



**COPAKE PLANNING BOARD**  
**AUGUST 2, 2012**  
**MINUTES**

**Approved**  
November 1, 2012

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**Please note that all referenced attachments, comprising 1 page, 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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The Board voted unanimously to open the August meeting of the Copake Planning Board on a motion made by George Filipovits and seconded by Jon Urban. The meeting was called to order at 7:06 p.m. by Chris Grant, Vice Chair. Also present were Bob Haight, George Filipovits and Jon Urban. Marcia Becker, Gray Davis and Steve Savarese were excused. Lisa DeConti was present to record the minutes.

**ZONING BOARD OF APPEALS – Referrals**

**1. ZBA REFERRAL – LUCAS BLISS – Cat Track Road – (2012-21)**

Mr. Grant advised that Lucas Bliss submitted an application to the Zoning Board of Appeals to build a single storage shed on a non-conforming vacant lot on Cat Track Road at Chrysler Pond. Mr. Grant made note of the fact that Town Zoning Code does not permit accessory uses without a principal use so the applicant will require a variance from the ZBA.

Mr. Grant made note of the fact that the Board will write a letter to the ZBA referencing the Zoning Code that states that an accessory structure is not allowed without a principal structure so that they can make their decision accordingly.

Mr. Grant questioned whether or not the proposed shed is oversized for the lot as this would require a second variance. He pointed out that a shed for the lot in question cannot be over one-hundred and twenty (120) square feet. Mr. Urban informed him that the proposed shed measures eight feet (8') by sixteen feet (16') which totals one-hundred and twenty-eight (128) square feet making the proposed shed eight (8) square feet larger than allowed. Mr. Grant acknowledged that a second variance will be needed for the shed size as well.

## **PUBLIC HEARING**

### **2012 -18      BOUNDARY LINE ADJUSTMENT – DRINDA POST – County Route 7**

On a motion made by Mr. Filipovits and seconded by Mr. Urban the Board voted unanimously to open the Public Hearing. Mr. Grant asked if anyone would like to speak on the Boundary Line Adjustment for Drinda Post on Pumpkin Hollow Road. There was no one. On a motion made by Mr. Haight and seconded by Mr. Urban the Board voted unanimously to close the Public Hearing.

### **2012 - 19      SITE PLAN REVIEW – CHARLOTTE & ALBERT BERZ – Deer Track Lane**

On a motion made by Mr. Filipovits and seconded by Mr. Urban the Board voted unanimously to open the Public Hearing. Mr. Grant asked if anyone would like to speak on the Boundary Line Adjustment for Charlotte and Albert Berz on Deer Track Lane. There was no one. On a motion made by Mr. Filipovits and seconded by Mr. Urban the Board voted unanimously to close the Public Hearing.

## **SUBDIVISION/SITE PLAN**

### **2012 -18      BOUNDARY LINE ADJUSTMENT – DRINDA POST – County Route 7**

Dan Russell appeared before the Board representing Drinda Post. Mr. Grant acknowledged that the lot width was not a problem and there were no deed restrictions preventing a Boundary Line Adjustment. He reminded the Board that the maps were accepted as a Preliminary Sketch at the previous meeting and the Public Hearing was scheduled and held.

Mr. Grant asked if any changes were needed. Mr. Russell advised him that no changes were required. After the SEQR, on a motion made by Mr. Haight and seconded by Mr. Filipovits the Board voted unanimously to make a Negative Declaration. On a motion made by Mr. Haight and seconded by Mr. Urban the Board voted unanimously to approve the Site Plan for Drinda Post, prepared by Dan J. Russell, dated June 13, 2012 for the Boundary Line Adjustment on Pumpkin Hollow Road.

The maps will be stamped on Wednesday by Ms. Becker.

### **2012 - 19      SITE PLAN REVIEW – CHARLOTTE & ALBERT BERZ – Deer Track Lane**

Charlotte Berz presented the Board with the revised maps which contained the final acreage and Zoning District. After reviewing the maps the SEQR was read. On a motion made by Mr. Filipovits and seconded by Mr. Urban the Board voted unanimously to make a Negative Declaration.

On a motion made by Mr. Urban and seconded by Mr. Haight the Board voted unanimously to approve the Boundary Line Adjustment for Charlotte and Albert Berz on Deer Track Lane according to the survey prepared by Robert J. Ihlenburg dated July 9, 2012.

Ms. Becker will stamp the maps on Wednesday.

## **2012 -20      SITE PLAN REVIEW – COPAKE VALLEY FARM – Route 22**

David Weiner appeared before the Board representing Salvatore Cascino and Copake Valley Farm. The Board asked if Mr. Weiner had a letter from Mr. Cascino giving him permission to speak on this application. Mr. Weiner advised the Board that he was not aware that this was required. He will supply this at a later date.

Mr. Grant advised Mr. Weiner that inasmuch as the last application presented to the Planning Board by Copake Valley Farm had been denied the Board needs to go back into the record to review what was previously presented and denied and review any changes made to the new documentation. Mr. Weiner explained that it was his understanding that this would be an expedited review as opposed to a full Site Plan Review. Mr. Grant acknowledged that the application being reviewed at this time is for an individual building as opposed to a whole Site Plan.

Mr. Weiner clarified that this application is for the expansion of the existing hay barn and the requirements for this are much less than for the full Site Plan Review. He said that it was his understanding that all that was needed was the footprint of the building and the building itself. He noted that the package also includes some structural diagrams especially of the roof lines. Mr. Weiner advised that it was his recollection that what was rejected in the last submission was part of a large development project with one of the main components rejected being the drainage and run-off systems and dealt with the water and fire controls. Mr. Weiner explained that the Hay Barn being submitted at this time is outside that system.

Mr. Weiner explained the submission stating that one part was the plan for the building and the other was the site plan for the general area around the drainage and run-off area. Mr. Grant questioned what the specific application was for. Mr. Weiner explained that it is for a specific building. He pointed out that the original hay building is having an extension added to each side. Mr. Grant questioned whether this is the building that houses the grinder. Mr. Weiner acknowledged that it was. Mr. Grant made note of the fact that it was his recollection that a part of the last denial had to do with the grinder as it was unclear what was being ground up and disposed of and this was why the Board needed to go back and review the previous submittal.

Mr. Weiner went on to explain the expansion of the building from the front and rear acknowledging that the grinder will be enclosed in the rear of the building. Mr. Weiner made note of the fact that one of the Building Inspector's concerns regarded the roof trusses and whether the roofs for the wings were going to tie into the existing roof. Mr. Weiner explained that was not the case as the roof would come up to a point and the new roofs would have new trusses over the existing roof and would tie into the existing trusses with supports between the two so that it looks like one building. He went on to explain that the roof finish will be corrugated in the same beige off-white that is presently there now and the roof will be a metal roof with a patina green.

Mr. Weiner made note of the fact that the Board was concerned with the relationship of the building drainage to the Noster Kill and pointed out that this was addressed on the submission which shows that the one-hundred foot (100') buffer off the wetlands comes just short of the building. Mr. Weiner noted that there will be no expansion of the existing grade and slab. Mr. Grant acknowledged that it was his recollection that the basis of the denial concerned the use issue and what the grinder was to be used for and it was necessary for the Board to go back into the record to review the matter.

Mr. Weiner wanted to clarify his discussions to date with the Town Hall and noted discussions with Ed Ferratto, the Code Enforcement Officer that included the plans for the building, the scope for the building, the grinder, drainage and run-off and some other issues such as the farm stand. Mr. Weiner explained that Mr. Ferratto reviewed the plans and the discussion included the use of the grinder. Mr. Weiner made note of the fact that the intention of the grinder is to take in a couple hundred yards of heavy wood waste such as stumps and heavier stuff that cannot be ground in a tub grinder and to use it to combine with the manure and possibly leaves.

Mr. Weiner acknowledged that it was his understanding that the building inspector has the right to come in if there is a concern that the grinder is being used for something inappropriate or a purpose that is not allowed. Mr. Weiner acknowledged to the Board that Mr. Cascino has always run his businesses under the premise that the regulatory authorities have the full right to enter and to monitor what he is doing and they expect that the Building Inspector and Code Enforcement Officer has the right to come in under these terms as well. He added that if there is a feeling that it is being used for a purpose not allowed for by the Town he should be able to come in and examine it. Mr. Weiner commented that he believed that it has been a stumbling block for any structure Mr. Cascino has offered in the Town is that it is always going to be used for something else. Mr. Grant addressed the fact that Mr. Weiner should be aware that there was litigation surrounding this and the Board needs to do their due diligence and go back and review that quite thoroughly. Mr. Weiner explained that he just wanted the Board to be aware of what is being proposed and to understand where they are with the Town officials.

Mr. Filipovits acknowledged that he has also been involved in this for the past five years and it is nice that Mr. Ferratto will be able to go in and say something is wrong but history shows that Mr. Cascino doesn't listen to anyone and does what he wants and he questioned what the point was for Mr. Ferratto to go in if he is not going to be listened to anyway. Mr. Weiner acknowledged Mr. Filipovits' concern and made note of the fact that five years ago Edgar Masters told them the trucks could no longer be kept there and the trucks were moved. Mr. Weiner made note of the fact that he understands the animosity and suggested discussion with Mr. Ferratto on how confident he feels he can deal with the situation. Mr. Grant advised Mr. Weiner that he will be put on the agenda for next month and by that time the Board will have reviewed the case and all the legal papers,

Mr. Weiner addressed the fact that there has to be some way that they can do something that would give Mr. Filipovits a level of comfort and maybe working with Mr. Ferratto will do this.

## MINUTES

Mr. Grant noted that the minutes for the July meeting needed to be accepted. Ms. DeConti questioned whether everyone present this month was at last month's meeting. Mr. Urban advised her that he had been excused. Mr. Grant acknowledged that acceptance of the minutes will have to be deferred to next month.

## ADMINISTRATIVE

**ISLAND OF COPAKE LAKE SEWERAGE GROUP:** Mr. Grant read the chain of e-mails between Erin Moore of Clark Engineering and Michael K. Sullivan of Crawford and Associates concerning the Island of Copake Lake Sewerage Group into the record. Ms. Moore's e-mail of July 26, 2012 to Mr. Sullivan stated that Mr. Clark agrees with the approach used to determine flow and the number of bedrooms on the Island if the system is solidly regulated and approved by the NYS DEC and the flows used appear to be consistent with their requirements. Ms. Moore's e-mail questioned whether the Columbia County DOH has any review or approval authority over the system as they typically hold to higher flow rates, typically 150 gpd per bedroom regardless of construction date or water saving features. Ms. Moore asks Mr. Sullivan to confirm who has regulatory control over this system and who might be reviewing and providing comments to proposed system modifications. This e-mail also stated that Clark would not like to recommend to the Copake Planning Board to proceed with the flow values presented only to learn that the CCDOH is requiring Mr. Sullivan to revise those numbers.

Mr. Sullivan responded to Ms. Moore's e-mail advising her that the DOH has no jurisdiction over the system at the Island of Copake and is permitted by the DEC. Mr. Sullivan specifically mentioned the issue of connecting new houses to the system and the differing philosophies with respect to unit flow rates for bedrooms and it would appear that the issue has been put to rest. This e-mail also stated that the Island at Copake HOA is not now and never has proposed the extension or modification of the existing system or a new system and the permit issued by the DEC for the existing system was for the construction and operation of a system designed to treat the flows from 16 homes (12 of which have been built to date, 1 under construction) with flows not to exceed seventy-five hundred (7,500) gallons per day, based upon unit flow rates.

Erin Moore once again responded to Michael Sullivan stating that she believes this resolves this issue and as he points out the system is already approved for the 16 houses by DEC so she agrees a modification to the SPDES is not required, however, for house 17 the steps she included in her last e-mail are what the DEC has been anticipating even if there is plenty of permitted capacity remaining and the new flow source is still consistent with existing sources. She agrees that no modification is needed for the 16 houses already approved.

In Mr. Grant's interpretation of these e-mails the DOH does not have jurisdiction over the community septic system but the DEC does and the flow rates provided by the HOA are acceptable to the DEC. Mr. Grant believes it should be mentioned to the HOA that the system is still permitted to exceed no more than seventy-five hundred (7,500) gallons per day and suggested that there should be some kind of mechanism allocating the remaining capacity among the homeowners. Mr. Grant noted that should this hit the seventy-five hundred (7,500) gallon per day threshold there will be a moratorium on further development.

Robert Agnes, President of the Island at Copake Homeowners Association requested that his letter be read into the record. Mr. Agnes' letter was read into the record. Mr. Agnes' letter requested this matter be added to the August 2, 2012 agenda as well as an expeditious response to the letter submitted by Michael Sullivan of Crawford Associates hired by the HOA to analyze the system capacity and stated that the Board decided to send the report to Clark Engineering for review. Mr. Agnes' letter also addressed the minutes of the June 7, 2012 Planning Board meeting describing the letter and the Board's intention of referring the letter to Clark Engineering. This letter also suggested that a later review of the minutes on the Town's web site eliminated the description of the discussion. This was later proven not to be the case.

Robert Agnes and Frank Bader were present at the meeting and requested a letter from the Planning Board rescinding Ms. Becker letter putting a moratorium on construction on the Island. Mr. Grant advised them that he will discuss the matter with Ms. Becker and clarified that there was no formal moratorium as there is no formal application before the Board. Mr. Bader aggressively requested that the Board act expeditiously to resolve this matter and requested a letter from the Board and Ms. Becker. Mr. Grant advised that a letter would be written but would state that the limit at the island is seventy-five hundred (7,500) gallons per day.

Mr. Filipovits questioned this discussion as there was no application before the Board regarding this and there was no open forum included on the agenda. Mr. Agnes questioned the Board lacked the capacity to make a reasonable evaluation of Michael Sullivan's letter. Mr. Grant acknowledged this was the reason the letter was sent to Clark Engineering. Mr. Agnes questioned under whose capacity the Board relied on to send the first letter to stop construction. Mr. Grant put an end to the discussion inasmuch as the process was being questioned and not the issue.

Mr. Bader implied that there were redacted minutes from the June 7<sup>th</sup> meeting which had been posted on the web site. It was proven that this was not the case and the minutes were intact on the website.

Mr. Grant clarified that a letter will be written explaining that once the seventy-five hundred (7,500) gallon per day limit is reached there will then be a moratorium and the Town will not approve anything above the seventy-five hundred (7,500) gallon per day threshold. Mr. Grant went on to explain that the calculation is roughly four (4) bedrooms per house and should someone want to expand the HOA needs to figure a way to allocate this to the system.

**CATAMOUNT UPDATE:** A letter was written by Ms. Becker to Mr. Grant and Mr. Davis regarding a call she received from Tom Gilbert advising her that their consultant, Harry Freedman, with the help of Ken Flood applied for the next round of eco development grants. In the letter, Ms. Becker advised Mr. Gilbert that the hotel project would be subject to another Site Plan Review and to allow four to six (4-6) months for it to be reviewed. Ms. Becker also advised him that there are new storm water regulations and a new waste water treatment system in Hillsdale discharging into the Roe Jan Kill and that the new developers do not want to construct the secondary access road.

**ZIGLER:** Mr. Grant informed the Board that the Ziglers received a permit from the Army Corps. to do the rip rap around the building on Southwest Colony Road they are renovating, however DEC approval is still needed. Mr. Grant advised that Mr. Ferratto should issue a stop-work order until a permit is received from the DEC. Mr. Haight questioned whether they needed

to appear before the Planning Board inasmuch as they are within one-hundred feet (100') of the lake. Mr. Grant advised him that a building permit had been given but was basically to work on the existing foundation and up and not to add to the building or to alter the lakeshore which it appears like they are doing. Mr. Haight questioned whether any other permits were needed. Mr. Grant clarified that a DEC permit is needed and the Town permit needs to be reviewed because it appears that the building significantly changed in comparison to what the original building permit was and there was no alteration to the waterfront in the original permit as well.

**IDENTIFICATION OF HOA FOR ASSESSOR:** It was made note of that the assessor requested a list of the names of Homeowners Associations. The Board was not aware of the reason for this.

## **CARRY OVER**

The following matters were carried over to the next meeting:

**2008-21 MAJOR SUBDIVISION – MICHAEL B. & BARBARA S. BRAUNSTEIN – Off Golf Course Road**

**2011-18 SITE PLAN REVIEW – DOMINICK SINISI – Lakeview Road [Copake Lake]**

**2011-27 SITE PLAN REVIEW – RUTH THOMAS – Route 7 [Copake]**

## **ADJOURNMENT**

There being no further business, on a motion made by Mr. Filipovits and seconded by Mr. Urban, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 7:50 p.m.

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Marcia Becker, Chair

**Please note that all referenced attachments, comprising 1 page, 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**

### **COPAKE VALLEY FARM**

July 20, 2012                      Weiner to CPB (1)