



COPAKE PLANNING BOARD

SEPTEMBER 3, 2009

MINUTES

DRAFT

Please note that all referenced attachments, comprising 20 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 7:00 p.m. by Marcia Becker, Chair. Also present were John Brusie, Gray Davis, Chris Grant, George Filipovits, Skip Pilch. Jon Urban and Planning Board Attorney Lawrence Howard were excused. Lisa DeConti was present to record the minutes.

ZONING BOARD OF APPEALS – Referrals

None

PUBLIC HEARING

2009-7 MINOR SUBDIVISION – JAMES CARMODY – Hill Top Drive

On a motion made by Mr. Brusie and seconded by Mr. Grant the Board voted unanimously to wave the reading of the Public Hearing. On a motion made by Mr. Brusie and seconded by Mr. Grant the Board voted unanimously to open the Public Hearing. Ms. Becker asked if anyone wished to speak on this application. Being none, on a motion made by Mr. Pilch and seconded by Mr. Davis the Board voted unanimously to close the Public Hearing.

SUBDIVISION/SITE PLAN

2009-7 MINOR SUBDIVISION – JAMES CARMODY – Hill Top Drive

Jeff Plass appeared representing James Carmody. Mr. Plass presented the Board with a revised map showing the actual width of the traveled way going into the Webber property which he believed was the only change requested. Ms. Becker pointed out the note that was added to the map in lieu of going through legal channels. Ms. Becker acknowledged that the only outstanding item was the Right-of-Way which needed to be clarified. She noted that it was decided that a

legal easement was not needed as it was an existing situation. Ms. Becker acknowledged the fact that the width which needed to be added to the map had been done.

After the reading of the SEQR, on a motion made by Mr. Grant and seconded by Ms. Becker, the Board voted unanimously to make a Negative Declaration on the SEQR for James and Helen Carmody. On a motion made by Mr. Grant and seconded by Mr. Pilch the Board voted unanimously to approve the Minor Subdivision of James Carmody and Cove Property Owners Inc. revised August 2009.

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

Larry Proper appeared representing Carl Campbell and Krista Proper who are donating a portion of their property to the Taconic Hills School. Mr. Proper presented the Board with a letter of permission from Mr. Campbell and Ms. Proper allowing him to represent them. Mr. Proper advised the Board that the surveyor did not draw in the fifty foot (50') deeded parcel on the map. Ms. Becker advised the Board that there were several processes being done on this application. Parcel 144-1-15 is being combined with Parcel M3, Parcel 144-1-23 is being combined with Parcel M2 and Parcel 144-1-21 is being combined with Parcel 2B. It was also noted that these changes will not be creating any new building lots in the Town of Copake.

Mr. Brusie asked Mr. Proper what the intended use of the donated land would be. Mr. Proper explained that the tentative plans are to develop a sporting complex and move some of the fields to the donated land. Ms. Becker informed Mr. Proper that any building on the land would require a Site Plan Review and that the Board does not review stand-alone parking lots and entrance roads.

Ms. Becker brought up the fact that neighbors have complained about the lights at the school which might become an issue at the Public Hearing. Mr. Proper told Ms. Becker that he believed there to be a restriction on the parcel already owned by the School restricting athletic lights but was not aware of any restrictions on the land to be donated.

Ms. Becker noted that there was not a perc test for the lot. Mr. Grant questioned whether there were any Right-of-Ways on the map as there was a note stating that Right-of-Ways exist. Ms. Becker acknowledged that there is an easement as well as a Right-of-Way that was indicated in a note on the map but there were none shown. Ms. Becker asked Mr. Proper if he was aware of any Rights-of-Way and he questioned whether this was on the Driveway Location. Ms. Becker read the note on the map which stated that the property is subject to easements and Rights-of-Way of record recorded. Mr. Brusie asked Mr. Proper whether this was about the fifty foot (50') deeded parcel the surveyor left off the map. Mr. Proper explained that what the surveyor left off the map was the fifty foot (50') deeded parcel for access to Bloody Hill Road if that was what they opted to do, but noted that there is no current Right-of-Way. Ms. Becker acknowledged that there is a Right-of-Way that needs to be considered as the note states that there is one. Mr. Grant advised that if there is a Right-of-Way recorded with the County it needs to be shown on the map.

There was a question as to whether a Perc Test was needed inasmuch as no building was planned for the parcel. Mr. Grant pointed out that a building could be placed on the parcel at a later date. Ms. Becker would look into this to resolve the issue.

Ms. Becker questioned whether the Zoning District was on the map. Mr. Grant advised her that it was not. Mr. Proper would have the map revised to show the Zoning District, the Right-of-Way and Driveway information as well as the fifty foot (50') easement.

Ms. Becker advised the Board that part of the parcel is in the Town of Taghkanic. Mr. Grant pointed out that this application needs to be referred to the County as it is within five hundred feet (500') of the Town Line. Mr. Grant also pointed out that parcels from separate Towns could not be merged together to make a conforming lot and as such would remain separate tax lots. Ms. Becker would contact the Town of Taghkanic to see how they would like this handled. Ms. Becker would also find out how complete the application needs to be before it can be sent to the County. Mr. Grant questioned whether contour lines were needed. Ms. Becker believed these might be needed.

Mr. Grant informed the Board that a non-conforming lot would be created as the two parcels cannot be merged across Town Lines and each parcel would be a separate Tax Lot. Ms. Becker advised the Board that the Land-Use Attorney needs to review this. Mr. Proper asked for clarification as to whether this would be a problem if the land remained as all one parcel. Mr. Grant explained that the parcels needed to be a minimum of three acres for Copake. The three lots in question could remain as one parcel or be split into two parcels as long as they were at least three acres each.

Ms. Becker questioned whether this application could be accepted at a Preliminary Sketch. Mr. Grant advised her that this could not be accepted as a Preliminary Sketch as it does not conform to the Zoning Laws of the Town.

2009-10 MINOR SUBDIVISION – LINDSEY LEBRECHT – Yonderview Road

Lindsey LeBrecht, of Copake Lake Realty, appeared in front of the Board for information regarding a listing she presently has on Yonderview Road owned by Joe Flood. She explained that Mr. Flood has a farm house for sale which someone is interested in purchasing. Ms. LeBrecht went on to explain that the property needs to be closed on before December 1, 2009 in order for the buyers to take advantage of the incentive for first time home buyers.

Ms. LeBrecht continued to explain that the intent is to carve out five (5) acres to include the pond. She acknowledged that the property will be surveyed and will be at least three (3) acres to conform with Zoning Laws.

Ms. LeBrecht advised the Board that Mr. Flood is the surrounding land owner of all the property and assumed that a Public Hearing would not be necessary. Ms. LeBrecht asked the Board what was needed to complete this application at the October meeting. Mr. Grant advised her that a survey showing all of the boundaries was needed as well as a letter from Mr. Flood in lieu of a Public Hearing stating that he is in favor of the subdivision. Mr. Pilch added that any sheds and/or buildings need to be shown on the map as well.

Ms. LeBrecht clarified that she would need to make sure the property is more than three acres, obtain a new survey with the Zoning District shown, produce a letter from Mr. Flood stating that he is in favor of the subdivision, provide a subdivision name, as well as a North Arrow on the map and show any easements, sheds and/or buildings on the map.

Ms. Becker asked if this could be accepted as a preliminary sketch and Mr. Grant advised that this was not possible as there is no survey at this time. Ms. Becker asked if this needed a referral from the County. Mr. Grant questioned whether the property was further than five hundred feet (500') to Route 22. After a discussion it was acknowledged that this application has to go to the County if it is less than five hundred feet (500') of Route 22.

MINUTES

Ms. Becker asked for a motion to approve the minutes of the August 8, 2009 meeting. Mr. Grant questioned a letter from Diana Wilson that was received at the previous meeting. Ms. Becker explained that the letter was handed to the Board and discussed at the last meeting and everyone did not receive a copy at that time so it was included in this month's packet.

There being no changes on a motion made by Mr. Davis and seconded by Mr. Grant the Board voted unanimously to accept the minutes of August 8, 2009 meeting.

ADMINISTRATIVE

MORATORIUM ON OUTDOOR WOOD BURNING BOILERS: - Ms. Becker informed the Board that a three (3) month moratorium is being proposed on building permits for Outdoor Wood-Burning Boilers. Ms. Becker contacted Patrice Perry at the County Planning Board and asked her how to deal with this. Ms. Becker was advised that the regulation of Outdoor Wood Burner Boilers may need to be referred to the County Planning Board. This depended on the terms of the moratorium and how the Town purports to regulate OWBs, either through Zoning or Police Power. Options to regulate them at the local level may include zoning regulations, site plan review, or health, safety and welfare laws adopted under Municipal Home Rule Authority. Ms. Becker believes the Town Board is proposing something too early and recommends that they not do anything with this until they know how they are going to regulate it. Ms. Becker believed these boilers are somewhat regulated under Public Utility Structures and Buildings but Mr. Grant advised her that these are private and not public. Ms. Becker pointed out that the Town Board needs to decide upon regulation procedure before a moratorium is imposed. Ms. Becker noted that she heard that some people are throwing their garbage in them. Ms. Becker recommended that the Planning Board advise the Town Board on the regulation. Mr. Grant recommended it be regulated through Zoning and could either be prohibited in certain districts or permitted with a special use permit by the ZBA in others. Ms. Becker pointed out that these boilers are already prohibited in Taconic Shores.

MOTOR VEHICLE STORAGE CHANGES: – Ms. Becker informed the Board that she spoke with Ed Ferratto regarding Motor Vehicle Storage Changes and he has made a list of his

recommendations as well as a list of applicable state regulations for the Town of Copake. Ms. Becker believes the entire law (Chapter 156 Town Code) needs to be reviewed. For example, Junkyards are referred to several times although they are not allowed in the Town. She believes the definitions need to be clarified and feels a Site Plan Review should accompany the applications. Through a Site Plan Review, screening and other environmental impacts would be addressed. Mr. Brusie asked if this would be required every year. Ms. Becker pointed out that a Site Plan Review is good for three years and the Board would need to be advised of any changes made within that three year period. Ms. Becker noted that the yearly fee of Twenty Five Dollars (\$25) should be more in line with the other fees such as building permits, subdivisions, and zoning appeals. She also noted that all the fencing would be covered by the Site Plan Review as well as the screenings and environmental impact issues. Mr. Grant suggested that at the same time the Use Regulations are being amended, Auto Repair should also be amended from a permitted use to a conditional use contingent upon a Special Use Permit from the Zoning Board so each time the license comes up for renewal, the applicant would have to apply again. He also noted that conditional use is reviewed by the Zoning Board every year. This may be an option to a Site Plan Review. Ms. Becker suggested that the whole law be reviewed and revised and noted that Ed Ferratto made several recommendations. The Board was also in agreement with this.

COMPREHENSIVE PLANNING MEETING: – Mr. Davis informed the Board that several issues came up during the Comprehensive Planning Board Meeting. Mr. Davis acknowledged that most of the concern was centered on attracting new business to the Town. Mr. Davis brought up the fact that some people feel the Planning Board was too strict regarding business in the Town. Mr. Davis disagreed with this as he didn't remember turning down any applicants during his term on the Board. Mr. Grant brought up the Self-Storage application that was turned down as there is no use in the Zoning Code for this type of business. Mr. Davis also made mention of the fact that there was much concern on what could be done to improve the Down-town part of the Town. He also acknowledged that street lights and sidewalks were suggested as well as ways to bring back the General Store. Mr. Grant advised that special taxation districts would need to be set up for anyone that would benefit from sidewalks. Mr. Davis also notified the Board that the subject of affordable housing was discussed at the meeting. Mr. Davis also pointed out that there was a discussion of possibly setting up several meetings for particular types of local business or farmers so that everyone's opinion could be heard on the subject. A discussion ensued as to the perception of the Planning Board being against businesses in the Town and how this could be corrected. Mr. Brusie suggestions this could be improved by education. Mr. Grant pointed out that this issue would be more with the ZBA than the Planning Board. He noted that the Planning Board has absolutely no discretion inasmuch as they can't favor some people over others as they have to follow the code and the law. He explained that the code is the code and the law is the law and the Planning Board needs to go by both of them and apply it to everyone equally. Mr. Pilch suggested drafting a check-list.

TRAINING SESSION : – Ms. Becker advised the Board that a free Training Session is being held on September 29, 2009 on the subject of Planning and Zoning Case Law and Land Use Planning held at Columbia Greene Community College to which she was planning to attend. She noted that anyone else wishing to attend could also do so.

BUDGET MEETING: – Mr. Filipovits reported on the Budget Meeting and advised the Board that it was brought down to two thousand dollars (\$2,000) from eighteen hundred dollars (\$1,800).

DIANA WILSON'S LETTER: – Ms. Becker reviewed Diana Wilson's letter. Ms. Wilson clarified that her intent was to suggest that it would be helpful if Board members would be more specific when they were discussing draft and final versions of documents so that one would know what was being referred to.

SHAGBARK FARM AND OCTOBER GLORY FARMS: – Ms. Becker informed the Board that Shagbark Farm and October Glory Farm are eleven hundred and eighty nine (1189) acres in Copake with a lot of the acreage fenced. Ms. Becker advised that she had written a letter to Nancy Heaslip of the New York State Department of Environmental Conservation regarding this but has not heard back from them as yet. Ms. Becker noted that Eric Kiviat from Hudsonia who could possibly evaluate the environmental impact of fencing off the 1189 acres of land in Copake. Mr. Grant questioned if there was any law on the Books regarding this. Diana Wilson brought up the fact that she had spoken to Ralph Shadic, the Building Inspector, who said that the deer in the back of his house are going back and forth trying to get into a part of the field that had been fence off. Mr. Filipovits questioned whether these were two different farms. Ms. Becker clarified that they are two different names but are owned by the same person, Ursula Covino.

ZBA REFERRALS: – Ms. Becker informed the Board that she sent letters to Buddy at the Copake Lake Conservation Society to inform them of the activity that is taking place on Copake Lake. Diana Wilson questioned whether the Planning Board has taken any note of Steve Winkley's Ground Water Report. Mr. Grant acknowledged that the Conservation Society has dedicated people that monitor the water quality. Mr. Davis added that the quality of the lake has never been in better shape and condition. Ms. Wilson clarified that Mr. Winkley's report has to do with the geological condition under Copake Lake. Ms. Becker acknowledged that the Board can enforce their zoning which is what they did with their Zoning Referrals. Ms. Wilson clarified that Mr. Winkley's report deals with ground water and the geological formations as well as the use of the ground water. Bob Sachs advised the Board that Ms. Wilson was suggesting that the Planning Board review Mr. Winkley's report as there are pockets in the Town that are considered over-built. Ms. Becker advised him that they have no jurisdiction regarding this. Mr. Sachs noted that the review would be in an informational capacity to enlighten the Board to this and then be considered in the SEQR as part of the application process at Copake Lake.

MATT CAIN LETTER: – Ms. Becker advised the Board that she received a letter from Matt Cain regarding the lights of Key Bank being more intense then they need to be according to the Site Plan Review approved several years ago. Ms. Becker will write a letter to Ed Ferrato so that he can look into the situation and enforce the regulations.

CARRY OVER

The following matters were carried over to the next meeting:

- 2009-5 BOUNDARY LINE ADJUSTMENT– JOHN HILLIARD – Deer Track Lane**
- 2007-11 MAJOR SUBDIVISION – FLS – Farm Road – Karen B. Cohen**
- 2008-07 SITE PLAN REVIEW - CATAMOUNT DEVELOPMENT CORP. –
State Route 23**
- 2008-23 MINOR SUBDIVISION/BLA – Lawrence Linder and Sandra Batpie –
Lakeview Road (Taconic Shores)**
- 2008-24 MINOR SUBDIVISION – Al Fair – Breezy Hill Road**
- 2008-21 MAJOR SUBDIVISION – Michael B. & Barbara S Braunstein – Off Golf
Course Road**
- 2008 – 25 SITE PALN REVIEW – Steve and Joan McMasters – Breezy Hill Road**

ADJOURNMENT

There being no further business, on a motion made by Mr. Grant and seconded by Mr. Brusie the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 8:30 p.m.

Marcia Becker, Chair

Please note that all referenced attachments, comprising 20 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

August 5, 2009	Wilson to Becker (1)
August 11, 2009	Spampinato to Becker (1)
August 18, 2009	Becker to Heaslip [NYDEC] (2)
August 19, 2009	Becker to Sinisi [Copake Lake Conservation Society] (1)
August 13, 2009	Becker to Nayer [ZBA] (1)
August 18, 2009	Becker to Nayer [ZBA] (1)
August 13, 2009	Becker to Nayer [ZBA] (1)
August 21, 2009	Wilson to Becker (1)
	Planning and Zoning Land Use Training (1)
August 17, 2009	Perry [Col. Co. Planning] to Becker (1)
December 23, 2008	Ferratto to Town of Copake (2)
	Motor Vehicle Junkyard Law (5)
September 1, 2009	Copake Planning Board to Town of Copake (1)
September 1, 2009	Copake Planning Board to Town of Copake (1)