

**Town of Copake
Zoning Board of Appeals
Minutes – August 28, 2008**

The regular monthly meeting of the Zoning Board of Appeals of the Town of Copake, was held on Thursday, August 28, 2008, at the Copake Town Office, 230 Mountain View Road, Copake, NY.

Committee Chair, Stanley Gansowski called the meeting to order at 7:10 PM.

Introductions began the meeting; roll was called with all the ZBA Board members present: Stanley (Stosh) Gansowski, Jeff Nayer, Shawn McClain, Frank Peteroy, Leslie Wood, and alternate, Louis Kibler.

An audience of approximately 5 was present, including Town Board Member, Bob Sacks, and Zoning Enforcement Officer, Ed Ferratto.

Minutes:

Leslie made a motion to approve the minutes of July 24, 2008, this was seconded by Jeff. The motion carried, unanimously.

Public Hearings:

None

New Business:

New Applications:

Application 2008-09, Douglas & Harriett Ziegler, 38 S W Colony Rd, Copake Lake, Area Variance, addition of breezeway and garage.

Mr. and Mrs. Ziegler came forward to answer questions concerning their new application.

The ZBA Board members asked for an over view of what the changes were from the previous application. Mr. Ziegler explained that changes were to be a breezeway connecting the garage to the house. Shawn asked if the applicant had received the DEC approval as was required. Mr. Ziegler presented the board with a letter of such approval. Jeff pointed out that the garage was still in front of the house. Mr. Ziegler questioned the existence of a new construction built within the town of Copake, also after zoning law became effective which had garage attached to house and its placement in front of house. Zoning Enforcement Officer, Ferratto, responded that without specifics, that it was likely a new construction, and that the attached garage became part of the original structure, unlike Mr. Ziegler's application for an addition to the original structure.

Discussion continued as to the size of the structure, when this law went into effect, regarding the garage in front of the house issue, since there were other

garages in front of house within the town presently existing, and how the present law was to be interpreted. Jeff questioned, "Does attaching a garage to the existing house now make it part of the house?" Leslie questioned why it needed to be in front of the house. Mr. Ziegler explained that the garage had been pushed back as far as we can, but we have to maintain the distance from the lake as required by code and because of the steepness of the terrain. Frank interjected by advising the board members that he had been present at the Planning Board Meeting of August 7, 2008, at which time, Mr. Grant replied to a question regarding zoning code and the placement of a garage. "an unattached garage would only be permitted with a breezeway connecting the garage to the existing home." Shawn made a point that part of the job of the ZBA was to question, try to make things fit, and be fair. Does this proposed structure fit the neighborhood, are there objections from the neighbors, is it an improvement, and importantly is it within the law. Ed Ferratto responded that the percentage of coverage of the lot size needed to be one of the considerations according to the law. Lou asked board members to review Zoning Chapter 232-24.2.a.2, to which a discussion as to non-conforming lots and buildings again ensued. It was argued that the house was a non-conforming structure because of it's distance from the lake and the property boundaries, and the addition of breezeway and garage would increase its nonconformity, while others argued that it was built prior to zoning which would make it a conforming lot, to which it was a consensus that a lawyer's interpretation was necessary, as well as conference with The Planning Board.

Although, Mr. Ziegler requested the waive of a Public Hearing as presented to the Board in a letter read by Stosh it was determined by board members that this would not meet the requirements set by law.

Jeff made a motion to set a Public Hearing for September 25, 2008 for the garage and boundary set backs, pending interpretation of zoning law from the attorney and planning board. It was seconded by Shawn, and unanimously carried.

Mr. Ziegler asked the board if there were time limits of his approved plans for additions to his house to apply for a building permit, since he wished to wait to do all at one time, should he get approval for the garage. No time limits, only after he received the building permit, it is advisable for him to wait. He is scheduled for next Planning Board meeting as well as the next ZBA for Public Hearings, while the board sympathized with his frustration, to speed up the process, they were required to follow the law, and that there was no guarantee that he would get approval. He asked if he would be required to produce any other documentation other than that which he has already produced, in an effort to speed up the process, and to have all his ducks in a row. Leslie replied that it would depend on the interpretation of the lawyer and the conference with the Planning Board.

Application: 2008-10, Morris Ordover and Sheila Moss, 37 Cove road, Area Variance, for attached garage. Mr. Ordover came forward to answer questions; his application was reviewed by board members.

He explained his property had been a subdivision of Barry Ross, prior to 1983, with a common driveway, Cove Road, which is a private road.

It was determined that the property is in R- Zone. He purchased the property from Jeff Plass, some 20 years ago, with a restriction to the deed for building. Mr. Ordover produced documentation in support of his statement. He continued that his request for an area variance for an attached garage was in anticipation of possible future requirements for wheel chair access, due to health issues relating to his wife's illness, as well as his own. He continued to explain that he had an application before the Planning Board for a boundary line adjustment scheduled for September, to purchase property from Mr. Ross, "none of this is conforming", he continued. Because of the location of the common road/driveway, which cannot be moved, the additional property will not be enough to meet the required rear boundary set backs, and because of the deed restrictions the garage must be attached. It was determined that Mr. Ordover would need to provide a list of all the abutting property owners for Public Hearing notification, he agreed.

Jeff made a motion to accept the application and to schedule a Public Hearing for September 25, 2008. Shawn seconded the motion and it was unanimously carried.

Correspondence:

None

Proposed Changes to the Code:

Tabled

ZBA E-Mail Account:

Discussion as to whom would be responsible to retrieve and respond to E-Mail. Jeff to retrieve and print out as correspondence for next meeting, he can also forward to all members issues that need immediate attention. A list of generic questions and answers to be posted for assistance to the public, such as; when do I need to submit my application to be placed on next months ZBA agenda.

Old Business:

Shawn asked for a follow-up on a letter from Mr. John Ohlerich, read at the August meeting. Mr. Ferratto reported that an appearance had been issued, scheduled for a September Court hearing.

Adjournment:

Shawn made a motion to adjourn the meeting at 8:20 PM, this was seconded by Jeff. The motion carried unanimously.

Respectfully Submitted,

**Theresa A Traver
Recording Secretary**