

DRAFT

Please note that all referenced attachments, comprising 29 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 July 16, 2008**

A regular meeting of the Copake Planning Board was called to order at 7:10 p.m. by Marcia Becker, Chair. Also present were Chris Grant, Skip Pilch and John Brusie. George Filipovits and Gray Davis joined after the meeting was called to order. Jon Urban was excused. Planning Board Attorney Lawrence Howard, Town Litigating Attorney Carl Whitbeck and Town Engineer Doug Clark also attended. Lisa DeConti served as secretary of the meeting in order to record the minutes.

Ms. Becker advised the board that inasmuch as Board members, George Filipovits and John Brusie were new members they were restricted to taking part in any matters prior to their appointments.

ZONING BOARD OF APPEALS – Referrals

None.

PUBLIC HEARING

2008-02 MINOR SUBDIVISION – Overlook Road – Tilly Hill, Inc./Neil Costa

On a motion made by Ms. Becker and seconded by Mr. Grant, the Board voted unanimously to open the Public Hearing for Tilly Hill.

Neil Costa appeared and provided the common driveway agreement and revised restrictive covenants updating the voluntary restrictions limiting the size of homes as well as the required earth-tone colors, no-cut zones and 100 foot buffer on the boundaries. Mr. Costa also provided the new document signed by Jane Birnbaum as requested.

The restrictive covenants were reviewed by Attorney Howard and it was noted by him that after recording, copies will need to be returned to our files. It was also noted that review was required by the Fire Commissioner.

Mr. Costa was given a new short SEQR form to complete and after the arrival of Mr. Davis and Mr. Filipovits the SEQR form was completed and executed. On a motion made by Ms. Becker and seconded by Mr. Grant, the Board voted unanimously to grant a negative declaration.

On a motion made by Ms. Becker and seconded by Mr. Davis, the Board voted unanimously to approve the Minor Subdivision of North Overlook Subdivision from Tilly Hill dated June 10, 2008 pending the Fire Chief's sign-off as well as the recording of the Restrictive Covenants and Deed Restrictions.

**2008-10 MINOR SUBDIVISION/BLA –Railroad Lane off Route 23 – Craryville –
Richard Pugliese**

On a motion made by Ms. Becker and seconded by Mr. Grant, the Board voted unanimously to open the Public Hearing concerning the Minor Subdivision for Railroad Lane off Route 23.

The applicant provided the following:

1. documentation of ownership of the lots to be adjusted
2. letter from all of the owners agreeing to the minor subdivision/boundary line adjustment
3. covenants and deed restrictions
4. corrected map showing:
 - a) the adjustment being request
 - b) the abutting owners
 - c) improvements
 - d) zoning district
 - e) widths of existing road
 - f) driveway location

Mr. Grant noted that the locator was not on the map and it was agreed that this could be attached. Ms. Becker agreed that everything the Board requested was provided by Mr. Pugliese and that the locator was provided on a separate piece of paper.

The short SEQR form was completed and executed. On a motion made by Ms. Becker and seconded by Mr. Brusie, the Board voted unanimously to grant a negative declaration.

On a motion made by Mr. Brusie and seconded by Mr. Grant, the Board voted unanimously to approve the subdivision of a .739 acre parcel of land from the remaining lands of the four heirs of Albert Pugliese and to merge said parcel with the existing 9.5076 acre parcel, resulting in a new 10.2456 acre parcel pursuant to the survey prepared by Richard W. Sardo dated May 26, 2008.

SUBDIVISION/SITE PLAN

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

Prior to the appearance of Anna Kirschner, representing Copake Valley Farms, the Board voted unanimously on a motion made by Ms. Becker and seconded by Mr. Filipovits to enter Executive Session. After the Executive Session was concluded, the Board voted unanimously on a motion made by Ms. Becker and seconded by Mr. Brusie, to come out of executive session.

Inasmuch as a new application by Copake Valley Farms is being considered, Attorney Howard advised that Mr. Brusie and Mr. Filipovits would be able to participate in the voting process.

Ms. Becker gave a brief history of the proceedings and noted that in February of 2008 a set of maps was left in the Town Clerk's office with no accompanying material. On March 19, 2008 a letter was sent to Mr. Trotta who was representing Mr. Cascino at the time, to inquire about Mr. Cascino's intent. Mr. Becker noted that no response was received until May of 2008 when a request was received by Ms. Kirschner to be on the June agenda.

Ms. Kirschner appeared at the June meeting representing Mr. Cascino. Ms. Becker noted that inasmuch as the Board did not have a quorum for the July 3, 2008 meeting, it was decided that the meeting would be held on July 16, 2008.

Ms. Becker also reported that a site visit was made by herself, Mr. Pilch and Mr. Clark on July 9, 2008.

Ms. Becker addressed the fact that the applications for 13 Lackawana Properties had been re-written but clarified that one application for the entire site plan was needed. Ms. Becker made note of the fact that the 4 building permits were not all coordinated by name with the site plan map. On the site plan map one was described as an 'extension of existing barn' while on the actual building drawing it was referred to as a 'compost machine building'.

The maps were examined and Mr. Pilch questioned whether the roadway was the old Railroad Bed and, if so, asked whether it could be shown on the map. Ms. Kirschner acknowledged that it was and it was agreed that this would be sketched onto the map.

Ms. Becker inquired about the large 12,000 gallon fuel tanks and Ms. Kirschner clarified that this was what was put there for the original compost plan and was what the town required for the existing grinding machine intended for the compost. Mr. Davis questioned what materials were to be grinded in the machine and whether stone was a possibility. Ms. Kirschner stated that stone would damage the machine and noted that the materials would consist of leaves, grass and manure as well as minor small wood chips. She also noted that the size of the machine would limit what could be done. Ms. Kirschner informed the Board that Mr. Cascino's operation in the Bronx handled stone, soil, cement, asphalt or brick and Attorney Howard advised that Mr. Cascino's operation in the Bronx was unrelated to this matter.

Mr. Grant asked for a description of the leaf storage area and Ms. Kirschner clarified that this would be where leaves would be brought in and stored. Mr. Davis inquired whether the cattle barn building contained flooring and Ms. Kirschner noted that it did not and would probably have an Item 4 Base to it. Mr. Davis questioned whether manure would leech into the wetland area and Ms. Kirschner advised him that a plan had been submitted where the manure would be held separate and apart until it was incorporated in and noted that it would be dry manure at that point.

Ms. Kirschner discussed the types of permits required and noted that a permit would be needed for concentrated animal feeding operations, one for state pollutant discharge operations and one for less than 300 head of cattle. She apologized for not giving a number of proposed cattle and stated that Mr. Cascino didn't intend to have more than 200 head at one time. Mr. Davis advised that in the binder submitted with the original application the previous number was roughly 300.

Ms. Kirschner clarified that if the number was in excess of 300 a permit would be needed and Mr. Cascino had no intention of exceeding the 200 limit.

A discussion ensued on the size of the roads and Ms. Kirschner advised the Board that if the dimensions were off they would come before the Planning Board to make any corrections needed.

Mr. Brusie questioned a comment made by Ms. Kirschner in reference to drying manure and wanted clarification as to how the manure would be dried. Ms. Kirschner explained that the manure would be used in solid form and not liquid form. Mr. Brusie expressed concerns of the manure leaking into the 'creek – crypt?????' if it was not stored properly.

Town Engineer Doug Clark informed Ms. Kirschner that a composting permit with the DEC would need to be filed. Ms. Kirschner replied that she was unaware of this. He also raised questions as to where the material would come from such as wood chips and whether that would be from trees on the land or a C&D site and where the curing area for the compost would be.

Ms. Kirschner informed the Board that she was not aware of what Mr. Cascino submitted to the Board to get prior approval in 1998 when the property was purchased. Ms. Becker advised Ms. Kirschner that this was an interpretation of the zoning regulations allowing him to compost leaves, grass and sand. Attorney Howard made note of the fact that the interpretation was from the Zoning Board of Appeals and not the Planning Board in 1997. Ms. Kirschner questioned whether the matter concerning the leaf composting has to be addressed before the Site Plan can be approved and whether this process was being done as a whole. Attorney Howard advised Ms. Kirschner that everything has to be approved as one Site Plan. Ms. Kirschner questioned whether anything would be approved or whether everything needed to be approved at the same time. Attorney Howard explained that everything asked for at this time needs to be approved as one.

Ms. Kirschner questioned whether Mr. Cascino would be able to store hay in the barn at this time and Attorney Whitbeck noted that there is a TRO [Temporary Restraining Order] preventing him from doing anything on the property except planting his crops on the South Side of Lackawanna Road between the Noster Kill and Weed Mine Road.

Ms. Becker addressed some of the permit issues stating that the building on Lackawanna Road has a permit to be used for farm equipment storage only. The farm stand was given a permit to be built, however, changes were made without the necessary approvals. She advised Ms. Kirschner that a Certificate of Compliance would be needed.

Attorney Howard questioned the intended use of the garage and Ms. Kirschner clarified that this would be used for farm equipment as well as equipment that needed repair. Ms. Becker questioned whether there was a well for the farm equipment storage building and requested that this be noted on the map. Mr. Grant also advised Ms. Kirschner that a storm water pollution prevention plan needs to be filed as more than one acre is being disturbed. Ms. Kirschner said that this was already submitted before the site plan visit and was dated July 11, 2008. It was noted that this was not a SPEDES permit.

Mr. Brusie suggested that a formalized list of requests be sent to Ms. Kirschner to which the Board agreed. It was suggested that Ms. Kirschner supply a narrative. Attorney Howard questioned whether an Agricultural Data Statement as required by 305A and 283 of the General

and Municipal Law ??? had been submitted. Ms. Kirschner questioned if the form on the 305A could be used or whether a more suitable Board approved form would apply. Attorney Howard advised that the 305A form could be used depending on the information it contained. He noted that copies of the final application will need to be submitted to the Columbia County Planning Department. He also noted that they have 30 days to respond.

Ms. Becker informed Ms. Kirschner that the Board has a short site plan guide containing 14 items instead of the usual 24 and noted that a copy would be sent to Ms. Kirschner.

Mr. Davis questioned what material Mr. Cascino intended to bring onto the property to compost and what will be done with this material once it is composted. Ms. Kirschner explained that Mr. Cascino intended to use this material on his farm and any that is left over would be sold. Mr. Davis expressed the need for some clarification as to what Mr. Cascino intended to bring onto the property to be composted as the property is so close to the stream and wetlands.

Mr. Clark made note of the fact that this needs to be quantified according to Section 360 and questioned whether this would fall under the exemption or somewhere in between or over. He also questioned what the cubic yards of material would consist of as well as the trucks and traffic flow. He also questioned what would be used from off-site and what would be used on-site. He also informed Ms. Kirschner that there are a lot of issues with a large-scale compost site that need to be addressed. Attorney Howard also advised Ms. Kirschner that these issues would need to be presented before the board prior to approval.

Ms. Becker then described the site visit made by Mr. Pilch, Mr. Clark and herself. Mr. Pilch questioned the material stored on the site and the size of the fuel tanks. Attorney Howard questioned whether there were updated plans on the barns and buildings indicating what would be done inside. Ms. Becker brought up the fact that there was a lot of activity on the premises during their visit and inquired who was running the operation. Ms. Kirschner noted that there is still an association with Mr. Duksa.

Ms. Becker brought up the use of non-conventional farm equipment and noted that Ms. Kirschner explained that these trucks would be used on the farm as well as continue with their other operations. Ms. Kirschner noted that there is a large and small dump truck with agricultural plates. Ms. Becker informed Ms. Kirschner that she did not observe any leaves, grass or manure on the property but did see material that was a combination of dirt, pavement, concrete, pieces of plastic bag and rubber at the Noster Kill remediation site near the old Railroad Bed Road and questioned what these materials were and where they came from. Ms. Kirschner did not comment on these materials but advised the Board that the DEC had been on the property recently and did not disapprove of these materials.

Ms. Kirschner informed the Board that she will speak to her client as they were not aware that the composting project was an issue in the Site Plan Review. They would determine whether they will bifurcate [separate] the process and decide how they will proceed.

Ms. Becker advised Ms. Kirschner that it was the Board's intent to schedule a Public Hearing for August 7, 2008. Ms. Kirschner said that she needed to discuss this with Mr. Cascino and would get back to the Board. Attorney Howard said that a Public Hearing could be scheduled at this time and Mr. Grant expressed concern that there were still unresolved issues that needed to be

resolved before the Board could proceed. Ms. Kirschner responded by stating that she was unaware that there was a composting issue.

Ms. Kirschner advised the Board that her client had a desperate need for the hay storage building and suggested tabling the compost issue to a later time. Attorney Howard noted that if the Site Plan were changed the time-frame may or may not change dramatically. Ms. Kirschner suggested scheduling the Public Hearing and if after speaking with her client needed to cancel she would cancel the scheduled hearing. Attorney Howard advised Ms. Kirschner that if a Public Hearing was scheduled it would be held. Ms. Kirschner agreed to the scheduling of the Hearing.

On a motion made by Mr. Davis and seconded by Mr. Grant the board voted unanimously to schedule a Public Hearing for August 7, 2008.

**2008-13 MINOR SUBDIVISION/BLA – SW Colony Road – Douglas & Harriet
Ziegler – New**

Architect Jaclyn Tyler appeared with Douglas & Harriet Ziegler requesting a boundary line adjustment combining two lots at a total of .388 acres (16,938 sq. ft.). Ms. Becker questioned whether there were any deed restrictions or covenants on the lots. It was determined that there were not and all was in order.

It was determined that inasmuch as the two lots were owned by Mr. & Ms. Ziegler all that was needed was for a new deed to be filed with the County Clerk.

On a motion made by Mr. Pilch and seconded by Mr. Grant the Board voted unanimously to approve the lot mergers of Douglas & Harriet Ziegler from the survey Map made by Brian Franks and dated July 10, 2008.

**2008-14 MINOR SUBDIVISION/SPR – SW Colony Road – Douglas & Harriet
Ziegler – New**

Ms. Tyler advised the Board that there is an existing wood frame structure in the NW corner of the property measuring 864 sq. ft. and that the applicants are proposing to close in the two corners of the rear of the building which will include a dining room and an entry on the front of the house. She noted that the second structure is a proposed one-story two-car garage with a 11.3 ft. set-back from the side yard. (It reads 9'2" on the current map.)

Mr. Grant informed Ms. Tyler that variances were required from the Zoning Board. Ms. Tyler explained that she was not aware of a variance for the garage but was applying for a variance for the rear yard and would look into the garage variance.

The short SEQR form was completed and executed. [Was this done?] Ms. Tyler questioned whether two separate Public Hearings were needed by Zoning Board and the Planning Board. Mr. Grant explained that there might be concerns inasmuch as the property is on a lake and that would be determined at a later date. On a motion made by Ms. Becker and seconded by Mr. Davis, the Board voted unanimously to make a negative declaration. (Are we talking about the BLA??)

On a motion made by Mr. Davis and seconded by Mr. Grant the Board voted unanimously to accept the Site Plan Review for the Ziegler Lake House prepared by J.T. Drafting and Designs dated June 20, 2008 as a sketch plan.

On a motion made by Mr. Pilch and seconded by Mr. Grant the Board voted unanimously to schedule a Public Hearing for August 7, 2008.

2006-33 SITE PLAN REVIEW – Birch Hill Partners, LLC – Birch Hill Road

Attorney William Spampinato appeared representing the applicant. Attorney Howard informed Attorney Spampinato that he spoke to Tony Collier Pengast from the Columbia County Land Conservatory and they wanted to convey to the Board that they tried to work with the Birch Hill project to see if they can hold the conservation easement. It was determined that under the current lay-out of lots they would not be able to. If there were to be a reconfiguring they would stand ready to get involved in the process. Mr. Spampinato said that he would speak to his client and would be in agreement to meet with Attorney Howard regarding this.

2006-36 MAJOR SUBDIVISION –Catmast Development Corp/Stone Gate at Copake Lake – Birch Hill Road

Attorney William Spampinato appeared representing the applicant and provided the Board with the revised covenants removing the paragraph conveying lot ‘A’ inasmuch as the Board felt this could not be sub-divided. A new paragraph was added stating that arrangements would be made by lease or rent.

It was determined that the previous issues of the removal of non-conforming lots at lake front were in compliance. The DOH Issues dated 4-25-08 and engineering questions were also found to be in compliance.

The long SEQR form was completed and executed inasmuch as the previous form was no longer valid due to the change. On a motion made by Ms. Becker and seconded by Mr. Grant the Board voted unanimously to make a negative declaration. Ms. Becker clarified the project name to be Stone Gate at Copake Lake.

On a motion made by Ms. Becker and seconded by Mr. Davis the Board voted unanimously to approve the major subdivision of Stone Gate at Copake Lake pursuant to the map dated Revised July 3, 2008 prepared by Daniel Russell with the following conditions:

1. Receipt of the Department of Health Letter
2. Review and approval of the covenants and easements by Attorney Howard

MINUTES

On a motion made by Ms. Becker and seconded by Mr. Davis, the Board voted unanimously to approve the Minutes of June 5, 2008.

ADMINISTRATIVE

Memo from Camp Pontiac - Ms. Becker discussed the matters concerning Camp Pontiac and advised the Board to review the letter received.

Board Agenda Packet – Ms. Becker asked the Board for consideration in the matter of receipt of the Agenda Packet. It was decided that the packet would be prepared the weekend before the meeting and picked up by the members of the Board.

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, the meeting was adjourned at 10:40 p.m.

Marcia Becker, Chair

Please note that all referenced attachments, comprising 47 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:

13 Lackawanna Properties, LLC

June 6, 2008	Heaslip to Tompkins
June 10, 2008	The Independent
June 11, 2008	Schlenker to Meyers
June 20, 2008	Whitbeck to Crowley
June 24, 2008	Howard to Kirschner
June 25, 2008	Kirschner to Becker
June 25, 2008	Kirschner to Becker
July 10, 2008	Kirschner to Becker

Tilly Hill, Inc.

June 10, 2008	Costa to Eaton
July 11, 2008	Proper to Becker
June 12, 2008	Birnbaum to CPB
June 25, 2008	Proper to Becker
June 27, 2008	DeRuzzio to Zwingelstein

Catmast Development Corp. (Stone Gate)

July 3, 2008	Schmitt to Clark
July 7, 2008	Spampinato to Becker
July 7, 2008	DeRuzzio to Schmitt

Birch Hill Partners, LLC

July 7, 2008	Prendergast to CPB
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Administrative

June 28, 2008	Shadic to Ferratto
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