



COPAKE PLANNING BOARD

APRIL 7, 2011

MINUTES

Approved

May 5, 2011

Please note that all referenced attachments, comprising 3 pages, are on file with the Copake Town Clerk and in the Planning Board office. An annotated listing of those attachments appears at the end of this document.

A regular meeting of the Copake Planning Board was called to order at 7:00 p.m. by Marcia Becker, Chair. Also present were Chris Grant, Gray Davis, George Filipovits, Steve Savarese and Jon Urban, Skip Pilch was excused. Lisa DeConti was present to record the minutes.

ZONING BOARD OF APPEALS – Referrals

1. SIDE & REAR VARIANCE – KEN FREED – Lakeview Road [Copake Lake] – (2011-7)

Scott Decker appeared before the Board representing Ken Freed. Ms. Becker asked Mr. Decker if he had any more material to present to the Board. Mr. Decker advised her that Mr. Freed will be upgrading the septic tank and may also replace the fields when the digging process begins, however, this was not definite at this time.

Ms. Becker brought up the fact that conditional approval had been granted last month subject to variances being granted by the Zoning Board of Appeals. She acknowledged that variances had been received for the front and side yard set-backs and approval was contingent on the septic tank being increased to twelve hundred and fifty (1,250) gallons in conformance with a four (4) bedroom house in order to complete the Site Plan Review.

Ms. Becker acknowledged receipt of the letter from Flood Sanitation Service testifying to the size of the tank and that the system was in working order. Ms. Becker asked Mr. Decker for clarification of the plan map. Mr. Decker reviewed the plan that had been submitted and the Board was in agreement that the sketch was adequate. Mr. Grant questioned the distance of the septic system from the lake and whether a raised bed system could be used. Linda Chernewsky, the architect who draw the plans for a previous addition and knows the site, advised him that this system would not be feasible on Mr. Freed's property due to lack of space. After discussion the Board decided Ms. Chernewsky was right and the location would remain the same.

Ms. Becker pointed out that it had been noted in last month's minutes that Mr. Decker produce a letter from Mr. Freed stating that there would be no increase in the amount of bedrooms in the structure with the proposed addition. Mr. Decker will provide Ms. Becker with a copy of this letter so that she can complete the Site Plan process.

On a motion made by Mr. Savarese and seconded by Mr. Filpovits the Board voted unanimously to approve the Site Plan for the Ken Freed property from a survey dated 2005, stamped by Alvin Hunnell and Scott Decker's plot map drawing of the addition which will be a part of the Site Plan subject to receipt of a letter stating that this structure will be used as a four (4) bedroom residence.

2. SPECIAL USE PERMIT – VINCENT TRAVER – Anthony Street – (2011-10)

Linda Chernewsky appeared before the Board representing Vincent Traver. Ms. Chernewsky advised the Board that Theresa Traver had requested a Special Use Permit from the ZBA. Ms. Becker advised the Board that this application was for an Accessory Dwelling (232-20) which required a Special Use Permit. Ms. Chernewsky explained that a one (1) bedroom apartment was being constructed over an existing building for Mr. Traver's mentally handicapped brother who is moving into the area.

Ms. Chernewsky explained that she was re-doing the existing building plans and noted that Jeff Plass had been hired to do a survey boundary to locate the buildings and the wells. She also noted that a new septic will be required and she had spoken with the Department of Health regarding this. Ms. Chernewsky went on to explain that the DOH will be reviewing this and will make a recommendation. Ms. Chernewsky informed the Board that the Travers would like to hire Flood Sanitation to do the septic system. Based on the Health Department's recommendation, Ms. Chernewsky advised the Board that should there be a reason for an engineer's system, a proposal for the system had already been sent in. Ms. Chernewsky will be preparing plans for the ZBA meeting and the Public Hearing.

Ms. Becker pointed out that the accessory dwelling unit regulations that the ZBA follows is a lot like the Site Plan Review process the Planning Board follows. Ms. Becker noted that inasmuch as the ZBA will be issuing the permit, the Planning Board does not need to go through the Site Plan process. However, if the Planning Board has any other comments or concerns such as the location of the septic system in relation to the wells and in relation to the neighbor's wells than suggestions will be made to the ZBA regarding these issues.

Ms. Chernewsky advised that the current plan is to locate a one (1) bedroom septic system ten feet (10') behind the barn with the septic field in the back yard, eighty-five feet (85') from the property line.

Ms. Chernewsky acknowledged that the Travers have already met with the ZBA who had concerns about a three (3) story dwelling. Ms. Chernewsky explained the plans and noted that she did not believe this to be a three (3) story dwelling. Ms. Chernewsky explained that a small deck will be added to the side for a small egress.

Ms. Becker asked the Board if there were any special concerns she needed to state in the Board's letter to the ZBA. Mr. Grant questioned the number of bedrooms in the main house as a variance might be needed to proceed forward because the accessory dwelling unit code stipulates a total of five (5) bedrooms. This will be addressed in the Planning Board's letter to the ZBA.

3. FRONT YARD VARIANCE – DARREN MILLER – County Rt. 7 [West Copake] – (2011-11)

Ms. Becker advised the Board that Darren Miller has requested a variance to build a seventeen hundred (1,700) square foot barn garage [accessory building] in front of his house near Chrysler Pond in the 'R' District. Ms. Becker noted that Mr. Miller owns two (2) lots that are not merged. Ms. Becker informed the Board that Mr. Miller acknowledged that the terrain in the back of the house makes it impossible to build in the back of his property. Ms. Becker pointed out that the area is a rural area, however, the residence will still be visible from the road with the applicant owning the residence across the road. Ms. Becker acknowledged the fact that there are two (2) Tax Bills, one for a residence and the other for vacant land and questioned whether there is a residence across the street or vacant land.

Ms. Becker advised the Board that Mr. Miller's variance request was for permission to construct a barn/garage in front of the residence and to reduce the set-back to thirty feet (30') from the property line parallel to the road. Mr. Davis advised that there might be an existing easement overhead for utility lines. Mr. Grant pointed out that it would be up to the ZBA to see if constraints on the site warrant building there. Ms. Becker questioned whether the accessory building is bigger than the house. Mr. Grant advised that the code does not allow this. Mr. Davis noted that the building is one thousand eight hundred and twenty four (1,824) square feet. Ms. Becker was not familiar with a code stating this.

Ms. Becker informed the Board that construction of this building is to house Mr. Miller's mowers and equipment for his work and questioned a code regarding customary home operations. Mr. Grant expressed concern that the proposed structure would be quite close to the road and believed that the ZBA needs to look closely at the proposed location and try to locate the structure to the side area. Mr. Davis questioned the structure's height which is approximately twenty-three feet (23'). It was decided that the letter to the ZBA will site these concerns.

PUBLIC HEARING

2011-11 MINOR SUBDIVISION – WONELL B. & WAYNE N. MILLER – Farm Road

On a motion made by Mr. Grant and seconded by Mr. Davis the Board voted unanimously to waive the reading of the notice for the Public Hearing for a Minor Subdivision for Wonell B. & Wayne N. Miller on Farm Road. On a motion made by Mr. Grant and seconded by Mr. Savarese the Board voted unanimously to open the Public Hearing.

Ms. Becker advised the Board that the applicants did not have a chance to provide what they were going to provide and asked if Jeff Plass, the project's surveyor, had anything to add. Mr. Plass did not. Ms. Becker informed the Board that inasmuch as the notice had already been posted, the Public Hearing needed to be held and will remain open until such time that the Millers provide the materials needed to complete their submission.

SUBDIVISION/SITE PLAN

2011-3 MINOR SUBDIVISION – WONELL B. & WAYNE N. MILLER – Farm Road

Jeff Plass appeared before the Board representing Wonell & Wayne Miller who were not able to attend the meeting. Mr. Plass presented the Board with the completed application. Mr. Plass advised the Board that the Millers are awaiting the perc test and have plans to attend the May meeting.

2011-4 SITE PLAN REVIEW – CAMPHILL VILLAGE – Camphill Road

Ms. Becker advised the Board that Camphill Village hired Mr. Plass to compile a survey of the lands of their proposed plans. Mr. Plass pointed out that one of the problems with the Camphill site is how to show and present the project area as there was no prior survey of the property and the tax map was inaccurate as some deeds were not with the proper parcels. Mr. Plass made note of the fact that inasmuch as the shape of the tax map parcel is now known, a merger deed can now be created.

Ms. Becker acknowledged that the issue of several separate parcels came up during the Camphill review and noted that Mr. Plass has some suggestions as to how this can be dealt with. Mr. Plass pointed out that if three (3) or four (4) of the parcels were to be combined there would be no problem with set-backs and other related issues as the Village would be all on one piece of property. Mr. Becker noted that there will still be some separate parcels.

Mr. Plass clarified that the Planning Board has no say in the merger process and questioned whether the Board would provide a letter to this affect should the County request one. Ms. Becker did not believe this to be an issue but would supply a letter should the need arise. Ms. Becker advised Mr. Plass that no approval would be needed to merge parcels and all that needed to be done is to file a new deed.

Mr. Plass addressed the fact that only the one survey map would be needed in the future when Camphill presents their project site. Ms. Becker advised him that the Board would still like to see the other parcels when the site map is shown.

2011-9 SITE PLAN REVIEW – TODD & KATHY KNEZOVIC – Birch Hill Road [Copake Lake]

Marc Bailey appeared representing Todd & Kathy Knezovic. Mr. Bailey reminded the Board that an addition is planned for the level portion of the property to house a swimming pool. Mr. Bailey pointed out a Bay Window that had been added to the previous plans.

Mr. Bailey brought up the fact that the Board needed clarification of the condition of the septic system and presented a copy of an inspection letter which stated that the baffles were in good shape and the one thousand (1,000) gallon concrete tank was operating well. Mr. Bailey made note of the fact that several gallons of water had been run through the system and the water level

in the tank did not rise suggesting that the water was draining as it should. Ms. Becker questioned the number of bedrooms in the house and noted that the septic system is adequate for the existing three (3) bedroom structure.

Ms. Becker made note of the fact that a motion had been made at last month's meeting to accept the Knezovic plans as a preliminary sketch. After review of the Site Plan Check List on a motion made by Mr. Davis and seconded by Mr. Grant the board voted unanimously to accept the plans for the Knezovic residence on Birch Hill Road, Copake from plans of Dennis Wedlick, Architect LLC, dated April 4, 2011.

Ms. Becker advised Mr. Bailey that three (3) sets of plans were needed as well as the usual fee which Mr. Bailey will deliver to the Town Hall.

2011-8 CELL TOWER – MARINER'S TOWERS – West Copake

Ms. Becker advised the Board that Chris Ciolfi was unable to attend tonight's meeting, however, Ezra Link, owner of the leased property was present. Ms. Becker informed the Board that Mr. Ciolfi sent two revisions of a new T-2 and a new C-2 and acknowledged Mr. Ciolfi's consent for the Board to proceed with the process without him.

The Board reviewed the Check List against the submission list. It was noted that all necessary signatures were accounted for. Mr. Grant pointed out that there was only a Memorandum of Lease included in the package and not an actual lease and questioned whether the actual lease is needed. Ms. Becker advised him that this was a legal question that needed to be addressed. Ms. Becker noted that the attorney needed to be present at the next meeting.

Mr. Grant questioned whether there were plans for other facility sites in Copake. Ms. Becker advised him that this was questionable. It was noted that there is no back-up generator system in the event of a power outage. Ms. Becker believed this might be an issue of concern going forward.

The ability of the tower to be shortened if future communications facilities no longer require original height was questioned. It appeared that there were no plans for the tower to be shortened should this issue arise. It was noted that visibility maps/sight lines needed to be provided and the balloon float test needed to be set up so that a corresponding map could be provided. Mr. Davis questioned whether there were a certain amount of days to have the balloon test performed. Ms. Becker advised him that there was a thirty-five (35) day window from the time the application has been accepted.

Ms. Becker questioned whether the Board felt the application was complete enough for submission. Mr. Grant felt that the leases needed to be received before the application could be viewed as complete. Ms. Becker advised him that this would have to be clarified with the attorney present. Mr. Grant felt it best not to accept the application as complete before the Board is comfortable with the submissions.

Ms. Becker asked the Board whether they were in agreement to having the consultant's present at the next Planning Board meeting. A discussion ensued as to whether a radio frequency

engineer would be needed. Mr. Davis felt this type of engineer be included. Ms. Becker has looked into engineers in this field but has not contacted any as yet.

Mr. Grant questioned liability to the Town. Ms. Becker brought up the fact that one of the neighbors is concerned about electro-magnetic fields. Mr. Grant advised that as long as the standards meet FCC requirements there is no concern of liability. Mr. Grant believed that most concerns would be environmentally aesthetic so someone would be needed to comment on these issues and discuss intelligently with the applicant what the options are in order to mitigate any negativity. Ms. Becker questioned whether that should be a group like Hudsonia or the in-house Bio-Diversity Group. Mr. Grant felt that the Bio-Diversity Group should be consulted.

Mr. Savarese questioned whether this would have to be reviewed by the Columbia County Planning Board. Ms. Becker advised that this would need to be submitted to them and noted they have already reviewed similar applications. Mr. Savarese suggested that they might know of consultants that could be contacted. Mr. Grant would also look into this matter. Ms. Becker advised the Board that the Town Board approved the request to hire consultants. Mr. Grant did make note of the fact that expenses will be billed back to the applicant. Ms. Becker also made note of the fact that this application needed to be referred to the ZBA. Ms. Becker believed that the review should be started before a referral is sent to the ZBA. The Board was in agreement with this.

It was Mr. Grant's belief that the Planning Board needed to hold its own Public Hearing and could not combine the Public Hearing with the ZBA. Ms. Becker believed this could be clarified by the attorney as there is something in the Town Code called "*Integration of Procedures*" [232-23A. (8)] stating a Public Hearing may not need be duplicated to expedite the application process. Mr. Grant advised that the Planning Board's findings needed to be documented separately as independent consultant could advise the best options for the Town. Ms. Becker questioned whether an Environmental Group needed to be consulted for this application. It was decided that the Town's Bio-Diversity Group would be consulted.

Ms. Becker questioned whether the application was complete enough to request an application fee from Mariner Tower. Mr. Grant questioned whether the Balloon Test thirty-five (35) day time limit would begin with acceptance of an application fee. Mr. Becker advised him that this would be the case. Ms. Becker brought up the fact that she wants to bring in the consultants and an escrow is needed for this. It was decided that the escrow would be asked for prior to acceptance of the application. Mr. Becker clarified that Town Code stated that the applicant needed to 'arrange' to fly a balloon within a thirty-five (35) day period from acceptance of the application. Mr. Urban suggested sending a letter requesting a copy of the complete lease. Ms. Becker advised him that this needed to be done by the attorney and not the Planning Board as she is not sure if this is a requirement.

Mr. Grant advised that consultants be contacted immediately. Mr. Savarese questioned what the escrow amount should be. It was decided that an amount of five-thousand dollars (\$5,000) would be asked for and if more was needed the Board would request an additional amount. Mr. Urban questioned whether a letter would be sent regarding an escrow. Mr. Urban suggested sending the attorney a copy of the lease agreement so that should a complete lease be needed it could be requested in the same letter as the escrow request to save time. Ms. Becker believed it was a good chance that the application will be accepted at next month's meeting.

Ms. Becker questioned whether anything should be done regarding the long-form SEQR that was received. Mr. Grant did not believe this is necessary at this time and made note of the fact that the correct SEQR had been received. Mr. Grant believed this should be done with the consultant's present. Ms. Becker contacted Attorney Lawrence Howard regarding this application and will contact him to make sure he can attend next month's meeting.

2010-21 SPR – RICK AND PAM BROWN – Lot #2, Island Drive [Copake Lake]

Mr. Davis once again recused himself from participating as a Board member on this application inasmuch as he is the architect on this project. Mr. Davis questioned set-back requirements and was advised that they are one-hundred feet (100') from the lake.

Mr. Davis reminded the Board that the Browns wish to construct a new house on Island Drive on Copake Lake and pointed out the existing set-backs. Ms. Becker questioned what the district was and was advised that this property is located within the 'R-2' Zoning District. Mr. Davis advised that the house is well within the required set-backs and is one-hundred and fifteen feet (115') from the lake. He acknowledged that there would be a deck that was encroaching, however, Mr. Grant advised him that decks are not considered encroaching.

Mr. Davis presented the new grading plan preventing run-off onto the adjacent properties and pointed out the locations of the underground propane tank and the proposed well. Mr. Davis advised that the house will be on a community septic system and all the power will be run underground. Mr. Davis also pointed out that as many trees as possible would be preserved and the lot coverage is 8.1% of the slightly over an acre parcel. Ms. Becker pointed out that the lot is considered a legal lot.

Mr. Grant expressed a concern that the view from the lake-side of the house appeared to be a three-story dwelling. Mr. Davis explained that the shape of the roof would not appear the way it does on paper. Mr. Davis explained that the roof materials would blend in and the over-hangs would obstruct the story below it. Mr. Davis also noted that landscaping would also detract from the appearance and the grade would be brought up to detract from the lake view. Mr. Grant requested that trees be continued on the road side from the neighbor's properties. Mr. Davis explained that he is planning to plant on the sides and create natural boundary.

Ms. Becker questioned whether this was complete enough to accept as a preliminary sketch and noted that a Public Hearing is not needed. Mr. Grant acknowledged that he has requested some landscaping additions to the plan. Ms. Becker questioned whether some verification would be needed regarding the Community Septic System. Mr. Grant would look into this.

Mr. Davis made note of the fact that he would like to get power to the other side of the road and would like to do this underground. Mr. Davis acknowledged that he advised the contractor that he would be responsible for the road repair and Mr. Grant suggested contacting the Homeowner Association regarding this. Mr. Grant also suggested Mr. Davis contact the Homeowner's Association regarding their requirements

On a motion made by Mr. Grant and seconded by Mr. Filipovits the Board voted unanimously to accept the plans for the Brown residence, 223 Island Drive from Myer-Davis Studios dated March 4, 2011 as a Preliminary Sketch for Site Plan Review.

MINUTES

Ms. Becker asked if there were any changes to the minutes of March 3, 2011 meeting. Being none, on a motion made by Mr. Savarese and seconded Mr. Filipovits the Board voted unanimously to accept the minutes of the March 3, 2011 meeting.

ADMINISTRATIVE

BUILDING OVERSIGHT COMMITTEE: - Ms. Becker asked Mr. Davis for a report on the Building Oversight Committee. Mr. Davis acknowledged that the Committee had two meetings and they have been discussing how to stream-line and clarify the process the public has to go through to obtain information they need. Mr. Davis also reported that the Committee discussed how to eliminate the duplicate processes that are currently being done. Mr. Davis advised that Zoning Inspector Ed Ferratto provided some information from other towns as to how they deal with these issues. Mr. Davis informed the Board that at the next Building Oversight Committee they would be reviewing the Zoning Board and Planning Board processes. Mr. Davis acknowledged that Bob Sachs and local contractor, Bart DeRocha are also on the Committee and it was helpful to have a diverse group as Mr. DeRocha can approach things from the other side of the spectrum. Ms. Becker questioned whether the Committee would be making recommendations to the Town Board. Mr. Davis advised her that this would be done. Mr. Filipovits questioned work that is being done in West Copake next to the COARC Pavillion and had concerns that this needed to be brought before the Planning Board. He was advised that this is being overseen by Mr. Ferratto.

COMPREHENSIVE PLANNING JUNE MEETING: - Ms. Becker advised the Board that the Comprehensive Planning Group is having a Public Meeting on June 4th and will have the draft of the Comprehensive Plan complete by then. Ms. Becker advised that the Town Board needs to set up a Zoning Revision Committee and asked if anyone was interested. Mr. Grant might be interested in this.

COLUMBIA COUNTY PLANNING BOARD OPENING: - Ms. Becker advised the Board that there is an opening on the Columbia County Planning Board. Mr. Savarese might be interested in this.

PRESIDENT ESTATES/GLEESON-FEENEY UPDATE: - Ms. Becker advised the Board that Town Engineer Doug Clark has done a review of the Presidents Estates Waste Water Treatment System and advised the Board to review this. Ms. Becker noted that Ms. Gleeson and Ms. Feeney has been pushing to proceed with their work inasmuch as the Transportation Corporation is coming to a resolution and they want to know if it is possible for the Board to approve their Site Plan Review pending construction of the new Waste Water Treatment System. Mr. Grant questioned

whether there is a Memorandum of Understanding or some other document and pointed out that until there is some kind of document, approval is not an option.

Ms. Becker noted that after reading Mr. Clark's review she realized that the Corporation is not that close to being started. Mr. Grant advised that he would be more comfortable with an agreement in place before proceeding on approval. Ms. Becker noted that the Planning Board cannot approve anything without a septic system in place and inasmuch as the system is under a 'haul and hold' order this is not a possibility. Ms. Becker read a letter from Ms Gleeson and Ms. Feeney requesting to proceed with their application inasmuch as they believed the Transportation Corporation is close to being formed as they are on the Town Board agenda for the next meeting. Town Liaison Linda Gabaccia acknowledged that the Transportation Corporation is on the Town Board agenda for the next meeting. Mr. Grant advised that the Board cannot proceed on this application at this time. Mr. Urban questioned if approval could be given contingent on Gleeson-Feeney not receiving a Certificate of Occupancy until the Corporation is in place. Mr. Urban also questioned whether approval could be given contingent on Town Board approval. Mr. Grant did not think this could be done.

Mr. Davis made note of the fact that Mr. Clark's letters seemed to state that the present septic system is being repaired rather than a new system being constructed further from the lake. Ms. Becker clarified that the existing location is being used. It was Mr. Davis' understanding that the leeching fields would be moved further away and questioned why the tank is not being moved as well. Ms. Becker advised him that the leeching fields are being moved but the tank is remaining in its present location. Ms. Becker acknowledged that a SPDES Permit will need to be issued by the DEC and this will only be awarded to the Transportation Corporation. Ms. Becker made note of the fact that it is Mr. Clark opinion that what is being proposed is not adequate. Ms. Becker brought up the fact that she was advised that a sign of a failing septic system is that the pipes leak in ground water and noted that this water is adding to the septic system causing a flow that is more than it should be which is an indication that the pipes from the homes across the street may not be working correctly. It was noted that the Planning Board cannot proceed on this matter at this time.

ZIEGLER: - Mr. Grant questioned why nothing is being done on the Ziegler residence. Ms. Becker suggested contacting the Building Inspector regarding this and filing a complaint with the ZEO.

CARRY OVER

The following matters were carried over to the next meeting:

- 2010-2 SITE PLAN REVIEW CONSULTATION – AMERISTOP – Route 23**
- 2008-21 MAJOR SUBDIVISION – MICHAEL B. & BARBARA S. BRAUNSTEIN – Off Golf Course Road**
- 2010-13 SPR – KATHY GLEESON & ELIZABETH FEENEY – The Presidents [Copake Lake]**

ADJOURNMENT

There being no further business, on a motion made by Mr. Filipovits and seconded by Mr. Grant, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 9:30 p.m.

Marcia Becker, Chair

Please note that all referenced attachments, comprising 3 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

KATHY GLEESON AND ELIZABETH FEENEY

April 1, 2011

Doug Clark to Town Board (3)