



**COPAKE PLANNING BOARD**  
**MAY 6, 2010**  
**MINUTES**

**Approved**  
**June 3, 2010**

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**DRAFT**

**Please note that all referenced attachments, comprising 13 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.**

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A regular meeting of the Copake Planning Board was called to order at 7:05 p.m. by Marcia Becker, Chair. Also present were Chris Grant, Gray Davis, George Filipovits, Steve Savarese and Jon Urban. Skip Pilch and Planning Board Attorney Lawrence Howard were excused. Lisa DeConti was present to record the minutes. Jeff Nayer, Zoning Board of Appeals Chair attended.

**ZONING BOARD OF APPEALS – Referrals**

**1. AREA VARIANCE – LLOYD PASACH & VAL MENDOZA – Center Hill Road [Taconic Shores]**

Val Mendoza appeared before the Board and presented them with a Photo-Shop presentation showing a garage he wished to place on the lot adjacent to the main house. Mr. Mendoza is requesting a variance from the Zoning Board of Appeals for a setback relief from the lake as he only has ninety (90) feet available from the lake. Mr. Grant questioned whether there was a front yard set-back for a garage as he believed the code called for an accessory building to be only ten feet (10') from the property line. Under those circumstances the building could be place ten feet (10') closer to the front leaving him the needed one hundred feet (100') from the lake.

Jeff Nayer clarified that Mr. Mendoza would be merging two lots which would result in a conforming lot with a forty foot (40') setback from the front. The Board reviewed the code regulations and it was noted that an accessory building cannot be closer than ten feet (10') from the rear or side of a property line.

Mr. Nayer advised the Board that Mr. Mendoza would be adding a Breezeway which would change the regulation. Mr. Mendoza brought up the fact that a Breezeway connecting the garage to the house was a requirement by the ZBA. Mr. Grant was concerned that this would increase the nonconformity of the structure. Ms. Becker clarified that the Board needed to focus on the side and rear set-backs for this project, however, she acknowledged that the front set-back in the R-2 zone was forty feet (40') for the front yard set-back. It was noted that a fifteen foot (15') variance would be needed for the front set-back and a ten foot (10') set-back variance would be needed from the water. Mr. Grant suggested moving the structure ten feet (10') closer to the road so that only one variance would be needed. Mr. Mendoza felt it would be easier to move the structure forward and request the fifteen foot

(15') set-back for the front yard. Mr. Grant advised him that DEC approval would also be needed. Mr. Mendoza acknowledged that he had already received DEC approval. Inasmuch as DEC approval had been received the Board suggested it might be in Mr. Mendoza's best interest to proceed with his present plans and request both the front and rear variances.

Ms. Becker brought up the fact that the driveway regulations needed to be considered. The driveway regulations were reviewed and it was Mr. Grant's belief that the Town Highway Superintendent also needed to approve the location. It was noted that the driveway location could not meet the four hundred foot (400') requirement but Mr. Mendoza did have approval from the County regarding this. Mr. Grant advised that the Town Highway Superintendent would need to grant approval as well. Mr. Nayer pointed out that the Town did not have jurisdiction over a County road. This would be clarified. Ms. Becker asked if Mr. Mendoza would be eliminating the second driveway once the properties were merged. Mr. Mendoza advised her that the other driveway had become overgrown and would become part of the garden.

Ms. Becker noted that the Taconic Shores building application had an incorrect size for the building which was corrected by Harvey Weber.

Ms. Becker questioned whether anything was subject to the merging of the lots. Mr. Mendoza advised her that the merging of the lots was already in progress. It was clarified that any approvals would be subject to the merging of the lots.

Ms. Becker advised that a recommendation would be written and presented to the Zoning Board of Appeals. Ms. Becker also reminded Mr. Mendoza that he would need to provide her with the other half of the County permit.

## **PUBLIC HEARING**

**None**

## **SUBDIVISION/SITE PLAN**

### **2009-9 SITE PLAN REVIEW – MARIA ZADRIMA –Golf Course Road**

Architect Lucio DiLeo appeared before the Board representing Maria Zadrina. Mr. DiLeo reminded the Board that he appeared in December with plans to demolish the Zadrina's existing house and build another one in its place. He presented his revised plans and acknowledged that the height had been reduced by four feet (4') by dropping everything down. He did note that the height was still at thirty two feet (32') and a variance would be needed.

Mr. DeLeo presented the Board with his revised plans. Ms. Becker pointed out that this is on an undersized lot. Mr. Grant clarified that a second story could be placed on an existing building, however, the footprint could not be expanded. Mr. DeLeo acknowledged that the footprint would be expanded by moving the house forward of it with a screened porch. Mr. Davis noted that the

footprint could be reconfigured as long as the size of the footprint wasn't increased and a second story could be added as long as it didn't go higher than twenty-five feet (25') per *Zoning Regulation 232-24 B.(2)a [2] [4]*. Mr. Grant advised Mr. DeLeo that a variance would be needed to expand the footprint and to exceed the height limit. Mr. DeLeo did acknowledge the fact that the house could be shifted over the exact footprint but was trying to keep it as far away from the lake as possible. He shifted the house eight feet (8') away from the lake and toward Golf Course Road. He did note, however, that the structure was bigger than the previous structure. Mr. Davis questioned the proposed square footage compared to the existing square footage of the footprint. DeLeo clarified that the proposed square footage is seventeen hundred (1700) square feet but he did not have the square footage of the previous structure at this time but estimated it at fourteen hundred square feet (1400).

Ms. Becker noted that the existing building is a non-conforming structure, as it is not one hundred feet (100') from the lake on an undersized lot and any modification must follow strict guidelines. The Board reviewed *Town Code 232-24 B.(2) – Modification and Replacement of such non-conforming buildings and structures*. Ms. Becker questioned whether the pre-existing undersized lot set-backs apply. Mr. Grant believed they did not inasmuch as the Zoning Code, as written, says that if you are on an undersized lot you have to build in the same footprint. Mr. DeLeo referred to the guidelines that he followed but was advised that these referred to a non-conforming lot that is not developed. Ms. Becker pointed out that the set-backs are for the R-2 district. Mr. Grant noted that if you are building on the same footprint the set-backs are grandfathered.

Mr. Grant suggested building on the same footprint and adding a second story that goes up to twenty-five feet (25'). He noted that a structure that is bigger and/or higher would need a variance. Mr. DeLeo questioned whether a screened-in porch was included in the dimensions. Mr. Grant advised him that if it was covered it was considered part of the structure and if it was uncovered it would be acceptable. Mr. Davis did note that Mr. DeLeo could request a variance for a larger structure.

Ms. Becker questioned whether the Board needed to proceed with the Site Plan Review at this time. Mr. Grant advised her that this was not necessary. Mr. DeLeo clarified that the height was one issue that needed to be dealt with and he said he would try to locate the house closer to the existing footprint. He did acknowledge that the porches on the structure did protrude from the existing footprint. Mr. Grant believed the ZBA might be agreeable with Mr. DeLeo moving the footprint back further away from the lake as the non-conformity would be reduced. However, Mr. Grant noted that an increase in the footprint would require a much higher level of consideration for a variance.

Ms. Becker would write Mr. DeLeo a letter citing the regulations he needed to follow. Mr. DeLeo was given an application to fill out and return to the Board along with a fifty dollar (\$50.00) fee. Ms. Becker would also write a letter of referral to the Zoning Board of Appeals on behalf of Mr. DeLeo and the Zadrimas.

## **2010-7      SITE PLAN REVIEW – JAY & MONA ARONSTAM – Lincoln Drive [Copake Lake]**

Ms. Becker advised the Board that the Aronstam project had been given a building permit and construction started without a Site Plan Review by the Planning Board. She explained that inasmuch as this is a non-conforming structure, a Site Plan Review is required. Ms. Becker noted that she contacted the Building Inspector who immediately contacted the Designer and Builder

who complied and brought in all the needed information after the fact. The Board questioned the reason behind the mix-up and Ms. Becker clarified that this was believed to have been a conforming structure that was discovered to be a non-conforming structure due its complexity. She further explained that the only reason this is a non-conforming structure is due to the fact that it does not meet the rear set-backs. Ms. Becker noted that everything the Aronstams are proposing is conforming and does meet the set-backs.

Ms. Becker added that the project Designer, Linda Chernasky, informed her that there are several other home owners in that neighborhood who are also planning to expand their houses and this is something the Board needs to be aware of.

Ms. Becker acknowledged that a variance is not needed for this project as all the set-backs have been met with the exception of the rear set-back making it a non-conforming structure. She noted that it does meet the set-back from the lake and has a second story that is under twenty-five feet (25'). Mr. Grant noted that inasmuch as this is a non-conforming structure under the Code, a Site Plan Review is needed. Jeff Nayer explained that the small addition is conforming and the set-backs are met, however, the non-conformity is pre-existing and needs to be addressed to avoid setting precedents in the future.

Mr. Grant noted that the main reason this has been brought before the Board was to ensure that the septic system is the proper size for the expansion of the structure. Ms. Becker pointed out that the existing septic system contains a one thousand (1,000) gallon tank which is adequate for the proposed three (3) bedroom structure. She noted that a one thousand (1,000) gallon tank can sustain a maximum of three bedrooms. Ms. Becker acknowledged a letter that was received from Baldwin & Sons who said that they checked the system and it seems to be normal. Ms. Becker also acknowledged a letter that was received from the Property Association stating that the Aronstams are members of the community water association.

Mr. Grant did not believe there were any issues regarding this application. The plans were reviewed. Mr. Grant noted that the structure contained a Screened-in Porch and questioned whether this was considered an expansion of the footprint. Jeff Nayer brought up the fact that this had been allowed on the Luchow structure.

Mr. Davis reviewed the project plans and discovered they contained four (4) bedrooms instead of the proposed three (3) bedrooms. Mr. Nayer explained that when he spoke with Mr. Aronstam, he was told that the applicant intended to move the three (3) downstairs bedrooms to the second floor. Mr. Davis advised that the plans contain three (3) bedrooms downstairs with a den/playroom that connects to a full bath that can function as a bedroom as well as an additional bedroom that says bedroom four (4). Ms. Becker acknowledged that this makes a difference in the present septic system. Mr. Davis pointed out that Ed Ferrato, the Zoning Enforcement Officer almost classified the den as a fifth (5<sup>th</sup>) bedroom because it opens up to a bathroom.

Mr. Grant questioned what the septic system requirements were for a four (4) or five (5) bedroom home. Ms. Becker acknowledged that a four (4) bedroom home required a twelve hundred and fifty (1250) gallon septic tank and a five (5) bedroom home required a fifteen hundred (1500) gallon septic tank. A review of the Building Permit showed the number of bedrooms as three (3) with the number of bathrooms at three (3) as well. Mr. Davis noted that four (4) bathrooms were shown on the plans with a potential of five (5) bedrooms. Inasmuch as

there were inconsistencies in the application it was decided that this application would be sent back to the Building Inspector for a Stop Work Order so that the inconsistencies could be clarified. Ms. Becker noted that an application for a Site Plan Review needed to be mailed to the applicant so they can complete and return it to the Board.

## **PARCEL REVIEW and/or CONSULTATION**

**None**

## **MINUTES**

Ms. Becker asked the Board for a motion to approve the minutes of the regular meeting of April 1, 2010. On a motion made by Mr. Savarese and seconded by Mr. Filipovits, the Board voted unanimously to accept the minutes of the April 1, 2010 meetings.

## **ADMINISTRATIVE**

**ZIGLER:** - Mr. Davis questioned the progress on the Harriet and Douglas Ziegler residence on South West Colony Road inasmuch as it appeared that no work was being done on this property. Mr. Davis was concerned that there was no protection along the waterfront to stop any of the silt. Ms. Becker advised him that a letter will be written to them inquiring what the status of their project is inasmuch as it was noticed that the shoreline is exposed

**HOUSING RESOURCES:** – Ms. Becker advised the Board that the Housing Resources application has not officially been withdrawn. Ms. Becker said she was thinking of writing a letter to Kevin O’Neill stating that she had seen the article regarding the sale of the property and was asking whether he intended to withdraw this project. Diane Wilson addressed the fact that she had read that if an investor is found in the meantime, he will continue to pursue this and had no intentions of withdrawing the project. Mr. Grant, Mr. Davis, Mr. Urban and Mr. Nayer suggested that nothing be done at this time and just wait out the six (6) months needed to deem the project abandoned. The Board was in agreement with this.

**BRAUNSTEIN:** – Ms. Becker informed the Board that Mr. Braunstein is still working on his project. Mr. Spampinato contacted the Zoning Board of Appeals this month for a variance requesting access to the island. Mr. Nayer acknowledged that he had spoken with Mr. Spampinato last month regarding a set-back variance from the lake for the leech fields as it is not possible to meet the one hundred and fifty foot (150’) set-back, however, nothing had been received by the Zoning Board as yet. Mr. Grant believed that the Zoning Board has a provision whereas if you can’t site a leech field more than one hundred and fifty feet (150’) back you can

do it within one hundred feet (100'). Mr. Davis believed that was applicable with a special Jet Aerobic system. Ms. Becker pointed out that their Site Plan could not be approved without the proper variances.

**LOCAL LAW #2, JUNKYARDS & MOTOR VEHICLE STORAGE:** - Ms Becker reminded the Board that Attorney Howard wrote a review of the Motor Vehicle Law and gave it to the Town Board in January. She noted that the Town Board gave it to Tal Rappleyea, the Town Attorney who commented on it and made concrete suggestions based on Attorney Howard's letter. Ms. Becker acknowledged that she had spoken to Attorney Rappleyea regarding this and told him that she believed this to be a "band-aid" approach to the situation. She advised Attorney Rappleyea that she believed what really needed to be done is to review all the zoning regulations regarding automobile repair shops, body shops, gas stations and junk yards and coordinate the whole thing which this amendment does not do. Ms. Becker noted that the Town Board has to deal with the permits again in June.

**SALT DOME:** - Ms. Becker advised the Board that the Highway Department Engineer approached her and spoke to her about building a Salt Dome on their property in West Copake. She acknowledged that she advised him that a one hundred foot (100') set-back from the rear border is required. She then noted that the Engineer went to look at this and he cited the regulation that stated an accessory building only needed to be ten feet (10') off the rear border. Ms. Becker agreed with this. Mr. Davis questioned the height of the building. Ms. Becker advised him that it is below thirty-five feet (35'). Mr. Grant questioned whether it had to be less than twenty-five feet (25') if it was on an undersized lot. Ms. Becker did note that the lot is under the three (3) acre zoning and the accessory building is five thousand (5,000) square feet. Ms. Becker made note of the fact that there are eighty-seven (87) acres behind this property. Ms. Becker did acknowledge the above mentioned law that states that an accessory building needs to be ten (10) feet from the property line and noted that this building will be placed thirty (30) feet from the property line. Ms. Becker advised the Board that the Building Inspector would classify this structure as similar to a Water Tank, Cooling Tower or a Bulk Head. Ms. Becker read a letter she wrote regarding acceptance of the Height Exception Regulation Town Code # 232- [A-E] 1 and acknowledged that forty-five feet (45') would be allowed. She also advised him that the rear set-back requirement in the "R" Zone is one-hundred feet (100') and an area variance would be needed and suggested applying for a Building Permit. She pointed out that she received a letter stating that the structure was an accessory building and acknowledged that the set-backs comply with the regulations. The Board was in agreement with this.

**ARCHITECTURE OR PROFESSIONAL ENGINEERS:** - Ms. Becker advised the Board to read the attachment regarding Architecture and what is and isn't permitted, as they are relevant to the Planning Board's reviews. She pointed out that Farm Buildings and other buildings used solely and directly for agricultural purposes were listed under buildings that did not need the required stamp or seal of a licensed, registered architect or professional engineer. She also noted that also listed were single family residential buildings fifteen hundred (1500) square feet or less and alterations costing ten-thousand dollars (\$10,000) or less that do not involve changes affecting the structural safety or public safety of the building or structure. Ms. Becker also noted that the Board required Salvatore Cascino's drawings be stamped. Mr. Urban believed there was no

relevance to the drawing being stamped. Ms. Becker did advise that the Board can no longer ask for stamps on drawings for farm buildings.

**CASCINO ARREST:** – Ms. Becker asked if everyone was aware of the arrest of Salvatore Cascino. Ms. Becker brought up the fact that she wrote a letter to Agriculture and Markets Commissioner Hooker which included the articles on the arrest of Mr. Cascino. She acknowledged that she did this in response to his letter saying Ag and Markets could not comment on the application as there are still on-going legal problems.

**DEVELOPMENT TOO CLOSE TO WETLAND:** – Ms. Becker advised the Board that a building permit has been issued and work has begun on a development that is too close to a Wetland and/or Stream and is another violation of the Zoning. She did acknowledge that it was not believed to be the fault of the Building Inspector as the Wetland and/or Stream was not indicated on the plat map that was taken to the Building Inspector. Mr. Nayer questioned whether this is truly a Wetland. Mr. Davis questioned whether the Surveyor was aware of this and whether it has been designated a true Wetland area. Ms. Becker noted that this was not the case, however, she acknowledged the fact that it is a Wetland. Mr. Davis believed that it had to be designated by the DEC. Ms. Becker noted that a Building Permit was given for a development forty feet (40') feet from a stream. Mr. Nayer pointed out that on the plat plan the Building Inspector received there was no indication of a stream and noted that the stream doesn't flow year-round and it is not designated Wetlands. It was noted that the surveyor should have accounted for this on the plat map. Mr. Davis believed that if this is a seasonal Wetland, it shouldn't be much of an issue. Ms. Becker would do further research on the matter.

**REGULATION 232-24:** –Inasmuch as the Zoning Book is being re-printed Ms. Becker and Mr. Grant are considering some re-wording of the Regulations 232-24 Chapter which deals with non-conforming lots so as to clarify the actions of the Planning Board. Mr. Grant noted that the principal problem with this chapter is that the density control schedule refers to undersized lots and the language in the Zoning Code refers to non-conforming lots. Mr. Grant made note of the fact that the two are very different things as non-conforming lots actually refer to a very specific thing. Mr. Grant quoted the Code which states that *“Any undeveloped lot in a subdivision which was not properly approved by the Planning Board and/or not filed in the office of the county clerk and these dimensions do not conform with the requirements of this chapter shall be considered a non-conforming lot”*. Mr. Grant clarified that this refers to anything that was approved in error or was not filed with the County Clerk. Mr. Grant addressed the fact that he and Ms. Becker discussed this and concluded that there are a number of subdivisions that have never been filed with the County Clerk that are valid still valid subdivisions because the developer chose not to go forward with their plans. Mr. Grant pointed out that this language would apply to these subdivisions that may suddenly reappear having non-conforming lots. Mr. Grant pointed out that our density control schedule refers to undersized lots which have the dimensional requirements there. Mr. Grant suggests putting the definitions up front. Mr. Nayer suggested adding a size to an undersized lot. Mr. Grant brought up the fact that as it stands now, a person can only build on the existing footprint of any undersized lot that is developed. Mr. Grant went on to clarify that a non-conforming lot is an undeveloped lot whereas an undersized lot is developed. Ms. Becker suggested adding definitions to clarify things and avoid confusion.

Mr. Grant suggested adding a definition for an undersized lot as well as a non-conforming lot so the Board can make the decision whether they want undersized lots to apply only in the “R-2” and “B-R” districts where it makes more sense or have all those restrictions apply to an undersized lot in the “R” district. Mr. Grant did advise that this would be a change in the zoning and would need to be approved by the Town Board. Mr. Nayer suggested bringing the changes before an attorney before presenting them to the Town Board. Ms. Becker believed that any changes should be presented to the Town Board. All were in agreement with this.

**TRAINING:** – Ms. Becker informed the Board that Mr. Savarese attended the training course “Dutchess County Planning Federation Training.” Mr. Savarese brought back hand-outs for everyone. Ms. Becker also informed the Board that she and Mr. Filipovits attended the “Groundwater Resources Presentation” given by Steven Winkley of New York Rural Water and by Russell Urban Meade from the Chazen Company who does all the water studies and work and planning for Dutchess County. Ms. Becker presented the Board with a book she made from the presentation should anyone wish to review it. Ms. Becker reported that the main source of water in Columbia County is groundwater. She continued to note that it was realized in planning that in cluster houses community water and sewer work well and one can keep a safe separation between septic and well on five acres, however, anything in between is questionable. Ms. Becker pointed out that it was previously believed that an acre and a half (1½) was safe for drinking water and septic systems, however, that is not the recommendation at this point in time. She addressed the fact that there are three main aspects to groundwater contamination. She noted that the brown fields and the pollution can be controlled as well as the storm water damage which can be managed and fixed. However, they haven’t been able to control and fix septic system contamination at the municipal level which they are focusing on. Mr. Filipovits expressed concern about the salt used on the roads in the winter and discussed different computers that are being used on the trucks to portion the amount of salt correctly for the specific roads they are maintaining.

**CASCINO DUMPING:** – Mr. Davis brought up the fact of the high levels of asbestos in the debris Mr. Cascino has dumped on his property and asked whether this is in the process of being removed. Linda Gabaccia addressed Mr. Davis’s questions and reported that there had been plans to cover the area, however, now it is believed that more digging is anticipated before this will be done. Mr. Davis asked whether this process could be expedited as he had concern that this could contaminate our water system. Ms. Gabaccia did acknowledge that more will be done but she is not aware of the timing. Mr. Davis questioned whether the Judge can force Mr. Cascino to set a date for which this has to be addressed and taken care of. Ms. Gabaccia did make note of the fact that she has plans to contact the Attorney General’s office regarding this. Ms. Becker asked if the Board would like to write a letter to the Town Board regarding this. Mr. Davis was in favor of this as he believes there is a potential that the Town’s water system can be contaminated. Mr. Davis suggested Ms. Becker write a letter to the Town Board expressing concerns that the toxic waste found on Mr. Cascino’s property could be contaminating our Aquafer and what the plan would be if that happens. It was decided that a letter would be written to the Town Board addressing this.

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

## **ADJOURNMENT**

There being no further business, on a motion made by Mr. Davis and seconded by Mr. Urban the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 8:50 p.m.

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Marcia Becker, Chair

**Please note that all referenced attachments, comprising 13 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**

March 13, 2010	Rappleyea to Copake Town Board (2)
April 21, 2010	Becker to Knox (1)
April 23, 2010	Ferratto to Copake Planning Board (1)
April 2010	Architect or Professional Engineer Exceptions (1)
April 17, 2010	Becker to Ferratto (1)
April 6, 2010	Becker to Gallup (1)
April 6, 2010	Becker to Singh (1)
April 6, 2010	Becker to Beck (1)
April 15, 2010	Becker to Spampinato (1)
April 21, 2010	Becker to Hooker (3)