



# **COPAKE PLANNING BOARD**

**MARCH 5, 2009**

## **MINUTES**

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### **DRAFT**

**Please note that all referenced attachments, comprising 12 pages, are on file with the Copake Town Clerk and in the Planning Board office. An annotated listing of those attachments appears at the end of this document.**

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A regular meeting of the Copake Planning Board was called to order at 7:00 p.m. by Marcia Becker, Chair. Also present were John Brusie, Chris Grant, George Filipovits and Jon Urban. Gray Davis, Skip Pilch and Attorney Lawrence Howard were excused. Lisa DeConti was not present to record the minutes. The minutes were recorded by the Chair.

### **ZONING BOARD OF APPEALS – Referrals**

There being no Zoning Board Referrals, Ms. Becker informed the Board that the Zoning Board of Appeals chose Jeff Nayer as Chair and Leslie Wood as Vice-Chair.

### **PUBLIC HEARING**

#### **2008-27      BOUNDARY LINE ADJUSTMENT – JOSEPH SWIATEK – Island Drive [Copake Lake]**

Ms. Becker reminded the Board that the Public Hearing for Joseph Swiatek remained open from the previous meeting. On a motion made by Mr. Grant and seconded by Mr. Filipovits the Board voted unanimously to waive the reading of the Public Hearing notice. On a motion made by Mr. Brusie and seconded by Mr. Filipovits the Board voted unanimously to close the Public Hearing.

Ms. Becker asked if anyone wished to speak on this application. There being none, Mr. Swiatek represented himself at the hearing.

#### **2009-1      BOUNDARY LINE ADJUSTMENT – WEISENFELD / GOLDEN – Tompkins Road**

On a motion made by Mr. Brusie and seconded by Mr. Filipovits the Board voted unanimously to waive the reading of the Public Hearing notice. 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 was present to speak on the Boundary Line Adjustment of Weisenfeld/Golden on Tompkins Road in West Copake. Being none, on a motion made by Mr. Brusie and seconded by Mr. Filipovits the Board voted unanimously to close the Public Hearing.

## **SUBDIVISION/SITE PLAN**

### **2008-27      BOUNDARY LINE ADJUSTMENT – JOSEPH SWIATEK – Island Drive [Copake Lake]**

Ms. Becker addressed the fact that there were two items that needed to be resolved regarding this application. She noted that there were questions regarding how the Driveway would intercept Lot #10 and added that the easement over Lot #8 needed to be indicated on the map.

Ms. Becker reminded the Board that Attorney Howard stated that if an easement was already in effect it would just need to be indicated on the map. Ms. Becker pointed out to Mr. Swiatek that the easement in question concerned access from Lot #9 over to Lot #8. She questioned whether this easement was in the deed. Mr. Swiatek noted that there were two separate deeds and he believed that the easement was indicated in the deed. Mr. Swiatek explained how the easement affected the lots. Ms. Becker pointed out that there were already two separate lots with an easement in effect. However, Mr. Swiatek noted that this easement is presently too tight to the road. Ms. Becker questioned whether it was in the deed that the adjoining landowner had the right to come across the land at Lot #9. Mr. Swiatek believed that this had been effect for the past nineteen (19) years. Mr. Urban suggested leaving a curve on Lot #9 so that Lot #10 would not be impacted. Mr. Swiatek said he would have an easement indicated on the map for access. Ms. Becker asked for clarification whether Lot #9 has the right to go across Lot #8 and Lot #8 has the right to go across Lot #9 and questioned if these easements were indicated in the deeds. Mr. Grant believed there were no easements needed at present inasmuch as Mr. Swiatek owned both lots. It was acknowledged that an easement would be needed if the lots were sold.

The next item that needed to be resolved was the issue of the driveway. Mr. Grant was concerned that there was a rock shelf in the area of the driveway and questioned how this would be dealt with. Mr. Swiatek explained that this would be handled with a back-hoe without any blasting. Ms. Becker asked if the set-backs would be met to which Mr. Swiatek agreed they would.

Ms. Becker asked if anyone had any other concerns regarding this application. Being none, The SEQR was read. On a motion made by Mr. Grant and seconded by Mr. Filipovits, the Board voted unanimously to make a Negative Declaration.

On a motion made by Ms. Becker and seconded by Mr. Filipovits the Board voted unanimously to approve the Boundary Line Adjustment of the Joseph Swiatek property on the Island of Copake Lake prepared by surveyor Dan Russell, stamped and revised, dated February 12, 2009.

The dated maps would be mailed to Mr. Swiatek.

### **2009-1      BOUNDARY LINE ADJUSTMENT – WEISENFELD /GOLDEN – Tompkins Road**

Ms. Becker previously advised Jeff Plass that a letter was needed from the applicants granting him permission to represent them. Jeff Mann from Plass, Rockefeller and Nucci presented this

documentation to the Board. He advised the Board that the copy from the Golden was hard to read and also provided them with documentation from Weisenfeld.

Ms. Becker advised the Board that this was a simultaneous Minor Subdivision by Weisenfeld and Boundary Line Adjustment by both parties. She noted that the maps were accepted last month and a Public Hearing was scheduled. Mr. Brusie questioned whether Parcel #1 was being affected. Mr. Mann acknowledged that Parcel #1 was staying with Weisenfeld. Mr. Grant noted that the zoning designation was needed and was found. The Check List was reviewed and the SEQR was read. On a motion made by Ms. Becker and seconded by Mr. Grant, the Board voted unanimously to make a Negative Declaration.

On a motion made by Ms. Becker and seconded by Mr. Grant, the Board voted unanimously to approve the Boundary Line Adjustment merging Parcel #2 owned by Tina Weisenfeld with the lands of Robert and Donna Golden on the map prepared by Plass, Rockefeller and Nucci, Inc. dated November 6, 2008.

The maps would be stamped this coming Saturday and either picked up at the office or mailed to the applicant.

## MINUTES

It was noted that the following paragraph should be amended to read “January meeting” instead of the “February meeting.”

**TIME LIMITS ON APPLICATIONS:** – *Mr. Davis suggested that if we haven't heard from an applicant after Twelve (12) months, the project be considered dead. Attorney Howard made note of the fact that if an applicant continues to send letters asking to be kept on the books you would just keep them on the books. Ms. Becker expressed concern that a precedent had been set when the Board waited Two (2) years on the Housing Resources application. Attorney Howard advised that the Board didn't have to wait that long. It was decided that if an applicant wasn't heard from within Twelve (12) months, the application would be deemed abandoned and a letter would be sent to the applicant regarding their intent. Lisa DeConti questioned whether Housing Resources needed to submit an application inasmuch as applications were not used when they first applied and only a letter was received by the Board at that time. Attorney Howard explained that if they proceed with their project they would have to submit a new draft that would have an environmental statement which would contain all the information an application would have and then some. Attorney Howard presumed that they were updating their information before proceeding. **Attorney Howard noted that the Housing Resources letter stated that “if you wish, we would be happy to attend the January meeting.”** It was his advice that the Board contact Housing Resources asking them to attend the meeting to make their presentation. Mr. Filipovits questioned who would be able to vote on the Housing Resources application and he noted that there are only two original members left from the time the application was presented. Mr. Urban noted that when the Board was increased from Five (5) to Seven (7), it was decided that the two new members would not be able to vote on any application in effect prior to*

*their appointment, so the vote would consist of Five (5) instead of Seven (7). Ms. Becker pointed out that a vote to abandon the application would also have to be a vote of Five (5) instead of (7).*

On a motion made by Ms. Becker and seconded by Mr. Grant the Board voted unanimously to accept the minutes of February 5, 2009 as amended.

## **ADMINISTRATIVE**

**LIBRARY DEPARTMENT OF TRANSPORTATION LETTER** - Ms. Becker advised the Board that she had not received the Department of Transportation Letter from the Roe Jan Community Library. She noted that she was told the letter would be delivered the day after the February 5<sup>th</sup> Planning Board meeting but it was not delivered. She informed the Board that she tried to contact them. Mr. Grant noted that the Board approved the application “conditionally” and it was up to them to supply the Board with the letter. Ms. Becker pointed out that the site and foundation work had already begun on the project.

**PLANNING BOARD/ZONING BOARD MEMBER** – Ms. Becker advised the Board that a legal opinion was received from Attorney Howard advising against a Planning Board member serving on the Zoning Board at the same time as Mr. Filipovits was interested in serving on both Boards. Mr. Filipovits noted that there was nothing in the book regarding this. Ms. Becker said an opinion from the Attorney General’s office was included in Attorney Howard’s letter of March 2<sup>nd</sup> regarding this matter.

**TIME LIMITS ON APPLICATIONS:** – Ms. Becker asked if there were any other opinions regarding Time Limits on Applications. Mr. Brusie felt that a letter should be sent on an application that had been on the agenda for three months if the applicant had not been heard from and nothing had been done regarding this application. Ms. Becker felt that three months was too short a period and suggested a six month time limit. Ms. Becker noted that Attorney Howard advised that the Board could not remove someone from the agenda. Mr. Urban suggested giving Housing Resources a definitive time-line but was advised that this might not be possible. Mr. Grant noted that there was nothing in the Zoning Code allowing the Board to do this and a change would require an amendment to the Zoning Code. Mr. Brusie suggested amending this through the Planning Committee. Ms. Becker advised the Board that Housing Resources was not the only application considered in this matter and there were three in the carry-over list that fell into this category. Mr. Brusie questioned whether a letter could be sent to these applicants. Mr. Becker agreed that a letter could be sent asking for a update. Mr. Urban questioned whether some guidelines should be set up regarding this. Mr. Grant advised him that the Board did not have the legal right to do this and this would have to be done through the Zoning and Town Boards. Ms. Becker said this might be able to be done down the road. It was brought up that according to our attorney, it is their land, their project and their money and the Board cannot tell them what to do. The Board does, however, have the authority to look at approvals or permits that could run out of a time-frame and proceed accordingly. Mr. Grant pointed out that even if the application was terminated it could be re-started. It was noted that a Site Plan Approval is good for three years. Mr. Brusie noted that if a project was half done the Board could enforce some regulations by

sending an inspector to condemn the project but nothing could be done on an open piece of land. It was questioned whether the Site Plan was approved for Housing Resources but it was clarified that the Preliminary Sketch Plan was accepted. Ms. Becker advised that letters would be sent out to update these projects. Ms. Becker did read a letter from Doug Goodhue suggesting that the inactive applicants be tabled. The Board pointed out that the inactive applications were technically already tabled. Ms. Becker acknowledged that Diana Wilson had approximately sixty (60) letters of no support to submit regarding the Housing Resources development.

**COUNTY RESOLUTION:** – Ms. Becker noted that at last month’s meeting it was suggested that a letter be drafted about the proposed resolution and recommendation made to the Town Board. She noted that inasmuch as Reggie Crowley was not at the Town Board meeting last month she didn’t believe it was a good time to present it to the Board. She did advise the Planning Board that she wrote a letter and will present it at this month’s meeting. Ms. Becker clarified that the County Planning Board in reviewing certain applications noted that there are actions they feel do not have county-wide impact. Therefore they do not need review. She explained that the Copake Planning Board considered the County’s recommendation, agreed with it, and then made their recommendation to the Town Board.

**INVITATION FROM THE COLUMBIA COUNTY BOARD OF SUPERVISORS:** – Ms. Becker informed the Board that she received an invitation for April 6 [from 8 am to 12 pm] from the Columbia County Board of Supervisors to come to a meeting of all the Planning Board Chairs in the County for a Meet-And-Greet session and to discuss planning and land-use concerns in the county. She noted that Kenneth Flood would be giving a presentation on “A Strategy for Healthy Vibrant Economy in Columbia County.”

## **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.**
- 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**

**2006-23      SITE PLAN REVIEW – ROE JAN COMMUNITY LIBRARY – Route 22**

**ADJOURNMENT**

There being no further business, on a motion made by Mr. Brusie and seconded by Mr. Grant the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 7:45 p.m.

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Marcia Becker, Chair

**Please note that all referenced attachments, comprising 12 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

February 7, 2009	Becker to Shadic (1)
February 7, 2009	Becker to Town (4)
March 2, 2009	Howard to Becker (1)
March 2, 2009	Columbia County Board of Supervisors to Becker (4)
March 4, 2009	Goodhue to Becker (1)
	Hudson Valley Smart Growth Alliance (1)