



COPAKE PLANNING BOARD

AUGUST 3, 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, Ed Sawchuk, Steve Savarese and Jon Urban. Julie Cohen and Attorney Ken Dow were excused. Lisa DeConti was present to record the minutes. Town Board Liaison Terry Sullivan was also present.

ZONING BOARD OF APPEALS – Referrals

2017-37 ZBA REFERRAL – DIOSISIO FONTANA – Island Drive[Taconic Shores]

- ZBA Request for Area Variance
- Building Permit Denial
- Tax Statements
- Site Plan
- Pictures

Linda Chernewsky appeared representing Diosisio Fontana who is before the ZBA for the addition of a pre-fabricated twelve by sixteen foot (12'x16') shed in their front yard. Ms. Chernewsky advised the Board that Zoning Board member Frank Peteroy suggested that the shed be moved farther away from the house. She also noted that the change has been made on the submitted plans.

Ms. Becker asked whether the applicant owns the adjacent lot and was advised by Ms. Chernewsky that they not only own the adjacent lot but they own a total of five (5) lots all the way across. Ms. Chernewsky explained that the reason the shed cannot be placed at the rear of the house is that the rear and side yards have very steep slopes. Ms. Becker questioned whether the fact that the applicant owned the adjacent lot would disqualify them from claiming a non-conformity. Ms. Chernewsky pointed out that the adjacent lot is a separate tax parcel. After checking the Town Code it was noted that the applicant only needs relief for a front yard set-back.

A letter will be written to the ZBA advising them that the Planning Board had no issue with this application.

PUBLIC HEARING

NONE

SUBDIVISION/SITE PLAN

2017-34 SITE PLAN REVIEW – BARBARA J. MOJICA – Lakeview Road [Copake Lake]

- Court order of May 15, 2017
- Site Plan

No one appeared regarding the application for the Boundary Line Adjustment of Vaeth v. Mojica. The Board once again reviewed the Court Order that was issued for the adjustment of the Boundary Line between James and Margaret Vaeth and Barbara Mojica.

Mr. Haight explained that he had requested a full survey of the property so that if there was ever a question in the future a full survey would be available. The Board was in agreement that the information provided was more of a site plan than an actual survey and no action can be taken without one.

Mr. Grant believed that a Public Hearing would need to be held regardless of the issuance of the Court Order.

The Board accepts the Court Order and Site Plan and needs three (3) full sets of the survey map before a proper approval can be given.

On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to accept this application as a Minor Subdivision/Boundary Line Adjustment and set a Public Hearing for next month's meeting.

A letter will be written to the applicant's Attorney advising him of the Board's actions.

2017-31 SITE PLAN REVIEW – 13 LACKAWANNA PROPERTIES [BUILDING #1] – Lackawanna Road [Copake]

- Revised Site Plan
- Agriculture & Farmland Protection Plan for Columbia County

**2017-32 SITE PLAN REVIEW – 13 LACKAWANNA PROPERTIES [BUILDING #2] –
Lackawanna Road [Copake]**

- Revised Site Plan
- Agriculture & Farmland Protection Plan for Columbia County

Frank Peteroy appeared before the Board representing Salvatore Cascino and 13 Lackawanna Properties. Mr. Peteroy submitted a new Site Plan showing all buildings on the applicant's property to the best of his knowledge.

Ms. Becker asked if it was Mr. Cascino's plan to build out the whole project represented in the submitted Site Plan. Mr. Peteroy advised her that the submitted Site Plan is the overall plan for the portion of the property represented. She then asked whether Mr. Cascino's plan was to build out the complete project. To the best of his knowledge Mr. Peteroy believed this was his intent.

Ms. Becker was confused as to what the term 'under separate application' meant. Mr. Peteroy explained that this term meant that each building that this term refers to means it is being applied for and dealt with separately. Ms. Becker explained that this works for a project that is an approved project with the project being approved first and then subsequent buildings being reviewed separately. Ms. Becker brought up the fact that the project being submitted at this time has previously been denied. It was Mr. Peteroy's belief that this was denied for other reasons and not for what is being submitted at this time. Ms. Becker pointed out that the applicant is still submitting the same plan. Mr. Peteroy explained that he can't change the topography or terrain and the farm is what it is. Ms. Becker once again pointed out that the project being submitted at this time is a denied project. Mr. Peteroy pointed out that the barn that was previously forty five thousand square feet (45,000) is now being submitted as a twenty five thousand square foot (25,000) barn.

Mr. Haight brought up the fact that the Court has ordered Mr. Cascino to apply for permits for buildings numbered 1 & 2. Mr. Peteroy made note of the fact that there are court issues from March regarding the two (2) buildings being discussed. Mr. Peteroy pointed out that an updated drawing for Building #1 has not been submitted from the engineer however Building #2 appears to be the same size as the one on the plan.

Mr. Haight advised Mr. Peteroy that no action can be taken on the submitted plan as it was just received during this review. Mr. Haight asked what Building #1 is being used for and was advised by Mr. Peteroy that he believed the planned use is for hay and equipment storage. He also noted that there seems to be a portico being built on the South side for open storage with a mechanical room on the West side which he believes will probably serve the future Greenhouse. He did acknowledge that there is a note for the general size for the Greenhouse listed under the Farm Stand. He did make note that from his observations he believed the Mechanical Room is connected to the Greenhouse to be used for the heating system.

Mr. Haight asked whether the big plastic tank he observed at the Site Visit was going to be used for water or chemicals. It was Mr. Peteroy's opinion that from the looks of it this tank looks like it is set up to collect rain water for the Greenhouse however it is not piped for that purpose as

yet. Mr. Haight did make note of the fact that the Board will need to know from Mr. Cascino what the exact use of this tank will be. Mr. Becker questioned whether it will be used for fuel. Mr. Peteroy advised her that he did not believe this was for fuel and he noted that the oil tank has not been installed as yet however there is a boiler of some kind in the attached building and the piping for the oil tank is on the East wall. Mr. Haight clarified that he was not referring to oil but questioned whether it would be used for chemicals for the Greenhouse. Mr. Peteroy did make note of the fact that there is a well in the center of the Greenhouse along with one at the Northwest corner of Building #1.

Ms. Becker questioned what the use of the trough that she observed at the Site Visit will be. Mr. Peteroy believed this was for the future Greenhouse. Ms. Becker believed that the space between Building #1 and the Farm Stand where the center island with gravel on either side running the length of the Farm Stand is the base of the Greenhouse. Mr. Peteroy explained that what Ms. Becker believed was gravel is actually wood chips and this area is being used as drainage for the future Greenhouse.

Mr. Grant made note of the fact that it was his belief that the Site Plan being presented is essentially the same plan that was presented in 2008 and asked what has changed. Mr. Peteroy explained that the previous Site Plan had a forty five thousand (45,000) square foot barn and this one shows a twenty five thousand (25,000) square foot barn and there is a different arrangement of the applications he is presenting. Ms. Becker noted that the submitted Site Plan is very much the same and acknowledged that there is an order from the Court stating that the owner needs to apply for building permits for the two buildings presently under review. Mr. Grant pointed out that the Board is not under any obligation to provide them. Ms. Becker advised that inasmuch as the applicant was referred by the Building Inspector the Board needs to give them Site Plan Review. Mr. Haight pointed out that under SEQRA any future buildings need to be represented on the Site Plan even though there are only two (2) buildings being reviewed at this time. Mr. Grant advised that the Board needs legal counsel at this time and noted that Attorney Dow was not present at this meeting.

Mr. Haight asked what Building #2 is being used for and was advised by Mr. Peteroy that the planned use for this building will also be for hay and equipment. Mr. Haight then asked whether these buildings are being used for farm equipment or other equipment. Mr. Peteroy believed this was for farm equipment. Mr. Haight then advised Mr. Peteroy that the Board would have to know for certain what the use of the buildings will be for. Mr. Peteroy explained that he cannot guarantee what the buildings are being used for. Mr. Haight advised him that in review of these buildings the Board will need to know what the use of the buildings are as this needs to be a consideration of Site Plan Review. Mr. Peteroy acknowledged that to the best of his knowledge it will be used for farm products and farm equipment. Mr. Haight clarified that he is not asking for the specific equipment that will be stored in the buildings he just wants it known that it be only farm related.

Ms. Becker requested that photographs of the buildings be submitted at the next meeting. Mr. Peteroy said he also needs to get in touch with the original engineer that drafted the buildings and have him re-do the revised building.

Ms. Becker noted that the attached section of Building #1 sounds like it is for Greenhouse use and she would like to see more detail regarding the Greenhouse and photographs of it. Mr. Peteroy advised her that he can only give her pictures of the proposed Greenhouse. Ms. Becker clarified that she would like pictures of the existing site of the Greenhouse and anything that is planned for it. Mr. Peteroy added that the piping from the boiler appears to stub out the West Wall into the Greenhouse and there is no oil tank but there is a flue for the boiler and it has just been left that way. Mr. Peteroy also noted that there will be some perimeter heat but he was not sure what is planned. Ms. Becker pointed out that hay is usually not stored in a building where there is fuel. Mr. Peteroy explained that there is a wall between that.

Mr. Haight made note of the fact that steel beams were removed from Building #2 and questioned whether the applicant plans to come before the Board to have that re-installed. Ms. Becker pointed out that it is on the map as a proposed open cow shed. In answer to Mr. Haight's question Mr. Peteroy said they are planning to return. Mr. Peteroy clarified that the Courts ordered the removal of the steel beam.

Mr. Haight asked what the future stalls will be made of and was advised by Mr. Peteroy that the plans call for a block building with a concrete foundation, steel trusses and a steel roof. Then Mr. Haight asked what the twenty five thousand (25,000) square foot barn will be made of and was advised by Mr. Peteroy that this is probably in the same classification.

For the record Ms. Becker wanted it noted that there are a lot of piles of metal stored in one of the buildings near the proposed barn and in one of the buildings next to Building #1. Mr. Haight once again asked what will be stored in the twenty five thousand (25,000) square foot Barn and was advised by Mr. Peteroy that he cannot say for sure but he believes that the planned use is for farm products. Mr. Peteroy added that the applicant cannot continue to qualify for a farm operation without these items added.

Mr. Haight questioned whether the Site Plan Check List should be reviewed at this time but Mr. Peteroy advised him that new drawings will be submitted at next month's meeting. This was postponed until then.

Mr. Peteroy asked to address the Board. He advised the Board that the applicant's property has had a farm tax exemption for at least the last five (5) years based on the Town Tax rolls. Ms. Becker asked whether this was for the land or for the buildings and was advised by Mr. Peteroy that this is for the land. It was Ms. Becker's belief that the exemption is for the other lands where the hay is being grown and that there is no farm production being done in the area being represented on the Site Plan. Mr. Peteroy advised her that this is also part of the land exemption. Mr. Haight acknowledged that the Town Assessor told him that the applicant has an exemption because he has a lease with a local farmer. Mr. Peteroy continued and noted that when the Department of Agriculture set this up they do not include buildings so to say that this is not a farm application because of all these buildings is not true at all. He continued to say that the applicant has a field exemption on his farm crops and nowhere in the Assessor's manual with the exception of greenhouse use do you have mention at all of buildings. He said that the Department of Agriculture concludes that the use of the land, if it is tax exempt, is at the discretion of the farmer and he can choose, as he has, field crops for the entire property. Mr. Peteroy also acknowledged that this site is in an agricultural district and has been so since the 1970s.

Mr. Peteroy also brought up the fact that the Courts ordered the owner to apply for permits for these two (2) buildings and the applicant was timely in doing so and was in under the sixty (60) days. He added that the Court also ordered that the determination of the Building Inspector, Zoning Board and/or Planning Board shall in no way affect the efficiency of this stipulation. It is Mr. Peteroy's opinion that the Court is directing the agencies of this Town to approve these plans. Mr. Haight disagreed with Mr. Peteroy's opinion and clarified that the Courts have ordered that the applicant apply for the proper permits however there is nothing stating that the Town has to approve the submissions and the applicant still needs to abide by the Code of the Town. It was Mr. Peteroy's belief that approval applies to the sixty-day limit. Mr. Haight pointed out that there is nothing that says the Board has to approve this application within a sixty-day limit. Mr. Grant said we will rely on our legal counsel for this determination. It was Mr. Peteroy's interpretation that the Board should make this happen within the said time limit. Mr. Haight made note of the fact that it is happening however the outcome is not know as yet. It was Mr. Grant's interpretation that the sixty-day limit does not restrict the Town in its process.

**2017-38 ZBA REFFERAL/PRELIMINARY SPR – GRJH INC. – State Route 23
[Craryville]**

- Letter from Steven Smith, P.E. regarding the Application Process
- ZBA Action Taken on Appeal
- Site Plan

Civil Architectural Engineer Steven Smith appeared before the Board representing GRJH Inc. It was Mr. Smith's understanding that this application has been before the Planning Board for Site Plan Review before. Mr. Haight clarified that although the applicant has been before the Board several times this was only in a conference capacity and not for Site Plan Review. He was also advised that the applicant has completed the Zoning Board process for a Special Use Permit that they have been approved for.

It was noted that although Site Plan had not been reviewed the applicant did pay the appropriate fee at the time of their first conference with the Board.

Mr. Smith explained to the Board that some of the parking space locations have been moved more toward the East. This is due to the fact that the placement of the well is in the Northwest corner and the topography in that area is somewhat high and given the prior plan this area would require a retaining wall.

Mr. Smith also explained that the turning radius has been changed to accommodate the fuel delivery trucks. Mr. Haight asked whether the tracking of the delivery trucks was depicted on the Site Plan. It was not however Mr. Smith showed him the track on the Site Plan in which the trucks will turn onto Craryville Road and go left into the driveway on the site and continue to the fuel pumps and then exit out onto Route 23.

Mr. Smith brought up the fact that the previous plan had the leech fields under some of the pavement however to his knowledge the State or County Health Departments do not allow this so on his plan the leech fields have been moved a little South from under the pavement. Mr.

Grant questioned the distance the leech fields need to be from the abutting property line. It was Mr. Smith's understanding that this distance is ten (10) feet. Mr. Haight asked if that is Town or State Code. Mr. Smith advised him that this is under State Code. He will check into the regulations of the County and Town. Mr. Smith also acknowledged that they typically go with the DEC regulations for flow rates however he will look into Columbia County regulations as well. He did not believe that the DEC has regulations for Convenience Stores but was advised by Mr. Haight that Columbia County DOH will provide this. Mr. Smith will check with the owners as they are familiar this inasmuch as they have several other stores. Mr. Haight did advise him that septic flow rates do not include the water from coffee made at these facilities which to his surprise, turns out to be quite high.

Ms. Becker made note of the fact that there is nothing in the Town Code regarding sewage system set-backs from the Boundary Line or the buildings.

Mr. Smith discussed the issue of parking with the owners who advised that they discussed the issue of banking some of the parking spaces to accommodate the Town Code. Mr. Smith asked what the regulations for parking are and Mr. Grant advised him that it is one (1) space for every fifty (50) square feet of customer floor area plus one (1) space for each employee. Mr. Smith was advised that should the Board allow parking spaces to be banked they do need to be accounted for on the Site Plan. Mr. Haight also advised him that in the event that the required number of parking spaces could not be met then the applicant would need to return to the ZBA for a variance.

Mr. Smith went on to explain that there is a ravine on the site that they plan on directing to a Catch Basin. Ms. Becker expressed concern that this will eventually go into the kill across the street so the Board will need to know what is being collected in the ravine because of this. After discussion the Board felt this will not be an issue due to its location. Ms. Becker thought the DEC might need to be consulted for this. Mr. Smith did acknowledge his plans to have a Stormwater Prevention Plan submitted (SWPP).

Mr. Grant brought up the issue of parking again and referred to the previous minutes that stated the issue of banking parking spaces had been discussed and the applicant was advised that a variance would be needed should this be the case. Mr. Smith made note of this fact as the applicant was under the impression that this issue had been resolved with the ZBA. Mr. Haight advised Ms. DeConti to contact ZBA Chairman Jon Strom by letter regarding this.

Ms. Becker brought up the fact that there was a Public Hearing held by the ZBA however the Planning Board has received letters from the Public that were written to the ZBA. She also noted that the ZBA was Lead Agency and they completed the SEQRA to which the Planning Board submitted their comments. Ms. Becker made note of the fact that there was no public input regarding the Planning Board's comments regarding the SEQRA.

Mr. Smith discussed the Landscaping Plan and noted that the plantings used are plantings that have proven successful for the applicants. Mr. Haight asked whether there will be any lighting on the site and was advised by Mr. Smith that there will be and it will be LED. Mr. Haight then asked what the dimensions were on the sign and was advised that this is shown on the Site Plan.

Mr. Haight brought up the fact that the Harlem Valley Rail Trail Bike Path is across the street and the issue of a Bike Rack had been discussed. Mr. Smith will include this in his plans.

Mr. Haight asked whether Mr. Smith is in contact with the Town and State regarding the entrances and Ms. Becker made note of the fact that none of the immediate neighbors have commented on this.

Mr. Haight asked if the farms at the rear of the parcel are being farmed and was advised that they are. Mr. Haight advised that an Ag Data Statement needs to be done. Mr. Sawchuk had concerns about the lighting and Mr. Grant advised him that this can be mitigated during the Planning process.

Mr. Haight asked what the frame of the building will be and was advised by Mr. Smith that it will be a Morton wood frame building.

Mr. Urban brought up the fact that a floor plan should be reviewed by the Planning Board. Mr. Haight advised Ms. DeConti to send Mr. Smith a letter informing him of this.

Mr. Smith and the Board reviewed what is needed for next month's meeting. The following list was discussed:

- Check flow with Columbia County
- Number of parking spaces needs to be resolved
- Sign sizes
- Bike Rack needs to be added
- DOT approval is needed due to fact it is on a State Road
- Town approval is needed for Craryville Road
- Drainage on Lot needs to be addressed
- Height of building is needed
- Lighting Schedule needs to be submitted
- Floor Plan
- Agricultural Data Statement needs to be completed

Mr. Sawchuk asked whether a traffic study was done by the ZBA as this should have been required for the SEQRA. It was Mr. Grant's belief that this is required for the Long Form SEQRA and the ZBA performed a Short Form SEQRA.

MINUTES

On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted to approve the June 1, 2017 and the July 6, 2017 minutes.

ADMINISTRATIVE

TOWN OF EGREMONT PUBLIC HEARING: A Notice of Decision for a Special Permit for Karner Brooke LLC on Main Street in Egremont MA was approved by the Egremont Planning Board on July 12, 2017

A Notice of Decision regarding Catamount Junk was upheld by the Egremont Planning Board on July 13, 2017

ALON BEN MEIR DECISION: A Court Order directing the ZBA to issue Special Use Permits for the four Ben-Meir applications was issued to the ZBA and a copy was received by the Planning Board which will be kept on file.

SHORT TERM RENTALS: Mr. Sawchuk advised the Board that during the training he went to there was a discussion regarding the Short-Term Rentals of houses. He noted that this is a concern to Towns everywhere.

CARRY OVER

The following matters were carried over to the next meeting:

NONE

ADJOURNMENT

There being no further business, on a motion made by Mr. Savarese and seconded by Ms. Becker, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 8:52 p.m.

Bob Haight, Chair

Please note that all referenced attachments, comprising 6 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

DIONISIO FONTANA

June 28, 2017	Building Permit Denial (2)
June 28, 2017	ZBA Request for Area Variance (2)

GRJH INC.

January 5, 2017	ZBA Action Taken on Appeal (2)
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