



**COPAKE PLANNING BOARD**  
**FEBRUARY 7, 2019**  
**MINUTES**

**Approved**  
March 7, 2019

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Please note that all referenced attachments, comprising 134 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 7:00 p.m. by Bob Haight, Chair. Also present were Marcia Becker, Julie Cohen, Ed Sawchuk and Jon Urban. Chris Grant and Steve Savarese were excused. Attorney Ken Dow, Town Supervisor Jeff Nayer and Town Board Liaison Richard Wolf were also present. Lisa DeConti was present to record the Minutes.

**ZONING BOARD OF APPEALS – Referrals**

**2019-4            ZBA REFERRAL – PETER SEVARD – Lakeview Road [Taconic Shores]**

- Building Permit Denial dated October 24, 2018
- ZBA Request for Area Variance Dated December 5, 2018
- Deck Design and Elevations
- Location Drawing
- DEC Permit dated June 28, 2018
- DEC Permit Extension dated November 5, 2018
- Pictures

Peter Sevard is appearing before the ZBA for the addition of a deck he wishes to put on the side of his house. Ms. Becker acknowledged that a set-back variance is needed for the right front yard and pointed out that a variance from the water is also needed inasmuch as there will be construction within fifty feet (50') from the water which increases the non-conformity. Ms. Becker also noted that an outdoor shower is also being added however two locations are shown for this, one in the garage and the other on the side of the house.

A letter will be written to the ZBA advising them of this.

**2019-5            ZBA REFERRAL/SPR – KEVIN & GLORIA ANDERSON – Washington Road  
[Taconic Shores]**

- Building Permit Denial dated January 9, 2019
- ZBA Request for Area Variance Dated January 13, 2019
- Application for Site Plan Review dated January 12, 2019
- Survey
- Addition Plans

Ms. Chernewsky was present to represent the applicant. She advised the Board that Mike DeRuzzio of the Department of Health is requiring a new septic system and she obtained Carl Matuszek who will be designing a new system. She advised the Board that she will be back for the Site Plan when the design is complete.

The Board had no recommendations to the ZBA as they will be reviewing this application when Ms. Chernewsky returns with a Site Plan. A letter will be written to the ZBA advising them of this.

**2019-6            ZBA REFERRAL/SPR – BRIAN TAMBURRINO – Melvin Road [Copake Lake]**

- Building Permit Denial dated January 9, 2019
- ZBA Request for Area Variance Dated January 11, 2019
- Floor Plan
- Proposed Addition
- Site Map
- Pictures

Ms. Becker acknowledged that the applicant plans on replacing an existing deck with a twelve foot by twelve foot (12' x 12') bedroom addition. The Board had no issue with this addition.

A letter will be written to the ZBA advising them of this.

## PUBLIC HEARING

### 2019-1          ZBA REFERRAL/BLA – KEITH PERRINO – State Route 22 [Copake]

- ZBA Action Taken Approval
- Short SEQRA Form
- Agricultural Date Form

Mr. Haight opened the Public Hearing and asked if anyone wished to speak on this application

**Copake Resident BRIAN MILLER ...** Mr. Miller had a question about the property line and had issue with the certification of the surveyor who signed the survey. The Board acknowledged that the survey is stamped by a licensed land surveyor. He also had issue with the fact that there are no survey stakes on the border between Mr. Perrino's property and his and made note of the fact that Mr. Perrino was recently measuring and staking out the property himself.

Ms. DeLeeuw of the Harlem Valley Rail Trail Association acknowledged that this was discussed at the ZBA meeting and that she contacted her engineer who will be sending Mr. Miller a detailed map with every point and every location on it.

Mr. Haight once again acknowledged that the copy the Board has is stamped by a land surveyor and Ms. Cohen pointed out that the meets and bounds are accounted for as well.

Mr. Sawchuk asked Mr. Miller if his issue is the fact that he can't visually see the boundaries of the property. Mr. Miller explained that his issue is with the fact that he feels the boundaries are not correct in relation to his property. Ms. Becker clarified that he is disputing the survey.

Mr. Urban asked whether Mr. Miller had his own survey and how long he owned the property. Mr. Miller advised him that he did not have his own survey and has owned the property for twenty (20) years. Ms. Cohen brought up the fact that it appears that Mr. Perrino's property has been surveyed twice, once by Islandberg in 1992 and then by Eugene Kim in 2018.

Mr. Haight advised Mr. Miller that the Board has a stamped survey and any dispute would be between the property owners.

Ms. Cohen made note of the fact that the boundary line between Mr. Miller's and Mr. Perrino's properties is not being changed by the subdivision and the only change by the subdivision is that Mr. Perrino's property is being made smaller. Ms. DeLeeuw once again acknowledged that she will be receiving a detailed map with all dimensions pointed out on it and Mr. Miller will be receiving a copy.

Mr. Haight once again explained to Mr. Miller that the Board cannot help him with this issue as this is a dispute between him, Mr. Perrino and the Rail Trail Association. Ms. DeLeeuw acknowledged that at the ZBA meeting Mr. Miller was advised that the Rail Trail will be happy to accommodate him in any way to show him where the boundary line is.

Mr. Haight advised Mr. Miller that the Board has to consider what is before them and they are only acting on changing the line between Mr. Perrino's property and the land going to the Rail Train Association. The Boundary line that is between Mr. Miller's Property and the parcel being subdivided is not a consideration as there is no change taking place on that side.

Mr. Haight once again asked whether anyone wished to speak on this application. Being none...

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

**2017-38      SITE PLAN REVIEW – GRJH INC. – State Route 23 [Craryville]  
(Open since November 2, 2017)**

- Letter dated January 16, 2019 From Liz Nealon
- Letter dated January 27, 2019 From Carin Berger
- Letter dated January 28, 2019 From Mollie Woods
- Letter dated January 28, 2019 Tim Hefferman
- Letter dated January 28, 2019 Peter Watson to CPB (1)
- Letter dated January 28, 2019 Jay Shulman to CPB (1)
- Letter dated January 28, 2019 Leigh McBride to CPB (4)
- Letter dated January 28, 2019 Mary Koch to CPB (1)
- Letter dated January 28, 2019 Donna Davey to CPB (1)
- Letter dated January 28, 2019 Virginia Newman to CPB (2)
- Letter dated January 28, 2019 Amy Davidson to CPB (1)
- Letter dated January 28, 2019 Vanessa Howe-Jones & Sam Johnson to CPB (1)
- Letter dated January 29, 2019 David Foley to CPB (1)
- Letter dated February 7, 2019 Water Resource Summary to CPB (3)
- Letter dated February 7, 2019 Save Craryville to CPB (7)
- Letter dated February 7, 2019 Save Craryville to CPB (3)
- Letter dated February 7, 2019 David K. Gordon to CPB (3)
- Letter dated February 7, 2019 Bart Clark to CPB (1)

Engineer Steven Smith appeared before the Board representing the applicant. Mr. Haight acknowledged that the Public Hearing remained open from previous meetings and informed everyone that they will have a two (2) minute comment period and not a question and answer session. He also advised that this application has already been approved for the purpose of a gas station and convenience store and although there are many that do not wish to have this constructed on this site that issue has already been decided by the ZBA. Mr. Haight asked whether anyone wished to comment on this application.

**Hillsdale Resident STEVE SMITH...** Mr. Smith's comments concerned the underground tanks that were once at the site and said to have been removed. He referred to the ZBA minutes of July 28, 2016 where Tom Casey, who was representing the applicant at the time, mentioned that the underground tanks were removed in the late 1960s and there was an asbestos remediation in the 1970s. Mr. Casey also said that he had his own geologist that will do core samplings however he did not know anything about the well or septic that existed at that time.

Mr. Smith respectfully disagreed with the Board's evaluation about the trucks going up Craryville Road. He did acknowledge that trucks accessed the site when the Dairy Farm was in operation and that trailer trucks still do go up that road on occasion however given the exit and entrance on Craryville Road for the proposed gas station/convenience store Mr. Smith had concerns that Tractor Trailer Trucks will be making a left turn into the gas station only 100 feet from the intersection which he feels is a public safety issue.

**Hillsdale Resident BARBARA SMITH...** Mrs. Smith thanked the Board for taking to heart all the safety and environmental issues that have been raised. Mrs. Smith also felt the Traffic Study should be revisited as she feels it is out dated since it was done some time ago. She felt that the Traffic Study should either be redone or at least reviewed again.

**Save Craryville Attorney DAVID GORDON...** Mr. Gordon had issue with the size of the building and that it appears to be forty percent (40%) larger than several of the other buildings in the area and appears to be twice as big as the Church next to it. Mr. Gordon addressed the fact that the restaurant area has been removed from the plan and commented that what the Save Craryville Group wants is for this thing to be substantially reduced. Mr. Gordon also had concerns regarding pollution of the aquifer and not the depth of them. Mr. Gordon was pleased to hear that the Board is considering the hire of an engineer and claims that the SWPPP is not typically reviewed by the DEC. Mr. Gordon also had concerns about the water run-off from the hills in the area and felt it should be diverted so as not to mix with the water on the site. Mr. Gordon also feels the soil on the site is poorly draining which would affect drainage of the septic leech fields. Bart Clark of Oakwood Environmental Associates was named as the group's environmental engineer

**Hillsdale Resident TIM...** Tim wanted to inform the Board that in the area of Burt's Inn there is a shallow well and a failed septic system.

**Craryville Resident GRAY DAVIS...** Mr. Davis referred to the reduction in size of the kitchen/restaurant area and felt that this reduction should bring the size of the building under two-thousand (2,000) square feet. Mr. Davis also had issue with the flat roof of the canopy and believed the Code calls for a sloped roof. He also had issue with the architecture of the building.

**Resident PETER COHEN...** Mr. Cohen had concerns about environmental issues and soil contamination as well as the overall architecture of the building.

**Hillsdale Resident AMY DAVIDSON...** Ms. Davidson had issue with the Phase One Environmental Site Assessment which didn't look at core samplings. Ms. Davidson also claimed that the number of fuel pumps have not been changed on the applicant's plans. Ms. Davidson also felt the Conservation Advisory Committee should weigh in on this application.

**Hillsdale Resident JEFF PAGE...** Mr. Page had concerns that there appears to be a propane tank in the vicinity of the ditch and felt this was not an appropriate area for a tank to be placed.

**Hillsdale Resident and Save Craryville Director JAMIE CARANO...** Ms. Carano felt the Board should consider a Visual Impact Assessment even though this is normally done during the SEQRA process. She also believed the North East Set-backs are still not revised to meet the new Town Code and claimed the set-back should be at thirty feet (30'). Ms. Becker advised her that inasmuch as this is a driveway a ten foot (10') set-back is required. Ms. Carano suggested a twenty-foot (20') buffer to allow for possible screening.

**Hillsdale Resident DAN ...** Dan also had issue with the size of the building and feels it does not conform to the size of other buildings in the area.

**Copake Resident STEVE PERRY...** Mr. Perry had issue with the scale of the whole project.

**Hillsdale Resident LEIGH McBRIDE...** Ms. McBride had issue with the possibility of gas tanks from the prior gas station still being in the ground and believed that there are tests that can be done to confirm whether they are still there or not.

**Craryville Resident TIM...** Tim wanted to thank the Board for taking the safety concerns seriously and also had concerns regarding the increase in traffic since the opening of Random Harvest.

Mr. Haight closed the Public Hearing for the evening and noted that it will remain open.

## **SUBDIVISIONS/SITE PLANS**

### **2019-1            BOUNDARY LINE ADJUSTMENT – KEITH PERRINO – State Route 22 [Copake]**

- ZBA Action Taken Approval
- Short SEQRA Form
- Agricultural Date Form

Lisa DeLeeuw of the Harlem Valley Rail Trail Association once again represented Keith Perrino for a Boundary Line Adjustment on the Rail Bed parcel that is owned by Mr. Perrino to accommodate the Rail Trail coming through and across Route 22. Ms. DeLeeuw advised the Board that she has received approval from the ZBA for an area variance for the creation of an undersized lot.

Ms. Becker asked whether the subdivided parcel will be merged with the State land or whether it will be a stand-alone parcel. Ms. DeLeeuw explained that the only State land is the land the parcel will meet up with and the parcel being subdivided will be gifted to the State very shortly and become part of the Rail Trail.

Ms. Becker asked whether a Short SEQRA Form had been submitted and Ms. DeLeeuw acknowledged that one had been submitted. Part 1 of the Short SEQRA Form was read into the record. Part 2 of the SEQRA, the Impact Statement, was reviewed by the Board. It was determined on Part 3 of the SEQRA that this action will not result in any adverse environmental impacts.

Ms. Becker asked whether an Ag Data Statement had been submitted. Ms. DeLeeuw acknowledged that one had been sent out and submitted a copy of it.

**On a motion made by Mr. Haight and seconded by Ms. Cohen the Board voted unanimously to approve the Subdivision stamped by surveyor Eugene Kim and dated December 17, 2018.**

Mr. Haight will stamp and sign the Surveys on Saturday.

## **2018-23      SITE PLAN REVIEW – MIKE FALLON – County Route 7A [Copake]**

- Building Permit Denial dated January 23, 2019
- Application for Site Plan Review
- Letter of Agency dated October 4, 2018
- Pictures and Color Guide

Linda Chernewsky appeared with applicants Mike and Seth Fallon for a seventy-five hundred (7,500) square foot Dry Storage Building with two (2) garage doors that they wish to put on the corner of Maple Lane and Route 22 in Copake Falls. Seth Fallon explained that the entrance will be off of Maple Lane and be used as storage for their Auction House, will not be opened to the public and will not have any signage. Mr. Fallon explained that the building will be metal and they will only need enough space to park their truck and turn it around. It was noted that the building will be a shade of red which Ms. Chernewsky noted was picked to make it look more like a barn.

Ms. Chernewsky noted that there will be no parking lot lights and Mr. Fallon met with the Highway Superintendent and no culvert is needed as the existing driveway is being used. Ms. Becker asked whether there will be water and Mr. Fallon told her there will be no water or septic as the building is just being used as a storage facility.

Ms. Becker acknowledged that this is located in the Highway Business zone and is a permitted use in this zoning district and is also located in the Scenic Corridor Overlay Zone and at seventy-five hundred (7500) square feet is not subject to design guidelines. It was noted that the screening will remain and other screening is to be added. The height was said to be a little over twenty-seven feet (27') and the lot coverage is at thirty percent (30%).

Ms. Becker suggested setting a Public Hearing as the storage facility is commercial. Ms. Chernewsky pointed out that there are no variances required and the use is permitted in the district. Ms. Becker pointed out that some of the neighbors might have concerns. Ms. Cohen noted that the Code doesn't require the Board to have a Public Hearing and stated that the Board 'may' have a Public Hearing. Mr. Haight acknowledged that one is not required by the code. Mr. Fallon had concerns that a Public Hearing would prevent the construction of the storage building as the property was purchased for this reason. Ms. Becker advised him that the use is a permitted use in the district and he is complying with the regulations.

Ms. Chernewsky added that they went through the whole code of the Scenic Corridor Overlay Zone and kept the building within the appropriate required size. She also noted that there is a Church, parking lot and Funeral home surrounding the property so it is not located completely in a residential area. Inasmuch as the applicant meets all the requirements for the zoning district Mr. Urban questioned what purpose a Public Hearing would serve.

Mr. Fallon questioned how he would be affected by a Public Hearing. Ms. Becker noted that neighbors might ask for more screening but pointed out that there is a fair amount of screening provided. Mr. Chernewsky advised that there have been conversations with one of the closest neighbors who is aware of what is being done and has no objections. Ms. Cohen acknowledged that the applicant is doing everything that should be done in regard to complying with the Code. Mr. Sawchuk had concerns that neighbors might have concerns that the Board hasn't considered.

After discussion the Board decided to take a vote on the matter of holding a Public Hearing. The results of the vote to hold a Public Hearing are as follows:

<u>Mr. Haight</u>	<u>Ms. Cohen</u>	<u>Ms. Becker</u>	<u>Mr. Sawchuk</u>	<u>Mr. Urban</u>
No	No	Yes	Yes	No

It was decided that no Public Hearing will be held.

The Check List was reviewed. Ms. Becker questioned whether the Highway Superintendent needs to be contacted regarding this application. Ms. Cohen pointed out that the driveway on the parcel is an existing driveway. Mr. Fallon acknowledged that he has spoken to the Highway Superintendent. Mr. Haight requested a copy of any documentation the Highway Superintendent might give the applicant.

A discussion ensued as to whether this would need to be sent to the New York State Department of Transportation (NYDOT) or the Columbia County Planning Board (CCPB). Mr. Haight acknowledged that inasmuch as there is no driveway on Route 22 the application does not need to be sent to the NYDOT however did note that the application does need to be sent to the CCPB. Mr. Haight did advise her that the Board cannot approve the application subject to CCPB approval. Ms. Chernewsky will bring a packet to the CCPB. The applicant will return next month.



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

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

- Letter from William Kimball of the Department of Agriculture and Markets dated March 11, 2009
- Master Plan of all the Structures on the Property
- Letter of agency saying Mr. Weiner is representing Mr. Cascino
- Pictures

David Weiner appeared representing Salvatore Cascino. Ms. Becker asked whether an application had been submitted and was advised by Ms. DeConti that there are applications for the two buildings in question.

Mr. Weiner acknowledged that at the last meeting the Board requested a Master Plan of Mr. Cascino's property identifying all the structures on the site and any buildings that are planned for the future plus a complete survey of the site. Mr. Weiner submitted both documents. Ms. Becker noted that the residence is on a separate parcel of approximately ninety (90) acres. Mr. Weiner clarified that there is a separate parcel of approximately eight and a half (8½) acres and the ninety (90) acres is part of the whole parcel. Mr. Haight clarified that the ninety (90) acres is the southern part of the parcel and the remaining parcel is two-hundred and twenty-two (222) acres. Ms. Becker made note of the fact that the house is a separate parcel.

Ms. Becker asked if Mr. Weiner was before the Board for two (2) specific buildings. Mr. Weiner acknowledged that the original application was for two (2) specific buildings and pointed out Bunker #1 and Bunker #2 on the Master Plan. He also made note of the fact that the Board requested that the Master Plan include any potential future buildings and he advised that those include two (2) buildings, a potential Barn and a potential Green House.

Mr. Weiner explained that the farm operation needs more storage as there is no place to store the complete hay crop and there has been substantial loss to the crop in the make-shift storage that has been used to date. He went on to explain that both buildings are needed to store additional hay and machinery, the first building being a three-sided, thirty-nine hundred (3,900) square foot building approximately sixty by sixty-five feet (60' x 65') and the second building being a fifteen hundred (1,500) square foot building approximately forty-five by thirty-five feet (45' x 35'). Mr. Weiner continued noting that the potential future barn is expected to be approximately three-hundred feet by eighty feet (300' x 80') and approximately twenty-four thousand nine hundred (24,900) square feet and will be used to service the cows. He added that trees and shrubs are planned to be grown in the future green house which is expected to be approximately fifteen thousand (15,000) square feet.

Mr. Weiner questioned how the two proposed buildings relate to the issues that have already been raised. Mr. Haight asked whether entrances have been applied for regarding the Farm Market and was advised by Mr. Weiner that none have been applied for however there have been

discussions with the Department of Transportation (DOT) and they would respond once a final configuration for the Farm Market is submitted.

Ms. Cohen questioned the location of the Stone Walls that were observed when members of the Board did a Site Visit as she did not see their location on the Master Plan. Ms. Becker noted that the issue is that the Board cannot review just two (2) buildings as the long-range plan is to build out the whole site and have to look at the whole site plan as one project. Mr. Weiner questioned this as he feels they are being asked to speculate on something they are not sure about. He brought up the fact that there was a question as to whether the two (2) existing buildings are farm related and appropriate buildings or not. He acknowledged that they would be setting parameters for the two (2) proposed buildings and then come back when and if they are expected to be built. Mr. Weiner felt this is going beyond the scope for what is expected in an Ag District. Ms. Becker clarified that inasmuch as the applicant plans on building out the whole site, the Board needs to review the site as a whole and if he was just talking about two (2) buildings with nothing else planned it would be different. Mr. Weiner's argument was that this is hypothetical at this point.

Mr. Haight brought up the fact that there were questions among the Board as to whether this was a farm operation or not and the Board needs to decide at this time whether this is a farm operation or not and then move forward from there.

Attorney Dow acknowledged that there has been a long sequence of decisions and documents however he didn't believe that this has ever been put in chronological order to see where the different determinations fit in a time-line or a single document with a sequential record of what was done when. Ms. Becker pointed out that this essentially appears to be the same plan that was previously denied in 2008. Mr. Weiner disagreed with this as the original plan had silos on it with roads coming around the back. He also responded to the fact that it was questioned as to whether this is a farm operation or not inasmuch as the Department of Agriculture and Markets has determined that this is a farm operation.

Attorney Dow questioned the date of the letter from Ag and Markets as well as when the litigation was. Mr. Weiner acknowledged that the letter from Ag and Markets was dated March 11, 2009. Attorney Dow did make note of the fact that the Board originally denied the project due to the fact that there were buildings that were not appropriate for farming activities however he wasn't aware of whether the Ag and Markets letter was before or after this decision. Mr. Weiner advised him that the letter was after the Planning Board decision. Attorney Dow also noted that the Board does not have the paper work of the litigation before them and what the claims regarding this were. Attorney Dow questioned whether the litigation was in reference to the Planning Board's decision and was advised by Ms. Becker that it was as there was an Article 78 from 2008.

Attorney Dow brought up the fact that if the Planning Board made a decision and the reasons for that was litigated there may have been an Ag and Markets letter in the interim before the final decision by the courts was made. Mr. Weiner did make note of the fact that he read somewhere that Towns do have a great deal of leeway to subjectively evaluate the integrity of the application. He noted that that was back in 2008-2009 and the big question then was whether Mr. Cascino's operation was what he said it was and is he really going to be conducting agricultural activities or is this a front for some other operation most notably tied to his operation in the Bronx. Since that time, Mr. Cascino has been raising cattle for several years and in 2012 has divested the business in the Bronx so he doesn't have that kind of business interest now.

Mr. Weiner acknowledged that Mr. Cascino has been planting hay, alfalfa and corn and has been harvesting these crops which accounts for the machine equipment. Ms. Becker pointed out that this was only one of the deciding factors that went into the decision. Mr. Weiner did bring up the fact that one of the issues was the integrity of the application, another was the stated purpose of the operation and another was the adequacy of the buildings. He noted that the Ag Department has always said that the buildings sound reasonable for agricultural structures.

Ms. Becker asked Attorney Dow if he could advise where the Board can go from here. Mr. Weiner questioned knowing what we know today about the ongoing activities and the perimeters laid out by the Ag Department as what is appropriate for a farm operation in a County Adopted Certified Angus Operation.

Mr. Weiner asked what the Board needs for this to move forward. Ms. Becker noted that the plans presented are very similar to the previous Site Plan that was denied. Mr. Weiner disagreed with this as the site is the site.

Attorney Dow referred to the Article 78 decision and the reasons the application was previously denied and read them into the record.

- 1. Lack of credibility created both by the change in nature of the proposed operation and the applicant's inability to provide a comprehensive and coherent application*
- 2. The illegal location of the composting operation on the site and the illegally oversized silos*
- 3. The failure of the applicant to address the water quality and traffic concerns raised by the Board*
- 4. The applicant's history of violations of state and local laws.*

*Based on these concerns in the complete record the Board doubts that the applicant will use the proposed buildings and structures for a lawful farming operation*

Mr. Weiner did acknowledge that it does come back to the applicant's credibility but noted that this was ten (10) years ago. Ms. Becker did acknowledge that Mr. Weiner is presenting the application with a clearer manner than it was presented the last time. Mr. Weiner did point out the differences in this application and the previous one and did feel that this is as different as it can be given the fact that you are working with the same piece of property.

Ms. Cohen asked whether Mr. Cascino is operating the farm himself or whether it is leased to someone else. Mr. Weiner acknowledged that the cattle are Mr. Cascino's and some of the property is being leased out.

The Board compared the past and present Site Plans. Mr. Weiner did acknowledge that the barn has been scaled down in size as it was previously forty-five thousand (45,000) square feet and is now at twenty-five thousand (25,000) square feet and the whole composting concept is gone as well as the tall silos.

Ms. Becker made note of the fact that a narrative of what the applicant plans to do on the farm and what is presently being done would be helpful to the Board and asked whether Mr. Weiner would be able to provide this. Ms. Becker did acknowledge that the compost operation was a big part of the reluctance to approve the prior application so a narrative of present and future activities would be helpful in going forward.

Attorney Dow referred to the Court Decision that stated that some of the buildings were designed in highly unconventional ways. Ms. Becker had issue with the fact that some of the existing buildings appeared to be overbuilt as they had concrete walls. Mr. Haight questioned the reasoning that if the buildings are made out of concrete and steel and appear to be overbuilt how that makes them not agricultural. Attorney Dow brought up the fact that in the previous application the buildings weren't conventional and all the other factors surrounding it indicated they were going to be used for other purposes.

Mr. Weiner asked where they would go from here if a new narrative were to be submitted. Ms. Becker noted that the previous application was based mostly on a Composting Operation and now it appears that the Composting Operation is not the applicant's intention and she questioned what is the applicant's new intention is. Mr. Weiner clarified that the new intention is to raise cattle and crops and hopefully in the future a greenhouse and farm stand.

Ms. Cohen asked Mr. Weiner how much of the farm is being leased and questioned whether the crops or cattle were being leased. Mr. Weiner acknowledged that the crops are the lease portion.

Mr. Weiner asked what comes after a narrative is provided. Ms. Becker questioned whether another site visit was possible. Mr. Haight questioned what another site visit would do.

Attorney Dow noted that he would like to review the litigation as some things might not be applicable at this time. Mr. Weiner thought the decision would be the most pertinent document. However Attorney Dow felt the issues that were brought to the courts would be most pertinent. Ms. Becker suggested contacting Victor Meyers who handled things at that time.

Mr. Weiner asked what the next move was after a narrative is provided. Mr. Haight advised him that if the plan has changed from the previous one and the uses have changed from the denial then the application would move forward to Site Plan Review. Attorney Dow clarified that once the Master Plan is approved then Site Plan would be required for each building individually.

Attorney Dow did bring up the fact that the Court Decision is important as it is the applicant's burden to address the problems that existed in the past and how things have changed moving forward.

## **2017-38      SITE PLAN REVIEW – GRJH INC. – State Route 23 [Crarryville]**

- Highlights of equipment and other systems
- Letter from Will Miles dated February 4, 2019 addressing changes conforming to new Code

Engineer Steven Smith appeared before the Board representing the applicant. Mr. Smith acknowledged a letter from his designer/draft person Will Miles addressing issues that were discussed at the previous meeting.

Mr. Smith acknowledged the following issues.

- 1. A dimension showing the building height has been provided on drawing sheet A-201*
- 2. The parking and dumpster placement was revised to comply with the required set-backs*
- 3. The Signage has been revised to comply with the code and due to the fact that there is a provision for a corner lot to have two signs a second sign has been included and located at the NYS Route 23 entrance*
- 4. The SWPPP report has been revised to show the new site layout which is much smaller than the original layout. The revised SWPPP drawings SWM-1 and SWM-2 as well as the revised Calculations (TR55) have been included for the revised site layout*
- 5. The floor plan has been revised to reduce the size of the kitchen*
- 6. The height dimension of the Canopy will be at a maximum of seventeen feet (17') high*

Ms. Smith acknowledged that the Stormwater generated from the new plan is actually less than the Stormwater generated in the prior plan. Mr. Haight asked whether the State DEC has a copy of the SWPPP and was advised by Mr. Smith that they do. Mr. Smith noted that a sketch delineating the size of the canopy has been included in the submissions. Ms. Becker asked what the size of the building is with the reduction of the kitchen. Mr. Smith advised her that the footprint remains the same.

Mr. Smith addressed concerns regarding the Aquifer and in order to determine where the Aquifer is water well information compiled by the DEC was obtained. Mr. Smith noted that unfortunately the DEC does not include all the wells in the area however their main concern is with shallow wells. Mr. Smith acknowledged that there were only two (2) shallow wells accounted for on the DEC information, one on Maple Lane 5 ¼ miles away and the other was on Roeliff Jansen Meadow, 4.8 miles away. Mr. Smith pointed out that the majority of the wells are two-hundred and thirty feet (230') deep or deeper which indicate that the aquifer is pretty deep.

Mr. Smith acknowledged the information sent to Mr. Haight regarding the supplier of the gas distribution equipment. Mr. Smith did make note of the fact that he is not familiar with this however he does know that this complies with NYS regulations.

Mr. Haight acknowledged that some of the Board members wanted to see the size of the building on the site and with permission from the owners staked out the building himself so that the members could meet and have a site visit to view this. They also looked at the storm drain and where it is draining to and checked out the site distances.

Attorney Dow wanted to clarify the fact that it is permissible for Boards to make site visits. Ms. Becker acknowledged that she was at the site visit. She remarked that the lot was large and due to this fact she felt the building could have been put in another spot further away from the intersection. She also noted however, that inasmuch as this is a Hamlet concept it is beneficial for the building to be closer to the intersection. Ms. Becker commented that Ms. Cohen, who had

to leave the meeting early, looked at the tax rolls for the size of the adjacent buildings. Ms. Becker noted that the Code states that the size of a new building should be compatible with the size of other buildings in the immediate area. She made note of the fact that the Ameri-Stop Convenience Store is two-thousand, two-hundred and ninety-six (2,296) square feet, Random Harvest is two-thousand and six-hundred (2,600) square feet and GRJH's proposed building is three-thousand, two-hundred and forty (3,240) square feet. She also noted that Stewart's in Hillsdale is three-thousand, four-hundred and seventy-six (3,476) square feet, the Church across Craryville Road is one-thousand, three-hundred and fifty-eight (1,358) square feet, the parsonage is one-thousand, four-hundred and fifty-eight (1,458) square feet and the Post Office is one-thousand, five-hundred and fifty-eight (1,558) square feet. Ms. Becker pointed out that GRJH's proposed building is a little bit oversized compared to most of the buildings in the immediate area.

Ms. Becker also noted that there is a ditch in the area that didn't appear to be on the map. Mr. Smith believed this might be on the Topography plan however he acknowledged that they are aware of this. Mr. Haight noted that GRJH's proposed building is 300 square feet larger than the building that was there. Mr. Haight had no issue with the size of the building.

Regarding the site views from the entrance and exits Mr. Haight pointed out that there are more site views here than any other intersection in the Town of Copake. Mr. Haight also noted that tractor trailers have been turning into Craryville Road for as long as he can remember as milk trucks would regularly go to Clapps farm and all the other farms up that road. In regard to the issue that has been brought up concerning speeding cars on Craryville Road Mr. Haight noted that there is a little over one-hundred feet of the applicant's property on Craryville Road and anyone turning onto Craryville Road would need to slow down to make the turn. Mr. Haight did not see an issue with this. Mr. Sawchuk noted that there is a hill near the LED sign at the School. Mr. Haight noted that this is quite a distance away.

Regarding the storm drain for the DOT Mr. Haight noted that the DOT told him that this drained onto Route 11. After the site visit Mr. Haight noted that they concluded that the DOT must have mistakenly meant that this drained onto Route 7 between Gellet's apartments and the trailer. One morning Mr. Haight walked the Railroad Bed, parallel to Route 23 and south to see if there was any drainage there however he could not find a culvert underneath the Railroad Bed. Mr. Haight did note that there is a ditch on the south side of the Railroad Bed that goes behind the old post office however he pointed out that this is not connected to the drainage. Mr. Smith explained that there might be a submerged culvert in the vicinity.

Ms. Becker questioned the part of the code that allows the Board to have their own professionals review the technical submissions. She referred to Town Code 232-21H(3) which reads:

- *Additional Requirements for Site Plans. If, upon a review of the materials submitted by the applicant, the Planning Board determines that a proposed project subject to site plan review, other than a single-family or two-family residence, could have traffic, visual, groundwater, or stormwater impacts, the Planning Board may require the applicant to prepare and submit applicable information, studies, reports and plans, as follows. Costs for all studies, reports, assessments, or plans required by the Planning Board shall be borne by the applicant.*

Mr. Haight questioned why this is needed. Ms. Becker acknowledged this is needed for the SWPPP, lighting design, run-off plan, safety measures for the fueling submissions, the stormwater discharge and the traffic study. Mr. Haight noted that there are several engineers involved that are reviewing different aspects of the project. Attorney Dow advised that an engineer, someone competent hired by the Town, should weigh in on this. He noted that there clearly is run-off and although the Aquifer is pretty deep there are levels of risk the Town might need expert guidance on.

Mr. Urban brought up the fact that the Board still doesn't have any information regarding the condition of the soil and whether the old gas tanks have or have not been removed. Mr. Haight noted that there is some dispute about a gas tank that was once in the ground and at a ZBA meeting it was mentioned in their minutes that sometime in the 1960s the gas tank was removed by Catamount and brought to their site however there is no conclusive evidence to that point. Mr. Smith made note of the fact that he wouldn't know how the applicant could corroborate this. Mr. Haight explained that it was their previous engineer that told the ZBA this information.

Mr. Haight asked Mr. Smith what steps they would take to find out if the tank is still there. Mr. Smith explained that the DEC has a database that they maintain for the whole state however the DEC was not an agency in the 1960s when the tank was supposedly removed. Mr. Haight noted that a previous Phase I was done and all that was noted concerned asbestos. However it was his belief that when a Phase I was done if nothing else was suspected then nothing further was required. Mr. Smith noted that the Phase I was done in 2004 and mentioned a Margarita Maldonado . Mr. Haight asked how the applicant would go about finding out whether the tank is or is not still in the ground. Mr. Urban brought up the fact that whether the tank is or is not in the ground the ground should still be tested anyway.

Mr. Haight acknowledged that inasmuch as the Board has agreed to hire an engineer the applicant bears the burden of the cost so an Escrow will need to be set up for this purpose. Supervisor Jeff Nayer explained that an Escrow will need to be set up and there has to be an agreement between the applicant and the board regarding payment and Escrow amount which is to be borne by the applicant. Supervisor Nayer also advised the Board that they will need to contact the engineer regarding his fee before they set an Escrow amount with the applicant. Supervisor Nayer noted that any monies left over will be returned to the applicant however in the event the Escrow amount isn't sufficient to cover the Engineer's costs the applicant will need to add monies to the Escrow fund. He also added that both parties need to agree with the cost and the Engineer that will be chosen. Mr. Haight will go over this with the applicant when she returns from vacation.

Mr. Smith questioned what items the Board feels need review by an outside Engineer as the DOT will be reviewing the Traffic Study and the DEC will be reviewing the SWPPP. Mr. Haight explained that the Engineer that is hired will be consulted as to what he feels needs review so as to protect the Town and the surrounding area. Attorney Dow explained that to the extent that a state entity is the primary reviewer of something that would generally address those things however sometimes someone else can look at something and put the pieces together to see that they all come together they way they need to come together. He added that they may not have to do a full analysis of some of these things but as in the case of the aquifer, is the aquifer so deep that there is or isn't any risk for something of this scale, this is something that can be answered by the proper experts. An expert may be able to foresee any potential problems. The Board will look into contacting an engineer.





**Please note that all referenced attachments, comprising 134 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 SEVARD**

June 28, 2018	NYS DEC Permit (1)
October 25, 2018	Building Permit Denial (2)
November 5, 2018	NYS DEC Permit Extension (7)
January 7, 2019	ZBA Request for Area Variance (2)

**KEVIN & GLORIA ANDERSON**

January 9, 2019	Building Permit Denial (2)
January 12, 2019	Application for Site Plan Review (1)
January 13, 2019	ZBA Request for Area Variance (2)

**BRIAN TAMBURRINO**

January 9, 2019	Building Permit Denial (2)
January 11, 2019	ZBA Request for Area Variance (2)

**KEITH PERRINO & THE HARLEM VALLEY RAIL TRAIL**

January 28, 2019	ZBA Action Taken Form (2)
January 28, 2019	SEQRA Parts I, II, & III (5)

**MIKE FALLON/COPAKE AUCTION**

January 22, 2019	Application for Site Plan Review (1)
January 23, 2019	Building Permit Denial (2)

**13 LACKAWANNA ROAD**

March 11, 2009	Kimball to Crowley & Becker/CPB (10)
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**GRJH PUBLIC COMMENTS**

**5 Page Form Letter**

January 26, 2019	Ninifabi to CPB
January 26, 2019	Gordon Wayne to CPB
January 26, 2019	Joanie Cooper to CPB
January 26, 2019	Monty Diamond to CPB
January 26, 2019	Amelia Sydlosky to CPB

January 26, 2019	Bob Braun to CPB
January 26, 2019	Leslie Lassiter to CPB
January 26, 2019	Andrea Kaplan to CPB
January 26, 2019	MaryAnn Guiles to CPB
January 26, 2019	Corinne Jones to CPB
January 26, 2019	Mark Lashway to CPB
January 26, 2019	Rae Grand Design to CPB
January 26, 2019	Antonella Prevue to CPB
January 26, 2019	Lippman to CPB
January 26, 2019	Linda Lipson to CPB
January 27, 2019	David Levine to CPB
January 27, 2019	Karen Schlichting to CPB
January 27, 2019	Chelsea Arend to CPB
January 27, 2019	Helen Forgione to CPB
January 27, 2019	Cheryl Wilson to CPB
January 27, 2019	Heather Pierce to CPB
January 27, 2019	Meridjtjh Glabman to CPB
January 27, 2019	Joyce Zinbarg to CPB
January 27, 2019	Ira Madris to CPB
January 27, 2019	Cornelius Hoss to CPB
January 27, 2019	Evelyn Gutkin to CPB
January 27, 2019	Pamela Paterson to CPB
January 27, 2019	Kelly Becker to CPB
January 27, 2019	Becker & Levine to CPB
January 27, 2019	Michael Pierce to CPB
January 27, 2019	Carin Berge to CPB
January 27, 2019	Stephen Latzman to CPB
January 28, 2019	Tom Feeney to CPB
January 28, 2019	Kathy Levine to CPB
January 28, 2019	Christopher Bower to CPB
January 28, 2019	Jeff Reagan to CPB
January 28, 2019	Marissa Priester to CPB
January 28, 2019	Davied Hamilton to CPB
January 28, 2019	Paul Parzuchowski to CPB
January 28, 2019	Vanessa Howe Jones & Sam Johnson to CPB

## Letters

January 28, 2019	Paul Warren to CPB (1)
January 28, 2019	Pamela Mayer to CPB (1)
January 28, 2019	Meredith Kane to CPB (1)
January 28, 2019	Irene Sax to CPB (1)
January 28, 2019	Valerie Knecht to CPB (1)
January 28, 2019	H.M. Saffer to CPB (1)
January 28, 2019	Russ Stein to CPB (1)
January 28, 2019	Fred Reif to CPB (1)
January 28, 2019	Brad Jobe to CPB (1)
January 28, 2019	David Newlin to CPB (1)

January 28, 2019	Kim Schokman to CPB (1)
January 28, 2019	Margaret Brown to CPB (1)
January 28, 2019	Leonard Lipson to CPB (1)
January 28, 2019	Antonella Preve to CPB (1)
January 28, 2019	Margaret Roach to CPB (1)
January 28, 2019	Judith Odell to CPB (1)
January 28, 2019	Walter Flemenbaum to CPB (1)
January 28, 2019	Emily Bolvice to CPB (1)
January 28, 2019	Peter Cohen to CPB (1)
January 28, 2019	Lois Krasilovsky to CPB (1)
January 28, 2019	David Sandbank to CPB (1)
January 28, 2019	Zandra Boice to CPB (5)
January 28, 2019	Scott Annan to CPB (1)
January 28, 2019	Max Krasilovsky to CPB (1)
January 28, 2019	Florence & Michael Freedman to CPB (1)
January 28, 2019	Enid Futterman to CPB (1)
January 28, 2019	Sally Wilder to CPB (1)
January 28, 2019	Virginia Newman to CPB (1)
January 28, 2019	Douglas Bades to CPB (1)
January 16, 2019	Haight & Visconte (1)
January 16, 2019	Nealon to CPB (3)
January 27, 2019	Berger/Moerman to CPB (1)
January 28, 2019	Woods to CPB (1)
January 28, 2019	Heffernan to CPB (1)
January 28, 2019	Watson/Heins to CPB (1)
January 28, 2019	Schulman to CPB (1)
January 28, 2019	McBride to CPB (1)
January 28, 2019	Koch to CPB (1)
January 28, 2019	Davey to CPB (1)
January 28, 2019	Newman to CPB (2)
January 28, 2019	Davidson to CPB (1)
January 29, 2019	Foley to CPB (1)
January 29, 2019	Howe-Jones/Johnson to CPB (1)
March 2014	Water Resource Summary to CPB (3)
February 7, 2019	Save Craryville to CPB (7)
February 7, 2019	Save Craryville to CPB (3)
February 7, 2019	Gordon to CPB (3)

GRJH INC.

February 7, 2019	Clark to CPB (3)
February 7, 2019	Clark to CPB (2)
February 4, 2019	Metz/Heimbach to CPB (5)
February 1, 2019	Metz to CPB (6)
February 4, 2019	Miles to Smith to CPB (6)