

**Town of Copake
Zoning Board of Appeals
Minutes - November 25, 2008**

The regular monthly meeting of the Zoning Board of Appeals of the Town of Copake, was held on Thursday, November 25, 2008, at the Copake Town Office, 230 Mountain View Road, Copake, NY. Committee Chair, Stanley Gansowski called the meeting to order at 7:10PM.

Introductions began the meeting; roll was called with the following ZBA Members present: Stanley (Stosh) Gansowski, Jeff Nayer, Frank Peteroy, Shawn McClain, and alternate Louis Kibler. Leslie Wood was not present.

An audience of approximately 5 were present.

Minutes:

Jeff made a motion to approve the minutes of October 23, 2008, this was seconded by Shawn. The motion carried.

Agenda:

After reviewing the agenda for the meeting, Jeff asked that we add one item under "Old Business", A. Wording of the Zoning law. With no one objecting to this addition, this item was included for discussion.

Public Hearings:

Application # 2008-11, Lisa Kerekes, 124 Anthony Street, Area Variance, for a garage on an undersized lot. Ms Kerekes was present and came forward to answer questions concerning her application. The revised plans were reviewed by Board Members. The new plans showed that the garage had been moved, as requested previously by this Board to behind the front of the house (232-8.D.4), and now, well within the setbacks for an undersized lot within the zone (232-8.C). Discussion continued among the Board Members as to whether now a variance was still needed since the applicant

has fully complied. It was concluded that the applicant could now withdraw her application and obtain a building permit. Shawn suggested that the building department be given a heads up that all the Zoning Board Members are in agreement that a building permit for the garage should be granted for this application.

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

Application # 2008-12, Lawrence Linder & Sandra Baptie, Lot # 576, Lakeview Road, Lot Line Adjustment and non-conforming lots for his properties at Taconic Shores. Mr. Linder was present, and came forward to answer questions.

At this time Shawn McClain requested to be recused from this hearing, since the applicant was known to Mr. McClain and because Mr. Linder would be required to appear before The Taconic Shores Board for permission on this application. Recusal was granted.

Mr. Linder asked the Board as to whether a variance was required since Parcel A was already a conforming lot according to Copake Zoning 232-24.C.2.a. Jeff replied that as long as he stayed at 30, 000 sq ft the Lot Line Adjustment is irrelevant to the ZBA, but yes, a variance was required since his proposed building would be within 100 feet from the water (232-9.P.1). He continued that DEC approval would be needed prior to a variance being issued because the proposed septic would be within 150 feet from the lake.

Attention was called, at this time to the DEC correspondence received via E-mail, and USPS. Mr. Michael Higgins, deputy Permit Administrator, NY DEC, Region IV expressed concerns that this proposal may have an impact on NYS freshwater wetland CO-3. Reference was made to the following: 1. letter dated November 17, 2008, notification of an incomplete application, instructing Mr. Linder of the three tests for compatibility regarding activities on a wetlands, which referenced the assistance of the Army Corp. of Engineers 2. letter dated November 24, 2008, Supplemental to the notice of incomplete Application, reporting of a site visit in which reference was made for moving a storm water pipe, which involved The Taconic Shores Property Owners Association. (on file).

The Zoning Board Members agreed that they would defer any approval/non approval until after DEC issues had been addressed by Mr. Linder. He was also instructed to get letter from the Taconic Shores Property Owners Association, Board of Health and Army Corp. of Engineers in reference to the proposed septic system and the existing wetlands.

Lou asked about the previous approval from the BOH, regarding Mr. Linder's proposal. BOH requirement is 100 feet from the lake, the town requirement is 150 feet from the lake. Discussion continued that now it has been documented that the wetlands may be closer than originally thought, the BOH may rescind approval, and that the town does not have to grant approval and has done so in the past.

Stosh read the two letters that had been received from abutter property owners concerning this application: 1. Regina Awe, 1264 Lakeview Rd. 2. Stella Anastasia, 1271 Lakeview Road, both expressing concerns for the health of the lake and therefore not in favor. (on file) After reading these letters, he asked if anyone in the audience wished to speak to this issue. Ms. Regina Awe asked to speak; she has had an active interest in the health of Robinson Pond, and continued to say that DEC says the lake is impaired, additional houses and septic systems being allowed so close to the lake are not in the best interest of the lake. Her comments and concerns were duly noted. Mr. Linder asked to address the issues raised, and assured Ms. Awe that he too, had the interest of the lake in mind. He wanted to build a "green" house as a model, it would be a 2 bedroom, somewhere near 18,000 sq ft. He also wants it and its' septic system to be back away from the lake. Ms. Awe then questioned the amount of fill that would be needed for the project. Jeff interjected that DEC also had these concerns, but that he is within his legal right to proceed providing that he complies with requirements of DEC, Army Corp. of Engineers, Taconic Shores, BOH, Copake Town Law.

Frank asked to see the location of the wetlands on the existing map, and suggested that he inquire about the Jet-a-Robic septic system, endorsed by the Planning Board.

It was decided that this Public Hearing would remain open, to allow Mr. Linder, the time to address all the concerns that were raised. It would also allow him time to approach all the different agencies listed above. Mr. Linder

stated that due to the Holidays, he may not be ready for the December meeting. Stosh said that he need to call and let us know, should he want to be included in the December Agenda.

New Business:

New Applications:

None

Correspondence:

None

Training:

4 Hour Training is a requirement of the ZBA, those that have not been trained as of yet, need to do so.

Applications for new ZBA Members:

As of date, no new applications for replacing ZBA retiring members had been received. Shawn assured the Board that he had submitted his application. Applicants to be interviewed at the December meeting, and recommendations will be submitted to the Town Board. Town Board Members to be invited to interviews.

Old Business:

Wording of the Zoning Law:

Recommendations for change guidelines, after culling the minutes of the past year, ZBA Board Members were presented with a list of the items that needed review. Frank stated that it had been the intention of the law to control the smaller lots. It has created conflict and misunderstanding, there needs to be exceptions to all the rules. Perhaps in 1972 it wasn't necessary,

but now in 2008 we have more development. Municipal law states that all properties are to be treated equally within their zones. He further suggests that we need to consider the side lot sizes for the affects of light and air quality to neighboring properties, and explained sky planes, an angle of light measurement to foresee the possible effects of taller buildings on smaller ones. We need to use a common sense approach with equality in mind for density control on lots and the way we measure the height of buildings.

Shawn stated that it was not all cut and dry for health and safety, those areas with their own water and septic systems should be looked at differently than those without and review of the hardship guidelines given to the Board by the lawyer was helpful, but we need to be consistent and that is sometimes very hard.

Frank said that the Comp Plan Sub Committee will recommend changes, but that they must be very careful. There is a lot of confusion. Jeff suggested that all ZBA members add to the sheet those issues that should be included. Frank will present these to them. Frank cautions that this be done very carefully the changes should alleviate confusion and not add to it.

Adjournment:

Shawn made a motion to adjourn the meeting, this was seconded by Jeff. The motion carried, unanimously. Meeting adjourned at 8:15 PM. Next meeting to be Tuesday, December 23, 2008.

Respectfully Submitted,

Theresa A Traver
ZBA, Recording Secretary