



COPAKE PLANNING BOARD

DECEMBER 7, 2015

MINUTES

DRAFT

Please note that all referenced attachments, comprising 5 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 Marcia Becker, Julie Cohen, Steve Savarese and Jon Urban. Ed Sawchuk arrived at 8:10 pm. Chris Grant was excused. Lisa DeConti was present to record the minutes. Town Attorney Ken Dow and Town Board Liaison Terry Sullivan were also present.

ZONING BOARD OF APPEALS – Referrals

None

PUBLIC HEARING

2015-25 BLA –COHEN FAMILY PARTNERSHIP – Snyder Pond Road [Copake]

Mr. Haight advised the Board that this application has been withdrawn.

2015-24 BLA/MINOR SUBDIVISION – CAMP PONTIAC – County Route 7A [Copake]

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

Mr. Haight asked if anyone wished to speak on this application.

Being none, on a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to close the Public Hearing.

**2015-20 SITE PLAN REVIEW – Carl Campbell/MONOLITH SOLAR – Route 23
[Copake]**

A motion was made by Mr. Haight and seconded by Mr. Savarese to open the Public Hearing however the Public Hearing had remained open from last month's meeting.

Mr. Haight asked if anyone wished to speak on this application.

Being none, on a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to close the Public Hearing.

SUBDIVISION/SITE PLAN

**2015-24 BLA/MINOR SUBDIVISION – CAMP PONTIAC – County Route 7A
[Copake]**

- Septic approval letter
- Short Form EAF Part II

Jeff Plass appeared before the Board with potential owner Alexander Almond for a three (3) lot subdivision for Camp Pontiac. Mr. Plass acknowledged that the owners have the deed from Mr. Horowitz allowing them to proceed with the subdivision and also have the maintenance agreement from the homeowners for the driveway. Mr. Haight asked if the Perc Tests were satisfactory and was advised by Mr. Plass that they were.

Ms. Becker pointed out that four (4) lots will remain after the subdivision and any subsequent lots will subject the land to a Major Subdivision. Mr. Plass acknowledged that everyone was aware of this.

Ms. Becker made note of the fact that the Town Code requires a twenty-foot (20') driveway set-back which is not being met. Mr. Plass explained that the driveway already existed. Ms. Becker questioned whether the driveway could be moved back some inasmuch as improvements were being made. Mr. Almond acknowledged that the driveway could be moved back some during the improvements.

Ms. Cohen referred to Town Code 232-8(5)(a)(b) which reads: *Driveways shall be set back at least 20 feet from side lot lines, except that: (a) Common driveways may occupy any part of a side yard adjoining the lot of another user of the common driveway. (b) On lots with less than 80 feet of road frontage, individual driveways may be less than 20 feet from side lot lines.* She acknowledged that the property being subdivided is less than eighty feet (80') and can be closer to the adjacent property. Ms. Becker also acknowledged that the only road frontage is the common driveway.

Part II of the Short Form EAF was reviewed. On Item 2, *Will the proposed action result in the use or intensity of the land.* It was Ms. Becker's opinion that the change would result in an adverse environmental impact however it was the Board's opinion that this would have either no or a small impact. The Board agreed that this action will have no negative environmental impact.

On a motion made by Mr. Savarese and seconded by Mr. Haight the Board voted all in favor that they have determined that that this project will have no significant adverse environmental impact.

Mr. Haight acknowledged that the road maintenance agreement and the deed are outstanding. Ms. Becker wanted it noted that the owners agreed to move the driveway as far from the adjacent property as they can.

On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to approve the Minor Subdivision for Camp Pontiac from a survey map dated November 13, 2015 subject to receipt of the Road Maintenance Agreement signed by all the lot owners, a Deed from Edward Horowitz to Camp Pontiac and the driveway being moved as much as the owners can.

Mr. Haight will stamp the maps when the conditions are met.

**2015-20 SITE PLAN REVIEW – Carl Campbell/MONOLITH SOLAR – Route 23
[Copake]**

Submissions included:

- Revised Landscaping Plan

Mr. Haight asked Attorney Dow if he had come to a decision regarding a Bond from Monolith Solar. Attorney Dow had been in contact with Monolith's council and was advised that they had not issued any bonds for others in the past. He also noted that there is no direct authority in the Code to do this with the exception of the Telecommunication Towers. It was Ms. Becker's belief that there might be a local law regarding this. Attorney Dow advised her that there is not one in the Code. Ms. Becker advised that there is a completion guarantee provision however it was noted that there is not one for the removal of a project. A discussion ensued regarding whether this is covered in the Code and if not why this is not addressed.

Attorney Dow made note of the fact that the letter from about a month or two ago from Monolith's Council mentioned their financial partners. Attorney Dow addressed this with their Council who seemed vague on this issue. Attorney Dow did refer to the fact that this letter states that these financial partners not only provide the equity for these project but are there to cure any default and if Monolith Solar chooses to cease operations while the facility is still operational the financial partners are responsible for making sure the system stays active as well as responsible for future decommissioning. Attorney Dow pointed out that the Board does not know who these agreements are with or what they are.

Commercial System Coordinator Bridget Cuddihy acknowledged that on their newer contracts they have a different person owning the system with Monolith Solar as contractors. Attorney Dow did point out that the Board is not aware of the agreements between these financial partners and Monolith Solar.

Mr. Haight asked what screening is planned. Ms. Cuddihy acknowledged that screening is planned all along Route 23 and Two Town Road and the type of screening is up for discussion. She did make note of the fact that they prefer something that doesn't cause too much shading and in some of their other projects they propose dwarf Colorado Blue Spruce trees inasmuch as they grow about eight or nine feet (8'-9') high. Mr. Haight asked the height of these trees when they are planted and how long it would be before they reached maturity. Although she wasn't positive on this Ms. Cuddihy believed these trees grow rather quickly. She added that there are various options that can be used such as Lilac bushes however they prefer pines as they provide screening throughout the year. Ms. Becker suggested using native pines as Colorado Blue Spruce trees tend to die in this area.

Having been absent from last month's meeting Ms. Becker questioned the fact that the minutes stated that Ms. Cuddihy explained that the property cannot be closed on until they have the utility interconnection agreement. She asked who owns the property. Mr. Haight made note of the fact that the property is being purchased from Carl Campbell who subdivision had been previously approved and the sale is contingent on the approval of the Monolith Solar Site Plan. It was Ms. Becker's opinion that this Site Plan could not be approved by the Board as this a speculative review as the project is in the name of Monolith Solar who does not own the property and the Board needs to review a project that is owned by someone. Attorney Dow pointed out that Mr. Campbell has been before the Board as part of the application.

Ms. Becker did not believe the Board could review an application of an applicant that doesn't own the land. Attorney Dow acknowledged that the owner has been before the Board and participated in the application process. He also noted that approval runs with the land and is not tied to the owner. He suggested changing the name on the application. Ms. Cohen pointed out that the plans are under the name of Campbell Solar Farm. The Board agreed that the name will be changed to Carl Campbell and/or Monolith Solar.

Mr. Haight questioned whether the approval from Copake's Highway Superintendent stated that there are two (2) driveways and was advised that the document refers to 'driveways'.

Mr. Haight asked the Board if they were in agreement that starter trees of four foot (4') height be planted for the screening. Ms. Becker suggested using native pines that would grow to eight feet (8'). Ms. Cuddihy will compile a list of options for the Board to choose from. Attorney Dow asked if the Board would prefer the screening to be in a straight line as shown on the plans or would they prefer they be staggered. The Board preferred they be staggered.

In her review of the minutes Ms. Becker acknowledged that she did not see where any SEQRA determination had been made. After discussion the Board agreed that this be classified as an unlisted action on the advice of Attorney Dow who described it as an unlisted action with a non-agricultural use. Under this action the short form EAF will be used.

Ms. Becker once again referred to last month's minutes and asked for clarification of the maintenance agreement. Ms. Cuddihy clarified that there will be different companies within Monolith Solar that will purchase the land with Monolith acting as the contractor. Inasmuch as this is one of their initial properties Monolith is the purchaser and owns the property and equipment and will be responsible for all maintenance. Ms. Cuddihy did make note of the fact that local landscapers will be used for maintaining the property.

Mr. Savarese asked whether there will be any glare from the panels. Ms. Cuddihy advised him that there is a glare-resistant cover on the panels so no glare is produced.

Part II of the Short Form EAF was reviewed. On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to make a Negative Declaration.

Ms. Becker advised that some changes needed to be made to the SEQRA form. She noted that it was listed as residential only however she pointed out that there is agriculture in the area. She also noted that typical habitats on the project site should read as Agricultural Grasslands. Ms. Cuddihy made and initialed the changes.

On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to approve the Site Plan for Carl Campbell and/or Monolith Solar subject to the screening being staggered and the evergreens planted will be at a minimum height of four feet (4') with a maturity height of eight feet (8') and that they be native to the area.

Ms. Cuddihy will provide updated copies of the Site Plan and Landscaping Plans for Mr. Haight to stamp.

2015-29 SITE PLAN REVIEW – GARY STEFICEK – Breezy Hill Road [Copake]

- Site Plan
- Application
- Crawford & Associated Septic Inspection

Gary Steficek appeared before the Board. Mr. Haight advised that Mr. Steficek is before the Board inasmuch as his Site Plan is over the four-hundred-thousand dollar (\$400,000.00) limit.

Mr. Haight acknowledged the Septic inspection letter from Crawford & Associates Engineering. Ms. Becker asked if the existing house is being completely demolished. Mr. Steficek advised her that the existing house and foundation are being demolished. Mr. Haight questioned the height of the structure and was advised that it is twenty-two feet (22').

Ms. Becker asked the applicant why he is not replacing the septic system inasmuch as he is building a completely new home. Mr. Steficek advised her that the existing septic system is down the hill from the structure and should he need to replace it at a later date it would not be disruptive to the structure. He also added that in the eight (8) years that he lived in the existing

home there were no problems with the present system. It was noted that there will be no increase in bedrooms which will remain at three (3).

The Site Plan Check List was reviewed. When asked about the well Mr. Steficek explained that a new well is planned with the old well being used as a back-up. He also pointed out that some trees will be removed to accommodate the site however there will be no removal of any additional trees. Regarding the building schedule he added that he hopes the project will be completed within a year.

On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted 5-1 to approve the Site Plan for the Gary Steficek residence on Breezy Hill Road. Mr. Sawchuk abstained inasmuch as he had been absent for most of the meeting.

MINUTES

On a motion made by Ms. Cohen and seconded by Mr. Urban the Board voted to approve the minutes of the November 5, 2015 meeting. Ms. Becker and Mr. Savarese abstained inasmuch as they were excused for the November meeting.

ADMINISTRATIVE

TOM GOLDSWORTHY: Tom Goldsworthy asked the Board for advice regarding a motorcycle racing track on the Shelly Robinson property across from his property on Center Hill Road. Mr. Goldsworthy explained that for the past three (3) Sundays there has been motorcycle racing for approximately four to five (4-5) hours in the afternoons. He made note of the fact that the noise is quite disturbing and the number of motorcycles being raced had been increasing and at last count there were five.

Mr. Goldsworthy contacted his neighbor regarding this and was advised by him of plans to build a second track through the woods around the perimeter of his property inasmuch as he and his friends compete professionally and need a place to practice. Mr. Haight asked how this was being accomplished and Mr. Goldsworthy advised him that this is being done with a tractor with a front loader. Mr. Goldsworthy did note that he can hear the noise inside his house and he has concerns about how long the racing will go on during the summer. He is aware that there are noise ordinances and he could call the sheriff however he is asking the Board if they have any guidance for him before he does this.

Mr. Haight acknowledged that he had also been contacted by another neighbor regarding this. He discussed this Code Enforcement Officer Ed Ferratto who advised him that if his neighbor is just running motorcycles on his property there is nothing the Board can do however under the Town Laws for development if he is using machines to construct a new track then a building permit would be required for this. Ms. Becker added that the Town has a Table of Uses and if something is not listed in the Table of Uses it is not a permitted use. If a building permit is needed a use would need to be determined and if it's not on the table of uses then it is not permitted within the

Town. Attorney Dow explained that the question would likely be whether it is an accessory use or a whole separate use. He added that people are allowed do something on their property. However the fact that this man admitted that he races professionally, has been bringing people in from other places and has admitted that he wants to build a training facility this may be more than someone just using their yard. Attorney Dow admitted that this is a tough question. He asked about how big the track is. Mr. Goldsworthy explained that the track he is using now is contained within a corral.

Attorney Dow brought up the fact that there are also private actions that can be considered if someone is doing something really disruptive to you however this is out of the Town's purview. Attorney Dow also noted that there are noise ordinances. He also advised Mr. Goldsworthy that the first thing that needs to be done is to get a determination from the Code Enforcement Officer as to whether this is a permitted use within the Zoning Code. Ms. Becker made note of the fact that race tracks are not a permitted use in the Town. Attorney Dow did acknowledge that if the neighbor is starting to develop trails he may be crossing a threshold. It is upsetting to Mr. Goldsworthy that this seems to be more of an organized activity than a casual activity.

Mr. Sawchuk asked if Mr. Goldsworthy had any photos or video of the activity. Mr. Goldsworthy acknowledged that he had sent a video to Mr. Haight who will forward it onto the Board. Ms. Becker suggested that Mr. Goldsworthy send a letter to the Town Board so as to make them aware of the situation. Ms. Becker did acknowledge that although she is a distance away she has been hearing this too. Mr. Sawchuk suggested Mr. Goldsworthy contact the General Nuisance Department and gave him a phone number to do so. Mr. Haight will discuss this with the Code Enforcement Officer. Mr. Goldsworthy will write a letter to the Town Board as suggested by Ms. Becker.

DRAFT OF THE REVISED ZONING CODE: Town Board Liaison Terry Sullivan asked Mr. Haight whether she should make copies of the draft copy of the Zoning Code to distribute to everyone. Mr. Haight suggested that she send this electronically by e-mail.

SCOTT DECKER SUBDIVISION: Regarding the recent subdivision of Scott Decker Ms. Becker brought up the fact that in the November minutes Mr. Haight referred to the Catamount and Michael Braunstein subdivisions stating that they had roads approved that were under fifty foot (50') widths. Ms. Becker pointed out that the Michael Branstein subdivision from 2007 had not been approved and the roads needed to have a fifty-foot (50') right of way and not fifty-foot (50') width. Mr. Haight believed that the subdivision he was referring to was prior to 2007. Mr. Urban believed that Mr. Haight was referring to the subdivision for Mr. Braunstein's daughter.

Ms. Becker also referred to a statement in the minutes regarding the Town Engineer. She clarified that just because the Town does not have a Town Engineer on staff doesn't mean that they don't have access to an Engineer. Mr. Haight acknowledged that he had a conversation with Town Supervisor Jeff Nayer regarding this.

ELECTION OF OFFICERS: Mr. Haight asked the Board if they wished to keep the current officers. The Board was in agreement to leave the officers as is.

TRAINING: Mr. Haight reminded the Board that they need four (4) hours of training per year. Ms. DeConti acknowledged that she had spoken to Supervisor Nayer regarding this and he advised her that if a Board member received more than four (4) hours of training in a year this can be carried over to the following year. Ms. Becker did not believe the Town Board had the authority to require training from its Board members. Attorney Dow advised her that the training is required by law and Supervisor Nayer is just asking for proof that the Board members have complied with this requirement.

RUBIN QUICKSTOP/GARY SINGH: After the meeting was adjourned a discussion ensued regarding the Rubin QuickStop/Gary Singh application and the fact that the building had been completely demolished. Mr. Haight explained that CEO Ferratto had been notified that the remaining structure had a termite infestation. CEO Ferratto went to the site to inspect this and determined that the remainder of the structure was unsafe and he allowed the complete demolition of the remainder of the structure.

There was also a discussion as to whether the structure is being rebuilt within the existing footprint. The Board discussed whether Mr. Singh should be brought back before the Board because of these issues. Attorney Dow suggested that if the Board chose to they could bring the applicant back to confirm that what he was doing conformed to the approved Site Plan. Mr. Haight will discuss the matter with CEO Ferratto.

CARRY OVER

The following matters were carried over to the next meeting:

- 2015-28 SITE PLAN REVIEW – STELLA ANASTASIA – County Route 7A [Copake]**
- 2015 -26 REFERRAL /SPR– ELLEN WILLNER – Golf Course Road [Copake Lake]**
- 2015 -23 REFERRAL/SPR – MICHAEL & KAREN DiPERI – Vernon Road [Taconic Shores]**

ADJOURNMENT

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

Bob Haight, Chair

Please note that all referenced attachments, comprising 5 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

CAMP PONTIAC

November 18, 2015 DeRuzzio to Almond (2)
Short Form EAF Part II (2)

GARY STEFICEK

November 20, 2015 Crawford to Town of Copake (1)