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Please note that all referenced attachments, comprising 29 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.

**COPAKE PLANNING BOARD
MINUTES of August 7, 2008**

A regular meeting of the Copake Planning Board was called to order at 7:00 p.m. by Marcia Becker, Chair. Also present were Chris Grant, Gray Davis, George Filipovits, Skip Pilch, John Brusie and Jon Urban. Planning Board Attorney Lawrence Howard, Town Litigating Attorney Carl Whitbeck and Town Engineer Doug Clark also attended. Lisa DeConti served as secretary of the meeting in order to record the minutes.

ZONING BOARD OF APPEALS – Referrals

None.

PUBLIC HEARING

**2008-13 SITE PLAN REVIEW – SW Colony Road – Douglas & Harriet Ziegler –
New**

On a motion made by Chris Grant and seconded by Mr. Brusie, the Board voted unanimously to waive the reading of the Public Notice. On a motion made by Mr. Grant and seconded by Mr. Filipovits the Board voted unanimously to open the Public Hearing.

Ms. Becker asked if anyone would like to speak regarding the Site Plan Review for Douglas and Harriet Ziegler. There being none, Architect Jaclyn Tyler appeared with Douglas & Harriet Ziegler and presented letters from Susan and Michael Melnick, Jessica Sacks and Elsie Hommes in support of the changes proposed by the Zieglers.

Ms. Tyler informed the Board that they appeared in front of the Zoning Board of Appeals two weeks ago and at that time there was concern over the placement of the garage. It was agreed at that time that the garage would be removed from the application which resulted in the ZBA granting approval with the condition of DEC approval for the expansion of the house.

Ms. Tyler had a question regarding the zoning code in reference to the garage and its placement and whether it needed to be an attached or unattached garage. Mr. Grant clarified that an unattached garage would only be permitted with a breezeway connecting the garage to the existing home. He also made note of the fact that two variances were under consideration inasmuch as a variance would be needed for an unattached garage as well as another which would be needed for placement within 100 feet of the lakeshore.

The Board notified Ms. Tyler that the plan could not precede without the proper map as the garage was included in the map they were reviewing. Mr. Davis asked if the discussion could continue contingent on removal of the garage. It was agreed that the discussion could proceed and Ms. Tyler would supply the Board with drawings showing any changes the Board required.

Mr. Davis advised the Board that details on the septic system needed to be reviewed. Mr. Ziegler informed the Board that he had installed a septic system in August 2006. Ms. Tyler noted that this information would be included in the final map.

Ms. Becker acknowledged that the application and fee had been received at the previous meeting. A review of the check list followed and Ms. Becker noted that the Board did not have any documentation from the Department of Health. Mr. Clark advised the Board that the BOH does not get involved with existing systems and inasmuch as Mr. Ziegler had repaired his pre-existing system this was not required. After the review, the Board approved the variances to the house but noted that the Zoning Board would have to approve the changes to the garage before they could proceed with that variance.

A discussion ensued as to whether this application would remain open or whether a new one would be submitted. It was decided that the present application would remain open and tabled until the next meeting. The Public Hearing was left open as well.

2007-02 SITE PLAN REVIEW – Copake Valley Farm - 13 Lackawanna Properties LLC– Salvatore Cascino

Ms. Becker advised everyone that enough materials had been gathered by the Board to conduct a Public Hearing on Copake Valley Farm which Mr. Grant conducted.

The new application and map were reviewed and Ms. Becker noted that the new application contained all that was required by the Board.

Attorney Anna Kirschner, representing Copake Valley Farm, advised the Board that the changes to the last map were primarily addressing concerns of the Board and wanted to clarify that applications has previously been submitted and were consolidated into one new application as requested. She noted that there were some minor changes to address concerns of the Board such as a notation regarding a proposed leaf storage area which had been removed inasmuch as the Composting operation is not being proposed at this time. She noted that there was a small portion of a previously started retaining wall that was too close to the DEC wetlands which was also removed from the plan.

Ms. Kirschner advised the Board that Mr. Cascino requested that the proposed grain storage buildings be moved slightly further back and this was reflected as well. She also noted that the proposed cattle barn building plan reflects that there is a concrete manure pad with four foot walls on it. She clarified that this was not properly reflected on the survey when their surveyor did the plan. Ms. Kirschner noted that she asked their surveyor to include this in the revised plan.

Ms. Kirschner stated that at the last Board meeting she had been asked that the wells be located on the property and clarified that the wells had always been located on the property and the only well that was not shown is the one that is within the garage. Ms. Kirschner believed that these

were the only changes noted. Mr. Davis made note of the fact that the Barn had been reduced in size and Ms. Kirschner pointed out that this had not been changed from the previous application and that this was done prior to the previous meeting at the Board's request.

Mr. Davis questioned that on the last application there was a grinder and asked whether this was still included. Ms. Kirschner advised him that it was and is referred to as a hopper. Mr. Davis asked for clarification that it was only the leaf storage area that had been removed. Ms. Kirschner noted that Mr. Davis had requested that the farm road be sketched in and pointed out that it is only an estimate. Mr. Davis then questioned the location of the fuel storage tanks to which Ms. Kirschner clarified were along side of the building.

Ms. Kirschner advised the Board that there is an approved permit from the DEC and photos which would show the containment area around each of the fuel tanks that would withhold any of the fuel stored in the tanks should they leak. Mr. Filipovits questioned when the permits were acquired and whether they had been updated. Ms. Kirschner clarified that the first ones were issued 2007 and expire in 2012.

On a motion made by Ms. Becker and seconded by Mr. Davis, the Board voted unanimously to open the Public Hearing concerning the Site Plan Review for Copake Valley Farm

DEBORAH COHEN, Copake Falls... asked that the Public Hearing remain open so that the public can continue to address this issue. Ms. Cohen addressed the subject referencing the ways she has learned that Mr. Cascino has broken the law in other communities and would continue to break the laws in Copake.

She noted that in 1993 Mr. Cascino entered into a \$300,000 settlement agreement with the US Environmental Protection agency to begin a project to clean up friable asbestos, PCBs, and drums containing unknown hazardous materials at a site he owns in Waterbury CT. She noted that as of October 2007 these fines were unpaid which led to a new settlement agreement to which the fines are still unpaid.

Ms. Cohen went on to report that in October 2003 Mr. Cascino's and his company Ten-Mile River LLC were sited by the DEC for violations in Dover Plains that included unlawful disposal of solid waste, disturbing a protected stream, conducting unlawful activities in wetlands and failing to obtain a water discharge permit. She continues that by mid 2005 Mr. Cascino had failed to carry out the agreed upon clean-up and was fined \$5,000 by the DEC.

She noted that Dover Plains town officials began enforcement action against Mr. Cascino around that same time for numerous acts and violations of their towns zoning ordinances and codes. This was ultimately decided by an appeals court in the towns favor in November 2007 but on April 9, 2008 the Dover Plains Town Board authorized its attorneys to take necessary legal action to enforce the legal settlement and court order dated November 2007.

She reported that in November 2003, the Westchester Solid Waste Commission reported that Mr. Cascino had been fined for illegally dumping waste at a transfer station in Croton and noted that his truck was registered with Copake Valley Farm. Gordon Maxwell executive director of the Putnam County department of Solid Waste and Recycling said

illegal dumping is taking place in Dutchess and Colombia Counties as well, inasmuch as Westchester and Putnam County laws are tougher.

In May 2005 the New Milford Town Council rejected an offer by Bronx County recycling and Mr. Cascino to buy a former brass mill located in an industrial zone.

In January 2007, plans by Mr. Cascino to process construction debris at an illegal dump in Dover Plains were rejected by the Department of Environmental Conservation. A letter denying the request stated that the department considered the facility owners record of compliance, the illegal disposal site located there, the unresolved enforcement issues at the proposed site and the environmentally sensitive nature of the site in making this determination not to allow processing.

In May 2008, two Copake Valley Farm tractor trailers were stopped in a state police road block on Route 22 in Dutchess County and sited for operating overloaded vehicles. Drivers were ticketed as much as \$14,000 in fines.

Ms. Cohen believes that given an opportunity, Mr. Cascino will continue to break the law. She noted that New Milford CT and the DEC in Dover Plains decided not to give Mr. Cascino another opportunity to break the law in those towns.

Ms. Cohen stated that she has heard that the Planning Board must review these applications at face value; however, she believes that these applications must be viewed in the context of public welfare and preservation of our community. She noted that Copake Zoning Law 2321C says 'pursuant to town law and the State of New York, Zoning Code is enacted to protect and promote public health, safety, moral, comfort, convenience, town aesthetics and general welfare.'

Ms. Cohen requested that the Board give consideration to the fact that Mr. Cascino has broken the law in the past, and will continue to break the law in the future. Ms. Cohen asked that they not give him this opportunity.

MAC SIMMS, Copake Falls... also rose to speak to the Board stating that he did not hear anything about septic fields in the proposed plans. Mr. Simms wanted to speak regarding the work of the Zoning and Planning Boards as bodies that make judicial decisions.

Mr. Simms noted that the Zoning Board exists to guide people to proper avenues to which they move beyond the law. He acknowledged that both boards are concerned with maintaining the law and upholding the spirit of the law and granting benefits to applicants to either or both boards and in the process of doing that grant a variance allowing people to extend beyond the limits set forth by the towns. Mr. Simms believes that in order to protect the Copake citizens the Board should consider trust and character.

He believes that when an applicant respects that code and the spirit of that code it is easy to work together and feels that either the Board or applicant can come up with a final determination of an acceptable limitation placed on the variance granted. He noted that if

any of the Boards had reason to question the trustworthiness or character of the applicant this should be considered.

Mr. Simms feels that is the Case of Mr. Cascino the Board needs to consider at least five things. The letter of the law, the purpose and spirit of the law, the benefit of the applicant, trustworthiness of descriptions and assertions which are part of the application and the likelihood of the applicant abiding by the restrictions or provisions set by the Board.

Mr. Simms believes that only ‘the benefit of the applicant’ is pertinent regarding Mr. Cascino as the other four would lead to rejection of the application. He believes Mr. Cascino’s record should be considered and advises the Board to turn down Mr. Cascino’s request at this time. Should there be a subsequent appeal to the ZBA he urges that the Planning Board in its recommendation recommend a variance not be granted.

JOHN VISCARDI... also believed that trust and character should be considered and noted that if what the public has to say wasn’t important, there would not be a process known as a public hearing. He feels that Mr. Cascino and his operations are adversely affecting the town. He believes that an applicant needs to prove what they intend to prove and it is in the Board’s power to ascertain this at the applicant’s expense. When character comes into play he believes an applicant should not be allowed to play the game when he breaks the rules continually.

HOWARD BLUE, Copake... informed the Board that he also has a small scale compost operation that he constructed from directions on a web site. He noted that the instructions were to include a mixture of green and brown such as leaves which turn brown over time as well as algae. He noted that he was aware of truckloads of materials suspected to contain construction debris and expressed his concern that this debris may be contaminated. He believes that this is the utmost concern of the community.

STUART CARDUNER... reiterated that he believed Ms. Cohen’s point regarding the fact that the zoning laws were created to protect the people and the Board’s job is to protect the people. He believes that Mr. Cascino is not a farmer and that he is a waste hauler with no intention of farming. He believes that if Mr. Cascino is serious about becoming a farmer, he should come before the Board and convince the Board that he is serious about becoming a farmer. He feels the proof of the burden is on Mr. Cascino to prove this.

Mr. Carduner spoke of an interview on the radio with Mr. Cascino and noted that the reporter said that Mr. Cascino would not comment because he did not trust the press and attorneys didn’t know what they were talking about. He feels that if Mr. Cascino does not believe what his attorneys are saying, he should appear before the Planning Board himself and if he does not appear, the Board should refuse to proceed until Mr. Cascino appears before them. He implored the Board to do their role in protecting the town.

MORRIS ORDOVER, Copake... referenced the Town Board meeting a couple of months ago referencing a state representative who spoke about aquifers in the area. Mr. Ordover noted that there is a major aquifer starting underneath Copake Valley Farm that stretches down into Dutchess County. He also noted that whatever goes onto Mr. Cascino's land will go into that aquifer. He noted that he is on the agenda tonight with less than an acre of land and commented that Mr. Cascino has built structure after structure without Board approval and questioned how we can believe him from here on.

HARVEY WEBBER, Copake... advised the Board that he is Chairman on the Environment Committee in Copake and is also on the Columbia County Environment Committee and suggested that before the town does anything they need to find out a number of things. He informed the Board that there is a ground study being done by Steve Winklee of Earlwater and advised that the character of Mr. Cascino needs to be considered as well his history. He noted that whatever leeches into the water will flow into Dutchess County and maybe even Connecticut. He also asked the Board to consider the Ten-Mile River and why it was closed down. Mr. Webber believed that this was closed down inasmuch as it was an environmental disaster. He asked the Board to consider that this is also an environmental situation and suggested waiting a little longer to finalize matters.

IAN JARVIS... wanted to address Mr. Cascino and his illegal dumping. He advised the Board that they would be giving him permission to do so by through the zoning laws. Eh felt a precedent would be set and a template would be created whereas other dumpers can come into Copake and do the same as Mr. Cascino is doing. He made note of the fact that Mr. Cascino does not live here and lives in the town of Larchmont where they passed a law restricting the use of two-stroke blowers for leaves with the sole concern that during the months of May to October it might affect the health of the children there. He noted that this is not where Mr. Cascino lives, this is where he dumps.

MILBREY ZILLEY, Copake Falls... stated that she has been watching Mr. Cascino's operation for many years and has been hearing that this will be a place where Black Angus Cow will graze. She notes that for the past year, ledge has been chipped away and leveled on Mr. Cascino's property and points out that cows do not have any trouble walking up and down hills. She questions why this is happening. She made note of the fact that Mr. Cascino's original plan was to lower the land along Weed Mine Road and have a gravel mine. She commented that the condition of the corn on Mr. Cascino's land this year is of poor quality. She also provided a letter from Ms. Roberta **Roll** (*Need to check name*). Ms. Zilley also asked to Board to protect the town from the fact that Mr. Cascino does not obey the laws of the town and is concerned that others will follow his lead.

LOU LEVITT, Copake... commented on the enormous out-of-scale operation on Copake Valley Farm and questioned the use of the 7-Bay Garage on the farm as well as the height of the proposed silo he heard to be 11 stories. He asked the Board to consider whether Mr. Cascino's proposed plan was out of scale. He noted the large paddock field

and questioned what was going to be put inside the large silo. He also questioned whether the plan justified what was going to be put into such a large silo and what else would go into them.

Mr. Levitt commented on how big the manure pad would be and how many heads of what would generate manure. He brought up the fact that there was a problem with Odyssey Farm a few years ago with their manure operation overflowing into the fields and noted that hundreds of fish died as a result. He questioned whether there was any possibility of this happening and suggested the Board get some technical assistance before approving something like this.

He also questioned whether the plan shows the bridge the DEC ordered to be taken down and wondered how the town could approve a plan with an illegal bridge on it. He also addressed the fact that if the DEC ordered the stream to be restored to its original condition how a plan could be approved showing the stream before the restoration. He made note of the fact that many things need to be researched and commented that this appears to be a business in the shape of a farm. Mr. Levitt was also concerned that this might set a precedent.

EDGAR MASTERS, Copake Falls... also requested the Board to keep the public hearing open so that the plans could be reviewed and further questions could be asked. He suggested that the plans remain available for viewing. Mr. Masters questioned whether Mr. Cascino was present and noted that during three Planning Board meetings as well as several visits to the Planning Board during his tenor Mr. Cascino never appeared. He commented on the reasons why Mr. Cascino did not make an appearance before the Board and wondered if the reason was that he did not wish to make ingenious comments on his own.

Mr. Masters noted that the Board has a record of being friendly to farmers and agricultural and noted that 6 of the 7 farmers he mentioned had successfully constructed new barns in the last 20 years with town approval and encouragement. He noted that when asked, the applicants provided complete site plans, answered the Board's questions in person and received their approval in due course.

He questioned whether Mr. Cascino, a waste hauler from the Bronx, living in Larchmont, who consistently breaks Copake town and zoning laws, who violates DEC environmental laws and ignores state supreme court restraining orders, not to mention a consent decree by the Attorney General will have such an epiphany that his Copake property will become a bonified farm. He also questioned Mr. Cascino's integrity and noted that Mr. Cascino's attorneys, both past and present, have argued that Mr. Cascino does not break the law, is being persecuted and is a victim of his own employees and/or partners. Mr. Masters noted that what Mr. Cascino's lawyers do successfully is to use the intricacies of law to stall, fail to provide requested information, and enter into settlement agreements with no intention of complying with the agreed upon terms.

Mr. Masters stated that in 1997 the ZBA opined that composting was agriculture and after that so much household trash was dumped on acres of land adjacent to the protected

Nostra Kill that the DEC closed the dump. He noted that Mr. Cascino agreed to clean up the dump but never did and years later the DEC accomplished the clean-up

He continued that in August of 2001 Mr. Cascino applied for a building permit and his representatives signed an application which said clearly 'for farm equipment only' to which Mr. Masters interjected has been rarer than hen's teeth. He commented on the fact that this is a tractor trailer maintenance facility for Mr. Cascino's trucking business which operates under the name of Copake Valley Farm.

Mr. Masters brought out the fact that in 2003 the Town of Copake brought Mr. Cascino to court because the town believed that Mr. Cascino was excavating, mining and operating a trucking business. Mr. Cascino agreed to a court ordered settlement to cease these activities but he did not comply forcing the town to return to court seeking contempt charges.

In 2003, he said that Mr. Cascino applied to the DEC for a permit to mine up to 70 acres of gravel and after much public outcry and a factual review of the significant environmental impact the DEC withdrew it's early approval and the project was dropped.

Mr. Masters said that throughout most of this decade Mr. Cascino has reshaped much of his land by using hydraulic hammers and huge bulldozers with rock rippers. He has removed and sold acres of topsoil and gravel and dumped hundreds of truckloads of C&D possible toxic waste and has removed as much as 20 feet of good farm land along Route 22 all the way east of the Noster-Kill. He asked what bonified farmer would do this to his land if 200 beef cattle were his true objective.

He continued that in 2006 Mr. Cascino installed plastic culverts in the protected Noster-Kill without DEC approval and in the process damaged that portion of the Noster-Kill. He built a huge concrete bridge over the Noster-Kill without either DEC or DOT approval and built a road on the southern boundary in violation of town zoning. He noted that when Mr. Cascino failed to remediate, the State Attorney General filed a law suit in State Supreme Court for unlawful filling of wetlands, disturbance of a protected stream, unlawful disposal of solid waste and discharge of storm water associated with construction activity. This was said to have led to another consent decree in which Mr. Cascino agreed to fines and substantial remediation most of which has not been accomplished.

In 2006 Mr. Masters noted that Mr. Cascino began extensive construction on two adjacent farm stand buildings on Route 22 for which he did not seek a building permit.

He stated that in November of 2006 Copake obtained a temporary restraining order from the State Supreme Court against Mr. Cascino and his multiple companies mandating that all construction, excavation and depositing of materials be halted. Mr. Masters commented that many in the room have seen the violations of this temporary restraining order.

He noted that photographs have been taken of Mr. Cascino's property from 2003 to present that show some crops being grown. Mr. Masters indicated that some of Mr. Cascino's property has been rented in the past but also show the blasting of his land, earth

removal, dumping and spreading, storage of large amounts of non-agricultural materials, all activity which is not relative to farming and a pattern of non-farm activity.

He requested the Board to consider how long it will be after approval before the trucking business returns to the building on Lackawana Road and how long before commercial C&D processing begins on a site too close to the protected Noster-Kill. He asked the Board to consider how long it will be before the barn storage facility, which is sized four-times greater than all the corn his total acres could produce in a banner year, becomes an ethanol plant or how long before his so-called barn sized at 45,000 square feet becomes the basis of a waste transfer facility.

Mr. Masters concluded that there is no doubt that Mr. Cascino is not a farmer and that he is a waster hauler and every activity that he has done as a property owner in this town supports this fact.

VICKIE DODSON, Copake... commented that Mr. Cascino's property is a very convenient location for dumping inasmuch as trucks can come right out of the city and directly up Route 22 and turn directly onto his property. Ms. Dodson finds it hard to believe that there are not haulers from all the five boroughs and parts of NJ who are carefully following this litigation. She believes that if Mr. Cascino is successful the desecration of one of the most beautiful valleys in NYS will go the way of a dump. She expressed concern that this could happen to other available properties in the area.

CARL WHITBECK, Town of Copake Attorney... noted that most of the history of the litigation concerning Mr. Cascino has been gone over with pretty complete detail. He advised the Board that he will provide photographs as well as the consent orders and litigation materials referred to so that they will become part of the record and the Board will be able to rely on that information.

Mr. Whitbeck agreed that it is the responsibility of the Board to protect the town as well as provide due process of law to the applicant even though the applicant does not have a good history of using the law as it should be used. He advised the Board that they have reports from the fire department as well as engineer Doug Clark that should be relied on to be sure all the potential adverse impacts are taken into consideration.

He encouraged the Board to be extremely careful with conditions and to think about enforcing whatever the Board decides to enforce. Mr. Whitbeck believes the town will definitely be involved in enforcement with Mr. Cascino as his history is consistent and he needs to be forced to do what the law requires him to do.

He advised that if the Board is going to approve 'X,Y or Z' to make sure it is clear what Mr. Cascino is allowed to do and what he is not allowed to do on every structure and area of the property so that the town isn't faced with an 8-Bay building that was supposedly going to be an agricultural structure that for 10 years was used for a waste hauling business.

Mr. Whitbeck informed the Board that he will provide the Board with the evidence so that it can become part of the record that the waste-hauling business was licensed at that location in a building that isn't permitted to be used for that purpose in the Town of Copake.

He made note of the fact that Mr. Cascino will be an enforcement problem no matter what is decided and advised the Board to think about any decision that they decide to make and be careful how that decision is drafted so that it will be enforceable. He also advised the Board that he would provide any information that they might need as all the information discussed during the Public Hearing was documented in court documents, photographs, consent orders, violations of consent orders, payments of fines and penalties to various state agencies and other towns. He informed the Board that all of this did happen and he will make it part of the record so the Board can rely on it.

JON URBAN, Board Member... advised everyone that prior to the Public Hearing and meeting, the Planning Board has been sent a number of letters, articles and information pieces that will be available for the public to view. Mr. Urban noted that all of the information and comments were viewed as negative and not positive.

Inasmuch as no one else had anything to report Chris Grant addressed the fact that at the last meeting there were a number of issues and items that were raised that were needed for Site Plan approval and asked Mr. Clark to review these items. Mr. Grant informed everyone that the Public Hearing would remain open.

Mr. Clark advised everyone that the first topic that was discussed at the previous meeting was the issue of composting and in the interim it was decided that this would not be included in the site plan. He noted that the composting operation he observed is not of a scale associated with an agricultural on-farm composting operation and was of a scale of a commercial composting operation requiring a permit from the DEC under part 360. He advised that under the terms of that permit the composting facility is located too close to the Noster-Kill and questioned whether the composting area should be removed to eliminate the composting as a feature of the site. He noted that it was not advisable to leave this issue unresolved to be dealt with in the future as it raises issues of segmentation under the SEQR review as SEQR requires the big master plan.

In terms of the descriptions, Mr. Clark said he had not received the package that was just delivered but noted that the previous Narrative discussed a dual use of farming and composting and if the composting issue is to be eliminated, this would have to be revised and updated. He noted that he did a calculation on the silos and the silos presented would accommodate 1,000 acres of corn and only 140 acres of Mr. Cascino's land is deemed farmable. Mr. Clark made note of the fact that there is silage and grain for a farm's own use and clearly on some scale there are right-to-farm laws that protect that type of activity and the other extreme is that there are grain silo facilities that operate on a commercial basis that are not a right-to-farm issue. He feels there has to be some further explanation or description in this area.

Mr. Clark also addressed the fact that the issue of truck traffic needs to be considered and whether materials will be imported from other sites. He suggested that a schedule of truck traffic be provided. He also noted that it was indicated that there would only be 200 head of cattle and

informed the Board that anything over 300 head of cattle would have to be regulated by the state. Mr. Clark advised the Board that even though there is no approval process, best management practices would still have to be shown as well as accommodations for manure storage and run-off.

Mr. Clark referred to stone being cut when he visited the site as well as concrete pre-cast blocks being dropped off by tractor trailer trucks, steel beams and trusses which Mr. Cascino's attorney implied was material that would be used to build the new buildings. Mr. Clark advised that these materials that didn't fit with the type of building Mr. Cascino was proposing. He mentioned that the set-back from the road didn't comply with the town requirement and in the first step of enforcement and documentation there has been a barrage of paperwork and plans that don't have any date or title that can be referenced.

Mr. Clark said he was waiting until he received the revised narrative as to what the barn consists of and noted that he works with a farmer who is a recent graduate of Cornell University who will review the farm aspects of the building. In a brief review it was discovered that the barn has enough square footage for 200 head of cattle but only 85 will be able to be lined up in a row to be fed. Mr. Clark's opinion is that this doesn't look like the typical farming operation in the area as there are things that just don't add up with this being a farm operation. Mr. Clark informed the Board that he has done work with food waste composting projects, material recycling facilities and land fill closures and feels that this would be a convenient set-up for that use.

In conclusion Mr. Clark addressed the Board noting that this was a preliminary review based on the scattering of information given him and he would like to come back to the Board with an additional review in terms of strictly the farming portion of the project.

Mr. Grant advised that there are various materials and information that Mr. Clark will need to review such as the storm water pollution plan and asked Ms. Kirschner where she was with these items. Ms. Kirschner introduced the gentleman accompanying her as the person who will devise the storm water prevention plan and noted that inasmuch as he was just engaged this week he will need to commence with drawing a plan. Ms. Kirschner said she would like to work with Mr. Clark on the manure storage facility to see what he determines will be sufficient so that there will be no question as to what will be appropriate.

Ms. Kirschner addressed the compost issue and the removal of the grinder and informed the Board that she will present the proper permits received for the fuel storage areas. She then addressed segmentation and noted that agriculture is a Type 2 classification and no SEQR review is required, however, an environmental information form was submitted on questions and requests of Mr. Whitbeck. Ms. Kirschner questioned why segmentation was an issue inasmuch as a SEQR proceeding had not been held and suggested resolving this with Attorney Howard.

Ms. Kirschner made note of the fact that the composting issue was removed from the table because Mr. Cascino wasn't sure he wanted to contemplate putting acres and acres of land under composting. In reference to the shed building, Ms. Kirschner noted that Mr. Clark pointed out that the shed included a pusher wall. Ms. Kirschner explained that this was included in the shed in anticipation of the composting operation that is no longer an issue. In regard to the silos, Ms. Kirschner explained that this is referred to as a wet-to-dry operation and one of the silos is to be used to dry the moist corn and once dry will be moved into the other silo.

Ms. Kirschner informed the Board that Mr. Cascino is looking to rent land so as to make his farm commercially feasible. Mr. Grant addressed the fact that there is some question as to whether this is a farming operation or a commercial operation and reiterated Mr. Clark's suggestion that this be reviewed by the Cornell University graduate inasmuch as the Town Board is not qualified to do this. Ms. Kirschner did not have any objection to this review. She then explained the difference between agriculture and commercial operations stated that the Ag and Market ruling explained that it is considered an agricultural activity when a person raises crops, whether on leased property or their own and sells that product. She went on to say a commercial operation would be if her client raised whatever he could raise on his own land and then purchased corn grown by someone else on their own property and brought it in and sold it.

Mr. Brusie advised Ms. Kirschner that this should be in the narrative so that the Board can review it. Ms. Kirschner informed the Board that she received Mr. Clark's letter after she had supplied the Board with the latest information and was not able to update it in time. Mr. Grant noted that inasmuch as this is a new application the Board is required to make a decision in 45 days. Ms. Kirschner questioned whether she was starting all over. Attorney Howard clarified that 45 days is the guideline and if the Board gets the information it needs there is no reason that a decision can't be made at the next meeting. Mr. Grant did advise Ms. Kirschner that she would need to provide the Board with the proper materials for Mr. Clark's review.

Mr. Davis addressed the fact that the clarification of each of the structures on the properties need to be clearly labeled and the application for site plan review and the survey and building applications are not referred to consistently. He noted that building #3 is called a run-in shed and on the plack it is called a proposed open shed for hay while in the application it is referred to as a cattle-hay-storage structure.

Mr. Davis also addressed the fact that during the July meeting Ms. Kirschner mentioned the fact that they were going to house 200 head of cattle and at the June meeting it was quoted as 300. He went on to note that during this meeting it was referred to as 300. Ms. Kirschner clarified that this would not exceed 300 head of cattle. Mr. Davis' other concern was whether the trucks to be used to haul construction debris would be the same trucks that will haul grain and feed. Ms. Kirschner clarified that the trucks used are the same trucks that are being used on Lynn Main's farm on North Mountain Road. Mr. Davis reiterated that it would not be too healthy to use the construction hauling trucks for grain and feed.

Ms. Becker apologized that inasmuch as the last meeting was only 2½ weeks ago it was difficult to get the lists to Ms. Kirschner and asked if she would like them now. Mr. Grant noted that Mr. Clark and Ms. Kirschner need to speak to each other and asked if Ms. Kirschner had any objection to the Town hiring Mr. Clark's Cornell University graduate to review the operations and report back to the Town Board. Attorney Howard advised the Board that Ms. Kirschner's permission was not needed. Ms. Kirschner had no objection. Mr. Gray questioned whether the Town would get reimbursed for this and it was decided that an escrow account of \$5,000 would be set up.

On a motion made by Ms. Becker and seconded by Mr. Davis the Board voted unanimously to create an escrow account in the amount of \$5,000.00 for the purpose of retaining a consultant to look at the farming operations of Copake Valley Farms.

Mr. Davis questioned whether we could move forward before the monies were received from Mr. Cascino. It was addressed that the Board would not be able to move forward on the issue of the consultant but would be able to proceed with the storm water prevention plan as well as the other matters that were of concern.

Under advice of Attorney Howard, Ms. Becker advised Ms. Kirschner that all the unanswered lists generated would be consolidated and sent to Ms. Kirschner in a timely manner so that she can respond.

Ms. Kirschner expressed concern that Mr. Cascino will strongly object to this being a new application and the 45 day process being started over from scratch. Attorney Howard clarified that what Mr. Kirschner presented to the Board will be sent to the County and if the Board is ready it could possibly make its decision at the next meeting which would be well within that time limit.

Ms. Kirschner inquired if there was a time-frame as to review the storm water plan to be submitted. Mr. Grant advised her that Mr. Clark would have to review this and he advised that it is typically 10 days before the meeting.

SUBDIVISION/SITE PLAN

2008-18 MINOR SUBDIVISION/BLA – Weed Mine Road – Luigi and Peter Lanni – New

Attorney Alexander Bloomstein appeared representing Luigi and Peter Lanni and described the property explaining that the map doesn't show the Duksa property line which he believes is in error. Mr. Bloomstein noted that there is a right of way on the deed from the road to the applicant's property. He informed the Board that the original map showed the property as two separate deeded parcels when the brothers obtained the property. Mr. Bloomstein went on to explain that the brothers wish to formally divide the property into three parcels with the brothers owning one parcel each and the third parcel jointly with both brothers owning the right-of-way.

Attorney Howard advised that one of the parcels does not touch the road with the exception of the right-of-way and Attorney Bloomstein acknowledged that the property will not connect the road after the subdivision. Attorney Bloomstein brought out the fact that although the parcel will be a land-locked parcel it will be owned by both brothers.

Mr. Brusie pointed out that James Fuller, who is named as a bordered property owner on the map, is no longer alive and noted the fact that Nancy Brusie, who is also named as a bordering property owner, is no longer Nancy Brusie and this might need to be revised.

Ms. Becker brought up the fact that it needs to be considered that one parcel might be considered an undevelopable piece of land. Attorney Bloomstein acknowledged that this piece of property is not being changed in the transition. Attorney Howard advised that the Board will need to review the existing deeds and it was decided this could be done at the Public Hearing or prior if the applicant wished to send it earlier.

Mr. Davis suggested defining the parcels more clearly on the new map to which Attorney Howard agreed. Ms. Becker advised Attorney Bloomstein that a \$50.00 fee was required and it was noted that this would be provided at the Public Hearing.

After review, on a motion made by Mr. Grant and seconded by Mr. Pilch the Board voted unanimously to accept the map of Peter and Luigi Lanni as a preliminary sketch and schedule a public hearing.

2008-17 MINOR SUBDIVISION/BLA – 37 Cove Road – Morris Ordover – New

Mr. Ordover appeared before the Board requesting a boundary line adjustment in order to erect a garage on his property which needs to be attached to his property pursuant to restrictions in his deed. Inasmuch as there is a pond in front of his house and wetlands to the west on Parcel B he is limited to where he can build which he noted is straight back. Mr. Ordover acknowledged that in order to accomplish this it would encroach on his neighbor's property. He is acquiring Parcel B-1 from his neighbor in order to accommodate the garage so it will stay entirely on his property, and will acquire Parcel B-2 so that he will have an appropriate side yard. Mr. Ordover noted that there are no houses near the proposed boundary line as it is not buildable land.

Mr. Grant advised that it is Mr. Ross' property that is being subdivided and Mr. Ordover acknowledged that he was authorized by Mr. Ross to be his agent. Mr. Grant noted that the Board will need a map of Mr. Ross' property and Mr. Ordover presented the Board with a 1983 map of the property. Ms. Becker advised Mr. Ordover that he can act as the agent for Mr. Ross and Attorney Howard informed that a letter would be needed from Mr. Ross before they could proceed. Ms. Becker advised that if Mr. Ross did not file a new map he would be paying taxes on the property acquired by Mr. Ordover. Mr. Ordover advised that a new map would be filed once he obtained a new deed.

On a motion made by Ms. Becker and seconded by Mr. Davis the Board voted unanimously to accept the sketch of the property of Shelia and Gary Ross as a preliminary sketch and schedule a Public Hearing for the next meeting.

2008-15 SITE PLAN REVIEW/BLA – Franco Mezzetta – Columbia County Route 7 At Birch Hill Road – New

Surveyor Daniel J. Russell appeared representing Franco Mezzetta and although he was not aware of a Site Plan Review offered whatever assistance he could give. The Board advised Mr. Russell that Mr. Mezzetta needed to be present in order to proceed with the Site Plan Review which was postponed to a later date.

2008-16 MINOR SUBDIVISION – Franco Mezzetta – Columbia County Route 7 at Birch Hill Road – New

Surveyor Daniel J. Russell appeared representing Franco Mezzetta on the Minor Subdivision. Mr. Russell explained Mr. Mezzetta's plans to split off and sell approximately 6 acres from his existing property. He went on to explain Mr. Mezzetta's desire to build another house on the

remaining property. It was clarified that Mr. Mezzetta planned to separate his property at the corn field which he would retain so as to preserve the agricultural aspect.

On a motion made by Mr. Grant and seconded by Mr. Davis the Board voted unanimously to accept a motion to accept the sketch of Franco Mezzetta's property on Birch Hill Road and County Route 7 as a preliminary sketch and schedule a Public Hearing for September.

2008-19 SITE PLAN REVIEW – Stephen Kahn – Pumpkin Hollow North – New

Architect Aryeh Siegel and Roger Goodhill appeared representing Stephen Kahn and his request to construct a 3500 square foot single family home. Mr. Siegel informed the Board that he has been working with a site civil engineer and graded the driveway to meet the Town's requirements. He also informed them that he met with the Board of Health regarding the septic system and its placement. He noted that the drawings are being reviewed by the Board of Health at this time.

Mr. Grant questioned whether Mr. Siegel or Mr. Goodhill has been in contact with Larry Proper regarding the entrance to the driveway and it was noted that an application has been presented to the Building Department. Mr. Grant advised them that a letter of acceptance was needed from Mr. Proper. Mr. Grant suggested a review by Mr. Clark regarding the length of the driveway and questioned whether Mr. Khan's engineer would be willing to discuss this with him. Mr. Goodhill had no objections to this.

After discussion regarding access by the Fire Department Ms. Becker questioned whether Mr. Kahn would consider installing a sprinkler system. It was noted that this has been discussed with Mr. Kahn but no decision had been made as yet. In reference to the proposed sloped roof on the plans Ms. Becker questioned whether plans were being made for a retention pond and suggested that this should be considered. Mr. Pilch questioned whether the property was in the Copake or Craryville fire district and suggested that the appropriate fire district be consulted regarding access.

It was noted that an authorization letter needed to be presented to the Board prior to the Public Hearing. On a motion made by Mr. Brusie and seconded by Mr. Davis the Board voted unanimously to schedule a Public Hearing for the September meeting on the Site Plan Review for Stephen Kahn.

MINUTES

On page 4 of the previous minutes regarding the following paragraphs the word '*creek*' needed clarification.

Mr. Brusie questioned a comment made by Ms. Kirschner in reference to drying manure and wanted clarification as to how the manure would be dried. Ms. Kirschner explained that the manure would be used in solid form and not liquid form. Mr. Brusie expressed concerns of the manure leaking into the 'creek' if it was not stored properly.

The sentence referring to 305A and 283 of the General and Municipal Law should read *305A of Agriculture and Markets Law and 283 of General Municipal Law*.

*Mr. Brusie suggested that a formalized list of requests be sent to Ms. Kirschner to which the Board agreed. It was suggested that Ms. Kirschner supply a narrative. Attorney Howard questioned whether an Agricultural Data Statement as required by **305A and 283 of the General and Municipal Law** had been submitted. Ms. Kirschner questioned if the form on the 305A could be used or whether a more suitable Board approved form would apply. Attorney Howard advised that the 305A form could be used depending on the information it contained. He noted that copies of the final application will need to be submitted to the Columbia County Planning Department. He also noted that they have 30 days to respond.*

On Page 6 of the previous minutes the following paragraph needed to be deleted as the information was incorrect.

The short SEQR form was completed and executed. Ms. Tyler questioned whether two separate Public Hearings were needed by Zoning Board and the Planning Board. Mr. Grant explained that there might be concerns inasmuch as the property is on a lake and that would be determined at a later date. On a motion made by Ms. Becker and seconded by Mr. Davis, the Board voted unanimously to make a negative declaration.

Before a motion to approve the minutes as amended Attorney Howard questioned whether everyone was in agreement with the part of the previous minutes relating to Copake Valley Farm. On a motion made by Mr. Brusie and seconded by Mr. Davis, the Board voted unanimously to approve the Minutes of July 16, 2008 as amended.

ADMINISTRATIVE

Review of Minutes at the Beginning of the Meeting - Ms. Becker questioned whether the minutes should be reviewed at the beginning of the meeting. Mr. Davis' brought up the fact that the people might be uncomfortable with this inasmuch as it would take preference to the matters at hand.

Housing Resources – Ms. Becker informed the Board that she received a phone call from Kevin O'Neil requesting to pay his bill. She noted that their bill is in three phases and the money owed is in the amount of \$9,354.55. Ms. Becker advised the Board that Mr. O'Neil had been asked for an escrow deposit of \$12,000.00 for his work with the Board going forward, however, inasmuch as he was not present Ms. Becker did not feel it was appropriate to ask for the escrow until he reappeared. Mr. Grant suggested getting the outstanding bill paid prior to the escrow request. Attorney Howard advised the Board to send the request and agreement for the escrow to Mr. O'Neil and at his next appearance inform him that the Board would not proceed unless the escrow account is activated. It was decided that Mr. O'Neil would be sent the outstanding bill in the amount of \$9354.55.

Catmast – Ms. Becker requested a motion to return the Catmast escrow amount that has not yet been spent. It was noted that a motion was not needed as this should have been decided in the

original agreement. Attorney Howard advised that his bill for the review of the covenants and by-laws was still outstanding.

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.**
- 2006-33 MAJOR SUBDIVISION – Birch Hill Road – Birch Hill Partners, LLC**
- 2007-11 MAJOR SUBDIVISION – FLS – Farm Road – Karen B. Cohen**
- 2008-07 SITE PLAN REVIEW - CATAMOUNT DEVELOPMENT CORP. – State Route 23**

ADJOURNMENT

There being no further business, on a motion made by Ms. Becker and seconded by Mr. Brusie the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 10:45 p.m.

Marcia Becker, Chair

Please note that all referenced attachments, comprising 34 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:

Catmast/Stone Gate at Copake Lake

July 29, 2008	Howard to Becker (1)
July 18, 2008	Melnyk to CPB (1)
July 16, 2008	DeRuzzio to Schmitt (2)

Copake Valley Farm

August 1, 2008	Kirschner to Becker (5)
July 31, 2008	Clark to Becker (2)
July 28, 2008	Shadic to Becker (3)
July 26, 2008	Becker (2)
July 26, 2008	Davis to Becker (1)
July 25, 2008	Becker to Gllagher (1)
July 24, 2008	Howard to Gansowski (2)
July 18, 2008	Becker to Somers (1)
July 18, 2008	Becker to Shadic (1)
July 15, 2008	Kirschner to Becker (3)
July 14, 2008	Questions for Lackawana Farm (1)
July, 2008	The Independent (2)
July, 2008	Short SitePlan Guide (1)

General Correspondence

July 25, 2008	Becker to Davis (1)
July 23, 2008	Ohierich to Ferratto (1)
July 22, 2008	Becker to Town Board (1)
July, 2008	Proposed Budget (1)
November 11, 2007	Bonanno to O'Neill (1)