



COPAKE PLANNING BOARD

APRIL 6, 2017

MINUTES

DRAFT

Please note that all referenced attachments, comprising 6 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 Bob Haight, Chair. Also present were Chris Grant, Marcia Becker, Julie Cohen and Ed Sawchuk. Steve Savarese and Jon Urban were excused. Lisa DeConti was present to record the minutes. Town Attorney Ken Dow and Town Board Liaison Terry Sullivan were also present.

ZONING BOARD OF APPEALS – Referrals

2017-11 ZBA REFERRAL/SITE PLAN REVIEW – NATHAN SAWYER AND TARYN ZARILLO – Lakeview Road [Taconic Shores]

- Application for Site Plan Review
- Site Plan
- List of Abutters
- ZBA Request for Area Variance Packet
- Building Permit Denial
- Survey Map
- Elevation Plan
- Pictures

Taryn Zarillo appeared before the Board advising them she needs a variance inasmuch as she would like to replace an existing twelve foot by sixteen foot (12' x 16') shed with a twelve foot by twenty-four foot (12' x 24') single car garage located in her side-front yard. Ms. Zarillo explained that she needs a side-yard variance and relief from construction within one-hundred and fifty feet (150') of the water front.

Ms. Zarillo explained that the structure she is installing is pre-built and a concrete slab is being used for a foundation. Ms. Becker made note of the fact that Ms. Zarillo is replacing an existing structure that was already a code violation.

The Check List was reviewed. It was noted that the water line needs to be added to the plan. Ms. Zarillo added and initialed this on her maps. Mr. Grant questioned whether there should be relief from an accessory building in the front yard. Ms. Becker noted that this was not noted in the Building Denial. Mr. Haight suggested adding this to the referral letter to the ZBA.

The Board also acknowledged that a variance is needed for Town Code 232-24B(2)(a)[2]:

A nonconforming building or structure shall not be added to, enlarged, reduced, or altered in any manner in a way which increases its nonconformity. Nothing herein, however, shall prevent the strengthening or increasing of the safety of all or part of a building or structure, provided that the repair or alteration will not increase the nonconformity

and questioned whether relief is needed from Town Code 232-8D4:

Accessory buildings shall not be located in front yards; nor within 10 feet of a side or rear property line; and shall not block any window or door of the principal structure.

On a motion made by Mr. Haight and seconded by Ms. Becker the Board voted unanimously to approve the Site Plan for Nathan Sawyer and Taryn Zarillo on Lakeview Road in Taconic Shores subject to the granting of the Zoning Board of Approval variances.

A letter will be written to the ZBA advising them that the Board approved this application subject to their approval and suggesting that they also consider Town Code 232-8D4 as referenced above.

2017-12 ZBA REFERRAL – FRANCES CICIOGNA & GREGORY CARON – Blue Bird Road [Copake Lake]

- ZBA Request for Area Variance Packet
- Letter requesting Building Permit
- Building Permit Application Permit Form
- Letter re-applying for Building Permit
- Building Permit Denial Letter
- Letter to ZBA seeking variance for shed
- Site Map
- Pictures

The Board reviewed a referral from the ZBA for a pre-fabricated shed to replace a shed that was on the applicant's property prior to their purchase of the property. Mr. Haight questioned what the location of the previous shed was as the proposed shed is three feet (3') from the property line. Ms. Becker noted that there is no information regarding the old shed.

Mr. Grant asked what the size of the lot is and was advised by Ms. Cohen that it is .179 acres. After discussion it was agreed that the applicant intends to place their shed adjacent to the neighbor's shed approximately three feet (3') from the property line. Ms. Cohen noted that a side yard set-back is required and referred to Town Code 232-8D4 which reads:

Accessory buildings shall not be located in front yards; nor within 10 feet of a side or rear property line; and shall not block any window or door of the principal structure.

Ms. Becker questioned whether the lot was five-thousand (5,000) square feet and was advised by Mr. Haight that the one-hundred and twenty foot by sixty-five foot (120' x 65') lot is over five-thousand (5,000) square feet. Ms. Cohen clarified that it is seventy-eight hundred (7,800) square feet.

Ms. Becker reviewed Town Code 232-9T and made note of the fact that this is a section referring solely to sheds. She suggested the ZBA be referred to this section. A letter will be written to the ZBA advising them that the Planning Board has no issue with this and they should refer to this code.

2017-13 ZBA REFERRAL – RAYMOND SASSOON – Breezy Hill Road [Copake]

- ZBA Request for Area Variance Packet
- Building Permit
- Site Map
- Notice of Potential Violation from CEO Lee Heim
- Letter of Agency
- Pictures

Bill Stratton appeared before the Board representing Raymond Sassoon. Mr. Haight acknowledged that a Building Permit had been issued to Mr. Sassoon for a garage and after a complaint had been received the Building Inspector revisited the site and advised the applicant that the garage would meet Town Code requirements if it was attached to the house however, architecturally this was not possible and a variance would be needed. Mr. Haight did make note of the fact that due to the topography of the applicant's property there was no other place the garage could be located. Ms. Becker advised that relief would be needed for Town Code 232-8D (*Accessory buildings shall not be located in front yards; nor within 10 feet of a side or rear property line; and shall not block any window or door of the principal structure*).

A letter will be written to the ZBA advising them that the Board does not have any issues with this application.

2017-16 ZBA REFERRAL/SITE PLAN REVIEW – DAVE & CAROL HEBBELER – Mountain View Street [Copake Falls]

- Application for Site Plan Review
- Building Permit Denial
- Letter to Building Department for Application of Building Permit
- Septic Letter from Crawford and Associates

- Septic Inspection Letter from Flood's Sanitation Service
- Septic System Location map
- Letter of Agency
- Site Map
- Site Plan, Floor Plans and Elevations
- Pictures

Bruce Moore appeared before the Board representing Dave and Carol Hebbeler. Mr. Haight acknowledged that the Hebbeler property is on Mountain View Street in Copake Falls. Mr. Moore advised the Board that the applicant's property is a non-conforming structure that needs modifications.

It was noted that the applicant is before the ZBA for Town Codes:

Town Code 232-24B(2)(a)[2] A nonconforming building or structure shall not be added to, enlarged, reduced, or altered in any manner in a way which increases its nonconformity. Nothing herein, however, shall prevent the strengthening or increasing of the safety of all or part of a building or structure, provided that the repair or alteration will not increase the nonconformity.

Town Code 232-24B(2)(a)[5]: Any modification of a nonconforming building or structure is subject to a site plan review and approval by the Planning Board, in accordance with § 232-23.

*Town Code 232-8B for relocation of the stairs to the Front Yard: Density control schedule. The attached schedule of density control regulations is hereby adopted and declared to be a part of this chapter^[1] and is hereinafter referred to as the "Density Control Schedule." Minimum lot sizes are per use except as specifically noted. Editor's Note: The **Density Control** Schedule is included at the end of this chapter (which can be found on-line).*

Mr. Moore presented the application to the Board. He explained that the structure is an existing two-story structure and he is removing the one-story porch and is replacing and enclosing it. He also noted that the location of the stairs is being moved. Mr. Haight asked whether the height will remain the same and was advised that there is no change.

Mr. Grant questioned where the application was with the ZBA. Mr. Moore explained that CEO Heim referred him to the Planning Board and he will be following up with an application to the ZBA next month. Mr. Grant also asked whether any bedrooms were being added. Mr. Moore advised him that no bedrooms will be added however one bedroom is being converted to a bathroom which will result in a three (3) bedroom two (2) bathroom residence. It was noted that the existing septic is a one-thousand (1,000) gallon system however the location needed to be added to the Site Plan. Ms. Becker asked whether any landscaping is planned. Mr. Moore explained that some plantings will be removed from around the foundation.

The Check List was reviewed. It was noted that the Sewage Disposal System and any planned Lighting needs to be added to the Site Plan. Mr. Moore was advised that any lighting needs to be pointed downward. He was also advised that the Zoning District needed to be added to his Site Plan. Mr. Haight asked when building was planned and Mr. Moore advised him that he hopes to begin construction by the Fall.

On a motion made by Mr. Haight and seconded by Ms. Becker the Board voted unanimously to approve the Site Plan for Dave & Carol Hebbeler on Mountain View Street in Copake Falls subject to ZBA Approval for Town Codes 232-24B(2)(a)[2] & [5] and 232-8B and the addition of the septic, lighting and zoning district to Site Plan.

A letter will be written to the ZBA advising them that the Board had no issue with this application and approved it subject to ZBA approval.

PUBLIC HEARING

NONE

SUBDIVISION/SITE PLAN

2017-10 SITE PLAN REVIEW – JACK SPROULE – Underhill Road [Copake]

- Application for Site Plan Review
- Building Permit Denial
- Letter of Agency
- Site Map
- Site Plan, Floor Plans and Elevations
- Pictures

Bill Stratton appeared before the Board representing Jack and Linda Sproule for a structure that costs more than \$400,000.00. Mr. Stratton explained that the structure being proposed is a one-story house with a garage attached by a breezeway.

It was noted that this application is before the Board so as to comply with Town Code 232-23: *Prior to the issuance of a building permit in any business district, or for any multifamily dwelling, or for more than four apartments, condominiums or townhouses in any district, or any drive-in facility or service station, or for any structure greater than 3,500 usable square feet of floor space, including an agricultural building or any building costing more than \$400,000, the Building Inspector shall require site plan approval pursuant to this section. For purposes of site plan review, usable square feet can exclude crawl spaces, attics without windows, decks, closets, passageways or hallways.*

Ms. Becker asked what the square footage of the structure is and was advised that it is approximately twenty eight feet by forty-eight to fifty feet (28'x 48'-50') Mr. Haight asked if the septic system was approved and Mr. Stratton submitted the septic approval along with the driveway permit. Mr. Haight asked where the placement of the septic will be and whether the system is gravity fed. Mr. Stratton advised that the system is gravity fed however it was noted that the septic location needs to be added to the site map.

The Check List was reviewed. Ms. Becker asked where the well was located and was advised by Mr. Stratton that the well still needs to be drilled. She advised him that Dan Russell will need to add it to the map when the location is determined. Ms. Cohen asked what the heat source will be and Mr. Stratton explained that this will be propane and the tank will be underground. Ms. Becker advised him that this will need to be added to the map as well. Ms. Cohen asked what the construction schedule was and Mr. Stratton acknowledged that the project completion date is November 15th.

On a motion made by Mr. Haight and seconded by Ms. Becker the Board voted unanimously to approve the Site Plan for Jack and Linda Sproule on Underhill road from a map dated April 5, 2017 subject to the address, location of electric lines, well and propane tanks being added to the Site Plan.

2017-14 SITE PLAN REVIEW – CONRAD POLLACK – Pioneer Drive [Upper Rhoda]

- Application for Site Plan Review
- Building Permit Denial
- Letter of Agency
- Site Map
- Septic Information

Joseph D'Anna appeared before the Board representing Conrad Pollack. Mr. D'Anna advised the Board that the DEC will be revisiting the applicant's property and will be re-delineating the wetlands to determine the proper location for the house.

Inasmuch as the applicant will be connecting to the Rhoda Lake septic system Ms. Becker asked how many bedrooms the applicant's house is allowed. Mr. D'Anna advised her that they are allowed four (4) bedrooms and pointed out that the applicant is proposing three (3) bedrooms, one on the first floor, two on the second floor and the potential for the addition of a fourth in the basement. Mr. Haight asked if Mr. D'Anna had any documentation from the Board of Health regarding this.

Mr. Grant asked whether all the set-backs are being met and Mr. D'Anna advised him that they are. He made note of the fact that the height needs to be shown on the elevations and advised Mr. D'Anna that the site can only support a two and a half (2½) story home. Mr. Haight also advised him that a lighting schedule is needed and that all lighting needs to be pointed downward. A discussion ensued as to whether a walk-out basement is considered to be a first story. Mr. Grant referred to the Town Code definition which reads: *A basement shall be counted as one story determining the height of a building in stories when four feet or more of its height, measured from floor to ceiling, is above average finished grade.* Mr. Grant pointed out that for a basement to be considered a half-story the average exposure has to be four feet or less.

Mr. D'Anna will provide the updates at the May 4th meeting.

2017-15 SITE PLAN REVIEW – LINDSAY LeBRECHET – Lakeview Road [Copake Lake]

- Application for Site Plan Review
- Building Permit Denial
- Site Plan

Linda Chernewsky appeared before the Board with Lindsay LeBrecht. Ms. Chernewsky explained to the Board that Ms. LeBrecht wishes to renovate an existing cottage on her property to use for her office. Ms. Chernewsky noted that they are trying to stay within the footprint however they would like to remove an existing addition that was on the North side and add a small deck and handicap ramp which will put them .2% over the original lot coverage.

Mr. Grant questioned whether this is considered commercial and was advised by Ms. Chernewsky that this is considered a home occupation which is permitted in 'R-2' Zoning. Mr. Grant also questioned whether this is considered an accessory building and whether a home office can be contained within this building. Ms. Chernewsky referred to the definition of Town Code 232-3 which reads:

Home Occupation: Any gainful occupation carried out within a residence or accessory structure that is customarily conducted within a dwelling by the residents thereof and is clearly secondary to the residential use and does not change the character of the premises as primarily a residence. (See § 232-9A).

Ms. Cohen then referred to Town Code 232-9A which reads:

Customary home occupation. In any district, nothing in this chapter shall prevent an individual from conducting his business, trade or profession in his home or residence, provided that no more than two persons be employed, in addition to the owner or tenant of the property; that no other professional shall be permitted to share, let or sublet space for professional use, that there be no external evidence of such use except for one sign not exceeding two square feet in area; and that there shall not be any exterior storage of materials or equipment. The conducting of a hospital, clinic, animal hospital or nursery school shall not be deemed a customary home occupation.

The Board agreed that this was an allowed use. Ms. Becker asked which well would be used for the Home Office inasmuch as there are two (2) wells located on the property. Ms. Chernewsky advised her that this would be connected to the well that serves the residence. Ms. Becker then asked where the location of the septic would be for the office and was advised that this would be connected to the existing septic system as well. Ms. Becker then asked what the capacity of the existing system is and Ms. Chernewsky advised that it is an existing one-thousand gallon (1,000) tank with a pump station in the system.

Mr. Haight pointed out that this is an unusual situation inasmuch as the home office which is now in Ms. LeBrecht's residence is being moved to the accessory building and even though there is separate building no bedrooms are being added. He also noted that there is no change in use as

only the location of the office is changing. Ms. Becker questioned whether the accessory structure would be considered a one-bedroom structure inasmuch as the use could be changed in the future. Mr. Haight made note of the fact that if this were the case the applicant would have to come back for a change in use variance. Mr. Grant questioned whether the two buildings on the property are considered two (2) residences or a residence with an accessory building. After discussion it was decided that this would be considered a residence with an accessory building.

The Check List was reviewed. Ms. Becker asked how the structure will be heated and was advised that the heating source will be the existing propane tank. The applicant was also advised that any signage needs to conform to code. It was also noted that construction would most likely be done sometime this year. Ms. Chernewsky was asked to draw lines on the Site Plan showing the well, septic and propane being used by the accessory building.

On a motion made by Mr. Haight and seconded by Mr. Grant the Board voted unanimously to approve the Site Plan for a Home Office for Lindsay LeBrecht on Lakeview Road at Copake Lake from a Site Plan dated march 2017 subject to designation of the electricity, septic system, well, and propane being used by the structure be accounted for on the Site Plan.

2017-17 SITE PLAN REVIEW – JOHN & ROBIN KENNEDY – Island Drive [Copake Lake]

- Application for Site Plan Review
- Building Permit Denial
- Site Plan, Floor Plans and Elevations
- Pictures
- Letter of Agency
- Short Form SEQRA

Andrew Diddio of Taconic Engineering appeared before the Board representing John and Robin Kennedy. Mr. Diddio explained that he is before the Board for Site Plan Review because this application is greater than \$400,000.00 as per Town Code 232-23:

Prior to the issuance of a building permit in any business district, or for any multifamily dwelling, or for more than four apartments, condominiums or townhouses in any district, or any drive-in facility or service station, or for any structure greater than 3,500 usable square feet of floor space, including an agricultural building or any building costing more than \$400,000, the Building Inspector shall require site plan approval pursuant to this section. For purposes of site plan review, usable square feet can exclude crawl spaces, attics without windows, decks, closets, passageways or hallways.

Mr. Diddio presented and reviewed the proposed Site Plan. Mr. Haight asked what the set-back from the lake was and was advised that it is one-hundred feet (100'). He then asked the distance from the pump station to the well and was advised by Mr. Diddio that it is fifty feet (50'). Mr. Haight explained that the Town Code is a distance of one-hundred feet (100') from a well to a septic system. Mr. Grant acknowledged that this home is on a Community Septic and the leech fields are quite a

distance away. Mr. Haight made note of the fact that the Town Code stipulates that any part of the system be one-hundred feet (100') away from a well, meaning the tank or the fields.

Mr. Haight referred to Town Code 232-9G which reads:

Sewage systems. No person shall undertake to construct any new building or structure in the Town without first meeting the requirements for a system, or facilities, for the separate disposal of waterborne sewage, domestic or trade wastes in accordance with applicable regulations of the Town and the Columbia County Department of Health. Wells shall be located at least 100 feet from the closest point of such sewage system.

Mr. Didio will make the change.

Ms. Becker requested that a copy of the Association SPEDES Permit be submitted as the Board is keeping track of the usage of the system. Mr. Didio also pointed out that the SPEDES Permit allows for three point three (3.3) bedrooms per lot. Mr. Haight made note of the fact that he remembered that three (3) bedrooms were allotted per additional lot.

Mr. Haight asked what the height of the proposed structure is and was advised by Mr. Diddio that it is twenty-six feet (26') from finished grade with a walk-out basement. Mr. Grant requested that the Board see a landscaping schedule to minimize the visual impact. Mr. Diddio also noted that an erosion and sediment control plan is being submitted due to the proximity to the lake. Mr. Diddio pointed out the grading plan and Mr. Haight questioned whether the point of disturbance was one-hundred feet (100') from the lake. Mr. Diddio advised him that the grading extends into the one-hundred foot (100') buffer. Mr. Haight explained that any disturbance within the one-hundred foot (100') foot buffer needs to go before the ZBA for a variance.

Ms. Becker questioned the bedroom count and after discussion with Ms. Cohen pointed out there are four (4) bedrooms with the potential of a fifth. Mr. Haight advised the applicant that the Board will need to see an updated Septic Chart from the Association.

MINUTES

The meeting minutes for March will be approved at the May 4th meeting inasmuch as Attorney Dow had some corrections he would like to make.

ADMINISTRATIVE

TOWN OF COPAKE DRAFT SOLAR ENERGY LAW: Attorney Dow submitted a Report of Recommendations regarding the proposed Solar Law for the Town. He advised the Board that if they had any corrections they can make it at the meeting and submit it to the Town before their next meeting.

The Board reviewed the Final Solar Law revision. Ms. Cohen suggested that any reference to Commercial Solar be changed to Utility Solar as that is what it is referred to in the proposed Town Code. Mr. Haight suggested that a berm be on the outside edge of any fencing so as to screen it.

Attorney Dow acknowledged that the biggest change to the Solar Energy Law is that it originally referred to a minimum of fifteen (15) acres of active farm land which would translate to an area of ten (10) acres however if you were not converting active farmland this would not apply. Attorney Dow addressed that this has been amended to no utility scale facility can take up more than ten (10) acres of ground without an area variance. Ms. Cohen added that the Law states that a Solar facility cannot take up more than twenty percent (20%) of a parcel.

Ms. Cohen questioned whether this is binding on successors. Attorney Dow did bring up the fact that the Zoning Code should be revised soon and any changes that need to be made to this law can be revisited at that time.

Mr. Grant brought up the fact that the State has been running into problems with the decommissioning plan as a Bond can only be held for three years and anything beyond that is considered a taking. He added that the State suggests issuing a special use permit for a three (3) years cycle so the Bond has to be renewed every three years.

Mr. Sawchuk asked if there is any notice to subsequent buyers regarding any restrictions imposed on the facility. Ms. Becker said there are recommendations that this be further looked at. Ms. Cohen suggested a Deed Restriction be issued. Attorney Dow suggested this be incorporated into an application.

Ms. Becker had issue with a property owner that would like to have a Solar Facility and stated that they would have sheep grazing to control vegetation growth to keep their agricultural exemption. She had concerns that this would give the Assessor discretion in allowing this. Mr. Haight advised that he looked into this and this would constitute a dual-use and would not be allowed.

Mr. Grant had concerns that a Special Use Permit is permanent. Ms. Becker questioned whether it could be revoked. Attorney Dow clarified that a Special Use Permit remains as long as the use is active however if the use ceases for a year or more it is no longer in effect. Mr. Grant made note of the fact that the Solar Energy Law states that the Town Board has to make that decision. Attorney Dow explained that they are the ones that have to pass a resolution to activate the Bond for removal.

On a motion made by Ms. Becker and seconded by Ms. Cohen the Board voted unanimously to accept the Board's Report of Recommendations of the Town of Copake's Solar Energy Law dated April 6, 2017 to be submitted to the Town Board.

Attorney Dow will submit the Board's recommendations to the Town Board for their next meeting.

MARINER TOWER ESCROW: Mr. Sawchuck is still researching Radio Frequency Engineer's to deal with the Cell Tower. Ms. DeConti asked who is responsible for submitting a five-year Certification for the Tower. Mr. Haight advised her that it is the Company's responsibility so the Company needs to be contacted advising them of this.

CARRY OVER

The following matters were carried over to the next meeting:

**2016-18 ZBA REFFERAL/PRELIMINARY SPR – GRJH INC./THOMAS CASEY –
 State Route 23 [Craryville]**

ADJOURNMENT

There being no further business, on a motion made by Mr. Haight and seconded by Ms. Cohen, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 9:45 p.m.

Bob Haight, Chair

Please note that all referenced attachments, comprising 43 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

NATHAN SAWYER AND TARYN ZARILLO

March 10, 2017 ZBA Action Taken on Appeal (1)
March 13, 2017 Building Permit Denial (2)

GREGORY CARON AND FRANCES CICOGNA

November 7, 2015 Building Permit Application (1)
November 23, 2016 Lee Heim to ZBA (1)
February 16, 2017 ZBA Action Taken on Appeal (2)

RAYMOND SASSOON

March 21, 2016 Building Permit Application (1)
January 7, 2017 Lee Heim to Raymond Sassoon (1)
February 14, 2017 ZBA Action Taken on Appeal (2)
March 21, 2017 Building Permit Denial (1)

DAVE AND CAROL HEBBELER

November 21, 2016 Thomas Flood to Carol Hebbeler (2)
November 29, 2016 Andrew Aubin to Carol Hebbeler (1)
March 17, 2017 Bruce Moore to Lee Heim (2)
March 30, 2017 Building Permit Denial (2)

JOHN SPROULLE

March 8, 2017 Building Permit Denial (2)

CONRAD POLLACK

March 29, 2017 Building Permit Denial (2)

LINDSAY LEBRECHT

March 29, 2017 Building Permit Denial (2)

LINDSAY LEBRECHT

April 5, 2017 Building Permit Denial (2)

ADMINISTRATIVE

April 5, 2017
April 6, 2017

Solar Energy Law (14)
Solar Energy Law Planning Board Recommendations (2)