



# COPAKE PLANNING BOARD

## DECEMBER 1, 2016

### MINUTES

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#### 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.

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A regular meeting of the Copake Planning Board was called to order at 7:05 p.m. by Bob Haight, Chair. Also present were Marcia Becker, Julie Cohen, Ed Sawchuk and Jon Urban. Steve Savarese and Chris Grant were excused. Lisa DeConti was present to record the minutes. Town Attorney Ken Dow, Town Board Liaison Terry Sullivan and Town Supervisor Jeff Nayer were also present.

#### ZONING BOARD OF APPEALS – Referrals

##### **2016-27      ZBA/SPR – PETER & VIRGINIA CARPANINI/CARP INC. – Lakeview Road [Taconic Shores]**

- ZBA Application
- Building Permit Denial
- Application for Site Plan Review
- Letter of Agency dated
- Town & County 2016 Taxes
- Site Plan

Linda Chernewsky appeared representing Peter and Virginia Carpanini, Carp Inc. Ms. Chernewsky explained that the applicants wish to add a new deck and new roof to their house; repair their covered porch and foundation; renovate the interior of the structure; and update their bathroom. She also noted that the porch will be slightly smaller and the bedroom count will remain the same.

Ms. Chernewsky advised that work will be done within one-hundred feet (100') of the wetlands so a variance will be needed. She referred to Town Code 232-9P(1)&(2) *One-hundred-fifty-foot setback from lake or stream* which reads: (1) *No septic tank or tile field shall be located closer than 150 feet from a stream, creek, wetland or other body of water. No development shall be permitted closer than 100 feet to a stream, creek, wetland or other body of water and (2) Open porches and decks attached to a residence shall be exempt, provided that all other requirements can be met, and provided that such porch or deck shall never be enclosed.*

Mr. Urban asked whether a side-yard set-back variance is needed and was advised by Ms. Chernewsky that rear yard, right yard and left yard set-backs will be needed. Ms. Becker questioned whether the variance for development within one-hundred feet (100') of the wetlands was for the new deck as she thought this was exempt. Ms. Chernewsky explained that a deck would be exempt if everything else was conforming however this is not the case.

Ms. Chernewsky also acknowledged that she had spoken to the DEC who wanted to know the amount of excavation that is planned within the one-hundred foot (100') buffer for the foundation and footing. Ms. Chernewsky also pointed out that the owners provided a report on the existing septic system which stated that it is a five-hundred (500) gallon metal tank that is failing. Ms. Chernewsky spoke with Mike DeRuzzio of the Department of Health (DOH) and on his advice will be replacing the old system with a new one-thousand (1,000) gallon cement tank in the same location. Mr. Haight asked whether this would be within one-hundred feet of the water and was advised that it is. Ms. Chernewsky explained that Mr. DeRuzzio advised her that inasmuch as the system is failing it can be replaced in the same location. Ms. Becker believed that another variance would be needed for this too as per Town Code 232-9(1). Ms. Chernewsky acknowledged that this was discussed with the ZBA. Ms. Becker questioned whether the system could be moved further back. Ms. Chernewsky pointed out that this is not an option as there are a lot of trees on the property which would prevent this.

Mr. Haight questioned the location and direction of the fields and was advised by Ms. Chernewsky that she was not aware of this at this time. She explained that the system will be examined to see the direction of the lines and if they cannot be located they will address the situation. Ms. Becker asked whether the DOH will provide any documentation. Ms. Chernewsky advised her that she will be presenting a formal application for Site Plan Review at the next meeting which will include any documentation from them.

The Check List was reviewed. Ms. Becker suggested adding the water line to the Site Plan in addition to any planned lighting.

A letter will be written to the ZBA advising them that that the Board is in the process of a Site Plan Review and informing them that there will be construction of the septic system within one-hundred and fifty feet (150') of the wetlands.

## **PUBLIC HEARING**

### **2016-21      SITE PLAN REVIEW – HOMESTEAD MARKET – Route 23 [Copake]**

The Public Hearing will be closed at the next meeting.

## SUBDIVISION/SITE PLAN

### 2016-18      ZBA REFFERAL/PRELIMINARY SPR – GRJH INC./THOMAS CASEY – State Route 23 [Craryville]

- Application for Site Plan Review
- Letter of Agency dated May 20, 2016
- Letter from Ken Dow regarding EAF dated November 23, 2016
- Short Form EAF (SEQRA)
- Lead Agency Letter from ZBA dated November 30, 2016
- Letter from Attorney Dow acknowledging the change in the B-2 District

Thomas Casey appeared before the Board representing GRJH Inc. Also present was Alicia Metz, one of the owners of the project.

Attorney Dow advised the Board that the ZBA wishes to be the Lead Agency on this project. He also advised that the ZBA has completed a preliminary review of the Short Form EAF submitted by the applicant and cannot make a determination until they receive feed-back from the Planning Board.

Mr. Casey acknowledged that the Phase 1 Asbestos Report had been submitted as requested by the Board and the document has stated that any issues have been mitigated. Ms. Becker made noted of the fact that Mr. Grant had also requested that a copy of the Phase 1 Environmental Study be submitted along with the Phase 1 Asbestos Report.

Attorney Dow read the Short EAF form. Attorney Dow pointed out that there were some end notes on some of the following issues.

- **Section 5, Is the proposed action**
  - a. **A permitted use under the zoning regulations?**
  - b. **Consistent with the adopted comprehensive plan?**
- **Section 6, Is the proposed action consistent with the predominant character of the existing built or natural landscape?**

**ENDNOTE 1** addressed these issues noting that a gas station and convenience store is a permitted use by special permit under the B-2 Zoning District and the applicant is seeking this from the ZBA. It is also noted that the proposed site plan complies with Zoning Section 232-13 that stipulates requirements for gasoline filling stations including required minimum frontage and lot area; restricting encroachment on required yards; locating fuel pumps relative to the lot and street lines; locating the station relative to sensitive uses; and locating storage and repair work areas on site.

The 2011 Comprehensive Plan was also addressed by the applicant who noted that under this plan Route 23, between Two Town Road and the Hillsdale border is an appropriate place to encourage commercial growth and that uses requiring highway access be considered for this area. It was also noted that the proposed project would serve residents and visitors to the area and the development would occupy a site that is currently occupied by a building in a stage of advanced deterioration.

Also noted was the fact that the Comprehensive Plan echoes the concern to protect the Town's water resources and states that the possibility of groundwater contamination is significant given that the majority of homes and businesses rely on private wells and septic systems. According to the NYS Water Resource Summary prepared for Copake the site is not located over a mapped aquifer and the project is consistent with the Town's 2009 Groundwater Resources Protection Plan inasmuch as it utilizes technology advanced safety mechanisms in accordance with NYSDEC requirements to ensure the below-ground double walled fiberglass fuel tanks will not leak into groundwater.

▪ **Section 8**

- a. **Will the proposed action result in a substantial increase in traffic above present levels?**
- b. **Are public transportation service(s) available at or near the site of the proposed action?**
- c. **Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?**

ENDNOTE 2 addressed Traffic noting that according to Table 1 of the Short Form EAF Workbook a gas station with a convenience store and seven or less fueling stations is not likely to exceed 100 peak hour vehicle trips. The proposed project would introduce six (6) fueling stations and would not exceed the 100 peak hour vehicle trip threshold for this use. No adverse impacts to the transportation network are anticipated for this project.

Ms. Becker noted that the Rail Trail bicycle path is planned to go through this area and questioned how this should be addressed. Attorney Dow advised that the Board can comment on this in their recommendation to the ZBA.

▪ **Section 10**

- a. **Will the proposed action connect to an existing public/private water supply?**

ENDNOTE 3 addressed the fact that based on the NYS Design Standards for Intermediate Sized Wastewater Treatment Systems (Standards), dated March 5, 2014 the design flow for a service station/convenience store is 400 gallons per day (GPD) per bathroom with an additional flow of 15 GPD per employee included in the design flow. The Standards allow for a 20% reduction in flow when water saving fixtures are utilized. Therefore, the proposed flow is 392 GPD (400GPD+ 90 GPD) \*0.80 = 392GPD.

- **Section 12**
  - a. **Does the site contain a structure that is listed on either the State or National Register of Historic Places?**
  - b. **Is the proposed action located in an archeological sensitive area**

**ENDNOTE 4** addressed Cultural/Historic Resources and stated that according to the NYS Office of Parks, Recreation and Historic Preservation (HYSOPRHP) Cultural Resource Information System (CRIS) mapping indicates that there are no National or State Historic Register sites on or adjacent to the project site. Although CRIS mapping indicates that the project site is located within a known archeologically sensitive area the 1.57 acre site has been developed as far back as 1994 and given that the site was previously disturbed no impacts to archeological resources are anticipated. An information request will be submitted to NYSORHP for further information.

- **Section 13**
  - a. **Does any portion of the site of the proposed action, or lands adjoining the proposed action contain wetlands or other waterbodies regulated by a federal, state or local agency?**
  - b. **Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?**

**ENDNOTE 5** addressed Wetlands and Surface Waters and stated that according to NYSDEC EAF Mapper the Environmental Resource Mapper and available GIS information the site is located within a State-regulated wetland checkzone which is located adjacent to a State regulated wetland (H-19) that is located across from the project site, south of Route 23.

According to National Wetland Inventory information available through GIS, the property does not contain nor is it contiguous to a Federally regulated wetland. There is a NWI wetland (PEM1/SS1E) located south of SR 23 in the same area as the NYSDEC regulated wetland.

The proposed development and the related underground sewage disposal system would be located greater than 100 feet from these wetlands and from nearby streams as stipulated in ZS 232-9(P). Despite the project's location within the NYSDEC checkzone the project is not likely to result in impacts to wetlands given that the site is already developed and that there are no wetlands on site.

- **Section 15**
  - a. **Does the site of the proposed action contain any species of animals, or associated habitats, listed by the State or Federal government as threatened or endangered?**

**ENDNOTE 6** addressed Endangered, Threatened and/or Rare Species and Significant Natural Communities. According to the NYSDEC Environmental Resource Mapper there are no known occurrences of a rare species on or in the vicinity of the project site. According to the US Fish and Wildlife Service (USFWS) online consultation, the Indiana Bat (Endangered) and the Northern Long-eared Bat (Threatened) may occur or could potentially be affected by activities on the project site. Given that the site has been cleared of all trees no habitat exists to support either species, therefore there is no impact to either species.

- **Section 17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,**
  - a. **Will storm water discharges flow to adjacent properties?**
  - b. **Will storm water discharges be directed to established conveyance systems (run-off and storm drains)? If Yes, briefly describe.**

Ms. Becker pointed out that the applicant noted that there will be a possible use of infiltration on site and asked whether the storm water on the site will or will not be managed. Ms. Becker expressed concern over where the storm water will go inasmuch as a large part of the area will be covered by an impervious surface. Mr. Casey believed this would be handled by the existing storm-drain drains in the roadway. Mr. Haight advised that the Board would need New York States input regarding this. Ms. Becker made note of the fact that there are farms and wetlands across from the proposed site. Mr. Casey did acknowledge that there is one catch-basin accounted for on the plans at this time.

Ms. Becker asked if the issue of noise had been addressed and was advised that this would be dealt with in Part 2 of the EAF which Attorney Dow read through. Attorney Dow made note of the fact that the Board can make suggestions to the ZBA on any issues of concern. Ms. Becker felt the issues of air quality and noise should be addressed inasmuch as there are homes nearby.

Regarding the air quality Ms. Metz brought up the fact that the industry has changed so much and is very much geared to recapturing the vapors making them as minimal as possible. She also pointed out that owning and operating a number of gas stations she has never found this to be an issue with neighbors. She made note of the fact that she doesn't expect this to be an issue taking into consideration the distance of the adjoining neighbors.

Ms. Metz also addressed the issue of noise and added that she did not expect an impact in traffic count and doesn't expect it to impact the nature of the traffic. Mr. Haight brought up the fact that the location of the project is on Route 23 which is a well traveled roadway. Ms. Becker had concerns of idling vehicles. Ms. Metz did not find this to be a problem as they try to discourage this at their locations. She also noted that most people don't usually let their cars idle too often as they don't want to waste their fuel. Mr. Casey did make note of the fact that State vehicles are exempt from these regulations. Ms. Becker's concerns regarding the noise aspect was due to the fact that the locations would be open until 11 pm. Ms. Metz asked whether there is a noise ordinance in the area and was advised that the Town ordinance is until 11 pm.

Mr. Haight made note of the fact that the Stormwater issue will be addressed further during Site Plan Review. Ms. Becker added that some of the parking spaces are being banked which should reduce the impervious surface of the site. Mr. Casey did acknowledge that this had been briefly discussed at the ZBA meeting but no decisions had been made as yet. Attorney Dow advised that this can be addressed with the ZBA at a later date. It was Attorney Dow's opinion that everyone was in agreement with the reduction in the number of parking spaces due to the nature of the business, especially since the area for these spaces is being reserved and can be addressed if needed.

Ms. Becker asked if any of the neighbors attended the Public Hearings and was advised by Mr. Casey that there were two (2) comments, one from a gentleman that felt another gas station was

not needed in Town and a letter from a local realtor who also felt another gas station was not needed. Inasmuch as there have been no concerns expressed regarding noise Ms. Becker was satisfied with how the applicant addressed this.

**2016-21            SITE PLAN REVIEW – HOMESTEAD MARKET – Route 23  
                         [Copake]**

- Columbia Planning Board Recommendation dated November 16, 2016
- Letter from Attorney Dow acknowledging the change in the B-2 District

No one was present regarding this application. The Board reviewed the recommendations from the Columbia County Planning Board (CCPB). Mr. Haight pointed out that the CCPB suggested that the applicant contact the NYS Department of Transportation (NYSDOT) regarding any improvements that may be necessary to the access off NYS Route 23. Ms. Becker noted that the applicant stated that no changes were being made to the access point. Mr. Haight questioned whether NYS required any changes. Ms. Becker explained that this would be only if the applicant was making the change.

The Site Plan was reviewed by the Board. A question arose as to the placement of the wells and whether the irrigation wells were still being used. Mr. Haight questioned whether anything else was needed before the Board could grant approval. It was noted that a response from the CCPB was all that was needed. Ms. Becker made note of the fact that Mr. Grant requested that the Zoning District be added to the maps.

On a motion made by Mr. Haight and seconded by Ms. Cohen the Board voted unanimously to approve the Site Plan for Homestead Market LLC subject to the Zoning District being added to the Map and the applicant's comments on the irrigation wells.

**MINUTES**

Ms. Cohen made note of the fact that a correction needed to be made to the November 3, 2016 minutes regarding the application of GRJH Inc. She explained that the second to the last paragraph on page 4 reads: *Mr. Haight asked what the size of the building will be as Ms. Amy Haight referred to the building on the Preliminary Sketch as a proposed size. Mr. Casey explained that they will be purchasing an existing building that will be moved to the site and there is a good likely hood that the building will be reduced in size from thirty-two hundred (3,200) square feet to approximately twenty-eight hundred (2,800) square feet* and should read that the applicant will be using plans to a building that already exists and the new building will be constructed on the site.

On a motion made by Mr. Haight and seconded by Ms. Becker the Board voted unanimously to approve the minutes of the November 3, 2016 meeting minutes as amended.

## **ADMINISTRATIVE**

**MONOLITH SOLAR UPDATE:** A letter was received from the Building Department informing Monolith Solar that their Building Permit #2015-192 for the property at 25 Two Town Road, Craryville, NY 12521, tax map # 144.1-31.111 has not yet been closed out. The letter also stated that a Certificate of Compliance to legally operate this facility has not been issued. The site will need an inspection and full compliance with the conditions of Planning Board approval which have not yet been met.

**BOB HAIGHT:** The Board went into Executive Session to interview Mr. Haight for another term as member of the Planning Board. A letter of recommendation will be written to the Town Board advising them that the Planning Board would like Mr. Haight to be considered for another term on the Board.

**WARREN D. BLOOMFIELD:** A letter was received from Mr. Bloomfield as he wanted to make sure the Board was aware of the typology and hydrological drainage patterns of the Rail Trail.

**SCOTT & JACQUELYN DECKER:** A letter was received from the Columbia County Clerk stating that the Subdivision Map for Scott & Jacqueline Decker has been filed.

**COREY BROUSSEAU:** A Lead Agency letter was received from the ZBA for the application of Corey Brousseau.

**COPAKE VALLEY FARM:** A letter was received from CEO Lee Heim asking the Planning Board for any approvals and/or denials for Salvatore Cascino's property. He also requested that the Board review Mr. Cascino's current building permit applications and advise him if these have been reviewed previously. Mr. Heim supplied the Board with copies of the applications and site maps.

The Board reviewed Salvatore Cascino's 2008 Site Plan Review which was prepared by Jeff Plass and the recently submitted Site Plan prepared by Frank Peteroy. Mr. Peteroy presented the Site Plan that he prepared and both were discussed at length. It was the Board's opinion that other than the addition of the Stables the Site Plan submitted by Mr. Peteroy is essentially the same as the Site Plans submitted in 2008 and 2012. It was also noted that the two (2) buildings that would be the sides to the proposed building in Mr. Peteroy's plans do not have building permits and are not considered legal structures by the Town. Mr. Haight will discuss this with Mr. Heim. Mr. Plass will be contacted to see if the Board can have an additional Site Plan for Mr. Heim.

Attorney Dow advised the Board that he read through the 2008 decision which explains in depth the reasons for the denial. He explained that there was more to take into consideration other than the placement of the buildings. Attorney Dow made note of the fact that the Decision pointed out that there was no credibility to what they were proposing to do or had anything to do with a bona fide farming operation. It was Attorney Dow's opinion that the burden on the applicant is more than just the buildings and the burden is to show a legitimate purpose and that the proposed buildings are consistent with an actual agricultural operation. Attorney Dow also noted that the addition of some animals on the farm is not sufficient enough to make this claim.

Ms. Becker noted that the Board does not presently have a formal application and expressed her opinion that the Board needs to wait to hear back from Mr. Heim before proceeding further. Attorney Dow was in agreement and it was his opinion that the application should not be permitted at this point. He also noted that Ag and Markets rules are considered with a valid farm operation which this does not seem to be.

Submissions included:

- Building Permit Denials
- Applications for Site Plan
- Description of Work
- 2016 Final Assessment Roll pages
- Site Plans
- 2008 NYS Court of Appeal Decision
- 2012 Minutes

### **CARRY OVER**

The following matters were carried over to the next meeting:

**2016-20      PRELIMINARY SITE PLAN REVIEW – GRAY DAVIS – Lake View Road  
[Copake Lake]**

### **ADJOURNMENT**

There being no further business, on a motion made by Mr. Haight and seconded by Ms. Cohen, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 9:00 p.m.

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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**

**PETER & VIRGINIA CARPANINNI/CARP INC.**

November 7, 2016     Building Permit Application (2)

**GRJH INC.**

June 29, 2016         Building Permit Application (2)  
October 27, 2016     Short Form EAF [SEQRA] (19)  
November 7, 2016     Application for Site Plan Review (1)

**HOMESTEAD MARKET & GRJH INC.**

November 16, 2016    Stalker to Haight/CPB (2)

**COPAKE VALLEY FARM**

November 6, 2008     NYS Court of Appeals Decision (11)  
September 6, 2012    Planning Board Minutes (2)  
October 24, 2016     Building Permit Application (1)  
November 15, 2016    Building Permit Application (1)  
                                  Building Permit Application (1)