

**Town of Copake
Zoning Board of Appeals
Minutes - June 25, 2009**

The regular monthly meeting of the Zoning Board of Appeals of the Town of Copake, was held on Thursday June 25, 2009, at the Copake Town Office, 230 Mountain View Road, Copake, NY. The meeting was called to order by Chairman, Jeff Nayer at 7:05 PM.

Present at this meeting were; Jeff Nayer, Leslie Wood, Shawn McClain, Michael DiPeri, and Frank Peteroy. Hilarie Thomas was unable to attend. An audience of seven were present including, Bob Sacks, Copake Town Board Member, Ed Ferratto, Zoning Enforcement Officer, and Michael DiPeri. After review of the agenda, it was decided by the board to move By-Laws and Training from new business to old business.

Minutes:

The minutes of May 25, 2009 were reviewed.

Leslie made a motion to suspend the reading of the minutes and to accept the minutes of May 25, 2009 as written, this was seconded by Frank. Shawn asked to abstain, since he was not present at the May meeting. The motion carried.

New Business:

Public Hearings:

None

Correspondence:

A letter from DEC was received in regards to an application, not yet filed. Therefore the letter was noted and will be filed in the ZBA office until the application has been properly filed.

Jeff reported to the Board members that Marcia Becker, Planning Committee Chair had requested to view the applications 2008-09, and 2008-08; Ziegler. Some issues arose because there had been no site-plan review. In the future the ZBA Action Taken On Appeal Form must be very clear and precise. Bob suggested that to assist with better communication that the chairs of the ZBA, Planning, along with Building Enforcement, and Building Inspector meet, a Building Over-Site Committee. Since we have new people on the board now this could help, with ,which details need to go to the Planning Board and

which do not. He said that they used to do this years earlier but did away with it as people on these Boards gained experience, it could be started again on a temporary basis. Ed said communication is key, Building Inspector needs the communication from both the Zoning Board and the Planning Board. In other towns, they file this information by the tax map number, so that all information is located in the same place, easier for the building Inspector. He won't have to go everywhere looking for the information.

Jeff also stated that an application review checklist should be done to assist with a quick review of any future applications coming into the ZBA office to check for completeness. Ed suggested that 232-28.D, be utilized.

Task - Force Vehicle Storage Recommendations:

Task-Force Vehicle Storage recommendations were tabled since no one on the ZBA Board had seen them. Bob to e-mail them to the Board members for review and comment at the July meeting. The Town Board is asking for review and comment from both the Planning board and the ZBA.

Budget:

This was briefly reviewed, but since more information was needed to complete a proposed budget, this was also tabled.

New Applications:

Application # 2009-01, Lisa & Mark Nielson, SW Colony Rd, Copake Lake, Area Variance: Proposed building. Ms. Lisa Nielson was present and came forward to answer questions regarding the application. She explained that the plans she had submitted were for a proposed house that had not been built and now there was a change of plans, that it would be a utility shed for storage and bath house with a bathroom. The building would be 20 x 20. Currently it is a vacant parcel of land which is split by the private road, Southwest Colony Road. There has been no site Plan Review, nothing has gone before the Planning Board. Discussion ensued regarding under-sized piece of property in the R-2 district, a total of .88 acres. This is a conforming lot. Questions arose as to why the new proposed plans were not included with this application, the ZBA was unsure what the building of the new plan would look like, there was no floor plan. There was reference to a Health Department approved septic, but documentation of this was not provided. Shawn asked about the DEC approval since the building would be within 50 feet from the lake. Frank asked about the roof pitch for runoff. Jeff asked about the distance of the septic to the lake, DEC and Health Department would need to sign off. Leslie asked why she was building the bath house, first, and what the hardship would be. Ms. Nielson responded that the bath house was needed because the proposed house when built would be too far a distance to go to the bathroom, and that a bath house would be preferred to a port-a-let. It was determined that the following would be needed for this application to proceed: 1.

Abutter Input, 2. Septic system plan, 3. DEC Letter for building 50 feet from the lake, 4. DEC approval of septic, 5. Approval from the County Health Department for the redesigned septic to include the house and new proposed building, and 6. Building plans. The application would be forwarded to the Planning Board for their input. Leslie asked why are we making her do all of this when we know that there is no way that it will conform? Shawn mentioned that we should wait to see what the abutter, Health Department, Planning Board, and DEC have to say before coming to a conclusion. Jeff and Frank asked that the applicant put stakes out to show the proposed location for this building and for the proposed septic for the Board Members to do an on-site review.

Shawn made a motion to accept the application and set up a Public Hearing for July 24, 2009. This was seconded by Frank, the motion carried, unanimously.

Application # 2009-02, Thomas Shepherd, 25 Birch Hill Road, Craryville, Area Variance: Height of Fence. Mr. Shepherd, came forward to answer questions. Frank asked why he wanted to put a 6 foot fence. He replied that the house which was built in the 40's, is located very close to the road. He has been there for 30 years without an issue, but since the road was widened, gravel is hitting the house. Now that the road has been improved the cars travel by very fast. So fast, in fact, that stones have gone through his windows. When asked if a 4 foot fence would not work, he replied that because of the dip and angle a 6 foot fence would just cover his windows to protect them. He also mentioned that he has previously planted trees as a means of protection. He called Haupt Tree Care, the trees were sprayed, but the health of the trees isn't improving. The company informed him that the native spruce have some sort of disease in this area. He believes that the trees may eventually die. The fence would be located between the trees and the house. When asked as to the distance from the road the fence would be located, he informed the Board that the roadway was 34' to the center and 22' from the edge. Leslie has asked for directions to view the property, she wants to see it. Mr. Shepherd continued that he was not attempting to cut off the site line of the road, just to protect his house. Frank asked if the proposed fence would be on his property, he responded that yes indeed the fence would be located between the trees and the house. The cars go to fast, even in the winter cars go off the road and into our yard. Frank asked about the type of fence, he also requested that a photo of the fence to be provided. Mr. Shepherd agreed and said that it would be a cedar fence by Berkshire Fence. Jeff asked that the Planning Board review the application for their opinion.

Shawn made a motion to accept the application and set up a Public Hearing for July 24, 2009. This was seconded by Mike, the motion carried, unanimously.

Before continuing with the remainder of the meeting, Jeff Wienstein asked to come forward. He requested information about an application that he had been issued a variance in 1988, to attach a garage to his house. The construction has never been done, and he can't find the ZBA approval to get a building permit. His property is on LakeView Road, Copake Lake. He informed the Board members that the setbacks were 8ft on the sides and 25ft in the back, and beyond the 100 ft from the lake, all within regulation.

Frank asked about the location of the septic and leach field. The tank was under the deck and the leach field next to the driveway, and the location of the garage and door was vital to his getting in and out without driving over the leach field. He also wanted to incorporate a little shed behind the house which houses his furnace and hot water heater into the garage. It was uncertain if time limits had passed and since there is difficulty in locating the original file (storage). He was told to submit a new application, many things have changed in the 21 years.

Old Business:

Zoning Law Wording:

It was decided that there would be no further work regarding this issue, as no one had the extra time to tackle this job. Bob said that all should have been clarified when Lawrence Howard had been at the meeting last fall. Leslie said she had asked past Zoning and Planning Board members why the different restrictions of measuring height had been put into place and was informed that was so that McMansions were not going in on postage stamp sized parcels, overbearing existing smaller houses. Bob cautioned the members that "you need to promote the law and protect the town 25 years down". Frank stated that NY State Municipal law conflicts with Copake Zoning law regarding the under-sized pre-existing issue. Shawn said that things change and we need to be consistent. While exercising common sense. We need to go by the book. Jeff pointed out that people come to us as a relief to the law and everyone's interpretation is different, but we need to look at these issues more closely. Leslie asked about hardships, they need to prove "What is the hardship" is it a real hardship or self created. Every mistake becomes a bigger problem down the line. Ed told the Board members that they shouldn't dwell on the past, you'll make your job a whole lot easier if you just deal with zoning today.

By-Laws Changes:

Jeff informed the other members of the Board that he had contacted The Association of Towns, and that there was no need to have a secretary and a recording secretary. He also said that a Board Member should not represent a client, however a Board Member could represent themselves. He also said that in Section 8, paragraphs 10, 11, & 12 needed to be looked at. Are we doing this, we need to do this. Teri to check with Vana as to how she wants this done. Jeff asked the Board Members to look at the By-Laws and bring their suggested changes to the July meeting.

E-Mail:

It will remain as is, it is not being used and so there is not a need to change.

Training:

The training of July 23, 2009, at Albany Law School, it is an 8 hour training. By show of hands it was determined that Leslie, Jeff, Michael, will be attending. Jeff will

contact Hilary, as to whether she will also attend, and submit the request for the money, and get everyone registered.

Adjournment:

Shawn made a motion to adjourn, this was seconded by Mike. The motion carried unanimously. The meeting was adjourned at 9:10 PM.

Next meeting will be July 23, 2009

Respectfully Submitted,

Theresa A Traver
Recording Secretary

cc: file
ZBA members
Town Board