

**Town of Copake
Zoning Board of Appeals
Minutes - November 18, 2009**

The regular monthly meeting of the Zoning Board of Appeals of the Town of Copake, was held on Wednesday, November 18, 2009, at the Copake Town Hall, 230 Mountain View Road, Copake, NY. This change was due to the Thanksgiving Holiday falling on the 4th Thursday. The meeting was called to order by Chairman, Jeff Nayer at 7:00 PM.

Present at this meeting were: Jeff Nayer, Frank Peteroy, Michael DiPeri, and Shawn McClain. Leslie Wood and Hilarie Thomas were unable to attend. An audience of two were present, including Linda Gabaccia, Town Board Member.

Minutes:

The minutes of October 22, 2009 were reviewed. Frank questioned as to whether the information Jeff had obtained from The Association of Town's Attorney's regarding the issues of the safety of a structure, (pertaining to application 2009-05) had been included in the minutes. This information was included on page 7, paragraph 3, under application 2009-05. *Shawn made a motion to suspend the reading of the minutes, and to approve. This was seconded by Mike. The motion carried, unanimously.*

Correspondence:

Jeff informed the Board Members that Attorney Todd Mathes had issued a request for the minutes and recordings under the Freedom of Information Law. This requested information has been turned over to Vana, and the Attorney has been billed.

The Town Board has revisited the Motor Vehicle Storage issue. Frank mentioned that it would need to go before the public as a Public Hearing prior to it becoming law. Jeff informed the Zoning Board members that the Planning Board is currently reviewing the proposed law. The Town Board Members are scheduled to vote on the issue after the Public hearing.

Jeff informed the Board that a Mrs. Castello, Copake Lake would be coming to the December meeting for an area variance. The building was built with no permit, the DEC is involved because the building is closer to the lake than allowed.

Public Hearing:

Application 2009-01, Mark & Lisa Nielson, SW Colony Road, has been postponed to December since there has been no response from the County Planning Board as of yet.

New Business:

Application 2009-06, Sharon & Jed Luchow, 4 Grant Drive, Copake Lake, Area Variance, addition to house, height of 2nd story.

Linda Chernewsky of Morris Associates was present to represent the applicants. The plans were reviewed, Frank questioned the locations on the map. Ms. Chernewsky pointed out the Luchow's owned 1 lot, near the Beenstock residence and Grant Drive. Jeff questioned her regarding the abutters, she replied that Beenstock was under a different name.

She explained that the lot is a corner lot in the R-2 Zone. It is a pre-existing undersized lot. The proposed addition would not increase the non-conformity, and the proposed addition would keep the lot coverage at 23.5%. There is an existing porch and deck, the mudroom would be put on top of the porch with no foundation, it would be unheated. The deck would be screened in. The proposed changes would not be changing the foot print. The number of bedrooms would not change. The proposed plan would not increase its non-conformity. A question as to whether a deck would be included as part of the lot coverage percentage.

It was determined that because the lot is a corner lot, the setbacks would be as 2 front yards, which would be 40 feet, with more than 10,000 sq ft. Ms. Chernewsky was asked if she had been before the Planning Board for a site plan review. The answer no, she was unaware that this was necessary for this project. She was asked about the height, it would be 2.8 feet over what is allowed, (25 ft) height would be at 27.8 ft. She was asked whether she could reduce the height, her reply no, NY building code requirements called for headroom.

Discussion went to whether this would be taller or shorter than what already exists, Beenstock is 25 feet, Powers is 30 feet, Pope Drive house is 35 feet. Some of these were done prior to the height restrictions. The land pitches from the road and drops off toward the lake. This height would be consistent with the houses surrounding the area.

It was decided by the ZBA that this application would need to be reviewed by the Town Planning Board as well as the County Planning Board since there is no relief concerning height issues. This addition to the building would be off Rte 7. This requires for an adaption of an amendment to zoning local law for height issues.

Frank made a motion to accept the application and to schedule it for a December Public Hearing, this was seconded by Mike. The motion carried, unanimously. Jeff reminded her

that the ZBA would make no decision pending the outcome of the County Planning Board, they would be meeting on the 3rd Tuesday of the month, and the Public Hearing would be the 3rd Wednesday of the month. There would not be time for the County Planning Board's decision to reach the ZBA. Patrice O'Perry, the Chair, would need to fax their decision to the ZBA by the next day.

Ms. Chernewsky then questioned the ZBA in regards to another project, Cohen on Pond Hill Rd. She had already spoken with Marica Becker, Copake Planning Chair. It consisted of a lot line adjustment which would combine 3 lots into 1, creating a 3.8 acre parcel. This would be necessary to accommodate the setback requirements to add an addition and elevator to the existing house to accommodate the needs of a handicapped child. The survey map was reviewed, and pointed that there is a 13 foot drop to the lake. She was informed that DEC would need to grant approval prior to ZBA since the addition would be built within 100 feet of a wetland. The pre-existing house has a portion within the wetlands. The input of the abutter properties would also be necessary, at a Public Hearing. The ZBA informed her that she would need to file an application for a variance.

Linda Gabaccia distributed to the board members the preliminary draft to the outdoor wood boilers changes to Local Zoning Law. She asked that each member review this document and send her their input, recommendations, and comments. She informed the board that she had worked on this document with Danny and Attorney Lawrence Howard. The addition of this language would be added to Zoning 232. She explained that zones and lot sizes were intentionally left out due to Town Board Consensus. She also said that it would be required a 90% efficiency. Shawn asked if the chimney height was addressed, she replied no because of cost, and support issues. Jeff asked about who would be enforcing this. Mention was made to a reference to current law regarding what is emitted into the atmosphere a certain % of smoke. No moratorium has been placed as of yet.

Old Business:

The revisions to the application check list, were passed out by Michael DiPeri. The feedback was that it was simplified and direct. It clearly spelled out to the applicants what was needed for a complete application. Added to the requirements, written permission from owner granting permission of representation. The Board approved the changes. However, it was pointed out that now the typing of the online application would need to be revised for consistency, and that proof of representation would need to be added.

The By-Laws were reviewed, changes to be made are as follows: Section 1, ok, Section 2 , 2.1 take secretary out, 2.4 remove as it would appear that the recording secretary is an officer of the board, however the duties of the recording secretary would need to be spelled out, therefore add a new section 2a at the end of that section and list the duties of the recording secretary here. 2.5 the recording secretary is not an officer so would need to include at the direction of the board. 2.7 recording secretary to be added, section 3, 3.1 meeting is at 7:00 PM, 3.3 change 48 to 72, 3.5 notice of cancellations, as soon as possible section 4, 4.5 incorporate the new town guidelines as addressed in the Policy Manual and

shall govern. section 5, 5.3 fee is \$100.00, 5.6 written requests directed to the chairperson, section 6, 6.2 needs to comply with town law of 10 days, section 8, 8.10, 8.11, 8.12 to be included in recording secretary duties. Remove "He" and insert The Chairperson, or they whichever is appropriate.

Teri to make these changes and send out to the ZBA members for review.

Adjournment:

Jeff reminded the members that the Nielson Public Notice would continue next month. He cautioned them to keep the comments to the facts of the case.

Shawn made a motion to adjourn the meeting, this was seconded by Mike. The motion was carried, unanimously. This meeting adjourned at 8:40 PM.

The next meeting will be held on Wednesday, December 16, 2009, at 7:00PM.

Respectfully Submitted,

**Theresa A Traver
Recording Secretary, ZBA**