

TOWN OF COPAKE  
ZONING BOARD OF APPEALS  
MINUTES - OCTOBER 25, 2007

A regular meeting of the Zoning Board of Appeals of the Town of Copake, NY, was held on Thursday, October 25, 2007, at the Town Office, 230 Mountain View Road, Copake, NY, and was called to order by Acting Chair Clark (Mac) Simms at 7:00 p.m.

Roll was called with Board members Clark (Mac) Simms, Frank Peteroy and Alternate Member Louis Kibler present. Absent were Board members Julie McKenna, George Ashley and Stanley (Stosh) Gansowski. There was an audience of seven, including Zoning Enforcement Officer Ed Ferratto.

Acting Chair Mac Simms called the meeting to order at 7:00 p.m. and noted that Stosh was unable to attend as he was at another meeting for the public to meet candidates running for Town office.

The MINUTES of August 23, 2007, were discussed as Frank Peteroy requested deletion of a statement on page six, and on page seven Mr. Peteroy requested additional comments be added to his discussion and concern regarding a conflict with the Density Control Schedule and map in the zoning book. Mr. Peteroy's comments are included and attached to these Minutes, as well as to the Minutes of August 23, 2007.

Mac moved to approve the Minutes of August 23, 2007 with noted change and addition of Mr. Peteroy's notes. Motion was seconded by Lou Kibler and unanimously carried.

The MINTUES of September 27, 2007, were discussed briefly.

Lou Kibler questioned Attorney Whitbeck's statement on page six regarding a building on a non-conforming lot being a non-conforming structure, and Lou was looking for clarity on this matter.

Mac said Mr. Whitbeck did make this statement, which Mac feels is contrary to what the ZBA established. Mac said we are trying to promote changes for clarity and, regarding the Bienstock ruling, said we awarded the variance which is different from the code.

Mr. Peteroy said there are two separate concepts.

Mac said the Planning and Zoning Boards had a conflict of interpretation.

Mr. Kibler noted then that the lot, in this instance, was considered to be conforming.

Frank Peteroy moved to accept the Minutes of September 27, 2007, as written; motion seconded by Lou Kibler and unanimously carried.

NEW BUSINESS:

2007-13 - Application of STEVEN KRAJCI for a variance to build a carport at 155 Golf Course Road.

Mac noted the applicant needed a covered area due to a golf ball problem near the 17<sup>th</sup> green, and said there would be no sides or back to the carport.

Mac moved to accept the application for a public hearing in November; motion seconded by Frank Peteroy and unanimously carried.

2007-14 - Application of PHIL AND GINNY CREPEAU of Center Hill Road for an area variance to replace a non-conforming cottage by another less nonconforming.

Mac moved to accept the application for a public hearing in November provided all required material is submitted by November 6<sup>th</sup>; motion seconded by Frank Peteroy and unanimously carried.

CORRESPONDENCE:

Mac reported that a letter of resignation was received from George Ashley due to health reasons and also his moving from the area; also a letter of resignation from Julie McKenna for personal reasons.

It was agreed that Mac would write to the Town Board to acknowledge appreciation of their service.

OTHER BUSINESS:

Due to the next meeting of the Zoning Board falling on Thanksgiving, it was agreed to hold the next meeting on the 5<sup>th</sup> Thursday, being November 29<sup>th</sup>.

PUBLIC HEARINGS:

2007-10 - Application of ALAN B. FRIEDMAN for an area variance for a shed.

It was noted the matter was duly published in the local newspaper and certified letters were sent to adjoining property owners.

Mac reported that the existing garage is 5' from the neighbor's property and the Minutes - Copake ZBA October 25, 2007

applicant proposes to put up a shed in line with the garage 5' from the property. The set back for the B-1 zone is 12'. The front property is 120', 120' back and 238' on right side.

Two years ago, due to a flood, Mac reported that the Friedman's had to leave their home. He said this resulted in putting up boulder barriers for flood protection. If the shed is moved all the way over, it would be hard to get a lawn tractor past on that side.

Mr. and Mrs. Friedman were present and said there was a pre-existing shed that began at the property line. Mr. Friedman said they built a dry well and a french dry well so waters would not flood into the neighbor's property (Wilkinson).

Mac asked if it was mandated that they do this, to which they said "no, it was what they wanted to do."

Adjoining property owner, Angela Wilkinson, said she knew nothing about the dry well. She said she is already looking at a 24' garage and an 8' shed, which is 4'3" from the property line. She said down spouts are aimed at the property line and a new stone wall is on the property line, but said she does not know what the set backs are for that.

Mr. Friedman said the stone rock wall was put up to hold back the boulders.

Ms. Wilkinson said the proposed shed would be another obstruction of view from her property.

Mac noted there was some question about the existing stone wall on the border between the two properties, and Mr. Friedman said he believes it is on his property.

Mr. Kibler asked the size of the shed, which was reported to be 12' x 20'. Mr. Kibler said the new roof appeared to be higher and not tied in.

The pictures and structures on the property were reviewed and discussed and Mr. Friedman noted the new shed would have a lower peak. He said they needed the additional space for storage and said they did everything they could to enhance the neighborhood. He said 6" diameter pipes go into a dry well and french dry well.

Mr. Peteroy questioned the distance from the existing garage and Mr. Friedman said 5' or 6' and also reported that several old sheds that were on the property have been taken down. He said he is putting up less than what was there.

Ms. Wilkinson said it was previously a nursery.

Mac noted the two concerns of the neighbor were: 1) water drainage, and 2) aesthetic, in that the proposed location will block more of her view.

Mac noted that the Friedmans did a great deal to alleviate the drainage problem, and Ms. Wilkinson again said she was not aware of anything. Mac said, however, that they have evidence of what they did.

Mac said aesthetic concerns might be met with plantings between existing buildings, property and shed, which would balance concerns for aesthetic improvement.

It was noted that the Wilkinson property is vacant as structures were taken down, and Mr. Peteroy noted that if their garage was still there, it would block their view, as they were addressing sight lines that are being objected to. Mr. Peteroy said the proposed shed does not block the neighbors' view more than their original garage.

Mr. Peteroy noted, if Wilkinson built a new garage, it would be about 15' high and Friedman's shed would be about 12' high. The Wilkinson garage would cover it up if they choose to put it up.

Mac asked if planting of shrubs and trees would be appealing and helpful, and Mr. Peteroy suggested a 6' fence.

Ms. Wilkinson said shrubbery did not appeal to them.

Frank suggested 57-60' of fence, but he did not know if the Friedmans will put up a fence.

Mr. Kibler reviewed the plans and design of the roofs above the fence line and said you would see two gable roofs, same metal roof and same color.

Mr. Friedman said if they received the variance, it would be a large expense to put up a fence. He said they have wrought iron which will be used on the patio to replicate to some degree a fence. He said when they bought the property more things were blocking views and they continue to improve the property. He said the iron pieces are outside because they need additional space for storage.

Mr. Peteroy suggested they divert the gutter to the rear of the yard, and Mr. Friedman said they have spent a lot of money to divert water.

Mac noted, to meet the Wilkinson's need, they would need a solid fence, and to move the shed back presents problems. He asked, if the variance is granted as requested, what can we do to meet the neighbor's concern? Put up a solid fence or planting of shrubs and trees?

Mr. Friedman said there is an empty lot next door and he hopes the Wilkinsons build,

and he is committing to putting up a shed in the spring, but will not commit to putting up a fence for a vacant lot. He said the bordered windows on the side of the building were painted and will be fixed next year, as well as the board and batten siding, noting it is a temporary situation.

Mr. Peteroy asked if it would be a better solution to fix the side of the building.

Ms. Wilkinson said the wall is less than 5' from the property line.

Mr. Peteroy said there is an overall improvement to both properties. It opens the view with the pole shed out of there. He said an accessory building would be fine.

Mac said a non-conforming building that has been in existence remains as a basis for constructing on that footprint. If rebuilt within one year, can rebuild on same footprint.

Mac moved to close the public hearing, which was seconded by Frank Peteroy and unanimously carried.

Mac said this should go before the Planning Board as it is a nonconforming building.

Frank said it would be proper to give the variance as it is less than the original, and additional work will be done along the wall. He said we could make a condition regarding the fence.

Mac said if the neighbor wants a fence between the two properties, they should both share the cost, and Ms. Wilkinson said this could be an option.

Mr. Kibler said it could be conditioned on the Wilkinsons building.

Mac said if the Wilkinsons get a building permit and choose to put up a fence, conditioned on the Friedmans getting a variance, they could share equally the cost to extend a fence to the rear of the property of the proposed shed.

Mr. Peteroy questioned, however, the length between the two buildings, and who would coordinate the style, construction, cost, etc. of putting up the fence.

Mr. Friedman said he would pay the full amount for a fence if the Wilkinsons get a building permit, and he would commit to putting board and batten on the current garage, and change the spout on the garage.

Mac said the agreement holds with both owners and with the Wilkinsons getting a building permit.

Minutes - Copake ZBA October 25, 2007

-6-

Frank Peteroy moved to approve the area variance for construction of a shed 5' from

the property line, with conditions that board and batten siding be completed on the garage on the Wilkinson side; and, if and when the Wilkinsons obtain a building permit for construction of a house on their lot, the Friedmans will erect a 6' fence on the Wilkinson side of the buildings. Motion was seconded by Lou Kibler and unanimously carried.

2007-12 - Application of CAMPBILL VILLAGE for a special use permit for extension of a nonconforming use through construction of an administrative addition to the infirmary section of their infirmary/housing building.

The matter was duly published in the local newspaper and certified letters were sent to adjoining property owners.

Donald Pulfer, Architect, represented the applicant. He said they are requesting a 319 sq. ft. addition which would be an extension of a pre-existing non-conforming use, as everything predates zoning. He said over half of the Camphill residents are over 55 in age, disabled, and they need to give them care. He said they need extra help and hired a doctor, nurse, case management, and need additional space and storage.

Mr. Peteroy asked they considered going for a zoning change, specific to Camphill, and Mr. Pulfer said he has requested a meeting with Chris Grant of the Planning Board to discuss such matters.

Mac referenced the Taconic Shores development and said they would like to be a separate district. He said the answer is not secession from Copake, but become a district with Town regulations and Town code. He said Camphill should clarify what they need and want.

Mr. Pulfer said he was not sure if making a separate district is the way to go, or have modest changes to the zoning law.

Mr. Pulfer said there are 600 acres in Camphill. They are expanding a use and practical difficulty is encumbered by space needs. He said it is the smallest addition they can do to accommodate needs. They are not changing the character of the neighborhood and there is no effect on Camphill.

Mr. Peteroy asked what they would prefer to have for space, and Mr. Pulfer said they need a new facility, but this would be user friendly.

Mr. Peteroy asked if they could provide better services if the addition was larger, and Mr. Pulfer said no. He noted it is a difficult site and this is the best they can do for short Minutes - Copake ZBA October 25, 2007

term.

Mr. Peteroy asked if they were relieved of parking restrictions, would they add on now, to which Mr. Pulfer said no.

Mr. Pulfer said to get administrative people and additional files, they need the space which is best suited to the existing building.

Frank Peteroy moved to approve the special use permit, which was seconded by Lou Kibler and unanimously carried.

Mac noted that Camphill is a wonderful organization and an asset to the Town.

#### OLD BUSINESS:

Candidates for the Zoning Board were discussed and Mac noted they had three applicants to interview: Leslie Wood Strom, Nancy Benansky and Shawn McClain.

It was agreed to meet at 7:30 p.m. on Wednesday, November 7<sup>th</sup>, to interview the candidates, and recommendations could be presented to the Town Board the following night. The Town Board could then appoint new members in November.

#### REVIEW of SECTION 232-24 of the ZONING CODE -

Page 4 of the proposed changes was discussed related to the word “suitable” and Lou suggested using the word “compliant” instead.

It was suggested the wording be “Owners of nonconforming lots may build on those lots and no variance shall be required, provided that:.”

Item 2 was added new, but Mr. Peteroy questioned the distinction between “nonconforming” and “undersize” lot, which was discussed further.

Mac said the Planning and Zoning Boards look at “maximum lot coverage.”

Mr. Peteroy asked what do you mean by lot coverage? He said it should be the total floor area of all floors. If it exceeds the zone, it is not permitted. He said he could do some graphics and show the difference.

Bob Sacks, Town Board member, arrived at this time, and suggested one go to the “search” mode on the internet and type in key words, which will clarify definitions.

Minutes - Copake ZBA October 25, 2007

-8-

Mac asked Mr. Sacks to look at the Zoning Board’s suggestions and the proposed changes to Section 24 from the Zoning Board’s view point.

Mr. Peteroy said the ZBA is a court of last resort and they are not beholding to anyone else.

Section 23 was discussed briefly and noted it has nothing to do with single family homes. It was noted that a single family applicant is being thrown into Planning. Mr. Peteroy again stated that the ZBA is a court. People can go to an Article 78. They don't go back to the Planning Board. He said the ZBA must thoroughly go through all applications. The ZBA can overrule the Planning Board.

It was agreed that all suggested changes should be presented to the Town Board at the same time.

Mac moved to adjourn at 9:40 p.m., seconded by Frank Peteroy and unanimously carried.

Respectfully submitted,

Louise Miller, Recording Secretary

Attachment

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