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Please note that all referenced attachments, comprising 46 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 October 2, 2008**

A regular meeting of the Copake Planning Board was called to order at 7:05 p.m. by Marcia Becker, Chair. Also present were John Brusie, Gray Davis, George Filpovits, Skip Pilch and Jon Urban. Chris Grant was excused. Planning Board Attorney Lawrence Howard and Town Engineer Doug Clark also attended. Lisa DeConti served as secretary of the meeting in order to record the minutes.

ZONING BOARD OF APPEALS – Referrals

None.

PUBLIC HEARING

**2007-02 SITE PLAN REVIEW – Copake Valley Farm - 13 Lackawanna Properties
 LLC– Salvatore Cascino – Route 22**

Ms. Becker informed the Board that Public Hearings for Copake Valley Farm/13 Lackawanna Properties and the Roe Jan Community Library were still on the Agenda.

Regarding Copake Valley Farm/13 Lackawanna Properties Ms. Becker suggested that anyone wishing to speak on this application keep their comments brief and as concise as possible. Attorney Howard advised that comments could be submitted in writing and would be included in the record.

EDGAR MASTERS, Copake Falls... Judging by the plans that he has reviewed, Mr. Masters believes that there are many inconsistencies in this application as well as out-right issues that have not been resolved which he believes could be grounds for denial.

Mr. Masters informed the Board that he asked for outside expert help at his own expense so that he could try to understand what is being dealt with. He provided the Board with a copy of his remarks along with a more complicated summary of what he feels are the inconsistencies and inaccuracies of this application as well as a great deal of back-up data that goes with it.

In Mr. Master's summary he made note of the fact that the New York State Department of Agriculture and Markets has not found that the Planning Board's site plan review process is "unreasonably restrictive" and outlines several reasons supporting his statements.

He details several reasons why the compost bedded pack barn proposal entails now, and will entail in the future, land uses which are in violation of the law and which are not permitted at the site. He also remarked that the compost bedded pack barn and outside paddock are sized to accommodate in excess of 300 cattle.

Mr. Masters commented on the Stormwater Pollution Prevention Plan which he notes must be prepared to control soil erosion from construction of farm buildings, the roads, bridges and other improvements. He also notes that the proposed plans must include detail concerning the bridge, road and septic designs, as well; as the lighting plan.

A detailed list of Mr. Master's summary can be viewed in the Minutes packet at the Town Hall.

In conclusion, Mr. Masters suggested that the Board require additional information and that such information be supplied by competent technical experts as well as require that the applicant allow these experts to be hired to verify and peer review the submissions. He feels that the Board should reach out to the New York State Department of Environmental Conservation for assistance with its review of the SWPPP and General SPEDES permits and should prohibit any manufacturing or composting activity not expressly authorized by the ZBA in 1997.

JOHN VISCARDI, Copake... felt the due process issue should be defined inasmuch as anyone is allowed to apply. He feels that due process does not mean that the Board has to accept everything the applicant has to say as fact. He believes that this is a common sense issue and the applicant should be told that the application is being denied with reasons explaining why.

PAULETTE BONANNO, West Copake... believes that representations made in this application do not reflect the reality of the situation. Ms. Bonanno noted that the applicant recently sold fill containing construction debris to people in the Town and points out that this is a danger to the environment, to people's health and especially damaging to those who purchase this fill unaware of the problems that can arise, including a negative affect on their own property values. She urged elected and appointed officials to administer the zoning code on an equitable basis meaning fairness to Town residences. Ms. Bonanno feels that Copake Valley Farms and its affiliated entities are clearly not farming operations and have been taxed at more favorable rates reserved for farming. She believes that this is a commercial business operation that already fails to comply with Town law. She feels that even if the operation were legal, the Town is not collecting taxes for such a commercial operation. She points out that trucks continue to wear the Town roads and use the Town water resources without paying for their share of expenses. She also notes that this operation will not necessarily provide jobs in the Town as people might be brought in from outside the Town for these jobs. Ms. Bonanno feels the Town has both the right and

the obligation to deny this application and to take whatever action necessary to enforce our code, particularly concerning this operation.

MAC SIMMS, Copake... referenced the question of housing for farm personnel. He commented on the fact that all of the farms he knows provide housing for workers and families and he feels the Site Plan should reflect appropriate housing for farm personnel. He also feels that the Plan should indicate clearly that all buildings are 100 feet from all streams or ponds and notes that all parts of the septic system should be 150 feet away. His second comment was based on years of service on the Zoning Board of Appeals and his awareness of the Zoning Codes. He noted that the Zoning Codes were created by the citizens of Copake to protect their interests and he feels that this case has received so much attention because there is a very strong feeling that Mr. Cascino and his business will continue to flout the zoning code and the interests of the people of Copake. He compares the situation to New Orleans and notes that when your best levees are breached you lose a great deal such as the protection you are counting on for yourself and the community. He feels that people fear that someone will get around the law and the Board and get what they want.

ALICE BELT, Copake... feels that the local government has the potential for an environmental crisis from the Cascino development that skirts the law, mystifies the community, and continues to proceed without regard to future impact to the environment. She questions whether another kind of bailout looms in our future if our local, county, and state governments fail to act responsibly to ensure our future environmental crisis. She believes that hoping that Mr. Cascino will be a good steward of the land is not enough and feels that Copake, Columbia County and New York State, along with the environmental agencies must enforce the laws that exist and work together to preserve this rural environment for the future.

AL FAIR, Copake... stated that he has been following the illegal operations and violations of the activities of Lackawanna Farms and notes that he has been very distressed by this. He urged the Board not to issue any further permits until all the outstanding legal issues and orders have been resolved and then issue only those permits that are absolutely required by law. He believes that Mr. Cascino has not indicated that he is a good citizen of the community and has created a negative impact on the environment of the community as well as the water table. He notes that, as a real estate agent, he worries about future property values in Copake and the surrounding towns.

HARVEY WEBER, Copake... brings out the fact that there is an escrow account which he believes is very important to all these projects. He feels that inasmuch as the project has been estimated at five million dollars (\$5,000,000.00) it isn't wise to set up an escrow in the amount of five thousand dollars (\$5,000.00) should the process collapse. He urges the Board to please think about setting the amount at a minimum of ten percent, five hundred thousand (\$500,000.00). He is concerned about the financial cost to the town, the state or the community should something serious happen. He also made note of the fact

that the 45 day processing period should begin when a new application is received and urged the Board to consider this as well.

Ms. Becker advised that the Board will be accepting written documents until ten days prior to the next Planning Board meeting on November 6, 2008.

On a motion made by Mr. Brusie and seconded by Mr. Pilch the Board voted unanimously to close the Public Hearing for Copake Valley Farms.

2006-23 MAJOR SUBDIVISION – Roe Jan Community Library – Route 22

On a motion made by Mr. Brusie and seconded by Mr. Davis the Board voted unanimously to waive the reading of the Public Hearing notice for the Roe Jan Community Library.

On a motion made by Mr. Brusie and seconded by Mr. Pilch the Board voted unanimously to open the public hearing for the major subdivision for the Roe Jan Community Library.

Ms. Becker asked if anyone present wished to speak on this application. Being none, the Board voted unanimously on a motion made by Mr. Brusie and seconded by Mr. Pilch to close the Public Hearing.

SUBDIVISION/SITE PLAN

2008-18 SITE PLAN REVIEW – Copake Valley Farm - 13 Lackawanna Properties LLC– Salvatore Cascino – Route 22

Ms. Kirschner asked whether the Board would make copies available to her all of the latest comments from the Public Hearing. Ms. Becker assured her that this would be done.

Ms. Becker advised Ms. Kirschner that the application needed to be updated as the commodities building was not included. Ms. Kirschner was under the impression that her paralegal had taken care of this and questioned whether she would be able to write this in. Ms. Becker agreed that this would be acceptable.

Ms. Becker advised that the drawings needed to be coordinated to the items on the application and asked for verification from Ms. Kirschner. Ms. Becker questioned whether the Farm Operation is the same as the one submitted in September to which Ms. Kirschner agreed.

Ms. Kirschner addressed Mr. Clark's concern regarding the drainage spilling out from one of the shed building. She explained Mr. Cascino's design whereas the highest part of the shed roof drainage would come off the roof and be incorporated into the drainage on either side of the side of the road.

Ms. Becker pointed out some minor details on the map. She noted that she spoke with the Department of Transportations and was advised that there are curb-cut permits required for the roads along State Route 22 that the Board does not have. She then questioned the Fire Ponds that are to be built and was advised by Ms. Kirschner that the ponds already exist. Ms. Becker noted that clarification would be needed on the map for this.

A discussion ensued regarding the placement of the Dry-Hydrants and after clarification it was decided that the fire issue has not been resolved. Ms. Kirschner explained that dry hydrants are normally put where the fire company can pump approximately 100 feet with a height of approximately 15 feet. She noted that she was advised by the fire company that a pond of a certain depth was required for access. She noted that the pond on the map was within reach so that access can be obtained from a dry hydrant for refill of the trucks. Ms. Kirschner advised that the placement of the ponds on the map were adequate and did not require DEC intervention or approval. Ms. Becker asked the Board how they felt about the one dry hydrant with the deep pond where the trucks could refill in the event of a fire. The Board was in agreement with this however, Mr. Clark had some concern inasmuch as this is not a typical hay barn that is being discussed. He believes there are some important differences in regard to the potential for fire because of large stock piles of wood and waste-wood as well as a proposed wood grinding machine that is located within a hay barn. He feels that there are a number of things that do not make sense from a fire protection perspective. Mr. Clark made note of the fact that these concerns would be dealt with when appropriate

Ms. Kirschner questioned whether the Board was in agreement regarding the placement of the dry hydrants. Ms. Becker advised that this is acceptable at this time until more detailed concerns were reviewed. Ms. Becker asked whether there were any more concerns regarding the map. Ms. Kirschner pointed out the light poles on the map as they were questioned earlier and noted that they were installed by Central Hudson. She also noted that the requested notes had been added to the maps regarding the roads as well as the fact that there are no residences. Ms. Becker acknowledged that the bridge at the southern end of the property is not part of the Site Plan Review.

Ms. Becker acknowledged that her only other concern was the fact that she needs to see the Railroad Road on the map. Ms. Kirschner questioned this inasmuch as she believed that it didn't impact the project. Ms. Becker disagreed with this as she noted that it could be used as a shipping road. She pointed out that the road is there and it is used and therefore should be on the map as she has requested several times prior to this meeting.

Ms. Becker asked the Board if there were any other issues at this time. Mr. Davis addressed the fact that there is a well noted on the map that is adjacent to the Commodity Bin. He was concerned about its 25 foot proximity to a building that contained manure inasmuch as this could contaminate the well if it were in use. Ms. Kirschner informed the Board that she would address this with Mr. Cascino. Ms. Kirschner believed that this was to be used for watering plants near the farm stand. Mr. Davis questioned the fact that should this well be used at a later date for drinking water there would be a possibility of contamination inasmuch as there would be a manure stand directly above it. Ms. Kirschner reinforced the fact that the Commodity Bins are all cement lined. She did note that there is always the possibility of an accident and would check into this.

Mr. Pilch addressed his concern regarding the Compost Bedding System and noted that he had done some reading on the subject. He believed that the barn Mr. Cascino is proposing to use the Compost Bedding System in wasn't designed for this purpose. Ms. Kirschner disagreed and advised him that the barn was specifically designed for this purpose noting that Mr. Cascino did research on this and was referred to Dr. Baker of Cornell who is in charge of beef. She then explained that Dr. Baker referred him to John Thurgood who is the water shed Ag expert for New York City Water Shed who then referred him to Mike Seniger who has been designing these buildings that are already in use in other places. Ms. Kirschner noted that she spoke with Matt Brower from Ag and Markets who has seen these buildings in operation as well as a copy of Mr. Cascino's plans. Ms. Kirschner also pointed out that this is a specifically designed building as the water areas are separated, the feeding areas are separated, the loafing area is completely separated by a cement partition and the air curtains are much more than are normally found in most barns because the air circulation is needed for the composting. Ms. Kirschner noted that all of this is specifically designed the way they are being built in the mid-west as well as Delaware County. She advised that there is a web cast site on the internet to research this. She suggested doing a search for Kevin Janni and Compost Barns.

Mr. Clark brought up the fact that in looking at what is done in New York City Water Shed a plan isn't submitted without an engineering report, or a best management for crop management. He noted that the process contains many checks and balances along with detailed information that is submitted as to how that facility will be operating. He noted that it is not a submission of a one page sketch that says this is state of the art.

Ms. Kirschner responded to Mr. Clark regarding his last note. She advised that Mr. Cascino met with Matt Brower of Ag and Markets, who is a soil management expert in the field of manure testing, as well as Dr. Somers and discussed the need to hire someone to work on these programs. She noted that there is no way the manure would just be turned out from the barn with whatever compost arrangement there is without doing a cross check on the soil as well as a complete chemical analysis. Mr. Clark questioned why this wasn't in the application. Ms. Kirschner admitted that this is not in the application and asked whether they should hire someone in advance. Mr. Clark remarked that this is the usual procedure. Ms. Kirschner made note of the fact that this is an outside regular composting operation and reinforced the fact that they plan on working with the Compost Bedding Barn where everything would be internal until it is moved to the Composting Bins and is then removed. She remarked that Mr. Clark's letter implied that this is a full-fledged composting operation.

She questioned the fact that this was not implied in her application and felt that Mr. Clark's letter was based on that opinion. She noted that she had no problem with answering questions and giving specific details. Ms. Kirschner had reservations about hiring people inasmuch as the proposed plans had not been finalized. She was weary of plans being changed and this not being necessary. She remarked that she has come before the Board proposing a legitimate farming operation and complied with requests that eliminated the trucking operation. She noted that there is documentation that all of the trucks have moved out of Copake Valley Farm with the exception of two trucks and trailers. She also informed the Board that all of the registrations for every truck that were registered to Copake Valley Farms are no longer registered to Copake Valley Farms. She believes they are making a good-faith effort and advised the Board that anyone that wished to visit the Farm and review the operation was welcome.

Mr. Davis pointed out that this is a major operation and compared it on a smaller scale to someone wanting to build a 4,000 square foot house who appeared before the Board for a Site Plan Review. He noted that they would have to hire an architect or engineer to draw up a set of plans investing time and money in order to present it before the Board for review. Mr. Davis explained to Ms. Kirschner that he believed it was wise that, in Mr. Cascino's venture, he do the same. Ms. Kirschner inquired who Mr. Cascino was to hire. Mr. Davis brought up the fact that this is a fairly large operation and the Board needs to know how this will be managed and operated. He noted that Ms. Kirschner inform the Board as how the operation will be managed and operated. He pointed out that all the Board has is Ms. Kirschner's description of how the operation will be run and he believes that the Board needs to speak to some experts regarding these matters.

Ms. Kirschner questioned whether the Town has Building Inspectors that check on things as they progress. Mr. Davis pointed out that it wasn't up to the Building Inspectors to know if these things would work properly. Ms. Kirschner brought out the fact that the Board intends to have an Ag expert review things. Ms. Kirschner informed the Board that if it was necessary for Mr. Cascino to hire a soil specialist to explain how everything will be integrated, he would be happy to do it.

Ms. Becker clarified that the Board is requesting a Farm Manager at this point and would be interested in knowing what his expertise is with this new state of the art management. Ms. Kirschner informed the Board that the manure management within the barn will be handled by someone that will basically be turning that soil mechanically. She advised that the expert would be dealing with the product when it was removed from the barn every six months and would be responsible for testing the soil as well as the manure and determine how to properly apply it. He would make adjustments in the materials being applied to the soil so that the soil is not being overburdened with something that doesn't belong there.

Attorney Howard noted that the Board is wondering who will be doing that. Ms. Kirschner advised him that at this point in time, Mrs. Duksa is supervising the day to day workings of the field. She noted that Mr. Cascino is very happy with the job she is doing as the fields are producing very nicely. She made note of the fact that in the past farmers were not required to do the testing they are required to do today and informed the Board that Mr. Cascino is willing to hire someone to perform these tasks. Mr. Pilch questioned the fact that at the previous meeting it was not known who would be handling this. Ms. Kirschner pointed out that Mr. Duksa, who had been handling this, passed away and Mrs. Duksa took over after that.

Mr. Clark pointed out that if this was a typical farm operation that was going to do solely on-farm composting of animal bedding that they purchased from somewhere else and added to the manure, all these questions would go away. However, he noted that this operation is far from that kind of typical operation. He made note of the fact that he referred Ms. Kirschner to Part 360 at the Board's first site visit and pointed out that just about every letter since has a guide-line with the type of information the Board will be looking for.

He noted that his latest letter outlined some of the same questions from previous meetings which have yet to be answered. He informed Ms. Kirschner of the fact that what makes this operation different is that this is a registered waste-wood processing facility and there is nothing to prevent Mr. Cascino from taking wood waste of all sorts, grinding it up and selling it. He made note of

the fact that if the facility is run strictly according to the book and a promise is made and honored that there will be not contaminated wood introduced then there is no concern.

However, he expressed concern that, personalities aside, this configuration leaves the potential for abuse as there is a large building whereas trucks can come in covered and dump inside the building. He remarked that once ground up, it would not be possible to determine what was in the final product which is why the wood-waste processing insists that there be no further processing once the material is shredded. He also pointed out that Ms. Kirschner is asking for a beneficial use to add this material to the composting operation. Once mixed with the animal manure he pointed out that this material would be unrecognizable. He brought out the fact that he has worked for over 20 years with composting and a building inspector would not be able to tell whether composting contained acceptable levels of metals as this would need testing to determine. He addressed the fact that a building inspector would not be able to monitor this type of operation.

He also noted that should Ms. Kirschner gets into the category of agricultural exemption from the DEC there would be no limit on the cubic yards that can be processed. He brought up the fact that manure from other sources, as well as covered trucks of material could be brought in with no inspection and could contain all kinds of contaminants. He pointed out that if this were a normal 360 permit application all that would be needed is to provide the engineering report, documentation and financial bonds. However, he noted that inasmuch as an agricultural exemption is being sought, the state may not even be responsible for this which makes the Board responsible for asking the hard questions as these matters affect the Site Plan.

Mr. Clark made note of the fact that what is being presented is sufficiently vague and it is hard to tell what will be done and in what quantities and made a point that both the time and temperature to kill pathogens can be spread from the cow manure to wherever it will be put. Mr. Clark expressed concern that there are some serious public health concerns spelled out in the Site Plan Review. He pointed out that the manure storage area, which is to be used at times when all the manure cannot be composted to liquid, was not shown on the Site Plan. Ms. Kirschner disagreed stating that this would be stored in the Commodity Bins, however, Mr. Clark replied that another document states that this would be stored in an area north of the Commodity Bins. Ms. Kirschner acknowledged that this might have been presented on a previous Farm Plan Document prior to the last revision and noted that she would be willing to correct this on the present Plan if the Board required it.

Mr. Clark also addressed the fact that there would be several different piles of wood, brush and processed waste which would be highly combustible and questioned where they would go and whether a Fire Truck would be able to access them. He also brought up the fact that there would be piles of finished compost as well as piles of potentially other nitrogen sources that are not accounted for on the Site Plan. He also commented on the fact that buildings are also proposed for storage and questioned how many yards would be used and how many yards would be coming in and going out. He pointed out that none of that information is provided. Ms. Kirschner asked if Mr. Clark would be satisfied if Mr. Ferratto or someone else would check the wood prior to it being ground. Ms. Kirschner noted that there was a soil test and no contamination was found.

Ms. Becker asked if Mr. Clark had any further questions and he acknowledged that he summarized most of the comments in his letter, but noted that there are many unanswered questions to be addressed.

Ms. Kirschner addressed the fact that she said that Mr. Cascino was not composting and that whatever goes into the barn goes into the Commodity Bins until it goes onto the field and if there is excess of what can be used then it would be sold. She noted that if you spread manure from any dairy farm and spread it on the field, there is no way to reduce pathogens. Mr. Clark addressed this fact by remarking that this is not sold in bags labeled Compost.

Mr. Clark acknowledged that based on what has been submitted to date there is no way he could recommend any approvals on this project. He refers to the first part of his letter, and notes that there are a number of issues that are to be decided by someone else, Ag and Markets as well as the Board, but in his opinion the scope and scale of the Grain Silos as well as the scope and scale of the Composting Operation and the existing registration for the wood grinder all make this a clearly a non-agricultural use. He feels that this is not a typical agricultural project and notes that the real issue is the fact that the way this is set, there is a system that is almost impossible to monitor and would have very little regulatory insight. He also believes that this project could have a level of production and potential contamination. He points out that similar facilities go through all the regulatory processes, do all their homework, submit engineering reports as well as financial bonding insurances. He addresses the fact that this project is threaded through the regulations in a way that he sees real concerns about potential impacts coming from this project.

Ms. Kirschner addresses the fact that this matter is submitted to Ag and Markets who have seen everything that Mr. Clark as seen with the possible exception of his letters. She told Mr. Clark that he could send them any of the letters he wished. She also acknowledged that it was her understanding that by the end of October or the beginning of November, Ag and Markets would have reviewed everything and would make their recommendations and the Board could proceed from there.

It was Ms. Kirschner's opinion that the Board does not trust Mr. Cascino and does not want to have anything to do with him. She acknowledged that it was her impression that whatever she and Mr. Cascino submit isn't adequate, unless they pay an arm and a leg and go overboard with things that they are not required to do. She makes note of the fact that they are required to do a SPEDES but are not required to do a "SWPPP Business" for Mr. Masters. She believes that she has tried to do everything the Board asked for, within reason, and noted that they can proceed from there. She said that she would be happy to see if Mr. Cascino would give the Board a name of an expert that he would like to hire as it is in his interest to do so and she believes he understands this. She also acknowledged the fact that she needs to get the Board some information and asked Attorney Howard whether he would like to address the Escrow Account.

Attorney Howard clarified that it is not just the name of someone that Mr. Cascino wishes to hire but it is that person agreeing to be hired. Attorney Howard also acknowledged that he believes the details of the plan are there with the exception of the concerns addressed by Mr. Clark. He also brought up the fact that the silos are sized for something like one thousand (1,000) or twelve hundred (1,200) acres of land. Ms. Kirschner addressed the fact that Ag and Markets said they would speak to this and would make a recommendation on the size of the silos based on the number of cattle on the property and a reasonable room for expansion of the farming activities.

Attorney Howard clarified that Mr. Cascino is asking for something that is probably five or ten times that size. Ms. Kirschner remarked that should Ag and Markets say no, the Board would have the right to say no and she and Mr. Cascino would abide by what they are doing. Attorney Howard advised that the Board is just reacting to what has been asked of them to consider and clarified that if this is the size they are being asked to consider, then the Board should be provided with either leases or fee ownership of the land that could reasonably fill the silos and what contracts would be involved. Ms. Kirschner questioned that if Mr. Cascino does the lease contracts and the Board does not approve the building of the silos would Mr. Cascino have to eat the rent he would have to pay. Attorney Howard advised Ms. Kirschner that he believed she was capable of producing a lease that is contingent on the approval of this Site Plan.

Ms. Becker advised Ms. Kirschner that the Hay Storage Building and Farm Stand were never given a building permit. She commented on the fact that the Building Inspectors researched this and noted that these buildings were built before Mr. Cascino owned the land. She advised Ms. Kirschner that this needs to be brought into compliance with some kind of building permit such as a Certificate of Compliance. Mr. Clark acknowledged that the expansion of that building is referred to on the Site Plan as a Hay Barn and in the detailed drawing as a Compost Machine Building. He feels that the commercial nature of this operation is going to be such that building and fire codes need to be addressed for which is basically an industrial process of having a large wood grinder in there. Due to this fact, Mr. Clark believes that this is not the place to store hay.

Mr. Davis pointed out that a Certificate of Compliance is needed inasmuch as a building that has been modified needs to be brought up to code and questioned whether these buildings have been brought up to code. Ms. Kirschner asked for clarification of whether this is for approval as built to which Ms. Becker acknowledged that it was. Mr. Davis questioned whether the buildings have been inspected and Ms. Becker informed him that they had not.

Attorney Howard addressed a comment made concerning the fact that the Escrow was to protect the Town for what may or may not happen on this farm property. He clarified that this is not what the Escrow is for and noted that the Escrow, if and when it is collected, would be to pay for some of the fees and extraordinary cost the Town has incurred as part of this application. Attorney Howard acknowledged that the applicant has provided the fifteen hundred dollars (\$1,500.00) requested for the Farm Consulting Expert and noted that the extraordinary fees for the Attorney and the Engineer would be addressed between the next two meetings. Attorney Howard remarked that the applicant had provided an addendum to the original contract and acknowledged that he has not had a chance to get back to the applicant's attorney regarding this. He clarified that this remains an open issue and that this is not the fault of the applicant as they have responded to the Board's request by providing the fifteen hundred dollars (\$1,500.00). He noted that the other Escrow sums would be addressed between this meeting and the next. Ms. Kirschner acknowledged that the other sums are in her account. Ms. Kirschner requested a summary letter which Attorney Howard acknowledged he would send.

Ms. Becker asked if Ms. Kirschner was finished with her submission. Ms. Kirschner acknowledged that she was with the exception of requests of this evenings meeting. She noted that she did not believe there was anything additional that needed to be added before going to County Planning. Attorney Howard clarified that the requests made at this meeting would not prevent the Board from forwarding this to the County for their review of the Site Plan application. He made note of the fact that these requests were more aimed at the concerns that these buildings, if not used as they are proposed, would not be legal. He went on to note that the

questions the Board has is what type of assurances can they receive that will assure them that the buildings will be used as proposed.

Ms. Becker thanked Ms. Kirschner for her submission and asked if she wished to say anything else. Ms. Kirschner acknowledged that the Board will make their decision based on everything that has been submitted and the little bit left to be submitted. She commented that the Board will do what they have to do and she and Mr. Cascino will do what they have to do. She admitted that she would like to see things proceed smoothly and amicably but feels there is a tremendous amount of pressure not to grant the approval.

Ms. Kirschner requested copies of the material submitted during the Public Hearing which would be provided to her. She discussed the FOIL she requested and questioned whether any additional fees were due. She also noted that her understanding with FOIL was that the applicant was responsible for anything that was sent out but that there was no responsibility for additional labor for copying. Ms. Becker advised her that they would work it out and Ms. Kirschner said to let her know if more was owed the Board.

2006-24 MAJOR SUBDIVISION – Roe Jan Community Library – Route 22

Ned Schnier, president of the Roe Jan Community Library introduced Steven Tiger, Chairman of the Building Committee as well as Nick Demos the project civil engineer and Ken Best the project's architect. Mr. Schnier informed the Board that since the previous meeting some minor revisions were made to the plans. He noted that the ceilings have been lowered in the basement making it a cellar instead of a basement making the project slightly less than seventy-five hundred (7,500 square feet.

Mr. Demos acknowledged that he submitted the Stormwater and Erosion Control Plan for the site as well as the Preliminary Construction Plan. He pointed out that the catch basin rim elevation has not been completed as yet and is not shown on the plans, however, all of the details necessary for the erosion control as well as the water quality and the quantity calculations are in their final stages.

He made note of the fact that the project plans to drain off its storm water in a couple of different areas with roof drainage off to one side which will be treated by a dry swale, which he pointed out is acceptable to DEC practices. He also noted that the other side of the roof will move water to a small rain garden which will be used as an educational display. He continued to explain that a portion of the parking lot run-off will go to the center island. He noted that standard center islands tend to be raised but the planned project will have depressed islands with plant material forming a larger garden which will also treat storm water run-off. He also reported that the majority of the parking lot will be storm water routed through a sub-surface drainage system with regular pipes and catch basins over to a detention pond off the side of the parking lot north of the library.

Mr. Demos informed the Board that the primary goal of the meeting is to ask the Board to address the SEQR determination. Mr. Demos pointed out that the pending curb cut with the State Department of Transportation requires a SEQR determination before they will proceed and the

Library Association is expecting some funding contingent on the negative declaration for the SEQR determination.

Ms. Becker questioned whether a SEQR could be done before the Board receives the reference from the County. Attorney Howard advised that this is a possibility as the County is concerned with County-wide impacts. Ms. Becker asked for clarification that the Board could do the SEQR prior to sending the application to the County Planning Board for review. Attorney Howard agreed that although the SEQR is usually done before final approval, the SEQR could be done before sending the application to the County.

Mr. Demos noted that they would be back before the Board for the final Site Plan Review with completed plans. Mr. Schnier advised the Board that the Library has a State Library Construction Grant of one hundred and ten thousand dollars (\$110,000.00) coming in for this year and under the rules of the State Library Construction Fund, they must begin to expend that money on actual construction during this calendar year and in order to get that grant a SEQR is required.

Ms. Becker made note of the fact that Mr. Clark just received the Stormwater Plan and the SEQR would not be able to be executed before Mr. Clark's review which would delay the SEQR until the November meeting. Mr. Schnier questioned whether there would be enough time for the SEQR and the Town review. Attorney Howard noted that the plans would be able to be sent to the County this month if no changes were anticipated prior to next month's meeting. Ms. Becker then pointed out that the SEQR could then be determined at the November meeting. Mr. Davis made note of the fact that if everything was in order the Board would be able to give their approval at the November meeting which would then give them time. Mr. Brusie pointed out that approval would be needed before the State would be able to do the curb cut. Mr. Demos advised that work on the Library as well as the parking lot could all start next year but getting access to the property is the main goal by having the curb cut installed.

Mr. Davis asked if the Board could review the plan and give contingent approval. Mr. Demos asked if the Stormwater Plan is an element of the SEQR review to which Ms. Becker informed him that it is. Ms. Becker also advised that the Board definitely needed comments from Mr. Clark before they could proceed with the SEQR. Mr. Schnier questioned whether approval could be given contingent upon Mr. Clark's approval inasmuch as they are working with the New York State Energy Research and Development Authority on this project and they will be reviewing this as well and will not give the kind of funding expected unless all of the drainage issues not only meet the Board's standards but far exceed them.

Ms. Becker thought it would be best to have a special meeting of the Planning Board. She advised that she would speak with Mr. Clark to see how soon he would be able to review the materials given him before a date could be set. Mr. Best questioned what would happen should Mr. Clark have any comments. Attorney Howard advised that at that point, approval could be given pending acceptance of his comments. Mr. Demos informed the Board that he has worked with Mr. Clark on previous projects and with the Board's permission he had no objection to Mr. Clark e-mailing the comments to him directly so he could rectify any concerns Mr. Clark had. There were no objections from the Board. Ms. Becker advised that she would discuss this with Mr. Clark in the morning and see how quickly they could move forward.

A discussion ensued as to how much notice needed to be given for a special meeting. Attorney Howard advised that three days notice would be sufficient.

**2008-23 MINOR SUBDIVISION/BLA – Lawrence Linder and Sandra Batpie –
Lakeview Road (Taconic Shores)**

Mr. Linder appeared before the Board and explained that he and his wife owned a lot in Taconic Shores with an attached lot. He went on to explain that his house is on one lot and he would like to build a house on the attached lot. He informed the Board that he would like to adjust the boundary lines between his two lots so that he would be able to put in a less compact septic system.

Ms. Becker addressed the fact of the attached lot being a non-conforming lot and Mr. Linder acknowledged that all of the lots in Taconic Shores are non-conforming. After review of the Town Code Section 23224C2A it was decided that inasmuch as Mr. Linder owned both lots he is unable to build on the attached lot. Attorney Howard advised Mr. Linder that a variance would be needed from the Zoning Board of Appeals before he could proceed. The Board explained that the code is a way of controlling over building and inasmuch as both lots were owned by Mr. Linder he fall in the code category.

Ms. Becker explained that Mr. Linder could not build on the attached lot without a variance from the Zoning Board of Appeals. Mr. Linder questioned whether he needed to appear before the Planning Board again and was advised that pending approval from the Zoning Board he would still need the Boundary Line Adjustment as well as the Site Plan Review. Mr. Davis suggested doing the Boundary Line Adjustment and then proceed with the variance and the Site Plan Review. Attorney Howard explained that the variance was needed due to the lot size and suggested that Mr. Linder obtain the variance prior to the Boundary Line Adjustment and the Site Plan Review in the event the Zoning Board denied the variance.

Mr. Linder questioned whether the Board could do the Boundary Line Adjustment contingent on the Zoning Board variance. Attorney Howard informed him that the variance was not needed for the Boundary Line Adjustment and was only needed inasmuch as Mr. Linder wished to build on the lot. Mr. Brusie advised him that he would still need to appear before the Planning Board for the Site Plan Review and suggested doing both at the same time. It was decided that Mr. Linder would apply to the Zoning Board for the variance and return at the next Planning Board meeting.

Mr. Linder questioned whether he would need a Public Hearing. Ms. Becker advised him that if the Zoning Board held a Public Hearing he would not need one from the Planning Board as only one Public Hearing is required. Attorney Howard advised Mr. Linder that he should attend the November meeting inasmuch as the Planning Board can proceed contingent on the Zoning Board approval.

2008-22 MINOR SUBDIVISION – John J. Belfonte, Jr. – Anthony Street

Jeff Plass appeared with Mr. Belfonte and informed the Board that in 2004 Mr. Belfonte did a four lot subdivision. He noted that subsequently three of the four lots have been sold with 102 acres left over which Mr. Belfonte would like divided into three pieces, Lot 1A, 1B and 1C. He

explained that they are large lots which will be accessed by a private roadway or common driveway.

Mr. Plass presented a sketch and acknowledged that other details would need to be put on the map. Mr. Brusie questioned whether part of Lot 1C was in Hillsdale but it was determined that it was not. Ms. Becker questioned whether the subdivision was done in 2006 and Mr. Plass clarified that the subdivision was done in 2004 with a Boundary Line adjustment in 2006. Mr. Becker noted that this was significant inasmuch as there is a Minor Subdivision Rule regarding subsequent minor subdivisions accumulating to be a Major Subdivision. Ms. Becker believed that this did not affect this application inasmuch as the prior subdivision was done in 2004. Mr. Howard noted that two (2) of the previously subdivided lots are in Hillsdale.

Mr. Plass informed the Board that Mr. Belfonte agreed that these lots would not be able to be subdivided in the future through deed restrictions.

Mr. Plass described the 50 foot wide right-of-way which enters from Anthony Street Extension into Parcel 3 and 4 as well as the other lands. He noted that this is all privately maintained and governed by a driveway maintenance agreement which is on file in the County Clerk's office and will continue to cover the maintenance of parcel 1. He noted that the new proposed right-of-way area which cuts along parcel 2 and into the round-a-bout is governed by a new driveway which has been submitted for review. He also noted that the driveway will be shared equally by the owners of Lots 1A, 1B and 1C and pointed out all the standard language at which it will maintain the standards necessary for fire emergency vehicles.

He also advised that the fee ownership of that right-of-way and the 50 foot wide area entering from Anthony Street Extension up to where it cuts off at Parcel 3 will be a one-third fee ownership with Lots 1A, 1B and 1C commonly owned by the owners of each lot. Attorney Howard advised that unless it is a separate piece of property, it can't be owned in common unless a Home Owners Association was created. Mr. Plass believed that as long as a no-action letter was obtained from the Attorney General this would be permitted to which Attorney Howard agreed.

Ms. Becker inquired about building envelopes and questioned whether it would be noted where the houses would be put. Mr. Belfonte remarked that inasmuch as there is a 3-acre zoning regulation this would not be necessary on a lot of this size, although he did agree to 20 feet off the crest of the hill on Parcel 1B. After discussion this was not deemed necessary. Ms. Becker advised that a letter is needed from the Department of Health.

On a motion made by Mr. Pilch and seconded by Mr. Brusie the Board voted unanimously to accept the subdivision of John J. Belfonte dated October 4, 208 as a preliminary sketch.

2008-23 MINOR SUBDIVISION – Al Fair – Breezy Hill Road

Al Fair appeared before the Board with a preliminary sketch of a Minor Subdivision of a Log Ranch on a fifteen acre parcel of land on Breezy Hill Road. He explained that he spoke with Ms. Becker in July regarding the subdivision and noted that she advised him to appear before the Board for additional comments. He informed the Board that he had a Perc Test and would proceed with a survey.

Mr. Fair asked whether he could put the existing house and the new lot on one map. Attorney Howard advised him that he is proposing a two-lot subdivision and both pieces of property should be displayed.

He also asked if a complete driveway was needed on the map. Mr. Davis questioned whether the piece of property being subdivided would be land-locked. Mr. Fair explained that this would not be the case as there would still be frontage on Breezy Hill Road but an easement would be needed for the existing driveway. Mr. Fair asked whether there was a maximum grade required for driveways and was advised that ten percent (10%) was appropriate. He suggested making a more serpentine driveway which Ms. Becker deemed ideal. Ms. Becker did point out that the Board could not make Mr. Fair adhere to the suggested grade regarding the driveway as the ten percent (10%) grade is only required at the beginning of the driveway.

Ms. Becker questioned the size of the lot and Mr. Fair explained that the size would be determined by the surveyor. Mr. Brusie inquired whether the property was in the scenic overlay and it was acknowledged that the property was in the scenic overlay (SCOZ) way below the ridge line. Ms. Becker pointed out that this does not apply to residential houses. Ms. Becker noted that the Board would ask Mr. Fair to consider the design guidelines to which he had no objections.

Mr. Fair advised the Board that he had no specific time limit on this and would get on the agenda once he had all his information gathered.

MINUTES

The minutes of the September 7, 2008 minutes were not approved at this time as Attorney Howard requested more time for review.

ADMINISTRATIVE

Moratorium Update - Ms. Becker advised the Board that the Moratorium on all major subdivisions had been tabled.

County Referrals – Ms. Becker wanted to acknowledge that the Board was provided with a document regarding County Referrals for their review.

Robinson Pond – Ms. Becker advised the Board that Robinson Pond in Taconic Shores has been classified as a 303D Impaired Waterbody and as such single family homes or subdivisions which disturb between one (1) and five (5) acres need a full SWPPP with permanent structural controls.

Housing Resources – Mr. Brusie reminded the Board that there would be a meeting update Saturday, October 4, 2008 at 10 am in the Town Hall on Housing Resources. Mr. Pilch noted that the Board was not contacted for any updates. Linda Gabaccia acknowledged that the date was picked without contacting the Planning Board for any updates and informed the Board that she asked for a cancellation. Ms. Becker advised Ms. Gabaccia that the Board did not have anything new to report and Ms. Gabaccia acknowledged that she had nothing to update as well.

Ms. Becker remarked that there is some activity regarding this as she received a call a few weeks ago from Housing Resources engineer Kevin Bernardin although she has not heard back from him as yet. Mr. Brusie informed the Board that he would try to attend the meeting on Saturday.

CARRY OVER

The following matters were carried over to the next meeting:

- 2005-18 SITE PLAN REVIEW AND MAJOR SUBDIVISION - Approximately 112 +/- Acres on Land Bounded by Mountain View Road and County Route 7A - Housing Resources of Columbia County, Inc.**
- 2006-33 MAJOR SUBDIVISION – Birch Hill Road – Birch Hill Partners, LLC**
- 2007-11 MAJOR SUBDIVISION – FLS – Farm Road – Karen B. Cohen**
- 2008-07 SITE PLAN REVIEW - CATAMOUNT DEVELOPMENT CORP. – State Route 23**

ADJOURNMENT

There being no further business, on a motion made by Mr. Davis and seconded by Mr. Pilch the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 9:25 p.m.

Marcia Becker, Chair

Please note that all referenced attachments, comprising 37 pages, are on file with the Copake Town Clerk and in the Planning Board office. The referenced attachments are filed in the individual project files. An annotated listing follows:

Copake Valley Farm

September 23, 2008	Kirschner to Forea (1)
September 23, 2008	Kirschner to Becker (6)
September 15, 2008	Clark to Kirschner (2)
January 1, 2003	NYS Department of State (2)
September 14, 2008	Shadic to Kirschner (1)
September 8, 2008	Kirschner to Howard (4)
September 9, 2008	Kimball to Becker (3)
September 8, 2008	Kirchner to Hotaling (2)
September 6, 2008	Shadic to Kirschner (3)
September 5, 2008	Kirschner to Shadic (1)
September 4, 2008	Edgar Masters Comments (8)

Administration

September 30, 2008	Prendergast to Becker (1)
September 6, 2008	Becker to Town of Copake (1)
	Zoning Referral Form (2)