

**Town of Copake
Zoning Board of Appeals
Minutes – March 27, 2008**

The regular monthly meeting of the Zoning Board of Appeals of the Town of Copake, was held on Thursday, March 27, 2008, at the Copake Town Office, 230 Mountain View Road, Copake, NY. Chairman, Stanley Gansowski called the meeting to order at 7:00 PM.

Introductions began the meeting; roll was called with all ZBA Board members present: Stanley (Stosh) Gansowski, Jeff Nayer, Shawn McClain, Frank Peteroy, Leslie Wood, and alternate, Louis Kibler.

An Audience of approximately 8 were present, including Town Board Member, Bob Sacks, and Zoning Enforcement Officer, Ed Ferratto.

Minutes:

A discussion ensued regarding the minutes of the meeting of February 28, 2008. These minutes were electronically sent to all the Board Members for review and corrections. The requested corrections were made and hard copy sent to the Board Members as required for their review. However, these corrections were not electronically sent to all Board Members prior to the hard copies, and confusion occurred with some of the members because of this. The approval of the February 28, 2008 minutes was tabled to the next meeting, to give the Board Members, who had not done so, an opportunity to review them.

Stosh recommended that in the future, the minutes will be electronically sent to all the Board Members for review and corrections, *but* that all corrections will be sent to all the Board Members prior to the corrections being made, and then hard copies with the corrections would follow for review.

Shawn suggested that the meetings should be taped, to this Bob Sacks informed the group that a computer will be installed in the meeting room with monitors to tape the proceedings and to assist those with hearing disabilities.

Public Hearing:

A Motion was made by Leslie, and seconded by Shawn, to open the public hearing. Motion Carried.

Applications # 2008-04: James Grahn, Craryville: Special Use Permit to replace an existing garage with addition footage, using the same footprint. All abutters were notified. Notice was published in the newspaper. No correspondence was received regarding this matter. Mr. Grahn, was present to answer questions, for which he was asked if the replaced garage would in fact be using the same foot print, he assured the board that it would, the additional footage would be where a “lean to” had been. A question arose regarding the correct zone, which this property was in, and it was established that it was in zone R-1. Stosh, then asked for comment from the audience, to this David Hall, neighbor said it was fine with him. Being that there were no other comments, Leslie made a motion to close the Public Hearing, seconded by Shawn. Shawn made a motion to accept the application, seconded by Frank. All Board Members were in favor, the motion carried.

In an effort to save time, to allow the board to continue with the regular business on the agenda, while waiting for the attorney, of the abutting property of the next public hearing to receive a phone call, the Board agreed to detour from the agenda and go to:

Old Business: Training.

Stosh passed out a brochure he had received from The Columbia County Planning Board announcing a training at Columbia-Greene Community College geared specifically for Zoning Board of Appeals Boards. The fee is \$25.00. The class to be held on 4/29/08, at 6:30 to 9:00 PM. This class does not meet the required training, but would be informative, and a great networking.

Frank, then passed out the information of the 5/31/08 training also at the Col-Greene Campus, this one-day training does meet the requirement of training.

Shawn asked if the purchase of the CD; and conduct the training at the Town Hall, and as he recalled the other surrounding towns would be invited to attend; would meet the required training, as was suggested

during the January 2008 meeting. Leslie reminded the board of her concern to be trained ASAP. Stosh and Frank asked the board members who were interested in attending these two classes, to let them know, accordingly, so that they could sign up prior to the classes being filled.

With the return of Attorney, Richard M. Koweek, The ZBA Board returned to the planned agenda. Leslie made a motion to open the Public Hearing, seconded by Shawn. Lou Kibler asked to recuse himself, since he is a neighbor of the Gershon's, and was allowed to remain in the room, as an abutting property owner.

Application # 2008-03: Michael & Anne Gershon, Sky Farm Rd: Special Use Permit, construction of a swimming pool on the side of property. Mr. Guy Winig, landscape architect, representing the Gershon's came forward to answer questions. Again, the maps were reviewed, Leslie said she had walked the property, and said because of the slope of the land the proposed project was scary, this was reinforced by Frank. What would be the building process, to ensure the Board that the pool would not slide down hill. Mr. Winig was asked about the design of the pool, his reply, he is a landscape architect, not a pool engineer. The design was for the pool to be 4 ft into the ground ledge, and the weight of the pool anchors it down. Unlike the California slopes, there is no movement of soil above the pool, landslides are not an issue.

Mr. Winig was asked about the fencing, the material to be used for the fencing was to be see through wire mesh, vinyl coated. Jeff, who was also familiar with the property, expressed concerns that the pool was to be built on such a small piece of the property. Mr. Winig, replied that this was done in an effort to save an existing tree and the character of the property. Jeff expressed his concern that the proposed pool would be very close to the road, and that from the outside of the fence, the visual of the posts and rails supporting the wire would deter from the character of the area. Mr. Winig responded that the retaining wall was level with the house, and the pool would be 3ft below this, the fence was to be built on the higher grade, the pool would be barely noticeable,

and was 40ft from the road. The fence would be somewhat on the front yard. Frank asked about screening the fence from the outside, what was the plan? Mr. Winig replied that vegetation could be planted to hide the posts and rails. Leslie expressed concerns of the type of vegetation planted because the view is so spectacular. The group discussed that specific types of shrubs, such as boxwood could be used and not block the view.

Frank inquired about the pool contractor or a pool PE. He expressed concerns of the pool moving down the hill, and requested that the foundation be engineered by a Professional Engineer. Mr. Winig again informed the board that the pool was to be tied into the hill in the ledge, and that he would have a soil engineer approve the installation and sign off.

Jeff asked about the concerns of the neighbors, the noise, could the pad and equipment be moved so that the neighbors would have some of the noise eliminated. Mr. Winig replied that this could not be done, the equipment needs to be level or a little below the pool, and their placement was designed because of the location of the septic and pump. Pool lines and septic lines cannot be crossed.

Having addressed all the concerns of the ZBA Board Members, Stosh then asked if anyone in the audience wished to address the issue. To this, Attorney, Richard Koweek, representing neighbors, Resnick came forward. He informed the group that his clients were opposed to the proposal because of the noise. It would impact the Resnick's quality of life; they enjoy the peace and tranquility of their home and ask that the pool and pad be moved to some other location, or screen the noise. He presented the Board with written opposition to the proposed application, from the Resnick's and neighbor Falanga. Stosh asked attorney Koweek to define "screening the noise", what do you envision? Attorney Koweek clarified by saying screening to deviate the noise. He continued that the house on the other side of the Resnick's already had a pool, and it was extremely noisy, a pool on both sides of their property would severely deter their quality of life, as they have enjoyed their front porch in the past twelve years.

Shawn asked what is the side set back, are they encroaching on the side set back as expressed in the letter? Leslie answered that no, the issue was the front set back. Jeff explained that a pool by law couldn't be in the front yard. The house is 50ft from the road as it shows on the

map, the pool would be 40 ft from the road, 10 ft forward of the house line for a front setback variance. The side set back is not an issue here. Jeff continued to say that a lot of information had been presented tonight by attorney Koweek, and that he would ask to have the decision postponed to allow the board the opportunity to review it. Stosh replied, that the board could make that decision. Mr. Winig expressed that this would create a hardship for the Gershon's. Attorney Koweek requested a 30 day continuation.

Jeff made a motion to have the public hearing continued for 30 days to allow for the soil engineer report and to review the information. Frank seconded this motion. The motion carried.

Discussion continued regarding noise issues, Leslie expressed concerns of caution, visuals to relieve noise issues, some are ugly and in this situation the noise would be temporary, while ugly could be there forever. Frank also expressed concerns; you have to look at all 3 sites, in this situation, a preliminary review of the distances between the neighbors, would be necessary, as it appears that the middle house is closer to the existing pool and above it, which may account for the noise concern. The proposed pool is further away and above the middle property. Noise generally travels in a circular upward fashion from its source, so the potential noise may be diminished by distance and elevation and berms and trees. Jeff went on the say that the "character of the district" for one, is or may, be very different for the other. Leslie again expressed great concern of the pool sliding down the hill.

New Business:

New Appeal:

Application: 2008-05, Frank & Sandra Clegg, Birch Hill Road, Special Use to build a house: Mr. & Mrs. Clegg were present to answer questions. It was determined that they are requesting a permit to build a house on a lot of 2.91 acres, in the R zone.

Frank asked when the parcel had been subdivided; the Clegg's replied that it had been in the 60's, they were not sure of the date. Jeff reiterated by saying that it was important to find the exact date of when the piece of property was subdivided. Frank instructed the Cleggs as to how to obtain that information from the County Registry. He continued

to ask when the trailer had been taken off the property, and whether it had been on some sort of foundation. Mr. Clegg replied that it had not been on a foundation, and that it had been removed over a year ago. The maps were then reviewed, and Mr. Clegg pointed out the location of the driveway, which exists, as well as the well. He continued to explain that a shed would be removed and a perk test done, this location a likely spot for the septic. The maps were again reviewed and after discussion of the site plan, a determination of the front of the house issue was addressed. Discussion continued regarding the under-size lot issue, and under-size lot issue, and the date of the subdivision, because with a pre-existing undersized lot, the ZBA determines what the set backs are to be. Jeff pointed out that the dates were important, because they could be asking for two variances. He also asked the Clegg's if they had done a site plan review with the Planning Board, to which they replied no. Stosh suggested to them that they speak to someone on the Planning Board and get onto their agenda for their next meeting, to help speed up the process. He reminded the Clegg's to bring a copy of their deed, and also said that a map for the proposed septic would be needed. He asked the remaining Board Members if there were any further comments, being none asked for a motion to schedule a public hearing. Leslie made a motion to accept the application, this was seconded by Shawn. The motion carried. Public Hearing set for April 24, 2008.

Old Business:

Application: 2008-02, Andrew & Patricia Phesay, Copake Lake, Special Use for an Addition: The Phesay's have withdrawn their application because of the septic issues.

Interview Concerns:

The letter was brought before the March Town Board Meeting and was read.

Recusal of Board Members:

Stosh reported to the Board Members that according to the Town Attorney, recusal would depend on a case-by-case basis. We would need to inquire prior to the hearing ahead for each specific

circumstance. Jeff led a lengthy discussion on this topic, by stating that it is incumbent upon ourselves to morality. Leslie continued the conversation by stating it is a fine line, ethics, and influence. Are there guidelines, for example, a case involving a neighbor, or colleague, it is imperative that one does not influence in any shape or form. At this point, Bob Sacks, Town Board Member, intervened by stating that this very issue was of concern for many. He suggested that perhaps a workshop would be in order; A class of Recusal, to make sure we all get it right. We all need to learn, since we are all volunteers. He would bring this issue before the Town Board.

Stosh informed the ZBA Members that the Comprehensive Planning Board was asking for a ZBA Board Member to become a part of their Board. Stosh asked if anyone would like to volunteer for this additional duty. Frank Peteroy volunteered.

Adjournment:

Stosh, after reviewing the agenda, to make sure all business had been complete, due to the detours, determined that all had been covered asked if any one else had any further business. No one responding asked for a motion to adjourn. Frank made a motion to adjourn the meeting, seconded by Shawn. The motion carried. The meeting was adjourned at 8:30 PM.

Respectfully Submitted,

Theresa A Traver
Recording Secretary