on a .389 acre lot in an R zone.
2. **Babette Becker** – 470 N. Mountain Road, Copake Falls: area variance to enlarge house by adding bedroom and bath on a 1.38 acre lot in an R zone 30.25 feet from a stream.
3. **David M. Darling** – 37 Two Town Road, Craryville: area variance to add garage in front yard of an approximate four-acre parcel.
4. **Michael and Susan Dieter** – 147 Lakeview Road, #9, Craryville: area variance to rebuild on larger footprint on a 1.03 acre lot in an R zone.

These matters were taken under advisement by the Board.

#### **2006-30      BOUNDARY LINE ADJUSTMENT - Magagnini – Center Hill Road**

The applicant has requested approval to add a 25 foot strip of land owned by Costa/Ahrens off Center Hill Road adjoining the Magagnini property. The applicant was unable to appear. Letters from abutting neighbors have been provided. Applicant's attorney, Robert Cadoux, has been advised that a letter also must be provided from the owner of the property across Center Hill Road.

Upon a motion was made by Mr. Grant and seconded by Ms. Becker, the Board voted unanimously to grant conditional approval that a 25 foot strip of land of Costa/Ahrens be joined to the lands of Magagnini, subject to receipt of a letter of no objection from Andrews Ziffer, owner of the property across Center Hill Road.

**2006-26          MINOR SUBDIVISION – Damien Crepeau – Center Hill/Cambridge Roads**

A public hearing on this minor subdivision was held on August 3, 2006, and no one appeared. Mr. Crepeau, who was present, proposes to split 4.1 acres from his 12.75 acre parcel. The Board has received a letter from Larry Proper, Copake Highway Superintendent, advising of the acceptability of a driveway 180 feet west from the east end of the new parcel located along Cambridge Road. Because the Board is concerned about steepness of the site off Cambridge Road, contours were requested of the surveyor. It was noted that the applicant still needs to provide County Dept. of Health (DOH) approval of the septic system. Mr. Crepeau advised that the requisite four test pits have been dug and that he is waiting for the DOH to contact his *engineer/architect?*

Upon a motion made by Mr. Grant and seconded by Mr. Robbins, the Board granted conditional approval of the minor subdivision consisting of four acres of land as shown on the survey map revised August 31, 2006.

**2006-31          BOUNDARY LINE ADJUSTMENT – Louis Levitt – Taconic Shores**

Lou Levitt was unable to appear. The applicant has requested approval to merge two adjacent lots that he owns in Taconic Shores, a major subdivision that has on record an underlying survey of lots. In order to minimize survey costs by the surveyor's not having to re-inspect the property, his surveyor has provided a map that shows the new lot dimension but not improvements. Mr. Masters noted that no new lots are being created nor is ownership or property being transferred. It was also noted that the new lot remains undersized.

Upon a motion made by Mr. Robbins and seconded by Mr. Grant, the Board unanimously voted to (a) waive the public hearing in this matter and to (b) approve the merger of lots 618 and 619 of Taconic Shores owned by Louis Levitt pursuant to a survey map dated July 24, 2006.

**2006-32          BOUNDARY LINE ADJUSTMENT – D & C PELLIS – Central Hill Road**

Mr. Donald Pellis appeared proposing to subdivide the single lot that he owns along Center Hill Road, Lot #1, and merge it with the Basner property. This will not create a new lot. He presented his deed to the Board. The Board noted that DOH septic approval is not needed because a new lot is not being created.

The Board requested the following:

1. a copy of the front and back of the deed by next week
2. a survey received by the Board by September 21<sup>st</sup> so that a public hearing can be scheduled for the October 5<sup>th</sup> Board meeting
3. a letter from Basner agreeing to accept the merger

Upon a motion made by Mr. Robbins and seconded by Ms. Becker, the Board unanimously agreed to accept as a preliminary sketch plan the photo map of the property of Donald and Christine Pellis to adjust the boundary line by merging Lot #1 with the property owed by Basner along Center Hill Rod.

## **2006-20 BOUNDARY LINE ADJUSTMENT – Grant and Ritchie – The Island at Copake**

Mr. Grant recused himself from the matter before the Board and appeared as the applicant. He and Carl Ritchie own Lots 12 & 13 on The Island at Copake and have applied for the following lot line adjustments:

- reduce lot 12 by .42 acres to 1.116 acres
- increase lot 13 by .42 acres to 1.623 acres

The applicant noted that a new driveway for access to the adjusted Lot #12 would be built. No-objection letters were provided by abutting neighbors Reich and Mastropolo as well as by Moran across Island Drive.

Because a new view shed easement would be created across adjusted Lot #12, the Board requested a copy noting that it is not a condition of approval. A copy of the deed was provided. The Board also noted that a short form SEQRA is not needed because this is only a BLA.

Upon a motion made by Mr. Robbins and seconded by Ms. Grant, the Board unanimously approved a BLA to the properties of Christopher I. Grant and Carl W. Ritchie as shown on the survey of Plass, Rockefeller & Nucci, LLC, dated June 27, 2006. The \$50 fee was received.

## **2006-33 MAJOR SUBDIVISION – Birch Hill Partners, LLC**

Present were the applicant, Craig Kirsch, and his attorney William J. Spampinato, who will act as lead agent. The project consists of one hundred acres on Birch Hill Road to be developed into 12 lots pursuant to a public offering of a Home Owners Association (HOA). The property includes a dam on which work has been ongoing for the past several years under the supervision of NYS DEC under its jurisdiction to regulate water bodies greater than one million gallons. The dam project is considered closed, which results in a full permit for the existing dam. The only remaining work is some clean up, and the pond is in the process of being refilled. The heavy equipment on the site is only for completing the dam work; no subdivision work is in progress.

The applicant proposes a public offering of lots with a private road; lots will range from five to 12 acres in a three-acre zone. The sketch plans also reflect about 25 acres for common area to be deeded to the HOA. The applicant advised that approximately four lots would be offered to the public to cover development expenses with the remainder offered to family members. The applicant noted that the sketch plans were prepared before the major subdivision regulations took effect requiring Flexible Lot Subdivision (FLS or Local Law 4).

In response to Mr. Masters' asking Mr. Howard to review how the applicant should proceed in the FLS approval process, the following was outlined:

- I. Determination of Density:
  - A. Calculation of base density
  - B. Identification of constrained lands per Local Law 4
  - C. Determination of balance left for building units
  - D. Submission of above calculations to Board

## II. Conservation Analysis:

- A. Identification of areas worth preserving (not to be further developed)
- B. Mapping of these conservation areas

## III. Sketch Plan

Determination of size and location of lots

Mr. Howard also advised that a higher level of SEQRA review may not be required for a FLS.

In response to Mr. Spampinato's expression about concern for cost, Mr. Howard explained that this process is create to minimize costs and that the Board would evaluate a FLS as it would any other subdivision. The applicant may use USGS topological surveys until the sketch plan is accepted, and a survey is not required until the Board reviews the sketch plan. Once the sketch plan is accepted the applicant will proceed according to the time frames established in Chapter 197 for major subdivisions. Mr. Grant suggested the applicant obtain a copy of the flow chart created as part of Local Law 4. The Board also confirmed that there were no additional code changes that would be involved in this type of subdivision approval other than Local Law 4.

Mr. Masters then stated that in order to advise the Board in this new process, Elan Planning, the consulting firm that guided Copake through the process of adopting FLS regulations as well as other local towns, would be retained and its charges would be billed to the applicant.

Mr. Masters indicated that the Town would use the consultant's time as judiciously as possible and suggested that the applicant contact Lisa Nagle at (518) 306-3702 to discuss the matter.

Mr. Spampinato requested a positing of an escrow and the provision of itemized bills for this consultant as well as for Town counsel. When Mr. Spampinato asked about whether the ten day rule applies according to Subsection C for appearance on the agenda of the next meeting, Mr. Masters recommended that he be contacted as soon as data is completed. Mr. Robbins also asked to see the Subsection B information. It was then decided that Subsections B & C submissions to the Board should be copied to Ms. Nagle and Town Engineer Charles Barrow; eight copies in all should be made for the Town and its consultants.

## **2006-05 SITE PLAN APPROVAL/MAJOR SUBDIVISION - CJ Properties, Empire Rd.**

Andrew Fetherston of Maser Consulting appeared on behalf of the applicant. Mr. Fetherston confirmed that in his letter of August 22 he responded to the letters from neighbors Marvin, Miller and Ackley as well from Charles Barrow. Maser had submitted to the Board the newest drawings, which include a relocated emergency road as well as a less detailed copy of the septic design submitted to the DOH on September 7. It was confirmed that the Board had accepted the sketch plan a few months ago.

It was noted that the public hearing was held at the August 3, 2006, meeting and that it remains open. The Marvins then provided further comments/questions as outlined in their handout dated September 7, 2006, (copy attached), and Mr. Fetherston responded as follows:

- The ditch running across the road for the entire property length will be maintained with grass and not necessarily riprap, depending on Copake Highway Dept. requirements.
- There continues to be concern about potential flooding due to the steepness of the site and the run off that may not be caught in retention ponds. Mr. Fetherston advised that he

had designed the culverts for 25-year storm requirements pursuant to Columbia County depths.

- The emergency access road would use Dept. of Transportation Item 4 road-base stone since the requirement is to use a hard surface. The Marvins continued to express concern about the runoff from such a hard-surfaced road that is directly across from the Marvin driveway. Mr. Fetherston advised that this would mitigate current runoff since the detention ponds will partially catch some storm water with the remainder flowing into the new culverts. Gating of the road will be minimal—a break-away pieced of wood.
- The issue of road salt was raised; it is completely soluble and cannot be removed from storm water and therefore cannot be prevented from entering the wetlands.
- New information was provided by the Marvins on chemicals previously applied to the property; the previous farm only grew feed corn and applied a weed killer once a year and a manure application.
- A road maintenance agreement between the HOA and the Town was the mechanism used to ensure maintenance prior to dedication to the Town.
- Buffering and clear cutting continues to be a concern since plans do not yet show landscaping.
- The applicant is not anticipating any blasting of the hill.
- The homes are likely to be built out as sold. They are most likely to be wood frame and up to five bedrooms.
- In response to the Marvins' expression of concern about invasive plant species being brought into the area that are currently not present, Mr. Fetherston advised that his firm will be doing planting design for the catch basins.
- Finally, the Marvins asked about possibly changing the location of the septic for the lot directly across from their home--they have a very shallow well under their house in a direct down hill path from the proposed septic location. Mr. Fetherston advised that he will look into moving it.

Mr. Masters then advised the Marvins to review Maser's August 22<sup>nd</sup> letter and to be comfortable with the responses because equilibrium must be achieved. The Marvins then distributed their response to the letter, copy attached.

Upon a motion made by Mr. Grand and seconded by Mr. Robbins, the Board unanimously agreed to close the public hearing.

Mr. Masters then advised Mr. Fetherston of the Board's continued concern with:

1. Wetlands - The wetlands located to the east of the property are considered significant and have been there a long time. Because the Board wants to ensure that the proposal adequately mitigates the project's impact on storm water runoff and the wetlands, Eric Kiveat, an environmental engineer, will be retained by the Town to review the plans and advise the Board. This cost will be passed on to the applicant.
2. Buffering – The Board wishes to ensure that the existing trees along the property line remain in place and are possibly augmented. The Board also would like to see plantings around each residence. Therefore the Board is requesting a sample landscape plan for a home that includes the amount of lawn and field.

3. Test Wells – Since the Board has not questioned lot layouts, Mr. Masters suggested doing test wells now. It was confirmed that the lots were already reconfigured based on the Board’s earlier site inspection when it was agreed that visual impact would be addressed by buffering. It was also requested that Lot #2, closest to the Marvins, would be tested.
4. Draft HOA documents, deed restrictions, road maintenance agreement and all other covenants including those that would address detention ponds and emergency access roads were requested.

Finally, Mr. Fetherston was advised that a negative environmental declaration would be granted as part of the final project approval.

**2005-18 SITE PLAN REVIEW AND MAJOR SUBDIVISION - Housing Resources, Inc. - Approximately 112 +/- Acres on Land Bounded by Mountain View Road and County Route 7A.**

Mr. Masters announced that the senior unit layouts and the SEQRA process would be covered at this meeting.

Mr. Masters again informed the group that, as he has repeatedly stated to the public, this is a long review process—possibly running one to one and a half year--the time frame is really unknown. The Board is considering what is being put before it and the public is concerned about the project. To date only incremental decisions on how to proceed in this process have been made. He noted that Friends of Copake held a meeting here in Town Hall two weeks ago. Genuine concerns were raised, and he advises that it is in the best interest of the applicant to address these concerns. Also, some misinformation was presented at that meeting--that someone had said that the Planning Board held secret meetings with HRCC; and the leadership of Friends of Copake had not corrected this misstatement. Bob Sacks, who attended the meeting, responded that Board meetings are public and are not secret, and he advised the group that no Board meetings have taken place that have not been advertised to the public. Mr. Masters said that he hopes all understand this.

Mr. Pulfer and Mr. O’Neill were present. Mr. Pulfer provided a sketch of what he discovered when he took a more comprehensive look at the parking of the elderly units surrounding the Green. He explored widening lots, parking in an alley between lots, and how to fit adequate parking in two 50 foot lots

The sketch outlines the following results:

- 2 bedroom with attached garage, which works best, and is within the required setback
- 1 bedroom carport, which needs a three foot setback; he proposes that carports are accessory buildings and therefore allowable if they are at least three feet from the property line, that is, within this existing required setback.
- duplexes with an uncovered parking space on the site—also within the required setback.

He is asking the Board to be allowed to build carports up to three feet of the setback. Use of the rear yard for parking doesn’t work because of inadequate turning area.

Mr. Robbins noted he believes a three foot setback for a carport is acceptable but not for enclosed garages, and he clarified that he believes the Town considers open porches accessory

buildings. Mr. Masters asked for additional drawings of how the Green would look with parking spaces included, including handicapped parking.

Storage will be provided at the back of the rental units and by attaching a shed to the senior cottages. Attic storage can be provided in the individual homes on the project.

The current plan provides for 50 foot wide by 85 foot long lots, which equal 4,250 sf. Mr. Masters suggested accepting this plan for now but reserves the right to reconsider as the process moves forward. This will allow HRCC to pursue the detailed SEQRA process. In response to Mr. Masters' question, Mr. Howard advised that adequate time has passed for designation of the Board as lead agency and to begin the scoping process. He informed the group that the intent of the Board to be lead agency was circulated and that the only response was for additional information.

Upon a motion made by Mr. Robbins and seconded by Mr. Grant, the Board unanimously voted:

1. to designate the Copake Planning Board as lead agency
2. that it has determined this project is a Type 1 action requiring an Environmental Impact Statement (EIS)
3. to set the scope of the EIS, thus reversing its position taken at the June 15, 2006, meeting
4. to ask the applicant to prepare a draft scope

The application indicated that it had no objection to the Board's decision to scope the EIS.

The applicant tentatively agreed to provide a draft scope within one month to be discussed at the October 5<sup>th</sup> Board meeting. Upon receipt, the Board would allow for two weeks of public circulation immediately after which a public scoping session would be held, tentatively set for Thursday, October 19<sup>th</sup>. The public scoping meeting would allow for public comments as well as the addition of items to the scope of the EIS. A final scope would then be determined, which would then allow the applicant to prepare its draft EIS. The applicant also agreed to provide an electronic version of the draft scope to be posted on the Town's website. Mr. Howard reminded the Board that the time frame from receipt of the draft scope to finalization is 60 days.

## **2006-02 MAJOR SUBDIVISION - Steiner Properties - Two Town Road**

The applicant, Ben Adams, appeared along with George Schmitt of Morris Associates, engineering consultants.

Mr. Masters noted the correspondence between John Regan, the applicant, the Town and the various professionals retained by the parties involved. Mr. Schmitt explained that the road location is limited, that site distance requirements are being met, that DOH approvals have been received, that a DEC storm water discharge permit has been received, that most of the drainage runs off to the sides of the retention ponds, that the ponds have no burns, and that the applicant had offered but Mr. Regan declined an additional catch basin on and a discharge pipe into his property.

In regard to the Board's concern about wetland issues, it was noted that the site is not in the wetland area off to the northwest and that eventual discharge is into a stream, not a wetland. Mr. Schmitt objected to Mr. Regan's reference to the burial of information and maintained that requirements to be considered a wetland are hydraulic soil, vegetation and hydrology, which is

Page 7 of 10

not the case here. Mr. Schmitt offered to rotate the culvert pipe away from the retention pond nearest to the Regan property, but this would allow for more discharge toward the stream, that 100 feet must be maintained between the pond and the stream. The retainage pond is 90 – 100 feet from the wet area, and he has redirected the flow to mitigate impact on the existing stream. Mr. Schmitt advised that Crawford Engineering, retained by Mr. Regan, interchanges the term wetland with body of water.

Mr. Adams maintained that the Board never asked him to delineate the wetlands on his plan and that the wet area to the northwest is not designated as a wetland. Mr. Masters then asked the applicant to provide a written response to Crawford's September 1, 2006, letter.

Mr. Masters provided the following comments:

- There is no emergency access road required by the Planning Board, whose policy for minor subdivisions is that a 200 foot turnaround is satisfactory. Also, the lots have deed restrictions and cannot be further subdivided. This precedent was established with the April 7, 2006, approval of the site plan of properties owned by Neil Costa and Lynn Ahrens on Center Hill Road (County Route 7A).
- Concerning the roadway access to Center Hill Road, Mr. Masters suggested a platform and a wider entrance; the drive slope is better than that required by ordinance. He advised that Town Engineer Barrow always recommends a 90 degree angle, while code allows as close to 90 degrees as possible. The applicant was also told that the County Dept. of Highways must review the roadway because it is on a town line, and submission to the County can only be made once Copake provides conditional approval.

The applicant was told to submit the following in order to proceed:

- site plan with house and septic locations
- draft HOA documents, deed restrictions, road maintenance agreement and any other covenants

## **ADMINISTRATIVE/OTHER BUSINESS**

**Revised Section 232-24 of Zoning Chapter of Town Code** – The Board considered and reviewed a letter from Mr. Howard and the memo to the ZBA prepared by Mr. Grant and edited by Mr. Robbins and Mr. Masters. Upon a motion made by Ms. Becker and seconded by Mr. Grant, the Board unanimously approved that the two documents be forwarded to the ZBA.

**Lynn Main** – Mr. Main requested an appearance before the Board concerning being cited by Zoning Enforcement Officer Ed Ferratto for having more than three trailers on his dairy farm without proper permit. He advised the Board that he did not know they were prohibited under existing law. Mr. Masters provided a copy of the zoning ordinance related to trailers and asked Mr. Main to comply with the law.

## **MINUTES:**

**Minutes of August 3, 2006** – Upon a motion made by Ms. Becker and seconded by Mr. Grant, the Board unanimously approved the minutes of August 3, 2006, including the following changes:

### **Item 2005-18 - HRCC:**

- a) Page 6, para. beginning, “The re-sizing at 5,000 sf,” insert at end, “Mr. Ordover commented that he still believed coverage on a 4,250 sf lot would be too great.”
- b) Page 7, first line, change “Mr. Ordover” to “Mr. Grant suggested off-street parking,”
- c) Page 7, para. beginning, “Mr. Robbins voiced his opinion”, insert at end, “Mr. Ordover pointed out that with the reduction in width of the duplex lots and a minor increase in the length of the Green lots, 5,000 sf could be easily accommodated. Mr. Pulfer agreed to look at that option.”
- d) Page 7 para beginning, “After discussion,” last line, change “must” to should”.
- e) Page 8, change Roe-Jan Community Library to 2006-23.

Upon a motion made by Mr. Robbins and seconded by Ms. Becker, the Board unanimously voted to approve the corrections to project assignment numbers/names in the following previously approved minutes:

### a) **Minutes of May 4, 2006:**

1. Page 5, change Justin Carter to 2006-21.
2. Page 5, change Leyva to 2005-11.

### b) **Minutes of July 6, 2006:**

1. Page 2, change Robin Hawkins to Susan L. Hawkins and the project number to 2006-24.
2. Page 6, change 2003-13 to 2006-13.

## **ADJOURNMENT**

There being no further business, the meeting was adjourned at 11 p.m.

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Edgar M. Masters, Chairman

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ZBA Referrals

September 7, 2006 Simms to CPB

Magagnini (2006-30) – Center Hill Road

September 5, 2006 Cadoux to Masters

Damien Crepeau (2006-26)

?? Proper to ?? *need copy*

Lou Levitt (2006-31) – Taconic Shores

August 8, 2006 Hotaling to Valentino, Town Board

CJ Properties (2006-05 – Empire Road

September 7, 2006 Marvins to CPB

September 1, 2006 Fetherston to Barrow

August 30, 2006 Scotti to Fetherston

August 28, 2006 Masters to CPB

August 22, 2006 Fetherston to Masters

August 22, 2006 Dates to Masters

August 22, 2006 Marvin to CPB

August 10, 2006 Bonanno to Fetherston

July 3, 2006 Barrow to Masters

May 22, 2006 Miller to CPB

Housing Resources, Inc. (2005-18)

Carport Sketches (G) Architectural Bureau

Steiner Subdivision (2006-02) – Two Town Road

September 3, 2006 Regan to Whitbeck

September 1, 2006 Regan to Masters

August 28, 2006 Masters to CPB

August 25, 2006 Schmitt to Masters

August 21, 2006 Masters to Schmitt

August 21, 2006 DeRuzzio to Schmitt

August 16, 2006 Barrow to Masters

August 15, 2006 Regan to Masters

August 3, 2006 Nelson to Masters

Section 232-24 Zoning Chapter of Town Code

September 7, 2006 Grant to Masters

September 5, 2006 Howard to Masters

Lynn Main

August 12, 2006 Ferratto to CPB

July 1, 2000 Section 232-15, Paragraphs H, I, J