



COPAKE PLANNING BOARD
AUGUST 7, 2014
MINUTES

Approved
September 4, 2014

Please note that all referenced attachments, comprising 44 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, Steve Savarese, Jon Urban, and Julie Cohen. Ed Sawchuk was excused. Lisa DeConti was present to record the minutes. Supervisor and Board Liaison Jeff Nayer, Attorney Ken Dow and Town Engineer Tom Field were also present.

ZONING BOARD OF APPEALS – Referrals

**2014-18 ZBA REFERRAL/SPR – DAVID AND KRISTEN HILBERT – Bobolink Road
[Copake Lake]**

Submissions included:

- ZBA Referral Letter dated July 28, 2014
- Application
- Letter of Agency dated April 14, 2014
- Ed Ferratto Referral Letter dated July 12, 2014
- Request for Area Variance dated July 12, 2014
- Bill Baldwin and Sons Septic System receipt dated August 9, 2013
- Tax Statements
- Maps and Photos

Linda Chernewsky appeared before the Board representing David and Kristen Hilbert. Ms. Chernewsky explained that the Hilbert's wish to take down the existing sun room and add a screened-in porch in its place and would also like to re-do the mud room at the front of the house and add a deck on the front toward the lake. Even though there is a present mud room and front structure, variances are required inasmuch as the existing structure is non-conforming. Mr. Haight clarified that the footprint will remain the same. It was noted that the deck being added will be closer to the lake and although decks do not usually require a variance this one does because the structure is non-conforming.

Mr. Haight asked the size of the existing shed on the property and was advised that this structure is four foot (4') by seven point five foot (7.5'). Ms. Becker pointed out that the lot coverage is at the maximum allowed and questioned what the plans are for the inside of the structure. Ms. Chernewsky explained that a few of the walls will be opened up, the upstairs bathroom is being expanded, side-by-side closets will be made into a walk-in closet and although a bedroom is being relocated no additional bedrooms will be added and the count will remain at four (4).

Ms. Becker noted that the septic tank is undersized for a four (4) bedroom structure and due to this a stamped acknowledgment from a licensed engineer that the system is performing adequately is required. Ms. Chernewsky referred to a 2013 document from Bill Baldwin and Sons showing that the system was repaired and is performing well from the results of the dye test. Ms. Becker advised that this isn't what the Board requires. Ms. Chernewsky brought up the fact that an engineer would do exactly what was done by Bill Baldwin and Sons and wondered if this document could suffice to save the homeowner the additional cost of an engineer. Mr. Grant made note of the fact that Bill Baldwin and Sons are not engineers and the rules of the Board require an engineer's certification. Ms. Becker questioned whether an engineer could review the Baldwin documents and maybe certify the results. Ms. Chernewsky advised that this cannot legally be done. After discussion the Board felt it was not a fair practice to make exceptions and although the applicant is not required to bring the septic system up to code for a four (4) bedroom structure they are required to supply an engineer's certification.

On a motion made by Ms. Becker and seconded by Mr. Grant the Board voted unanimously to approve the Site Plan for David and Kristen Hilbert on Bobolink Road in Copake from plans made by LMC Design dated July 10, 2014 subject to ZBA approval of the required variances and an Engineer's stamp of approval that the Septic System is in adequate working order.

Ms. Chernewsky will bring in the final plans when all the conditions are met.

PUBLIC HEARING

2013-30 MAJOR SITE PLAN –BERKSHIRE MOUNTAIN CLUB AT CATAMOUNT SKI AREA – Route 23 – [Copake]

Pat Prendergast appeared with Developer Harry Freeman and Project Attorney Andy Howard.

Mr. Haight acknowledged the submissions which included:

- David Silver e-mail dated July 19, 2014
- David Silver e-mail dated June 23, 2014 including letter to Marcia Becker dated February 18, 2014 and letter to Marcia Becker with map & pictures dated May 6, 2014
- Andrew Gilcrest letter dated June 26, 2014 including Empire State Appraisal Consultants letter with map & pictures dated June 23, 2014
- David Silver letter of August 4, 2014

Inasmuch as the Public Hearing remained open Mr. Haight opened the floor to the Public. He asked if anyone wished to address any new issues on this application.

STEPHANIE FERRADINO, Couch White ... Ms. Ferradino addressed the issue of the easements and the fact that there were no discussions with her regarding this unless the applicant spoke directly to her client. Mr. Freeman acknowledged that he had. Ms. Ferradino once again requested that the Waste Water Treatment System be moved further away from her client's property. Mr. Freeman explained that the location would only be able to be moved approximately fifty-feet (50') further away which isn't practical and would in turn move the system closer to Mr. Silver's property.

DAVID SILVER, Copake, NY... Mr. Silver wanted to clarify that the parking lot which was originally located three feet (3') from his property line is now located twenty-three feet (23') from his property line and not hundreds of wooded feet from his property line as misstated in the previous minutes. Mr. Silver had issue with the ponds and their increased size. He also had issue with the sewer system and believed that water will at some point overflow and effect the system. It was Mr. Silver's opinion that his property has silted over because of the snow making process at Catamount and he felt this process is not good for the environment. Mr. Silver felt the previous project was more attractive this project is not acceptable to him. He felt the Board should not move forward with this project. Mr. Prendergast and Mr. Freeman brought up the fact that in the previous application the parking lot was three feet (3') from Mr. Silver's property, the sewer system was in the same location and the ponds were the same ponds being utilized.

JEFF PAGE, Hillsdale, NY... Mr. Page addressed the fact that as he mentioned at a previous meeting he felt that a dangerous intersection is being created at Catamount Road and Route 23. By moving the intersection east on Route 23, he believed this would move it higher up the mountain making the entrance at a steeper point and shortening the sight distance for people heading west on Route 23. He felt that if the intersection was moved further down on the mountain it would be a much safer entrance and exit for everyone. Mr. Page felt this will not be a safe intersection for everyone living in the area.

Before the Public Hearing was closed Attorney Dow addressed the fact that the SEQR Resolution Adopting the Negative Declaration needed to be adopted by the Board. On a motion made by Mr. Grant and seconded by Ms. Becker the Board adopted the Negative Declaration Resolution and Notice of Determination of Non Significance drafted by Attorney Ken Dow dated August 7, 2014 with the Lead Agency being the Town of Copake Planning Board and the Applicant being Rock Solid Development LLC.

Ms. Becker questioned whether the Public Hearing needed to remain open to receive comments regarding the SEQR Negative Declaration Notice of Determination of Non-Significance and was advised that the Planning Board as Lead Agency made the determination advising everyone.

On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to close the Public Hearing.

SUBDIVISION/SITE PLAN

2014-19 SITE PLAN REVIEW – BOB & MARCIA UNTRACHT – Golf Course Road – [Copake Lake]

No documents were received for this application at this time.

2014-17 BLA/MINOR SUBDIVISION – SCOT & JULIE COHEN – Sky Farm Road – [Copake]

Submissions included:

- Application
- Subdivision Maps
- Fee in the amount of \$50.00

Julie Cohen recused herself from participation on this application and will abstain from any voting. Scot Cohen appeared before the Board. Ms. Cohen explained that they will be merging one point four sixty five (1.465) acres to the parcel she and her husband own.

The Check List was reviewed. It was noted that the Zoning District needs to be put on the map and a SEQR needs to be completed. Mr. Grant requested that the deed be reviewed for any restrictions or easements. It was questioned whether an Agricultural Data Statement to notify farms within five-hundred feet (500') of the subdivided parcel might be required as well.

On a motion made by Ms. Becker and seconded by Mr. Savarese the Board voted unanimously to accept the map for Scot and Julie Cohen, Underhill Farm dated July 21, 2014 as a Preliminary Sketch and set a Public Hearing for next month's meeting.

2013-30 MAJOR SITE PLAN–BERKSHIRE MOUNTAIN CLUB AT CATAMOUNT SKI AREA – Route 23 – [Copake]

Pat Prendergast appeared with Developer Harry Freeman and Project Attorney Andy Howard.

The following were submitted:

- Elevations, color and black & white
- Hillsdale-Copake Fire District letter of July 15, 2014
- Complete set of Plan Drawings
- Pat Prendergast letter and Bond Estimate of July 21, 2014
- William Gregory letter dated August 5, 2014
- Tom Field letter and Bond Estimate Additions dated August 5, 2014
- Harry Freeman mitigation letter dated August 6, 2014

- Hillsdale-Copake Fire District letter of August 7, 2014
- Resolution Adopting the Negative Declaration dated July 14, 2014
- Notice of Determination of Non-Significance prepared by Ken Dos dated August 7, 2014
- Resolution Adopting the Negative Declaration prepared by Ken Dow signed August 7, 2014

Ms. Becker questioned if everything was complete with the Berkshire Mountain Club at Catamount subdivision and was advised that all new maps were received and everything is complete.

Mr. Freeman acknowledged submission of a letter referencing the mitigation measures limiting the hours of construction and tractor trailer deliveries. Mr. Prendergast also acknowledged submission of eight (8) sets of complete drawings. He noted that the only change needed is to the Landscape Plan as additional trees were requested by Ms. Becker. He made note of the fact that Mr. Freeman spoke with the representatives of the Breen properties who requested Colorado Blue Spruce trees at the top of the berm between the pond and their property. Ms. Ferradino, the Breen's attorney acknowledged that the addition of four (4) more trees had been requested by her clients.

Mr. Prendergast advised the Board that the plans he submitted contain all the changes the Board requested throughout the whole project. Mr. Freeman acknowledged that these changes include all the fire improvements, the relocation of the pump to the second pond, the addition of another dry hydrant and the change from a fifty-thousand (50,000) gallon tank to a seventy-thousand (70,000) gallon tank. Ms. Becker questioned how the change from a fifty-thousand (50,000) gallon tank to a seventy-thousand (70,000) gallon tank affects the permits and asked if the permits would need to be corrected. Mr. Prendergast did not believe a correction was required. He explained that the permits are not for the use of the water but for the storage of the water and if you are storing more they would be happy with this. Mr. Freeman added that this is just for fire protection and not an increase in the public water use. Ms. Becker asked if any other permits referred to the fifty-thousand (50,000) gallon tank that might need to be addressed and was advised that there are none.

Mr. Grant asked whether any easements needed to be put on the maps and was advised that these will be addressed by legal descriptions.

Mr. Freeman presented the Board with the color renderings and explained the locations of the three (3) buildings. Ms. Becker asked what the comparison is between Building 1 and the Comfort Inn/Fairfield Inn in Great Barrington. Mr. Freeman advised her that they are roughly the same square footage. The Black and White elevations were reviewed next. Mr. Freeman explained that the buildings are five (5) stories from the parking lot side and four (4) stories from the slope side. Mr. Freeman also explained that the first building is three-hundred and thirty-six feet (336') wide with sixty-six (66) residential units and the second building is ninety-five feet (95') wide with eighteen (18) residential units.

Mr. Freeman acknowledged that he is very comfortable with the site plan for the second building however he may be back before the Board for Site Plan modification of the third building. Ms. Becker made note of the fact that Mr. Freeman made reference to appearing before the Board for buildings two (2) and three (3). Mr. Freeman clarified that should they make revisions to what has already been approved they will return for Site Plan Review however he doesn't anticipate being back for building two (2) but does anticipate being back for building three (3).

Ms. Becker questioned whether the second access to the parking lot straight in from Catamount Road was accounted for on the revised plans and was advised that they were. She then questioned whether the applicant was prepared to deal with the placement of a sign according to the Town Code and was advised by Mr. Freeman that the only sign they will be dealing with is the sign on the building.

Ms. Becker then questioned whether the sewage coming from the existing base lodge was accounted for in the plans and was advised by Mr. Freeman that this is all in the engineer's report and is calculated at five-thousand (5,000) gallons per day. However, Mr. Freeman made note of the fact that they do not expect to use this amount.

Ms. Becker questioned whether pedestrian access throughout the site walking from the Hotel to the Base Lodge or from the Hotel to the Swiss Hutte was considered. Mr. Freeman explained that there will be a series of paths most of which will be on the slope side. He continued to explain that concrete pavers are being used which will also serve as a walk-way however walkways outside the nine point nine (9.9) acres are not planned.

Ms. Cohen read the August 7, 2014 Hillsdale-Copake Fire District letter into the record. In the letter Commissioner and Secretary James Brennan acknowledged that although the terrain and anticipated volume of traffic will continue to pose challenges for access by emergency vehicles the improvements planned for the intersection of Route 23 and Catamount Road will be extremely beneficial. Although the road access is not optimal from an emergency services standpoint they believe emergency access via Catamount Road is sufficient. They also acknowledged that the ultimate determination as to the suitability of road access is under Code Enforcement Officer Ferratto's authority. Mr. Grant asked if CEO Ferratto addressed this and was advised by Mr. Haight that this will fall under the Building Permit.

Mr. Haight brought up the fact that Mr. Silver had concerns regarding the diversion of the streams and was advised by Mr. Freeman that this is a separate and distinct issue from this project and falls under the DEC jurisdiction.

Mr. Haight brought up the fact that there were differences in the amount of the road bond and Engineer Field's calculations. Mr. Prendergast acknowledged that the applicant has no issue with Mr. Field's figures.

Mr. Field had concerns that the plans that have been shown regarding the intersection and the widening improvements to Catamount Road are very schematic and fully developed plans have not been presented. Mr. Field had concerns that the grading shown will go onto the Breen property and if this issue isn't addressed easements may be needed that cannot be obtained. Mr. Freeman addressed the fact that this will be a Town Road and any needed easements will affect the Town. Mr. Freeman explained that the process that the State is following is that they will not give detailed comments or feedback until such time as there is an approved Site Plan for the project.

Mr. Freeman continued to explain that if there is a reason the road cannot be built as presented on the plans they will have to come back before the Board, explain what the issue is and look for a modification of the Site Plan approval. He added that the State might require retaining walls or complete grading which will then need easements onto abutting properties. Attorney Howard brought up the fact that the State granted conceptual approval and the applicant expects that final approval will be subject to DOT approval. Mr. Freeman did acknowledge that there have been

discussions with the abutters for a possible need for an easement. Mr. Field did caution the Board to make the conditions of approval very specific. Mr. Grant clarified that conditional approval require that it be in conformance with the plan and also approval by the DOT and any changes in either of these conditions the applicant will have to return to the Board. Attorney Howard suggested the conditions include approval by the DOT and the Town Engineer. Ms. Becker pointed out that all the Board can base this on is the schematic and the conceptual DOT approval letter. Mr. Freeman acknowledged that should Engineer Field have issue with the road he will address his concerns before the Board for reconsideration.

Mr. Haight reviewed the list of easements to include the:

- Water Tower
- Water Line
- Catamount Sewer Line
- Water Line to the Wells
- Underground Electric Line
- Stormwater Easement
- Fire Truck Access through the Catamount Parking Lot
- Gravel Parking Lot
- Fiber Optic Lines
- Snow Making Lines

In reference to the Fire Truck Access through the Catamount Parking Lot Mr. Freeman believed there was a law that fire trucks can go on any property at anytime that they want. Mr. Haight had concerns that someone could build another access road twenty years or so from now and put a stone wall or fence across it. He also noted that there had also been talks about Catamount using the gravel road for excess parking. Mr. Freeman acknowledged that the Gravel Parking lot is on Catamount property. Mr. Grant asked if the Fiber Optic Lines and the Snow Making Lines will be accounted for on the maps and was advised that they will. Ms. Becker questioned whether the Conditions of Approval will be accounted for in notes on the Subdivision Maps. Attorney Howard suggested that he prepare them and provide them to Attorney Dow to review and approve. Ms. Becker suggested they also be accounted for on the plat map. Attorney Howard acknowledged that the applicant is agreeable to Attorney Dows review and suggested that approval of the Conditions of Approval be a condition for Site Plan Approval.

Mr. Haight reviewed the list of conditions next. They include the:

- ZBA Special Use Permit
- The DOT Entrance Permit
- Attorney Dow and Engineer Field's approval of the DOT Permit
- Additional Trees for screening on the Breen property added to the Landscaping Plan
- Conditions of the Fire Department Letter
- Approval of the Town Highway Superintendent for the widening of Catamount Road
- Bond for the Road

- Mitigation Measures for Construction Hours and Tractor Trailer Deliveries as defined in Harry Freeman letter of August 6, 2014
- Any further revisions for future phases will have to come before the Board for review as determined by the Code Enforcement Officer
- Copies of any Permits that expire and need to be renewed be given to the Board
- Receipt of easements and acceptance of easements by Town Attorney

Mr. Freeman noted that four (4) of the additional trees discussed earlier were on Town property. He acknowledged that he has no problem putting these trees in however he requested an easement from the Town of Copake to go onto their land to do so. It was clarified that the trees for the conditional approval do not include these trees.

Mr. Haight brought up the fact that Engineer Field suggested a Letter of Credit be used instead of a Bond as a Letter of Credit is much easier to collect on. Supervisor Nayer felt a Bond was more satisfactory as it would still be in effect in the event the developer went bankrupt. Mr. Freeman was not in favor of a Letter of Credit as it would require him freezing the approximate Two-Hundred Thousand dollars (\$200,000) in a bank account. Mr. Freeman also brought up the fact that a Bond is used for the cost of the improvements and the improvements could cost considerably less the Two-Hundred Thousand (\$200,000) required for the Letter of Credit. The Board decided a Bond would be sufficient.

Ms. Becker questioned whether conditions should include DOH approvals for the kitchen and swimming pool and fire suppression system. Mr. Prendergast advised that the DOH will not review the fire suppression system but they will require a food approval for the restaurant. These issues were noted to be building permit issues.

Mr. Freeman asked how the Board defined revisions and was advised by Mr. Haight that these would include any significant changes to the Site Plan or buildings. It was noted that this would most likely be decided by CEO Ferratto.

Ms. Becker reviewed the Check List and noted that all items have been accounted for.

A Resolution of Conditions will be drafted by Attorney Dow spelling out all the requirements. A discussion ensued regarding whether a motion can be made before a Resolution is drafted up by Attorney Dow. Attorney Howard suggested a motion be made granting conditional approval pursuant to these conditions and further direct the Town Attorney to prepare a formal written Resolution setting forth the terms for approval. Attorney Dow advised that conditional approval of the motion be worded that the Resolution be formally adopted by the Board at the next meeting.

On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to approve the site plan application for the Berkshire Mountain Club at Catamount Ski Area subject to Board approval of a Resolution drafted by Town Attorney Ken Dow with the following conditions: ZBA Special Use Permit, The DOT Entrance Permit with approval from the Town Attorney and Engineer Field for any easements that apply, Fully developed plans for the intersection of Catamount Road and Route 23, additional Trees for screening on the Breen property be added to the Landscaping Plan, a Bond for road repairs in the amount one hundred and ninety two thousand thirty dollars (\$192,030) subject to the work required, compliance of the Conditions of the Agreement between the Fire Department and the Berkshire Mountain Club at Catamount Ski Area stated in the letter of June 23, 2014, Mitigation

Measures for Construction Hours and Tractor Trailer Deliveries as defined in Harry Freeman letter of August 6, 2014, any further revisions for future phases will have to be approved by the Building Department who will decide whether further review and approval is needed by the Planning Board, copies of any Permits issued by other bodies that expire between now and the issuance of the Occupancy Permit be supplied to the Planning Board, identify and deliver all easements subject to approval of the Town Attorney and the approval and sign-off of the Town Highway Superintendent for the widening of Catamount Road.

Mr. Freeman thanked the Board for all their efforts throughout the process.

MINUTES

On a motion made by Ms. Becker and seconded by Mr. Savarese the Board voted unanimously to approve the Minutes of June 5, 2014 Meeting and the Special Meeting of June 21, 2014.

Jonathan Tingling asked whether the minutes of July 14, 2014 had been filed with the Town as yet. He was advised that the July 14, 2014 minutes were not approved as yet and cannot be filed until that is done. Due to this fact a discussion ensued as to whether draft minutes should or should not be posted to the web site. Attorney Dow clarified that under the laws of Open Government the minutes need to be made available as soon as possible so that the public is made aware of what has transpired. Attorney Dow felt it was acceptable to post a draft copy to the web site and these do not need to be re-posted after approval.

ADMINISTRATIVE

APPOINTMENT OF BOARD SECRETARY: Supervisor Nayer did not feel it was necessary to appoint a Secretary to the Board as there is a recording secretary. Mr. Haight pointed out that the way it was explained to him when he was appointed to the position was that in the event that the Chair and Vice Chair were unavailable the Secretary would then step in to take over the duties of Chair. On a motion made by Ms. Becker and seconded by Mr. Haight the Board voted unanimously to nominate Ms. Cohen for the position of Secretary.

DAVID SILVER CONCERNS REGARDING THE STREAM: It was noted that Mr. Silver's concerns regarding the redirection of the stream does not fall under the Planning Board's jurisdiction.

CARRY OVER

The following matters were carried over to the next meeting:

2012 -14 SPR/BLUESTONE & TRAFFIC CIRCLE – CAMPHILL VILLAGE – Camphill Road [Copake Lake]

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

ADJOURNMENT

There being no further business, on a motion made by Ms. Becker and seconded by Mr. Grant, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 9:25 p.m.

Robert Haight, Chair

Please note that all referenced attachments, comprising 44 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

BERKSHIRE MOUNTAIN CLUB AT CATAMOUNT SKI AREA RESORT HOTEL

February 18, 2014	Silver to CPB/Becker (2)
May 6, 2014	Silver to CPB/Marcia Becker (1)
June 23, 2014	Clark/Herbold to Gilchrest (4)
June 26, 2014	Gilchrest ZBA/TH (3)
July 15, 2014	Canetto to ZBA/TH (2)
July 19, 2014	Silver to Haight (1)
July 21, 2014	Prendergast to CPB/Haight (3)
July 23, 2014	Silver to Haight (2)
August 4, 2014	Silver letter (1)
August 5, 2014	Gregory to CPB/Haight (1)
August 5, 2014	Field to CPB/Haight (2)
August 6, 2014	Freeman to CPB/Haight (1)
August 7, 2014	Brennan to ZBA/CPB (2)
August 7, 2014	Resolution Adopting the Negative Declaration (4)
August 7, 2014	Notice of Determination of Non-Significance prepared by Ken Dow (15)