

**Town of Copake
Zoning Board of Appeals
Minutes- May 27, 2010**

The regular monthly meeting of the Zoning Board of Appeals of the Town of Copake, was held on Thursday, May 27, 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, Hilarie Thomas, Town Attorney Tal Rappleyea, and Michael DiPeri. Leslie Wood and Dustin Bessette were not present. An audience of about 12 were present, including: Town Board Member Bob Sacks, Ralph & Donald Shadic, Building Inspectors, Planning Board Chair, Marcia Becker, and Ed Ferratto, Zoning Enforcement Officer.

Minutes:

The approval of the minutes of March 25, 2010 was postponed until the June meeting. Frank asked that the Board wait for Leslie to be present, since she was chair to that meeting. There were no objections from the remaining Board Members. The minutes were not approved.

The minutes of April 22, 2010 were reviewed.

Hilarie made a motion to accept the minutes of April 22, 2010, this was seconded by Frank. The motion carried, unanimously.

Correspondence:

The following correspondence was read;

1. Copake Planning Board to ZBA 5/8/10 (Pasach).
2. Zoning Enforcement to Planning 4/23/10 (Aronstom).
3. Copake Planning Minutes 5/6/10
4. Copake Planning Board to ZBA 5/8/10 (Zadrina).
5. Columbia County Planning to ZBA 5/19/10 (Pasach).

New Business:

1. **Chapter 232 and Zoning questions for Attorney:** A discussion ensued over an issue of interpretations of some of the zoning laws. Particularly the confusion it creates for the public when they request a building permit. It was also discussed whether it would be best to address the confusion now and make the recommendations to the Town Board or wait until the Comprehensive Planning Board completes their document. Jeff suggested that the book, Chapter 232 be reviewed page by page as time allows. Bob Sacks highly recommends this, as the Comp Plan will not be ready for some time. Attorney Rappleyea explained the process for changing local law. Any zoning law changes would be recommendations to the Town Board.

2. **Training with Town Attorney:** After approval from the Town Board, Tal Rappleyea is agreeable to conduct a training to the ZBA members specifically for matters of Zoning. All ZBA members agreed that this may be better, since this would be geared to their needs more so than some of the trainings they had attended in the past. The role of the Zoning Board of Appeals would be the topic. The dates of July 17, & 24 were agreed upon, and through consensus via E-mail after everyone has had the opportunity to reference their calendars. It was also suggested that the Planning Board could be included, should they desire with some areas they agree need to be addressed.

New Applications:

1. **Application 2010-04, Michael & Barbara Braunstein, Golf Course Rd, Copake Lake, Area Variance, Lake setback for septic & bridge.**

Attorney Spampinato, representing the Braunstein's enlightened the ZBA members of the proposed subdivision. He introduced Nick Demos, Project Engineer, and Mr. Braunstein, owner. The requested variances pertain to Mosquito Island. The maps, plans, and documents were reviewed by the Board. This proposed subdivision is part of a seven lot subdivision that is currently before the Copake Planning Board. Two variances would be needed, one for the septic and one for the footings of the bridge. Mosquito Island is a narrow 4.5 acre parcel. We are limited to a very narrow corridor because of the required 150 foot setback from water on all four sides.

After reviewing the plot plan of Mosquito Island, showing the proposed septic system outside the required 150 foot setback. It was noted that the house would be within the 100 foot setback. Mr. Spampinato pointed out that included on the plot plan were color coded lines showing the various water levels, indicating the average high water level usually in the spring and the average low water level usually in the late summer/fall. Color photos were passed around to show high water in the spring and the fall water line after the dam was pulled down. The Columbia County Health Dept has required that this specific system for the island be an engineered fully filtered, sand filtered raised bed system. They are taking a safer and more conservative route, to which Mr. Braunstein is in agreement.

Nick Demos explained that because the plot is an island and of the setback requirements we are limited to the very center of the island. Part of the tanks are within the 100 feet, but the sand filters and leach fields are not within the 150 feet. The tank will be a sealed tank with sand filters.

Frank asked what the expected life of such a system. The answer depends on the water usage, and properly maintained with a 5 year pump out, approximately thirty years. The sand would need to be removed and replaced. Frank then asked how you control individuals to comply with a 5 year pump out. Mr. Spampinato advised the Board that currently there is no law in NY State or in Columbia County to enforce this, it is only a recommendation. Mr. Demos added that these parcels will be within a Homeowners Association, but the 5 year pump out was not yet placed on the list of rules and regulations.

Question as to whether the measurements for the system and the setback from the water were generalized from the aerial surveys the ZBA requires drawings with exact measurements because of the sensitivity of this application. The DEC would need to approve as well as Columbia County Health Department.

Jeff asked if this variance is refused how will it affect the remaining subdivision. Mr. Spampinato responded that it would dramatically be affected.

Frank then asked if the size of the proposed house were to be reduced in size, a 3 bedroom, could you then meet the 150 foot setback for the septic. Mr. Demos replied no would still not be able to meet the setback.

Jeff asked about the bridge plans. Mr. Spampinato explained that DEC required a precast or culvert to allow for the continuation of water. Mr. Braunstein wants to allow the continued use by canoes and Kayaks by constructing a bridge with footings and a concrete wall on the top. The question was raised as to how a fire truck or emergency vehicle would pass. The response the road and bridge would be built to specs.

A question was asked of Attorney Rappleayea, as to how long a variance if approved would be good for, the answer a variance goes with the land. Mr. Spampinato quickly responded that approval could be granted with conditions.

The ZBA decided that this application would need to be referred to the following: The Copake Lake Conservation Society, The Columbia County Planning Board, Copake Planning Board, and the Town of Taghkanic. In addition, approval would need to be granted from NY State DEC, and The Army Corps of Engineers. Additional information would need to be supplied regarding the sand filters and septic system. Also the drawings of the proposed bridge with the specs, and finally the exact measurements for the location of the house and system on the plot plan.

Frank made a motion to accept this application, this was seconded by Mike. The motion carried, unanimously.

Public Hearing is scheduled for June 24, 2010.

2. Application 2010-05, John Hauseman, 15 Memory Lane, Copake, Area Variance, setbacks, addition to house.

Mr. Hauseman was present and came forward to answer questions pertaining to his application. He was asked where Memory Lane was located and answered, first right off of Cove Road on the south side of the lake. He has an undersized lot. He is requesting side lot variances, to replace the existing deck with an addition the full length of the house, which would be on footings. He would install a truss roof to replace the flat roof in existence to a height of 24 feet. He was questioned about his septic tank which is exactly ten feet from the foundation, and is a five-hundred gallon tank. His house is a one bedroom house.

Concern was raised regarding the septic tank being ten feet from the foundation, what would be the distance from the proposed addition? It was determined that this application would need to be referred to the Copake Planning Board.

Frank made a motion to accept this application, this was seconded by Mike. The motion carried, unanimously.

The Public Hearing is set for the June Meeting.

3. Application 2010-06, Mark & Tonya Frickey, 1363 County Rt 7A, Copake, Area Variance, setbacks, addition to house.

Mr. Frickey came forward to answer questions. The maps, application and plans were reviewed by the Board members. The existing three bedroom house would remain a three bedroom. The deck would be enclosed to become a sun room. This proposed plan would be placed on a 1.3 acre parcel that meets the front yard setbacks, but not the rear and side.

He was asked about the list of abutters, whether he included those across the road, he did not and would get this information to the ZBA office.

This application would need to be referred to the Copake Planning Board.

Hilarie made a motion to accept this application, this was seconded by Mike. The motion carried, unanimously.

The Public Hearing is set for the June meeting.

Public Hearings:

Hearing had been postponed, applicants were late in arriving.

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

Application # 2010-03, Lloyd Pasach, 502 Center Hill Rd, Copake, Area Variance, Lake setback to build a garage.

Frank recused himself.

Jeff read the recommendations from the Copake Planning Board, and the County Planning Board. Although the County agreed with the recommendations of the County Highway Department, in regards to the proposed driveway, the ZBA continued to express concerns. Mr. Pasach referenced the site plan and showed that the proposed driveway would be adjacent to the old driveway.

Mr. Pasach provided the ZBA with the documentation that his two parcels had been recently combined and properly filed with the County Clerk Office. He had received prior approval with TSPOA and DEC.

Jeff asked if the applicant would consider moving the garage forward from the lake by ten feet. This would give them the 100 feet setback from the lake as required, and this variance would not be needed the application originally asked for two variances by moving the garage forward only one would be needed for the front yard setback. Mr. Pasach agreed, the front yard variance request would be 15 feet from road right of way.

Jeff asked if anyone present wished to comment on the proposal, no one came forward, he then asked for a motion to close the hearing.

Hilarie made a motion to close this Public Hearing, this was seconded by Mike. The motion carried, unanimously.

Jeff led the Board Members through the questions of permitted actions for an Area Variance. 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.

1. 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.

Answer: No

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue other than an area variance.

Answer: No

3. Whether the requested area variance is substantial.

Answer: No

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Answer: No

5. 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.

Answer: NO

The variance was granted for a garage to be built, no closer than 100 feet from the lake, 15 feet from the road right of way. No living quarters in the upstairs of the garage. The building plans would need to match the stamped approved plans of the ZBA.

The Action Taken form to be filed with Town Clerk, with copies to building Inspector, Zoning Enforcement Officer, County Planning Board, Copake Planning Board, and the applicant.

Old Business:

1. Application Check List: ZBA members approved the form with water mark, but diagram of the Plot Plan would need to be added. Mike will e-mail this document to Charles Dobson to update the Town website.

2. Article 78: Tal Rappleyea has grant the attorneys for the Nielson's another extension.

3. Application # 2010-01, Gary Beck, (AKA Ameristop), 1817 Rt 23, Craryville, Area Variance, gas pump installation. Tabled

4. Linder Application # 2009-01: Tabled

Frank made a motion to adjourn this meeting, this was seconded by Mike . The motion carried. The meeting adjourned at 9:50 PM.

The next meeting will be held on Thursday, June 24, 2010, at 7:00 PM.

Respectfully Submitted,

**Theresa A Traver
Recording Secretary**

