

**Town of Copake  
Zoning Board of Appeals  
Minutes- January 28, 2010**

The regular monthly meeting of the Zoning Board of Appeals of the Town of Copake, was held on Thursday, January 28, 2010, at the Copake Town Hall, 230 Mountain View Road, Copake, NY. 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 Hilarie Thomas, and Leslie Wood. An audience of about 5 were present, including Town Board Member Bob Sacks, and Zoning Enforcement Officer, Ed Ferratto.

**Minutes:**

The minutes of December 16, 2009 were reviewed. Frank asked that a correction to page 1, paragraph 3, spelling of the name Beinstock be made, and page 3, item 4 *with any rights of ways permitted by deeds of abutters*. He also asked for a change on page 4, paragraph 4, *I am asking for the septic tank to be 100 feet*. Frank also asked that a copy of an e-mail dated January 26, 2010 become an attachment. Being no objections to this from the remaining Board Members, Jeff asked for a motion to approve.

*Hilarie made a motion to accept the minutes, this was seconded by Mike. The motion carried. Leslie abstained since she was not in attendance at the meeting.*

**Correspondence:**

The following correspondence was read;

1. DEC 1/14/10, Ref; Linder application#2008-12.
2. Copake Planning Board to ZBA 1/9/10. Ref; Luchow application # 2009-06.
3. Todd Mathies, Ref; Nielson application # 2009-01
4. Shawn McClain resignation

**Public Hearings:**

**Application 2009-07, Rolando Cohen & Linda Larach, 24 Pond Hill Rd. , Copake Lake:  
Area Variance for 100 foot setback to a wetland:**

*Leslie made a motion to open the Public Hearing, this was seconded by Hilarie. The motion carried, unanimously.*

Linda Chernewsky of Morris Associates was present to represent her clients. The plans were reviewed. She explained that the property was in a wetlands and has been within the wetland district. Her clients have a disabled child and need to modify the house to accommodate the needs of their child as he grows older and they will no longer be able to carry him.

Jeff read the Planning Board's review. Leslie asked if Parcels have been merged, the answer they are in the process of doing so. Leslie replied that it would be a contingent to approval. She asked when the clients had purchased the house, 2007.

Linda read a letter from Mr. Cohen, explaining his son's condition and the medical documentation requested.

She was asked about the septic tank size, 1000 gallons. Jeff reminded the Board that the number of bedrooms was not increasing. The type of terrain, very sloped to the water, she wasn't sure of the type of soil, but that the support system of the proposed addition to the existing structure would be 2 x 8 rafters to hold the roof and sonar tubes and piers for the deck and ramp. Linda again went over the plans and answered questions regarding the placement of the elevator, and it's necessity since the house was a split level ranch, making it impossible for a wheel chair.

Hilarie asked about the square footage of what was to be added, the answer 1028 sq. ft. including the deck and ramp. Frank asked of when house was built, Linda was unsure. Leslie commented that she appreciated the fact that the proposed addition would not be going on the lake side.

Jeff asked if there were any further questions, being none he reviewed with the Board the criteria for granting an area variance:

*Permitted Action by the Board of Appeals 267-b*

*3.b In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall consider:*

- i. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;*
  - ii. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue other than an area variance.*
  - iii. Whether the requested area variance is substantial;*
  - iv. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;*
  - v. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.*
- c. The Board of Appeals, in the granting of area variances shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.*

*4. Imposition of conditions. The Board of Appeals shall, in the granting of both uses variances and area variances , have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.*

**The Board members having discussed these points and concluded that there were no health impacts by issuance of a variance, it would have been more expensive to build on the side of the road, DEC has strict codes which supersede the ZBA , thereby the effect will be minimal. Having no further questions or comments, Jeff asked if the Board was ready to make a decision. The proposal to approve would be contingent upon: 1. the merge of the parcels and properly filed with the County Clerk and 2. DEC approval.**

*Frank made a motion to close the Public Hearing, this was seconded by Mike. the motion carried, unanimously.*

**The roll call for the vote was as follows: Frank; yes, Hilarie; yes, Jeff; yes, Leslie; yes, Mike; yes. The request for the variance was approved, contingent upon the merge of the parcels and duly filed and DEC approval.**

#### **New Applications:**

**No application was received from Costello, Copake Lake.**

#### **Old Business:**

**By-Laws Changes:** Everyone was given a copy of the requested changes, they should be reviewed and will be gone over next month.

**Application Check List:** a few changes were to be made prior to February meeting.

*Hilarie made a motion to adjourn this meeting, this was seconded by Mike. The motion carried. The meeting adjourned at 9:00 PM.*

**The next meeting will be held on Thursday, February 25, 2010, at 7:00 PM.**

**Respectfully Submitted,**

**Theresa A Traver  
Recording Secretary**