



COPAKE PLANNING BOARD

AUGUST 6, 2015

MINUTES

DRAFT

Please note that all referenced attachments, comprising 42 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 6:20 p.m. by Bob Haight, Chair. Also present were Marcia Becker, Steve Savarese, Julie Cohen and Ed Sawchuk. Chris Grant and Jon Urban arrived shortly after the meeting began. Lisa DeConti was present to record the minutes. Town Attorney Ken Dow, Town Supervisor Jeff Nayer and Town Board Liaison Terry Sullivan were also present.

ZONING BOARD OF APPEALS – Referrals

2015 -16 ZBA / SPR – DANA & LYNDSEY BOWEN – Lakeview Road [Taconic Shores]

Submissions included:

- Referral letter from Ed Ferratto dated July 14, 2015
- ZBA Application Request for Area or Use Variance and Special Use Permit
- Application for Boundary Line Adjustment
- Application for Site Plan Review
- Building Permit Application
- Baldwin & Sons Septic Report dated March 31, 2015
- Site Maps
- Pictures

Ms Becker acknowledged that this application is before the Board for a modification of a non-conforming structure on a non-conforming lot and will consist of interior renovations, a new deck, screened in porch and a breezeway. Ms. Becker acknowledged the application for a Boundary Line Adjustment and wanted to see if this would result in a conforming lot. It was noted that inasmuch as the deck was an existing legal deck a covered deck is not so they are seeking relief from the one-hundred foot set-back for a covered deck.

Mr. Grant advised that the referral letter to the ZBA should note that the non-conformity is being increased and moved closer to the water from a distance of ninety-two feet eight inches (92'8") to

sixty-four feet (64'). Ms Becker added that an open deck is also being done however this is an allowed use.

It was noted that two lots are being merged and a Public Hearing will be required.

On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to accept the Boundary Line Adjustment Application for Dana and Lindsay Bowen as a Preliminary Sketch and set a Public Hearing for next month's meeting.

2015 -17 ZBA / SPR – LARRY & KATHRYN HOUSE – Lakeview Road [Copake Lake]

Submissions included:

- Referral letter from Ed Ferratto dated July 14, 2015
- ZBA Request for an Area Variance and Special Use Permit
- Application for Site Plan Review
- Building Permit
- Baldwin & Sons Septic Report dated March 31, 2015
- Site Maps
- Letter of Agency from Larry and Kathryn House dated March 25, 2015
- Pictures

Ms. Cohen acknowledged that the application for Larry and Kathryn House is for a modification of a non-conforming structure on a non-conforming lot. Mr. Haight made note of the fact that this is a corner lot creating two (2) rear yard set-backs and two (2) front yard set-backs. Mr. Grant noted that a second floor is being added and Ms. Cohen pointed out that the existing house has one (1) bedroom and one (1) bath house and the proposed structure will have three (3) bedrooms and three (3) baths. Mr. Grant made note of the fact that the septic will need to be reviewed. It was also noted that relief for development within one-hundred feet of a water body is needed with the set-back variance being that of thirty-seven feet (37') from a water body.

The height of the proposed structure was discussed and noted to be twenty eight feet five inches (28'5"). Mr. Haight suggested asking the ZBA if this is an undersized lot with a maximum height requirement of twenty-five feet (25') from the lowest point.

2015 -18 REFERRAL – ALON BEN MEIR – County Route 7 [Copake]

Submissions included:

- Referral letter from Ed Ferratto dated July 14, 2015
- Building Permit dated July 15, 2015
- Crawford & Associates Septic Variance Request dated July 13, 2015

- ZBA Appeal Application Form dated July 13, 2015
- Request for Area or Use Variance and Special Use Permit
- Pictures
- List of Abutters
- Short EAF Form

Mr. Haight advised the Board that Mr. Ben Mier needs to install new septic fields for one of his houses on County Route 7 due to the fact that the existing fields are located within a wetland. Mr. Ben Meir is requesting relief for the installation of a septic system within one-hundred and fifty feet (150') of a wetland or body of water. It was noted that the septic is being moved further away from the wetlands however it will be moved closer to the lake.

Ms. Becker made note of the fact that the house is quite large and questioned what the size of the system being installed is. Attorney Dow believed that the septic being moved out of the wetlands will be one-hundred and fifty feet (150') from the water however the pipe to the septic will be closer.

Mr. Haight brought up the fact that there is really no choice in this matter. Mr. Grant felt that if there were no other solution than moving the pipes closer to the lake installing a jet aerobic septic system would be a more favorable choice.

Inasmuch as the house appears quite large Ms. Becker made note of the fact that the septic should be sized correctly. Mr. Haight pointed out that the reason the septic needed to be moved was due of the fact that they were upgrading the size of the system. Ms. Cohen noted that there are six bedroom total on the application. Ms. Becker felt this should be verified. Mr. Haight brought up the fact that occupancy signs are being put in the houses and he noted that CEO Ferratto as well as the state building inspector met with the engineers and reviewed the occupancies of the houses.

It was noted that the Board recommendation would be to install a jet aerobic septic system and verify that the septic is adequate for the number of bedrooms.

PUBLIC HEARING

2015-14 BLA/MINOR SUBDIVISION – DIANE CINQUE – Farm Road [Copake]

Submissions included:

- Survey Map
- Frank Peteroy maps

Ms. Cinque appeared before the Board with Surveyor Leslie Chase.

On a motion made by Ms. Becker and seconded by Mr. Savarese the Board voted unanimously to open the Public Hearing.

Mr. Haight acknowledged that he had received a letter from Frank Peteroy stating that the boundary line of Karin Newman's property is in question. Mr. Haight spoke with Town Assessor Craig Surprise who advised him that this is a civil matter. Attorney Dow agreed that this does not concern the parcel being subdivided.

Mr. Haight asked if anyone wished to speak on this application. Frank Peteroy approached the Board and informed them that he believed that the right-of-way was on his property and not on the Property of Ms. Newman. Mr. Peteroy believed these were not normal circumstances as the property was purchased through a tax foreclosure which is a sale between a municipal party and a private property. He felt the right-of-way was part of this application as it is a contract that was consummated between a private party and the county. Mr. Peteroy's issue was with the boundary line on the Newman property. Ms. Becker advised him that that boundary line was not in question on this application.

Mr. Peteroy had issue with the right-of-way being extinguished. Attorney Dow explained that the right-of way being extinguished is to the parcel being subdivided and does not affect the right-of-way to Mr. Peteroy's property. Mr. Peteroy stated that he does not have a right-of-way as he owns the land. He explained that his issue is with the fact that for approximately the past thirty (30) or so years there has been a dispute on the property line and the right-of-way is actually on his property.

Mr. Peteroy questioned the survey of the parcel to be subdivided in relation to the Newman property and his property. Attorney Dow did not see how this had any bearing on the subdivision as the right-of-way is being extinguished as the land-locked parcel will become part of the Newman parcel. Attorney Dow explained that the boundary in question is outside of the area of the subdivided parcel. Mr. Peteroy argued that this is not so as the survey relied on the deed transfer from the County. Attorney Dow advised Mr. Peteroy that if there is a boundary dispute on Ms. Newman's property Mr. Peteroy can dispute this with Ms. Newman in a private action however it has nothing to do with the subdivision. Attorney Dow explained that the Board is dealing with the boundary line between the acquired parcel and Ms. Newman's property and is in no way endorsing the boundary Mr. Peteroy has issue with. Mr. Peteroy believes this is a violation of a breach of contract with the County.

Surveyor Leslie Chase acknowledged that he has followed procedure and strictly surveyed the wooded lot being subdivided which was non-conforming prior to zoning with the existing right-of-way and this is the only thing he is certifying. He made note of the fact that he was not hired by Ms. Newman for her parcel and all he has done was taken her deed into consideration of the parcel he was surveying. He did acknowledge that there is a deed overlap that will need to be taken care of however he can't determine who owns what at this time and if there is an overlap a settlement would need to be made between the owners in question. Mr. Chase did make note of the fact that the owners were aware of this for the past fifteen (15) to thirty (30) years. Mr. Peteroy acknowledged that he had been aware of this for the past fifteen (15) years.

A discussion ensued between Mr. Chase and Mr. Peteroy regarding the deeds and boundary lines of the properties in question. Mr. Sawchuk questioned whether Mr. Chase's survey is an accurate depiction of the meets and bounds. Mr. Chase advised him that he is certifying just the parcel being subdivided. Mr. Sawchuk questioned whether Mr. Chase should be showing the boundary line between the Newman property and the land-locked parcel being subdivided inasmuch as he

used Ms. Newman's deed to certify the subdivided parcel. Mr. Chase explained that all he can do is show what Ms. Newman's deed says she owns so if Mr. Peteroy's deed shows he owns something different there is a conflict. However, Mr. Chase said what he can't do is say Ms. Newman's deed is right and Mr. Peteroy's is wrong as he is not surveying Ms. Newman's property. Mr. Peteroy questioned why the deeds and surveys are different with the right-of-way shown on different parcels. Mr. Chase explained that this is because it was surveyed by two different surveyors at two different times with different fences going down the right-of-way.

For the record Ms. DeConti asked whether there is any question with the parcel being subdivided or whether the issue is only with the boundary on Ms. Newman's property. She was advised that the issue is only with the boundary on Ms. Newman's property. Ms. DeConti then asked how a merger would affect the parcel being subdivided and was advised that it would not.

Mr. Sawchuk asked whether the boundary between Ms. Newman and Mr. Peteroy would be impacted when the boundary between Ms. Newman's parcel and the parcel being subdivided is being extinguished. Mr. Chase explained that this is why a meets and bounds description of seven point eight-eight (7.88) acres is given from Ms. Cinque to Ms. Newman and it is explained as a deed plotting. Attorney Dow pointed out that the boundary line between Ms. Newman and Mr. Peteroy is not before the Board. All that is being done is that the line between Ms. Newman's property and the line between Ms. Cinque's property and the parcel being subdivided will disappear becoming part of the same parcel leaving two (2) parcels instead of three (3) and whatever the lines are, they are and if there are disputes they continue to exist however they don't implicate the lines of the parcels being added.

Ms. Haight acknowledged that the Board will follow Attorney Dow's advice and move forward. Attorney Dow acknowledged that the Board is in no way endorsing that the right-of-way is on one property or the other as it is not part of this decision. Mr. Grant agreed and noted that all the Board needs to do is decide whether or not to approve the Boundary Line Adjustment.

With no other comments being made on this on a motion made by Mr. Savarese and seconded by Mr. Grant the Board voted unanimously to close the Public Hearing.

2015 -9 SITE PLAN REVIEW – GARY SINGH [RUBIN QUICK STOP] – County Route 7A [Copake]

Submissions included:

- Sketch drawn by Gray Davis

Mr. Haight reminded everyone that the Public Hearing remained open from last month and asked if anyone wished to speak on this application.

Ms. Becker acknowledged that responses were received from several of the interested parties however a response had not been received from the Hamlet Revitalization Task Force. She regretted this as she felt the more information the Board has the better they can build a strong foundation for a decision. Mr. Grant noted that the Public Hearing is still open and comments can still be considered before any decisions are made.

Town Resident ROBERTA ROLL ... spoke on behalf of the Hamlet Revitalization Task Force and acknowledged that they are in support of new business in the Town however she felt it was premature to render an opinion or stance on this project inasmuch as the Hamlet plan is a draft and still being worked on at this time.

Town Resident MURIEL MULDORPH ... acknowledged that she has been a resident since 1938 and has seen the deterioration of Copake over the years. She feels it is time to start improving Copake and made note of the fact that Mr. Singh is trying to make improvements. She is in favor of his efforts.

Town Resident DAVE PROPER ... spoke on behalf of the Copake Fire Company. He pointed out that Mr. Singh's structure is a wood frame structure and a fireman's nightmare as a fire in this structure would put all the other businesses and buildings in jeopardy. He encourages the Board to approve this proposal as the new structure needs to be built to code. He feels that along with Mr. Singh the Town's people and firefighters will also benefit.

Town Resident PAUL PROPER ... also feels the Town has been going downhill and remembers when the Drug Store was open seven days a week with customers in it all the time. He also feels that no one wants to come to Copake any more.

Town Resident and Supervisor JEFF NAYER ... acknowledged that Mr. Davis volunteered a sketch for Mr. Singh's review and commended Mr. Singh for working with the Board and the Town to make revisions that will make everyone happy. He feels that this is a great Town and everyone in the Town will benefit from Mr. Singh's project.

Town Resident DAVE VALDEN ... acknowledged that as a business owner he is in favor of the project and feels it is a major step forward for Copake

Town Resident MIKE FALLON ... also supports Mr. Singh's project and agrees with Supervisor Nayer that this Town is a great Town. He does admit that the Town is run down and feels Mr. Singh's project is a step in the right direction. He hopes the Board will support it as well.

Town Resident JEANNE METTLER ... acknowledged that she is speaking as a resident and also remembers the Town the way it was. She noted that a Rapid Care center will be coming to the Town along with new stores. She also supports Mr. Singh's project.

Town Resident MARCIA PETEROY ... acknowledged that her family has been here since 1924. She owns a business above Copake and sends people down to the Copake Porch Store. She feels things are happening in the Town and she encourages this. She is also in support of Mr. Davis's new design.

Town Resident LINDSAY LEBRECHT ... is also a business owner in the Town and feels that the Town needs Mr. Singh's project. She appeals to the Board to approve this. She also appreciates the fact that Mr. Singh has worked with the Town in making changes.

Town Resident JOE LAPORTA ... made note of the fact that there was no one in the room opposed to Mr. Singh's project and feels if the majority of the people are in favor of this the Town should move forward with it.

Mr. Haight asked if anyone else wished to comment on this application. Being none, on a motion made by Mr. Savarese and seconded by Mr. Grant the Board voted unanimously to close the Public Hearing.

2012-1 MINOR SUBDIVISION – COPAKE LAKE GOLF LLC/RCJ LAKEVIEW – Off Gold Course Road [Copake Lake]

Submissions included:

- None

Jeff Plass and Pat Prendergast appeared before the Board representing Jon Urban and Copake Lake Golf LLC/RCJ Lakeview.

On a motion made by Ms. Becker and seconded by Mr. Grant the Board voted unanimously to open the Public hearing.

Mr. Haight asked if there was anyone present that wished to speak on this application. Being none on a motion made by Mr. Haight and seconded by Mr. Grant the Board voted unanimously to close the Public Hearing.

SUBDIVISION/SITE PLAN

2015-11 MINOR SUBDIVISION – CARL CAMPBELL AND CHRISTA PROPER – Route 23 [Copake]

Submissions included:

- None

Mr. Haight advised the Board that a decision had been made by Attorney Dow that Board of Health approval for a septic system is not needed on the property Mr. Campbell wishes to subdivide. Attorney Dow's decision was made due to the fact that solar panels are the only thing being placed on this parcel. Mr. Haight did point out that a note will need to be added to the deed and the maps stating that no Board of Health approval had been received. Mr. Haight also pointed out that should the sale of Mr. Campbell's property go through, the solar company will also have to appear before the Board for solar panel approval.

On a motion made by Mr. Savarese and seconded by Ms. Becker the Board voted unanimously to set a Public Hearing for the September 3rd meeting.

2015-14 BLA/MINOR SUBDIVISION – DIANE CINQUE – Farm Road [Copake]

Submissions included:

- Revised Subdivision Maps
- Short Form SEQR

Ms. Cinque appeared before the Board with Surveyor Leslie Chase. Ms. Cinque advised the Board that the zoning district had been added to the subdivision maps and also submitted a short form SEQR. Ms. Becker acknowledged that there were no deed restrictions on the deed.

At last month's meeting Attorney Dow questioned whether a parcel having a Quit-Claim Deed could be merged with a parcel having a deed of another type. He referred to a deed from his own property in which a parcel having a Quit-Claim Deed was merged with a parcel having another type of deed and acknowledged that this is apparently acceptable.

Ms. Becker brought up the fact that at last month's meeting there was a question regarding a right-of-way on an adjacent parcel. After closer review Ms. Becker's opinion was that the right-of-way is not an issue as it was on a parcel not involved in the subdivision. Attorney Dow explained that the easement is serving the parcel being subdivided and when that parcel is merged with the one that the right-of-way crosses over the right of way disappears. He did note that the right-of-way to the Peteroy remains.

After a lengthy discussion during the Public Hearing regarding the boundary line between the Karin Newman property and the Frank Peteroy property the Short Form SEQR EAF Form was reviewed. There was no issue with Part II of the SEQR EAF Form.

On a motion made by Mr. Grant and seconded by Mr. Savarese the Board voted unanimously to make a Negative Declaration.

The Check List was reviewed.

On a motion made by Mr. Haight and seconded by Mr. Grant the Board voted unanimously to approve the Subdivision of Diane Cinque and Karin Newman. The maps will be stamped by Mr. Haight on Saturday.

2015 -9 SITE PLAN REVIEW – GARY SINGH [RUBIN QUICK STOP] – County Route 7A [Copake]

Submissions included:

- Timothy Stalker/Columbia County Planning Board letter dated July 22, 2015
- Ruth L. Pierpont/Parks, Recreation and Historic Preservation letter dated July 30, 2015
- Patricia M. Gabriel/NYSDEC letter dated July 20, 2015
- Draft Resolution Adopting the Negative Declaration
- Drawings from Gray Davis

Engineer Pat Prendergast appeared along with owner Gary Singh and Attorney Kevin Theiman.

Mr. Prendergast brought up the fact that the Board questioned the location of the municipal parking lot which he highlighted on his presentation. Mr. Haight asked if Mr. Prendergast will be submitting a document indicating this. Mr. Prendergast will note this or provide a document showing it.

Mr. Haight acknowledged receipt of the letter from the Columbia County Planning Board in which the County recommends

- The parking on County Route 7A be removed.
- That the applicant provide information on the status of review of the proposed water supply by the Columbia County Department of Health (CCDOH).
- The applicant contact the Columbia County Department of Health (CCDOH) in order to establish a food service use.
- Provide information regarding the status of the New York State Environmental Conservation (NYSDEC) State Pollution Discharge Elimination System (SPDES) Permit from New York State.
- They noted the establishment requires a New York State Liquor Authority Permit
- They suggest the applicant provide information on any proposed means to secure the propane tank

Ms. Becker suggested that the map show how the propane tanks will be secured with bollards.

Mr. Grant made note of the fact that the Town Code requires that parking for more than five (5) cars be paved with concrete or asphalt, suitably drained and if used at night, lighted. Mr. Haight was in favor of waiving this requirement. Mr. Prendergast brought up the fact that this is an existing gravel parking lot and that gravel has better drainage than concrete or asphalt.

Mr. Haight also acknowledged a letter from the New York State Parks, Recreation and Historic Preservation in which they state that this project will have no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.

Mr. Haight asked whether anything else needed to be considered for the Site Plan at this time. Mr. Grant acknowledged that the parking will be removed from County Route 7A and Ms. Cohen noted that Mr. Prendergast will reference the municipal parking lot. Ms. Becker made reference to the fact that Mr. Singh might be willing to replace the chain link fence and questioned whether this should be added to the site map. Mr. Grant questioned the Town right-of-way and was advised that it abuts Mr. Singh's property. Mr. Grant questioned whether the sidewalk belonged to the Town or to Mr. Singh as he felt the pedestrian access along the road should be improved. Mr. Haight explained that the Town takes care of all the sidewalks. Supervisor Jeff Nayer advised the Board that the Town does not own the sidewalk.

Mr. Prendergast acknowledged that at last month's meeting there were many comments directed at how the design of the building could be improved. He noted that some members of the Board

made suggestions and a sketch was done by former Board member and architect Gray Davis eliminating one of the windows and making a false straight roof to hide the truss sloped roof. Mr. Prendergast advised the Board that Mr. Singh liked the sketch and if the Board also liked the sketch he would consider making the changes.

Mr. Haight pointed out that a transom light was not possible above the door and Mr. Singh would prefer not to move the door to the side as he already had doors in that location so the door would remain where it is. Mr. Grant felt Mr. Davis' sketch was a big improvement to the prior design.

Attorney Dow submitted a draft of the Resolution Adopting the Negative Declaration, Determination of Non-Significance in relation to Rubin Quickstop Inc. Tavern and Liquor Store. Attorney Dow asked Ms. DeConti for clarification of the dates of the Public Hearing. Ms. DeConti advised that the Public Hearing was opened on July 16, 2015 and continued on August 6, 2015.

Mr. Grant read the Resolution Adopting the Negative Declaration Determination of Non-Significance into the record.

On a motion made by Mr. Haight and seconded by Mr. Savarese a roll-call vote was taken to adopt the Resolution Adopting the Negative Declaration Determination of Non-Significance with Mr. Haight, Mr. Grant, Ms. Cohen, Ms Becker, Mr. Sawchuk, Mr.Savarese and Mr. Urban all voting yes. The resolution passed all in favor.

Mr. Grant brought up the issue of the parking lot being paved and referred to Town Code 232-11D which states: *Construction. Required parking areas for more than five cars shall be paved with concrete or asphalt, suitably drained and, if used at night, lighted.*

He questioned whether this should be sent back to the ZBA. Mr. Prendergast pointed out that the Code also requires that the applicant mitigate storm water drainage and a gravel parking lot will accomplish this. Attorney Dow believed the Board can approve this contingent on relief from the ZBA and only needs to be an area variance however he did feel it needed to go to the ZBA for a decision. Mr. Haight felt the applicant should be able to apply for a building permit without having to wait for the ZBA decision however Mr. Grant felt this was not an option.

A discussion ensued as to whether approval could be given contingent without drawings of Mr. Davis' sketch and ZBA approval. Ms Becker felt final plans needed to be submitted before approval could be given. Mr. Prendergast acknowledged that all they would want is contingent approval so that new plans could be submitted within the next week. Ms. DeConti suggested the new plans be sent electronically to all members with the changes. Ms. Becker noted that ZBA approval is needed before approval could be given. Mr. Prendergast advised that he would submit the plans with a paved driveway and if ZBA approval was given for a gravel driveway the plans will then be amended. Ms. Becker made note of the fact that both the site plan and elevations needed to be revised.

On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted to approve the plan drawn by Gray Davis as drawn with the parapet wall minus the transom over the door on the east elevation, changing the kitty-corner single door to remain where they are, adding the

bollards around the propane tanks, deleting the parking on County Route 7A, indicating the parking lot location and the addition to the prints that the parking lot will be either concrete or asphalt unless relief is received from the ZBA for a gravel parking lot. A roll call vote was taken with Ms. Cohen, Mr. Haight, Ms. Becker, Mr. Sawchuk, Mr. Savarese and Mr. Urban voting in favor and Mr. Grant voting against. The motion passed with a vote of 6 to 1.

Ms. Becker thanked everyone that offered their help and suggestions on this project and to Mr. Singh for being flexible and listening to suggestions. Mr. Haight thanked Mr. Davis for helping the Planning Board with this and thanked Mr. Singh for working with the Board and accepting these changes.

**2015-15 BLA/MINOR SUBDIVISION – CAMP PONTIAC – County Route 7A
[Copake]**

Submissions included:

- Application for Boundary Line Adjustment
- Part I of the Short EAF Form
- EAF Mapper Summary Report
- Subdivision Maps

Surveyor Jeff Plass appeared before the Board representing Camp Pontiac. Joe LaPorta approached the Board advising that he was asked to sit in on this application. Mr. Plass explained that a survey was done according to regulations on the whole boundary including a piece subdivided from the property in the 1980s owned by Ed Horowitz, the previous owner of Camp Pontiac. Mr. Plass explained that this is the first step in a two-step process as the Camp would like to subdivide an additional two (2) parcels so that two long-time employees of the camp can have their own houses on a piece of property that is not part of the camp. Mr. Plass pointed out that in order for this to be accomplished a Boundary Line Adjustment is needed for part of Parcel C which is part of Mr. Horowitz's property merging this back into the camp and once this is merged back into the camp the two (2) lot subdivision will be done. Mr. Plass explained that Parcel C will be merged back into Parcel A. Mr. Haight reviewed this to make sure it will not be a Major Subdivision.

On a motion made by Mr. Haight and seconded by Ms. Becker the Board voted unanimously to accept the application for Camp Pontiac as a Preliminary Sketch and set a Public Hearing for the September 3rd meeting.

**2012-1 MINOR SUBDIVISION – COPAKE LAKE GOLF LLC/RCJ LAKEVIEW – Off
Golf Course Road [Copake Lake]**

Submissions included:

- Michael DeRuzzio/CCDOH letter

Jeff Plass and Pat Prendergast appeared before the Board representing Jon Urban and Copake Lake Golf LLC/RCJ Lakeview. Mr. Urban recused himself from the Board for this application. Mr. Prendergast explained that when he met with Mike DeRuzzio of the Columbia County Department of Health (CCDOH) they decided that the previously approved septic site be used for the parcel without septic approval and a new septic site be located for the previously approved parcel.

Mr. Grant clarified that a Boundary Line Adjustment is needed with a revision of the previous map. Ms. Becker had issue with digging within ten feet (10') of a property line however it was noted that the property line is being moved back ten feet (10') and the digging will only be for a septic and not a building. Mr. Grant asked what the distance was from the lake and was advised by Mr. Plass that the previously approved map had the distance at one-hundred and fifty feet (150') away and this will be further away than that one was. Ms. Becker requested that the septic line be shown. Mr. Prendergast advised her that this is shown on the map he prepared.

On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to approve the subdivision of Copake Lake Golf LLC/RCJ Lakeview subject to DOH approval for the septic systems on Parcels one and two.

Mr. Plass will submit revised maps indicating the changes by Mr. Prendergast and notes regarding the approval of the DOH. Mr. Grant questioned whether a SEQR needed to be done. Inasmuch as this is a revision and, never filed and a SEQR had been done with the previous application. It was decided that a SEQR was not needed.

2015-19 SITE PLAN REVIEW – CAMPHILL VILLAGE [FARMHILL] – Camphill Road [Copake]

Submissions included:

- Application letter from Pat Prendergast
- Application for Site Plan Review
- Part I of the Short EAF Form

Pat Prendergast appeared along with Keist DeJong representing Camphill Village. Mr. Prendergast explained that as part of their master plan Camphill Village is working on another new house. Mr. Prendergast went on to explain that a family lived in the house referred to as Farmhill with other villagers and they would like to build a new one. He made note of the fact that the existing building will remain and be used as a Healing Workshop and a new building will be built for the family and villagers.

Mr. Haight asked what the square footage of the new home is and was advised by Mr. Prendergast that the square footage of the new building will be and was advised by Mr. Prendergast that it will be approximately six-thousand (6,000) square feet. Mr. Prendergast went on to explain that the driveway will be paved with some parking and handicapped spaces at the front. Mr. Prendergast noted that there will be a site light for the parking with a pathway to the house with bollard lights. He presented the grading and drainage plan explaining that the grade will be cut down to approximately ten percent (10%) with rain guards to catch the run-off from the parking lot.

Mr. Haight questioned what the height of the building will be and was advised that it is thirty-four feet, nine inches (34'9") from the lowest point. Ms. Becker questioned whether this building was included in the Major Site Plan Review and was advised that this was. Ms. Becker's concern was that the uses of septic and water have already been accounted for. Mr. Prendergast pointed out that the family now living in the existing building will be moving to that proposed building and the existing building will now become a workshop so no additional use will be added.

Mr. Grant clarified that this is before the Board for Site Plan Review. Mr. Prendergast agreed noting that no DOH approval or Curb Cut will be required, there are no wetlands and no DEC approval required. Mr. Grant asked if it is before the Board because of its size and was advised that Mr. Prendergast spoke with CEO Ferratto who said Site Plan Review was required inasmuch as the structure was over a certain dollar amount. Ms. Becker felt the Major Site Plan should be reviewed at the next meeting. Ms. Becker questioned whether water capacity needed to be checked. Mr. Haight asked the size of the existing building and was advised that they are roughly the same. Mr. Haight clarified that if the building was already in the Master Plan than water capacity would have already been figured in. Ms. Becker questioned whether an EAF needed to be done as the long form EAF had been done for the Master Plan.

Ms. DeConti advised Mr. Prendergast that inasmuch as an application fee in the amount of fifty dollars (\$50.00) had been paid for the Bluestone application which was never reviewed a balance of twenty-five dollars (\$25.00) was due. A check in the amount of one-hundred dollars (\$100.00) that was given for an application fee for this application was returned.

Mr. Haight asked why a Site Plan Review is being done for the Farmhill building if it was approved in the Master Plan. Mr. Urban clarified that this is because the location of the building was approved however the building itself had not been.

2015-5 SITE PLAN REVIEW – MARIKA PRITCHETT & PAUL CASEY – Golf Course Road [Copake Lake]

Submissions included:

- Letter from Gray Davis dated July 21, 2015
- Letter from Chris Grant dated July 29, 2015
- Letter from Ed Ferratto dated August 5, 2015

A lengthy discussion took place regarding undersized and non-conforming lots inasmuch as some of the Board members felt the decision made last month regarding the height requirement for the applicant needed a variance from the ZBA.

Mr. Grant referred to Town Code 232-24B(2)(b) which reads: *Replacement. A nonconforming structure may be replaced to occupy the same space on the lot or rebuilt providing greater yard space and less lot coverage and not exceeding the height of the prior structure except as provided above or as approved by the Planning Board in a site plan review and approval.*

Mr. Grant then referred to Town Code 232-24B(2)(a)[4] which reads: *Where a single-family dwelling exists on a nonconforming lot, a second story may be permitted over the same footprint, provided such addition does not exceed the height limitations in the density control schedule of this chapter for nonconforming lots.*

Mr. Grant also referred to Town Code 232-24C(2)(b) under Non-conforming Lots which reads: *Such lot has an area of at least 5,000 square feet and a minimum width of 50 feet.* Mr. Grant then referred to the Density Control Schedule in which the maximum height requirement is twenty-five feet (25') for an undersized lot of five-thousand feet (5,000'). He also stated that there is a legal opinion on file stating that this section also refers to non-conforming lots.

Attorney Dow did not believe this made sense as all the other requirements of this section should apply. Mr. Grant stated that only the height requirement needed to be taken into account. Attorney Dow clarified that if this five-thousand (5,000) square foot line applies to anything that is non-conforming it also means the permitted side-yard set-back would be eight feet (8'). As an example he noted that a two point nine (2.9) acre parcel in the R zone would be deemed non-conforming and would be able to be built with an eight foot (8') side yard set-back. Mr. Grant argued that only the height requirement needs to be considered. Attorney Dow commented that if the Undersized Lot line referred to anything that is non-conforming then this line would be the only line that counted when discussing any lot that is non-conforming and that did not make any sense to him.

Mr. Haight addressed a letter from CEO Ferratto whose interpretation is that this line reads as five-thousand feet (5,000') and under. Mr. Grant noted that any lot under five-thousand feet (5,000') cannot be built on.

Town Code 232-24C states: *Non-conforming Lots (2) Nonconforming lots may be deemed conforming, and no variance shall be required, provided that: (b) Such lot has an area of at least 5,000 square feet and a minimum width of 50 feet* was referred to.

Ms. Becker acknowledged that the Board has been interpreting this in this way for the past ten (10) years and every house on Golf Course Road has been subject to this regulation. She pointed out that an applicant can ask for relief for this and can receive a variance. Mr. Grant noted that CEO Ferratto asked for a variance for the first application for Marika Pritchett and Paul Casey. It was then redesigned and moved back to the original location and a height variance was not required.

Inasmuch as the Larry and Kathryn House application is being sent to the ZBA for advice on a height variance Mr. Grant felt this application should be sent back as well. Mr. Haight acknowledged that this application was approved contingent on CEO Ferratto's opinion and clarification. Inasmuch as CEO Ferratto has clarified and approved the existing height requirement Mr. Haight questioned whether these plans can be stamped if the outstanding documents are brought in to the Planning Board office on Saturday. It was Mr. Grant's opinion that CEO Ferratto sent this back to the Planning Board for a decision.

A lengthy discussion ensued regarding this. Ms. Becker felt a moratorium should be place on this and no decisions made and no building be done on undersized lots until this is clarified. Attorney Dow advised that things cannot stop being built just because everyone does not agree with the

Building Inspector's decision. Attorney Dow acknowledged that an appeal can be filed with the ZBA if there is a disagreement and they will review the interpretation of the Building Inspector. He noted that an appeal is subject to standards. Mr. Grant was in favor of filing an appeal.

Attorney Dow advised the Board that should they want to appeal this decision they would have to submit an application to the ZBA. He also noted that there could be a thirty (30) day time restriction to do this and suggested making the decision at tonight's meeting.

On a motion made by Mr. Grant and seconded by Mr. Sawchuk the Board voted to start the process of an appeal to the ZBA regarding the Building Inspector's decision on the height restriction for the Marika Pritchett and Paul Casey application with a roll-call vote. Mr. Haight, Ms. Cohen, Mr. Savarese and Mr. Urban voted in favor of and Mr. Grant, Ms. Becker and Mr. Sawchuk voted against an appeal. The motion passed with a 4 to 3 vote.

Mr. Haight wanted it noted that he voted no because of the decision of the Building Inspector and the clarification of Attorney Dow. Ms. Cohen based her decision on the same things. Ms. Becker's vote was based on the history and prior legal advice given to the Board. Mr. Grant based his decision on the fact that he feels there are inconsistencies and it is unfair to the Town residents.

Supervisor Nayer made note of the fact that different Building Inspectors and different legal council can interpret different things in different ways. If this is sent to the ZBA they might ask for an opinion from council and either go with this advice or make a determination on their own. There is no guarantee that a decision will be made one way or another.

Ms. Becker noted that this is being corrected within the Land Use Committee and it is just in the interim that this is an issue. Mr. Haight suggested that Mr. Grant and Ms. Becker research the prior decisions regarding this to be reviewed by the Board.

MINUTES

On a motion made by Mr. Savarese and seconded by Mr. Urban the Board voted in favor of accepting the minutes of the July 16, 2015 meeting as amended. Ms. Cohen abstained as she left the meeting early.

ADMINISTRATIVE

SCOTT DECKER: Mr. Haight advised the Board that the letter they requested from CEO Ferratto regarding the suitability of emergency egress for Elm Street had been signed and re-submitted. He also noted that work is being done on Elm Street to improve the road. Mr. Haight also acknowledged a letter from the Department of Health regarding Mr. Decker's three lots.

LIMITING APPLICANTS ON AGENDAS: Mr. Haight advised the Board that Ms. Becker had asked if there is a way applications could be limited on the agenda. He noted that he had been

discussing this with Ms. DeConti and it is difficult to pick a number. However, when either feels that the agenda is to the point of being unmanageable a decision will be made at that time. A discussion ensued regarding a start time of 6 pm and it was decided that this would be decided as needed.

CARRY OVER

The following matters were carried over to the next meeting:

2015-6 MINOR SUBDIVISION – SCOTT DECKER – Birch Road [Copake Lake]

ADJOURNMENT

There being no further business, on a motion made by Ms. Becker and seconded by Mr. Savarese, 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 42 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

DANA & LINDSAY BOWEN

July 14, 2015 Ferratto to ZBA (1)
July 15, 2014 Variance Application Request (2)

LARRY & KATHRYN HOUSE

March 31, 2015 Bill Baldwin & Sons (1)
July 14, 2015 Ferratto to ZBA (1)
July 15, 2014 Variance Application Request (2)

ALON BEN MEIR

July 13, 2015 Nelson/Vamuas to ZBA/Strom (2)
June 13, 2015 Ben Meir to ZBA (2)
July 13, 2015 Variance Application Request (2)
July 13, 2015 Short EAF (3)
July 14, 2015 Ferratto to ZBA (1)

DIANE CINQUE

August 6, 2015 Short EAF (4)

GARY SINGH/RUBIN QUICKSTOP

July 20, 2015 Gabriel/DEC to Singh (1)
July 22, 2015 Stalker/CCPB to Haight/CPB (2)
July 30, 2015 Piermont/NYS Parks, Recreation & Preservation (1)
August 6, 2015 Resolution Adopting Negative Declaration Draft (3)
Gray Davis Drawing (1)

COPAKE LAKE GOLF LLC/RCJ LAKEVIEW

July 24, 2015 DeRuzzio/CCDOH to Prendergast (2)

CAMP PONTIAC/HOROWITZ BLA

July 20, 2015 EAF Mapper Summary Report (1)
July 25, 2015 Short EAF (3)

CAMP HILL VILLAGE

July 22, 2015 Short EAF (3)
July 28, 2015 Prendergat to Haight/CPB (1)

MARIKA PRITCHETT & PAUL CASEY

July 21, 2015 Davis to CPB (1)
July 29, 2015 Grant to Haight/CPB (1)
August 5, 2015 Ferratto to Haight/CPB (1)