



# **COPAKE PLANNING BOARD**

**OCTOBER 1, 2009**

## **MINUTES**

---

### **DRAFT**

**Please note that all referenced attachments, comprising 5 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.**

---

A regular meeting of the Copake Planning Board was called to order at 7:04 p.m. by Marcia Becker, Chair. Also present were John Brusie, Gray Davis, Chris Grant and George Filipovits. Skip Pilch, Jon Urban and Planning Board Attorney Lawrence Howard were excused. Lisa DeConti was present to record the minutes.

### **ZONING BOARD OF APPEALS – Referrals**

None

### **PUBLIC HEARING**

None

### **SUBDIVISION/SITE PLAN**

#### **2009-10 MINOR SUBDIVISION – JOSEPH AND VIRGINIA FLOOD – Yonderview Road**

Ms. Becker advised that a Public Hearing was not needed for this application as a letter in favor of the subdivision was presented from the abutting neighbor.

Lindsay LeBrecht, of Copake Lake Realty, appeared in front of the Board regarding a listing she presently has on Yonderview Road owned by Joseph and Virginia Flood. Ms. LeBrecht acknowledged that the Zoning District, Subdivision Name, the North Arrow and the existing buildings had been added to the map. She also noted that no extra easements were planned.

Ms. Becker asked if anyone had any questions regarding this application. Mr. Grant questioned whether the Zoning Lines had been added. Ms. Becker advised that this was done. Mr. Brusie questioned whether the setback from the highway was adequate before being sent to the County. Ms. Becker advised him that inasmuch as this application is a Subdivision it does not need to be sent to the County.

After the reading of the SEQR, on a motion made by Mr. Grant and seconded by Ms. Becker, the Board voted unanimously to make a Negative Declaration on the SEQR for Joseph and Virginia Flood. On a motion made by Ms. Becker and seconded by Mr. Filipovits the Board voted unanimously to approve the Minor Subdivision of Joseph and Virginia Flood from a survey by Daniel Russell revised September 17, 2009 for Parcel One (1) as a Five (5) acre Parcel.

Ms. Becker would stamp the maps to be picked up at the office on Saturday by Ms. LeBrecht. Ms. LeBrecht asked if there was a sixty (60) day time limit on this application for the maps to be filed with the County Clerk to which Ms. Becker acknowledged was correct.

### **2009-9      MINOR SUBDIVISION – CARL CAMPBELL & KRISTA PROPER – Bloody Hill Road**

Larry Proper appeared representing Carl Campbell and Krista Proper who are donating a portion of their property to the Taconic Hills School. Mr. Proper presented the Board with a revised map with the Zoning Districts added. Mr. Grant questioned if the three subdivided lots had been reconfigured to total at least three (3) acres each and Ms. Becker noted that this had not been done.

Ms. Becker advised that Taghkanic has two (2) acre zoning while Copake has three (3) acre zoning at that location. She questioned whether the applicant's intent was to combine the three parcels with the lands of Taghkanic. Mr. Grant advised that non-conforming parcels cannot be created before being combined across Town lines. Ms. Becker asked Mr. Proper whether the applicant understood that parcels from two separate Towns could not be combined in order to form legal lots. Mr. Proper advised that the applicant took the application to the County Planning Board and discussed it with them which resulted in the maps presented to the Copake Planning Board. Mr. Grant noted that the County was only looking at County impacts and not Town impacts.

Ms. Becker informed the Board that she researched the Town Tax Map for Mr. Campbell and noted that there are two Campbell properties in Copake. She pointed out a small piece of property with a larger one of thirty-nine (39) acres. Ms. Becker and Mr. Grant advised Mr. Proper that the whole piece of property needed to be shown on the map.

Mr. Grant brought up the fact that a lot could not be created that is smaller than the Zoning District allows and pointed out that zoning required the smallest lot to be three (3) acres. Mr. Grant also made note of the fact that lands could not be combined across Town Boundaries into one Tax Parcel inasmuch as they are separate Town Tax Parcels. Ms. Becker added that they could be merged but would not be considered legal lots in Copake. She clarified that they could cross Town lines but a lot could not be created in Copake that is non-conforming. Ms. Becker would discuss this would Land-Use Attorney Lawrence Howard for clarification. Ms. Becker questioned a one (1) acre parcel on the map.

Mr. Proper asked whether the whole thirty-nine (39) acre piece of property needed to be added to the map along with Lots M3 and M2 which need to be resized to at least three (3) acres. Ms. Becker advised him that the whole thirty-nine (39) acres needed to be shown, including lands on both sides of Route 23, along with the proper sized lots. Ms. Becker asked if the applicant would be willing to change the configuration of the lots. Mr. Proper did not believe this was an option.

Mr. Becker would look into whether any concessions could be made. Mr. Brusie asked whether a variance could be obtained. Mr. Grant did not think a variance would be allowed inasmuch as a non-conforming lot could not be legally created. Mr. Davis questioned whether a variance could be considered on the grounds of the lot being merged with the lands of Taghkanic. Mr. Grant felt it would not be possible to get a variance to create non-conforming lot. Mr. Becker questioned whether an easement was a possibility. She would discuss these possibilities with the Attorney Howard.

Mr. Proper asked if Ms. Becker would let him know what Attorney Howard's advice was as Mr. Proper believed that if all the lots needed to be made into three (3) acre parcels the application would be withdrawn. Ms. Becker questioned whether the Towns would consider the lots conforming inasmuch as they were being combined across Town lines. She would discuss this with Attorney Howard and advise Mr. Proper accordingly.

### **2009-10      MINOR SUBDIVISION – GLORIA LYONS – County Route 7**

Gloria Lyons appeared before the Board and informed them that she wished to sell approximately one (1) acre at the rear of her property on Route 7 to her neighbors, Jay and Rosa Hoag who wished to combine the lot to their adjoining the property. Ms. Lyons acknowledged that the twelve (12) acres she inherited from her mother in 1990 was separated into two different residential zones. Ms. Becker pointed out that she was not aware of exactly where the R-2 and the R-3 zone lines were in comparison to Ms. Lyon's subdivision request.

Mr. Grant questioned why this would be a problem. Ms. Becker explained that if the lot to be subdivided was in the R zone it would become a non-conforming lot. Ms. Lyons explained to the Board that previous Planning Board Chair, Edgar Masters, told her that she needed to keep three (3) acres if she wanted to further subdivide. Ms. Becker informed the Board that she had reviewed several files in the last few weeks and could not find an exact reference to the location of the Zoning District line. Mr. Grant suggested that Ms. Lyons have a survey done. Ms. Becker and Mr. Davis pointed out that this had been done on Jon Urban's property and the surveyors were not able to define the exact lines but did indicate the Zoning District boundary on the zoning map. Mr. Grant felt that if Mr. Masters previously opined that the property was in the R-3 district he didn't feel it was right to go against Mr. Master's judgment.

Ms. Becker brought up the fact that Ms. Lyon's property had previously been subdivided in 2004. Mr. Grant questioned what would have changed between 2004 and now inasmuch as Mr. Masters defined the zones at that time. Ms. Becker pointed out that there was nothing in the 2004 minutes stating that Mr. Masters defined the lines. Ms. Lyons added that Mr. Masters did not define the zoning lines before the Board and noted that it was just a statement that he made when he looked at the property map. Mr. Grant advised that the only way the zoning districts could be defined was to have a surveyor survey the property and draw the line as accurately as possible.

Ms. Becker reviewed the 2004 minutes referring to this issue and read that "*Robert Piper asked what zoning district was for the parcel off South West Colony Road and why there was a difference in the zoning. He was informed that the Parcel off South West Colony Road was R-2 and that the Parcel on County Route 7 is R-3 acre minimum.*" Ms. Becker noted that there was nothing in the minutes that defines where the parcel is. Mr. Brusie questioned whether it is the Town's responsibility to define where the lines are. Mr. Grant explained that the lines are

defined by the Town map and noted that a survey needs to be done inasmuch as the Code Book states that the zoning boundaries need to be shown on the survey map. After a discussion it was decided that a survey was needed before the Board could proceed.

## **2009-11 BOUNDARY LINE ADJUSTMENT – JOSEPH LAPORTA – Route 7**

Joseph LaPorta appeared before the Board representing Charlene Grant. Mr. LaPorta explained that Angelo and Francis Ambrosia wished to purchase three (3) acres of Ms. Grant's property on Route 7 in Copake Lake. Ms. Becker asked if there were any deed restrictions or covenants on the property to which Mr. LaPorta responded that there were not. Ms. Becker acknowledged the Field Survey and noted that on-site sanitation and water supply was not an issue. Ms. Becker questioned whether there was a house on the property. Mr. LaPorta acknowledged that the house, which is on Cove Road, would be accounted for in the next survey map.

Ms. Becker questioned whether there was a bridge that had been built on Mr. Ambrosia's property. Mr. LaPorta informed her that there was no bridge built but a culvert pipe had been added as well as a row of trees which run down on an angle. Mr. LaPorta went on to explain that Mr. Ambrosia was in the process of obtaining DEC permission to put a pond on his property and use the soil removed for the pond in a gravel bank on his property. Mr. LaPorta continued to explain that the reason Mr. Ambrosia wished to purchase the three acre parcel from Ms. Grant was to prevent anyone building there. Mr. LaPorta noted that Ms. Grant's intent was to comply with the three (3) acre zoning and make a lot line which will then be transferred to Mr. Ambrosia's deed. Mr. Grant explained that the three (3) acre limit did not apply in this instance as a non-conforming lot was not being created.

Mr. LaPorta pointed out that once sold, there was no access to the three (3) acre parcel other than through Mr. Ambrosia's property. Mr. Grant noted that separate access was not an issue.

After reviewing the map Ms. Becker informed Mr. LaPorta that a note referring to the Zoning District needed to be added. Ms. Becker noted the driveway location and width and questioned whether there were any existing or planned Rights-of-Way, farm roads, easements, common driveways or private roads. Mr. LaPorta advised her that there were not. Mr. LaPorta asked for clarification that he needed a notation on the map defining that the property was in the R-3 Zoning district as well as the location of Mr. Ambrosia's house and driveway. Mr. Grant advised Mr. LaPorta that in addition to the note defining the R-3 Zoning District and the house and driveway locations, a copy of the deed was needed so that the Board could see if there was anything preventing them from granting the Boundary Line Adjustment.

On a motion made Mr. Davis and seconded by Mr. Grant the Board voted unanimously to accept this sketch as a preliminary sketch for a subdivision of Francis and Angelo Ambrosia and Charlene Grant. A Public Hearing will be scheduled for next month.

## MINUTES

Ms. Becker asked for a motion to approve the minutes of the September 3, 2009 meeting. There being no changes on a motion made by Mr. Filipovits and seconded by Mr. Davis the Board voted unanimously to accept the minutes of September 3, 2009 meeting.

## ADMINISTRATIVE

**LOCAL LAWS:** - Ms. Becker informed the Board that the letters the Board received in their packets on Local Laws One (1) and Two (2) were the letters that went to the Town Board based on the Board's discussion last month.

**BIODIVERSITY WORKSHOP:** – Ms. Becker informed the Board that there was a Biodiversity Assessment Workshop to be held on October 17, 2009 at Columbia Greene Community College if anyone wished to attend.

**SHAGBARK & OCTOBER GLORY FARMS:** – Mr. Becker advised the Board that she received a letter from the DEC responding to her inquiries about the impact of fencing approximately eleven-hundred (1100) acres of land in Copake by Shagbark Farm and October Glory Farm. Ms. Becker noted that Nancy Heaslip is investigating this further. Diana Wilson presented the Board with a summary of the chapters from a book referred to Friends of Copake regarding the migration corridors and the affects of breaking up the migration corridors for animals and their survival rate.

**LETTER FROM WILLIAM SPAMPINATO:** – Ms. Becker advised the Board that she received a letter from William Spampinato regarding the Braunstein subdivision. She noted that Larry Proper was to meet with the Project Engineer to discuss requirements and recommendations for construction of the private subdivision road and common driveway.

**CARRY-OVERS:** – Ms. Becker informed the Board that she and Lisa DeConti had been looking at the Carry-Overs on the Agenda and suggested reviewing them at the last meeting of the year so that the ones that don't have official application forms submitted could be eliminated. Mr. Brusie asked if there were any stagnant applicants that needed to be contacted regarding their future intentions. Ms. Becker acknowledged this would be done in December.

**SALVATORE CASCINO:** – Mr. Brusie asked if anything had transpired regarding the Salvatore Cascino lawsuit. Linda Gabaccia reported that notification was received by the Town regarding a stay by Salvatore Cascino's Attorney not to remove the wall and foundation on his property. Ms. Becker informed the Board that she had received a letter from Victor Meyers stating that Mr. Schlenker and Mr. Meyers had agreed that the First Agriculture and Markets Review Letter not be included in the Article 78 review by the Judge, however it was submitted by Mr. Schlenker. She noted that Meyers sent a letter to the Judge saying that it was agreed that this not be

submitted and requested that this be removed from the consideration. Mr. Davis asked if there were still conversations regarding the legal fees and fines owed the Town. Ms. Becker informed him that Mr. Cascino is refusing to pay the fees and fines as well as the Two-Hundred-and-Fifty Dollars (\$250.00) he was fined by the Judge. Ms. Becker continued to note that at the Town Board meeting a suggestion was made to put a Lien on Mr. Cascino's property. Ms. Gabaccia made note of the fact that there was an excavator on Mr. Cascino's property which is rumored to be on order of the DEC. Mr. Davis questioned whether there was a time limit given for payment of the Town fines and fees. No one was aware of one.

**ZBA REFERRALS:** – Mr. Grant brought up the fact that there were three (3) referrals sent by the Planning Board to the Zoning Board. He said that he had been driving up Birch Hill Road toward Copake Lake and noticed a six foot (6') fence. Ms. Becker informed him that Jeffrey Weinstein withdrew his application, Thomas Shepherd on Birch Hill Road was awarded a variance and Mark and Lisa Nielsen are still battling with the Zoning Board for permission to build their house. Ms. Becker noted that the Niensens are bringing their Attorney to the next Zoning Board meeting in an attempt to obtain permission to build their house. Ms. Becker advised that Attorney Howard will be attending the next Zoning Board meeting to defend the Zoning and Planning Board's decisions

**COPAKE GREEN PROJECT:** – Diana Wilson presented the Board with additional letters of no support for the Copake Greene Project.

## **CARRY OVER**

The following matters were carried over to the next meeting:

- 2009-5            BOUNDARY LINE ADJUSTMENT– JOHN HILLIARD – Deer Track Lane**
- 2007-11           MAJOR SUBDIVISION – FLS – Farm Road – Karen B. Cohen**
- 2008-07           SITE PLAN REVIEW - CATAMOUNT DEVELOPMENT CORP. –  
State Route 23**
- 2008-23           MINOR SUBDIVISION/BLA – Lawrence Linder and Sandra Batpie –  
Lakeview Road (Taconic Shores)**
- 2008-24           MINOR SUBDIVISION – Al Fair – Breezy Hill Road**
- 2008-21           MAJOR SUBDIVISION – Michael B. & Barbara S Braunstein – Off Golf  
Course Road**
- 2008 – 25        SITE PALN REVIEW – Steve and Joan McMasters – Breezy Hill Road**

## **ADJOURNMENT**

There being no further business, on a motion made by Mr. Brusie and seconded by Mr. Grant the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 8:13 p.m.

---

Marcia Becker, Chair

**Please note that all referenced attachments, comprising 5 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:**

ADMINISTRATION

September 8, 2009	Copake Planning Board to Copake Town Board (2)
September 8, 2009	Copake Planning Board to Copake Town Board (1)
September 10, 2009	Becker to Heaslip [NYDEC] (1)
October 17, 2009	Biodiversity Assessment Workshop (1)