



COPAKE PLANNING BOARD
APRIL 1, 2010
MINUTES

Approved
May 6, 2010

Please note that all referenced attachments, comprising 17 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 7:03 p.m. by Marcia Becker, Chair. Also present were Chris Grant, George Filipovits, Steve Savarese and Jon Urban. Gray Davis, Skip Pilch and Planning Board Attorney Lawrence Howard were excused. Lisa DeConti was present to record the minutes.

Ms. Becker welcomed Mr. Savarese, who was appointed to replace John Brusie, to the Board.

ZONING BOARD OF APPEALS – Referrals

1. HEIGHT AND SIDE YARD SET-BACK VARIANCE – SHARON AND JED LUCHOW – Grant Drive and County Route 7

Ms. Becker asked the Board's feedback regarding Sharon and Jed Luchow's application. Ms. Becker reminded the Board that the Luchow's builder, Linda Chernasky, was asked to send her the Site Plan for the Luchow project. Ms. Becker acknowledged this hasn't been received as yet. Ms. Becker noted that this project had been approved prior to the Site Plan and asked the Board's approval as to whether she should contact the builder again. The Board was unanimously in agreement with this.

PUBLIC HEARING

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

Ms. Becker acknowledged that the Public Hearing for Carl Campbell and Krista Proper has remained open since the November meeting and noted that the Town of Taghkanic has also been notified regarding this.

Ms. Becker asked if anyone present wished to speak on this application. Being none, on a motion made by Ms. Becker and seconded by Mr. Grant the Board voted unanimously to close the Public Hearing.

SUBDIVISION/SITE PLAN

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

Carl Campbell presented the Board with a revised map of his property. Ms. Becker reviewed the application and noted that the Board previously requested that Mr. Campbell combine the prior maps into one and have the changes placed on the map. Ms. Becker acknowledged that the requested changes had been added to the map.

Ms. Becker noted that all the lots that were subdivided from the original parcel needed to be at least three (3) acre parcels inasmuch as they were in three acre zoning. Ms. Becker asked if there were any deed restrictions on the lands in question. Mr. Campbell acknowledged that there was a previous covenant on the lands donated to the Taconic Hills School District limiting the use of lights but noted that he has not begun the process of deeding the lands to the School as yet. Mr. Grant advised that the Board needed to be sure that there were no covenants that prohibit subdivision of the land.

Mr. Campbell presented the Board with a letter from the Health Department, however, it was noted that any issues regarding this letter have been resolved. Ms. Becker acknowledged the existing perc tests and any issues regarding this had also been resolved and were on record.

Ms. Becker asked if there were any other concerns prior to making a Negative Declaration. Mr. Grant advised that the merger be subject to the merger of Parcel 2A and the Parcel in Taghkanic. Ms. Becker noted that approval will be granted on the contents of the map which shows a merger.

A question ensued as to the ownership of a strip of land that might be useful for the Rail Trail. Ownership was not known at this time.

After the reading of the SEQR, on a motion made by Ms. Becker and seconded by Mr. Savarese, the Board voted unanimously to make a Negative Declaration.

On a motion made by Mr. Grant and seconded by Mr. Filipovits the Board voted unanimously to approve the minor subdivision of the lands of Clifford and Carl Campbell to be conveyed to the Taconic Hills Public School on a map dated and revised March 31, 2010 and a survey map by Robert Ihlenburg.

Mr. Campbell would supply the required maps on the Wednesday following this meeting.

PARCEL REVIEW and/or CONSULTATION

PARCEL REVIEW – COLLEEN & JOE GERSKY – 4190 Arrowhead Drive [Copake Lake]

Lindsay LeBrecht appeared before the Board representing Colleen Gersky Ms. LeBrecht requested an assessment of the parcel belonging to Colleen Gersky so she would be able to price the property correctly for sale. Ms. LeBrecht explained that the total parcel equals 4.97 acres

consisting of Community park land as well as the subdivision road and is in the R-2 Zone and would make the lot a buildable lot. Ms. LeBrecht's concern was that a buildable lot would have a greater value than a non-buildable lot and was asking the Board which category this lot fell into.

Ms. LeBrecht told the Board that she had pulled the deeds of Marta Burns who sold it to the Gerskys. Ms. LeBrecht acknowledged that it was also previously owned by Charles Gardner.

Ms. Becker pointed out that the total acreage of the lot was over four (4) acres according to the deeds. It was noted that all lots in the community called Arrowhead Acres have lake rights. Mr. Grant questioned whether there was anything in the deeds that restricts building on that parcel to allow access to the lake. Ms. Becker believed that this was not an issue for the Board.

Mr. Urban believed this to be a legal issue inasmuch as the Board's only concern was with the size and zoning of the parcel and to determine whether it could be a buildable lot. Ms. LeBrecht questioned what the set-back requirements would be with a lot of this size. Mr. Grant noted that a conforming parcel in the R-2 Zone required a one hundred foot (100') set-back from the lake with a thirty foot (30') set-back on each side as well as a fifty foot (50') set-back from the road.

Ms. Becker advised Ms. LeBrecht that an area variance could be applied for if there was a problem meeting the set-backs as long as the legal matters were resolved. Ms. LeBrecht estimated the width of the parcel at seventy-five feet (75') and believed a width of one hundred twenty five feet (125') was required.

Ms. Becker produced a letter from Marta Burns to the Assessors which stated that lots two (2) and three (3) were to be a park area used by Arrowhead Acres as a right-of-way to their homes and can never be a building lot. Ms. Becker then produced another document from W.J. Edwards that spoke of a right-of-way common with others to Cherokee Drive as a private road for use of access to their homes and a park area.

Ms. LeBrecht believed this was done because the property assessment skyrocketed and the owner was paying a very high tax. Ms. LeBrecht questioned whether building could be done if the set-backs were met. Ms. Becker advised that the correct lot measurements needed to be defined. Ms. LeBrecht noted that the one deed when conveyed to Marta Burns said "provided, however, that any present or future covenants and restrictions pertaining to the residential lots in Arrowhead Acres do not apply to the park area, however, said covenants and restrictions shall continue in full force in effect to all the residential lots all rights of the grantor, undersaid covenants and restrictions shall continue to the residential lots are reserved to the grantor."

Mr. Grant believed the intent of this parcel was for it to be used for a parking area and lake access. However, Ms. Becker noted that from the Board's perspective the lot appears to be a building lot. Mr. Urban noted that the questions were more of a legal matter. Ms. Becker did point out that Ms. LeBrecht's original intent was to find out whether this parcel would qualify as a building lot and the Board established that it could be buildable. Mr. Grant advised that the biggest hurdle to this parcel was the sorting out of the legal matters.

**PARCEL REVIEW – DAVID CHRISTIAN & KATHERINE BAINER – Pine Street
[Copake Lake]**

David Christian and Katherine Bainer attended the Planning Board meeting inasmuch as they had some questions before proceeding with building on a property where they demolished a prior house. Ms. Becker advised the Board that this issue was not on the agenda, however, the Board reviewed the matter.

Mr. Christian explained that he was proposing to replace a house that was demolished on Pine Street. Ms. Becker advised Mr. Christian that she spoke with the Building Inspector who issued a demolition permit a little over a year ago. Mr. Grant questioned the size of the lot and asked whether Mr. Christian intended to build on the existing footprint.

The lot was determined to be an undersized lot and Mr. Christian acknowledged that the future building would remain within the existing footprint. Mr. Grant informed him that a second story could be built and needed to be no higher than twenty-five feet (25').

Ms. Bainer questioned the twenty-five foot (25') measurement regarding a second story and a basement and whether the measurement would be from ground level or from the floor of the first story. Ms. Becker advised her that on an undersized lot the height would need to be measured from the lowest grade and on a conforming lot the height would have to be measured from the average grade.

Ms. Bainer questioned whether a variance would be possible inasmuch as there was nobody behind her. Mr. Grant advised her that this still has to conform to the set-backs or be referred to the Zoning Board for an area variance.

Ms. Becker questioned the set-backs of the property but Mr. Grant advised her that inasmuch as the building would be within the same footprint, set-backs would be grandfathered and the height was the only issue. Ms. Bainer noted that the house would be able to be built to smaller dimensions since it would be a two-story structure whereas the prior one was only a one-story building.

Ms. Bainer also informed the Board that although there had been no problems with the present septic system she believed that a new septic system might be needed. Mr. Grant advised her that before proceeding with the building, she would need to come before the Board with a Site Plan Review and this issue would be evaluated at that time. Ms. Becker asked if they were aware of the well location as the separation between the well and the septic system needed to be one hundred feet (100'). Mr. Christian acknowledged that the present distance was approximately sixty (60') to seventy feet (70'). Mr. Christian acknowledged that the well on the property was uphill from the septic system. Ms. Becker advised that a perc test was not necessary to replace the present system and didn't believe anything was needed from the Department of Health because they are existing systems.

Mr. Grant advised Ms. Bainer that the next step was to prepare the building plans and give them to the Building Inspector who would refer them to the Zoning Board if a variance was required before proceeding with the Planning Board for approval. Mr. Christian questioned the time frame to rebuild after the demolition of the building. The Board was not sure how to advise on this

issue but believed this might be approximately a year. Mr. Grant clarified that according to the Code, a non-conforming use needed to be continued within one year and Mr. Christian was dealing not dealing with a conforming use, however, he is dealing with a non-conforming lot.

On a separate matter Mr. Christian questioned whether Ms. Becker was familiar with the lot on Chrysler Pond that he had spoken of with her previously and whether there was a septic system on that lot. Ms. Becker was not aware of this. Mr. Christian questioned the procedure he should follow regarding this inasmuch as there was already a building on the property. Ms. Becker questioned whether there were any wetlands on the property. Mr. Christian explained that the wetlands were from the pond and to the southern side of the building and a good distance from the building. Ms. Becker advised him that he needed a perc test and needed to notify the Department of Health who will then inspect the property so they could advise him as to the proper location and type of system needed. Mr. Christian questioned whether a well could be put on the property without a septic system Ms. Becker believed this would be another question for the Building Inspector but didn't see a reason why a well could not be placed there. She did advise that the same separation was required (distance from the water one hundred feet (100') and one hundred feet (100') separation between the septic system and the well).

2010-3 DESIGN REQUIREMENTS FOR LIGHT FIXTURE IN THE SCOZ – RUGE'S – Route 22

Ms. Becker advised the Board that Roger Gallup who had not returned from vacation, as yet, only provided her with a pencil drawing instead of the site map she had requested regarding the exterior lighting design requirements to add additional light to the vehicles on his property.

Ms. Becker then clarified that the Board's review was needed because of two laws. The first law Ms. Becker referenced was 232-9 R which stated that "*Outside lights in any district shall be so directed or shaded as not to cause glare on nearby residential property nor cause a traffic hazard due to glare or color.*"

Ms. Becker noted that the pole in question was an existing utility pole and was in the Scenic Corridor Overlay and then referred to 232-26-F (6) (a) which stated that "*Exterior lighting in the SCOZ shall be controlled in both height and intensity and shall be in conformance with the requirements established herein. The light level at any lot line shall not exceed 0.2 footcandles, measured at ground level. Floodlights shall not be used to light any portion of a principal or accessory structure facade (except for temporary lighting) and all outdoor light sources mounted on poles, buildings or trees to illuminate driveways, sidewalks, walkways, parking lots, or other outdoor areas shall use fully shielded light fixtures. For purposes of this section, a "fully shielded light fixture" is one in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted. All such fixtures shall be installed or shielded so that part of the light bulb or light source is not visible beyond the property boundaries. The maximum allowable height of a freestanding light fixture shall be 16 feet above the average finished grade. Exceptions to the maximum height limitations up to 25 feet above the average finished grade may be made when it can be demonstrated to the Planning Board that glare to off-site locations will not occur with such higher fixture. The maximum allowable height*

of a building or structure mounted light fixture shall be 35 feet.” Ms. Becker noted that Mr. Gallup was requesting a height of twenty two feet (22’).

Ms. Becker then referred to 232-26 F which stated: *“Design requirements. In approving applications for parcels within the SCOZ, the design standards and principles provided herein shall be applied by the Planning Board and/or Zoning Board of Appeals, as the case may be...”* Ms. Becker advised the Board that they needed to review these Codes so as to make sure that what Mr. Gallup wants to do conforms with the lighting guidelines for the SCOZ.

Mr. Grant questioned whether someone would be needed to test the lightening. Ms. Becker advised him that she spoke with Joe LaPorta, who is an electrician regarding this. Mr. LaPorta clarified the definition of a footcandle advising her that a footcandle referred to the light omitted from a candle which would make .2 footcandles the dimness of moonlight. Ms. Becker noted that the intent is to avoid light spilling over to anyone else’s property. Ms. Becker then went on to define the lumens which Mr. LaPorta told her is the amount of light given off from a bulb, noting that the fixture determines the intensity and direction of the lumen.

Ms. Becker explained that the fixture in question uses a four hundred (400) watt bulb with the beam going out ninety feet (90’) at an angle and fifty feet (50’) straight down. Ms. Becker believed this to be satisfactory and noted that the beam would not affect anyone else nor would it blind any Route 22 traffic while conforming to the proper zoning. Ms. Becker said that Mr. LaPorta believed this conformed with everything, however, he had a concern that it could possibly blind people on Weed Mine Road exiting onto Route 22. Ms. Becker said that Mr. LaPorta’s suggestion was to grant conditional approval subject to testing to see if it was blinding to traffic, in which case it would have to be moved. Mr. Grant questioned whether the Planning Board had to approve this. Ms. Becker said that approval and review was needed by the Board. It was decided that a letter would be written stating that this conformed with the zoning in the SCOZ, however, it is subject to testing in order to rule out any blinding angles. Mr. Urban believed the height was adequate for the lamp inasmuch as placement any lower would create more of an opportunity to cause blinding. Mr. Urban suggested getting a letter from an electrical contractor regarding this. Ms. Becker would follow up on this.

Mr. Urban questioned whether it was proper to discuss these matters without anyone present to represent the applicant. Ms. Becker advised the Board that Mr. Gallup was supposed to have someone attend the meeting however, the person wasn’t able to attend. Ms. Becker then noted that Mr. Gallup had wanted Ed Ferratto to represent him, however, Mr. Ferratto would not be able to do so inasmuch as he is the Zoning Officer. Mr. Grant did not see anything wrong with discussing these issues as it is an open meeting.

SITE PLAN REVIEW CONSULTATION – GARY SINGH – County Route 7A

Ms. Becker advised the Board that Gary Singh, who was not in attendance, had a big project approved for a renovation of the old JJ’s Pizza House in 2006. Ms. Becker noted that Mr. Singh’s project involved a substantial septic system which he believed to be quite expensive. Due to that fact Mr. Singh decided to reduce the size of his project from the proposed five apartment building and a liquor store.

Ms. Becker reviewed the plans Mr. Singh left with her explaining his plans for a liquor store on the first floor, which is part of the previous approval, a storage area for the gas station, a bar, a kitchen for the bar, a men's and woman's bathroom and a small kitchen to serve bar food and three apartments on the second floor and storage area only on the third floor. Ms. Becker explained Mr. Singh's wishes to proceed without spending a lot of money on a septic system. Mr. Filipovits pointed out that more people would be in the bar than would be in the three apartments.

Ms. Becker acknowledged that she spoke with the Zoning Enforcement Officer and the Building Inspector regarding this and no one is aware of what is in the building at this time. Mr. Filipovits asked if Mr. Singh had a clean Certificate of Occupancy for the property. Ms. Becker believed he did not. Ms. Becker did acknowledge that the changes Mr. Singh inquired about were all permitted in the zone he is in but she noted that an engineer needs to resize the septic system to meet with the proposed changes. Ms. Becker also noted that Mr. Singh would have to start from scratch with his project inasmuch as new stamped plans would be needed from the engineer and the architect. Ms. Becker noted there were numerous issues that needed to be dealt with regarding this and Mr. Singh would have to return with a current plan. Ms. Becker would notify Mr. Singh by letter of the Board's decision.

2008-21 MAJOR SUBDIVISION – MICHAEL B. & BARBARA S. BRAUNSTEIN – Golf Course Road

Ms. Becker informed the Board that Mr. Braunstein was still waiting for some things and would require a variance from the Zoning Board to get over to the island as there is no development within one hundred feet (100') of the lake. Ms. Becker questioned whether Mr. Braunstein should be directed to the ZBA at this time. Mr. Grant advised her that the Board should wait on this. Ms. Becker would leave a message for Attorney William Spampinato regarding this.

2010-2 SITE PLAN REVIEW CONSULTATION – AMERISTOP – Route 23

Ms. Becker reminded the Board that at the last meeting she spoke with Mohammed Ibrahim as well as his engineer and requested a site map along with additional information. She presented the Board with the photo copy she was given and commented that this was not adequate.

Ms. Becker also reminded the Board that at the last meeting Mr. Grant suggested Mr. Ibrahim get in line to get a variance from the Zoning Board. She noted that Mr. Ibrahim went through the formal process of applying to the Building Inspector for a building permit and the Building Inspector sent him to the ZBA for a variance inasmuch as the property is less than an acre and then to the Planning Board for a Site Plan Review.

Ms. Becker did point out that a better Site Plan is needed as there are no distances on the photo copy she received. Ms. Becker also acknowledged that a Certificate of Occupancy had not been obtained for the Pizza Place but noted that the project is moving forward.

MINUTES

Ms. Becker asked the Board for a motion to approve the minutes of the regular meeting of February 4, 2010 and the special meetings of February 20, 2010 and March 5, 2010. On a motion made by Mr. Filipovits and seconded by Mr. Grant the Board voted unanimously to accept the minutes of the February 4, February 20 and March 6, 2010 meetings.

ADMINISTRATIVE

HELICOPTER LANDING PAD: - Ms. Becker informed the Board that she received a phone call from a Real Estate agent who wanted to know if the building of a Helicopter Landing Pad was permitted in the Town of Copake. Ms. Becker noted that she and Mr. Grant researched the code and discovered that this is not allowed because it is not an incidental use to the main building to the principal resident.

ABANDONMENT LAW: – Ms. Becker asked if the Board was aware that Version II of the Abandonment Law was the one approved by the Town Board and advised them that she wrote to Kevin O’Neill informing him of this.

PLANNING BOARD APPOINTMENT: – Ms. Becker congratulated Mr. Savarese on his unanimous appointment to the Planning Board.

TRAINING SESSIONS: – Ms. Becker advised the Board that there were two training sessions coming up. One that will be held in Dutchess County on April 8th and another one at Columbia Green Community College on April 28th. Mr. Savarese, Mr. Urban and Mr. Filipovits expressed a desire to attend one of the sessions.

CARRY OVER

The following matters were carried over to the next meeting:

- 2005-18 SITE PLAN REVIEW AND MAJOR SUBDIVISION - Approximately 112 +/- Acres on Land Bounded by Mountain View Road and County Route 7A - Housing Resources of Columbia County, Inc.**
- 2008-21 MAJOR SUBDIVISION – Michael B. & Barbara S Braunstein – Off Golf Course Road**

ADJOURNMENT

There being no further business, on a motion made by Mr. Savarese and seconded by Mr. Grant the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 8:33 p.m.

Marcia Becker, Chair

Please note that all referenced attachments, comprising 17 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

February 6, 2010	Becker to Chernewsky(1)
March, 2010	Ruge's Oldsmobile (2)
March, 2010	Ameritrade (2)
March 15, 2010	Spampinato to Tyree (2)
February 6, 2010	Becker to Crowley (1)
March, 2010	Groves (1)
March 2, 2010	Becker to LeBrecht (1)
March 3, 2010	Becker to Beck (1)
March 8, 2010	Becker to O'Neill (1)
March 8, 2010	Becker to Town Board (2)
	Version 2 Copake Local Law #2 (1)
	Columbia Land Conservancy (2)