



COPAKE PLANNING BOARD
FEBRUARY 6, 2014
MINUTES

Approved
March 6, 2014

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 Marcia Becker, Chair. Also present were Bob Haight, Jon Urban, Julie Cohen and Ed Sawchuk. Chris Grant and Steve Savarase were excused. Lisa DeConti was present to record the minutes. Attorney Ken Dow was also present.

ZONING BOARD OF APPEALS – Referrals

NONE

PUBLIC HEARING

NONE

SUBDIVISION/SITE PLAN

- 2013-30 MAJOR SUBDIVISION –BERKSHIRE MOUNTAIN CLUB A CATAMOUNT SKI AREA – Route 23 – [Copake]**
- 2013-31 MINOR SUBDIVISION –BERKSHIRE MOUNTAIN CLUB A CATAMOUNT SKI AREA – Route 23 – [Copake]**

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

The following submissions were acknowledged:

- Subdivision application
- Columbia County Planning Board letter
- The Narrative

- Traffic Update Letter from Creighton Manning Letter dated January 31, 2014
- Mr. Sawchuk's response to the Creighton Manning Letter
- Updated drawings FA-1, FA-2 and CME-1

Mr. Prendergast asked whether updated maps would be needed for the Subdivision showing any new adjoining owners. Ms. Becker advised him that the only map she had was the final approved map from 2006 so new ones would be required.

Ms. Becker also made note of the fact that a Public Hearing is required for the subdivision. Mr. Prendergast questioned whether a Public Hearing would be needed for the Site Plan Review as well. Ms. Becker advised that one is not usually required for a Site Plan Review unless the Board felt there was a reason one would be necessary. Mr. Prendergast also asked whether a Public Hearing would be needed for any possible SEQR issues and was advised that this can't be determined before going through the process.

Mr. Prendergast acknowledged that the shape, size and statistics are the same as the previous 2006 Subdivision maps and no changes are planned. Mr. Freeman pointed out that no feedback had been received that would require changes to the Subdivision.

Ms. Becker made note of the fact that the applicant was informed of all the data that had been sent to the Town Engineer. She also noted that at his request the approved variances were sent to him along with the latest Creighton Manning letter.

Ms. Becker acknowledged the Columbia County Planning Board letter of approval but commented that they referred to the wrong number of units as the letter spoke of one-hundred and twenty-five (125) units. Mr. Prendergast advised that they have the latest plans and believed this to be a typo.

Ms. Becker informed the applicant that the Lead Agency letter was sent out as of January 18th and Mr. Grant suggested adding the Empire State Development Corp for the Capital Region to the list as they were the ones that awarded the grant.

Mr. Prendergast acknowledged that he sent the Storm Water Pollution Prevention Plan (SWPPP), the engineer report on the water system and the engineer's report on the sewer plant from the prior application to Engineer Tom Field.

Mr. Prendergast presented the updated drawings which include the additional pages previously referenced as well as the revised Pond Spillway and Planting Plans. He acknowledged the new drawings which showed a change to the parking area as well as the three (3) new buildings which replaced the three (3) previous ones. Ms. Becker questioned the set-backs next to the Silver property line as Mr. Silver had several objections during the Public Hearing held by the Zoning Board of Appeals. Mr. Prendergast will look into this. Mr. Haight questioned whether the proposed drainage ditch presently going through the parking lot will be eliminated and wondered if it will affect the detention pond. Mr. Prendergast explained that the detention pond only gets water that is piped into it from the gravel parking lot and once the parking lot is built there will be catch basins with pipes going into the detention pond.

Referring to the landscaping plan Mr. Prendergast explained that the same type of trees are being used but are being relocated to different areas. Ms. Becker questioned whether landscape elevations looking across the parking lot will be forthcoming.

Mr. Prendergast acknowledged that the Traffic Report had been updated and noted that the traffic on Route 23 has gone down by 25% in the last ten (10) years. Mr. Haight questioned the height of the two (2) retaining walls behind the two (2) buildings. Mr. Prendergast believed they were approximately ten feet (10') and made note of the fact that these buildings have not been designed as yet. Mr. Freeman advised the Board that those buildings will be presented to the Planning Board before they are built.

Ms. Becker acknowledged the Traffic Update Letter and made note of the fact that she does not have the Traffic Report it refers to. It was noted that the Engineer has the report. However it has not been submitted to the Board for their review. Mr. Prendergast believed the Board had a copy from the previous application. Ms. Becker acknowledged that there is a copy in the archives but believed that it needs to be formally re-submitted. Attorney Howard made note of the fact that the Engineer represents the Board however Ms. Becker clarified that the Engineer is not involved in the approval process. Mr. Prendergast will submit new copies along with the updates.

Mr. Sawchuk had concerns of what the traffic impact would be during peak hours as well as concerns should emergency vehicles have to enter the facility during the hours when most vehicles will be leaving. Mr. Sawchuk suggested a count be done during the upcoming President's Day weekend. Mr. Prendergast explained that a traffic study is done during peak AM and PM hours. Mr. Sawchuk had concerns that the decline in traffic on Route 23 was during average hours and not peak hours. Mr. Prendergast pointed out that if the report was approved when traffic was 25% higher it should be acceptable with the 25% decline. Mr. Sawchuk had concerns about relying on a previously approved traffic report. Attorney Howard advised that the Board should be concerned with the fact that this application has been previously reviewed. Mr. Sawchuk suggested that Attorney Howard brief this point and submit it to the present Board making a case that the prior findings should be relied upon. Attorney Howard will provide this.

Mr. Sawchuk brought up the fact that this is a highly used facility during winter weather and had concerns that there will be issues with emergency vehicles during the 4 pm peak hours when everyone will be leaving the facility. Attorney Howard noted that the way the Hotel & Resort Facility is structured people will be kept on-site decreasing the traffic at the 4 pm peak hour as they will not be leaving during this time and will be remaining in the facility for the duration of their stay. Mr. Haight agreed and brought up the fact that this is the way it works in other facilities that are designed this way. Mr. Prendergast brought up the fact that significant improvements will be made to the entrance.

Mr. Sawchuk questioned the number of access roads that are planned and was advised that there are two (2). Mr. Sawchuk questioned who owns the access road and was advised that they are owned by the Towns of Copake and Egremont MA. Mr. Sawchuk once again expressed concern about getting emergency vehicles into the facility when vehicles were leaving. Mr. Haight advised him that even when vehicles are leaving the facility there is still an open lane entering the facility. Mr. Freeman explained that there are parking attendants that will control the situation and stop the traffic from leaving should there be an emergency situation. Mr. Sawchuk questioned the condition of Nicholson Road and was advised that there were improvements made to this road. The Board will wait for the Traffic Report and the Engineer's review before making any further decisions.

Mr. Sawchuk questioned whether the SWPPP addresses the issue of salt and oil run-off from cars and was advised by Mr. Prendergast that this has been reviewed and dealt with. The Board was advised by Rich Edwards, one of the owners of the ski area, that salt is not used at the ski area so that is not an issue. Any water entering the facility in the future will have to go through oil-water separators. Attorney Howard made note of the fact that the SWPPP has been submitted to the DEC who exercises jurisdiction over these issues. Mr. Prendergast clarified that the DEC receives the Notice of Intent which they review and will address any issues and concerns they might have. Mr. Prendergast also made note of the fact that permits have been received by the DEC and concluded that they had no issues or would not have granted these permits.

Ms. Becker advised that Engineer Tom Fields will be in attendance at the next meeting. The formal Traffic Study will be addressed at that meeting as well. Attorney Howard clarified that the Subdivision Map will be provided at the next meeting when the SEQR will be dealt with as well as any comments regarding Lead Agency should there be any. Attorney Howard presented Attorney Dow with documentation regarding prior cases regarding previously approved applications and how other Boards have used and accepted this information. Attorney Dow will review this.

2014-3 MINOR SUBDIVISION – MICHAEL SHADIC – Pumpkin Hollow – [Copake]

Mike Shadic appeared before the Board requesting to subdivide three (3) lots from an existing piece of property that will need a determination as to whether it is a Major or Minor Subdivision. Mr. Shadic advised the Board that Surveyor Dan Russell did a history search of the property clarifying that there have been eight (8) parcels subdivided from the original parcel since 1990. In the decision making process Town Code 197-5G was reviewed. It reads: *“Any subsequent minor subdivision of any lot approved under this chapter must be submitted to the Planning Board for approval, and the number of additional lots shall be added cumulatively to the number of lots approved since 1972. At the discretion of the Planning Board, it may determine that a subsequent minor subdivision plus the earlier minor subdivision result in a number of lots that would require application as a major subdivision. In such event, the Planning Board may require that the new subdivision application be considered a major subdivision and all requirements and limitations of a major subdivision must therefore be met”*.

Mr. Haight questioned how much of the original subdivided parcel has been put into a conservancy as if the percentage is already met this would not affect Mr. Shadic. Mr. Urban seemed to remember a previous discussion regarding whether after a number of years a subdivided parcel becomes its own parcel as it could be argued that all subdivisions came from an original parcel. Attorney Dow brought up that fact that there had been informal discussions that some problems would arise on the way the law was written. Attorney Dow also commented that the problem that comes up out of this is that someone can be restricted by something they didn't do themselves and took place after they had purchased it. Attorney Dow will need to look into this as this is a complicated question. He brought out a point that if a parcel was subdivided into two parcels and the owner of one parcel maxes out the number of subdivisions allowed the owner of the second parcel would be restricted from further subdivision. Ms. Becker noted the reason behind this being that the development of the land would not be fragmented and looked at in one piece and handled appropriately. Attorney Dow pointed out the options that the parcel could be treated as a Major Subdivision or can be declared a Minor Subdivision under Town Code Waiver of Requirements if the Board feels the impact is not significant.

Mr. Urban asked Mr. Shadic if these were the only subdivisions he had planned. Mr. Shadic pointed out that these are the only subdivisions that can be done as the property is quite steep and not buildable. Mr. Shadic explained that there is really only one spot on each parcel that a house can be built. Ms. Becker made note of the fact that two (2) of the parcels are close to the minimum lot size and there was only one lot that can be further subdivided. Mr. Urban commented on the fact that if no further building can be done on the largest lot the required 60% conservation of the land would be accomplished as only twelve (12) acres needed to be conserved on the twenty-one acre parcel. Ms. Becker asked Mr. Shadic if he would consider a deed restriction against further subdivision which he was quite agreeable to.

Ms. Becker asked Attorney Dow if the Board had the discretion to qualify Mr. Shadic's property as a Minor Subdivision if he is willing to put a deed restriction on the fourteen (14) acre parcel. Attorney Dow referred to the Town Code and concluded that it is at the Planning Boards discretion to make this decision in this instance.

On a motion made by Mr. Urban and seconded by Mr. Haight the Board voted unanimously to classify the Preliminary Map of twenty-one (21) acres from Michael Shadic as a Minor Subdivision with the provision that it remain limited to the three (3) lot subdivision as indicated on the map dated December 22, 2013.

Ms. Becker made note of the fact that Mr. Shadic's subdivision is in the 'R' District and the density control in the 'R' District require a width of at least two-hundred and fifty feet (250') and expressed concern regarding the shape Parcel 3 as the width is nowhere near the required two-hundred and fifty feet (250'). Mr. Shadic acknowledged that the back of the lot has a width of at least two-hundred and fifty feet (250'). The definition of a Flag Lot was discussed and Mr. Haight clarified that the minimum of street frontage required is twenty feet. It was decided that this lot is not considered a Flag Lot but needs to be dealt with as a Rear Lot with access through an easement from the existing driveway. Mr. Shadic will need to have a Right of Way drawn up for all three (3) parcels as well as a Road Maintenance Agreement.

The Minor Subdivision Check List was reviewed. The needed documents include the Final Plat Application, a copy of such deeds, covenants and restrictions as they are intended to cover all or part of the tract, Field Survey, on site Sanitation and Water Supply facilities, the Perc Tests and the widths of existing and planned Rights of Way on the Map.

On a motion made by Mr. Urban and Seconded by Mr. Haight the Board voted unanimously to accept the Minor Subdivision of Michael Shadic as a Preliminary Sketch and schedule a Public Hearing for next month's meeting.

Ms. Becker advised Mr. Shadic that a SEQR is required for this and will be reviewed at the March meeting. Mr. Shadic presented a fee in the amount of fifty dollars (\$50.00) to the Board for the Minor Subdivision.

2014-4 SITE PLAN REVIEW – PIGASSO FARM – Farm Road – [Copake]

Robert Kitchen appeared before the Board for a Site Plan Review for a Slaughterhouse on Farm Road.

Ms. Becker acknowledged receipt of:

- Site Plan Review Application
- A letter dated January 27, 2014 from Mr. Kitchen explaining his project
- The detail for a section of the interior of the building
- Plans for a building which has already been built.
- A site map

Ms. Becker acknowledged that this application is exempt from Columbia County referral and questioned what the size of the lot was. Mr. Kitchen advised her that the entire farm is twenty-one (21) acres and the lot the building is placed on is nine (9) acres. Ms. Becker explained that the regulations apply to a Rabbit and Poultry Processing facility that slaughters between one-thousand and one (1,001) and eight thousand (8,000) per year. Mr. Kitchen slaughters three thousand (3,000) chickens per year in his facility.

Ms. Becker questioned what State and Federal Licensed Permits were required. Mr. Kitchen advised her that he is presently in the process of applying for these however he needs the Town's approval before the application could be processed. He noted that he will not receive final permitting until a complete inspection of the building is done. Mr. Kitchen went on to explain that they approved the Blueprint he presented them but they will not stamp it until they receive the approval from the Town.

The Modified Site Plan was reviewed. Mr. Kitchen made note of the fact that in April he will re-perc the area near the building for a septic system. Ms. Becker questioned the location of the well and was advised by Mr. Kitchen that the well from his house is being used. Ms. Becker questioned whether there were outside pens for the chickens and was advised that there are movable pens in which to house the chickens.

Mr. Kitchen explained that the water from the facility will go into a septic leech field and non-edible waste will be hauled away by a rendering company that deals with slaughter waste. Ms. Becker questioned whether the flood lights in the back are pointed downward and was advised that they are.

Ms. Becker noted that the permit from the DOH for the Septic System was outstanding and Mr. Kitchen advised her that the USDA will not let him get his license without it. Ms. Becker noted that this was not added to the Site Plan Review so the Board cannot require it. Attorney Dow advised that should the septic need to be relocated Mr. Kitchen would have to return with a modified Site Plan. Ms. Becker requested a copy of the USDA application and will obtain a copy from the Building Inspector. Mr. Kitchen advised her that he is following the Building Code. Ms. Becker also requested a copy of the license when Mr. Kitchen receives it. Ms. Becker asked the Board if they felt a Public Hearing was needed. The Board was in agreement that one was not necessary.

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

On a motion made by Mr. Haight and seconded by Mr. Urban the Board voted unanimously to classify this as a Minor Site Plan Review.

On a motion made by Mr. Haight and seconded by Ms. Cohen the Board voted unanimously to approve the Site Plan for the Poultry Processing Facility for Poultry and Rabbit for Pigasso Farm from a Site Map dated February 6, 2014.

Mr. Kitchen will submit the fee in the amount of fifty dollars (\$50.00) on Saturday.

**2014-5 MINOR SUBDIVISION – BARBARA BRAUNSTEIN – Golf Course Road –
[Copake Lake]**

Surveyor Jeff Plass appeared representing Barbara Braunstein. Mr. Plass submitted:

- an application for a Minor Subdivision for Mrs. Braunstein
- survey maps dated January 19, 2014

Mr. Plass advised that the Letter of Agency has not yet been signed by Mrs. Braunstein. Mr. Plass explained that Mrs. Braunstein's property is one-hundred and thirty (130) acres and is located on Golf Course Road at Copake Lake. Mr. Plass made note of the fact that this land was left to Mrs. Braunstein after the death of her husband and she wishes to subdivide off the eighteen (18) acre parcel with the house on it. Mr. Plass explained that the Town line between Taghkanic and Copake bisects the property. Inasmuch as the house and shared driveway are in Taghkanic Mr. Plass noted that Taghkanic expressed their desire to be declared lead agency. However after speaking to Ms. Becker he was advised that Attorney Dow felt that an application for subdivision should be presented to the Town of Copake for their approval along with the Town of Taghkanic's approval.

Mr. Plass acknowledged that the Town of Taghkanic gave preliminary approval for this and set a Public Hearing for their next meeting. Mr. Plass made note of the fact that the remaining property consists of one-hundred and eleven acres with sixty three of those acres already in a conservancy. Mr. Plass did point out that Mosquito Island is not involved in this subdivision.

Ms. Becker had concerns about the width of Golf Course Road which is the access road and how a Right of Way would be dealt with. Mr. Plass acknowledged that Golf Course Road consists of different widths with the older section at a width of thirty feet (30') and the newer section at a width of fifty feet (50') however Mr. Plass noted that a width of sixty feet (60') will be used on the Braunstein property. Ms. Becker asked whether these widths were plotted. Mr. Plass advised her that they were not however he does know which properties are at thirty feet (30') and which are at fifty feet (50'). Mr. Urban acknowledged that he has a map and can provide this for review. Mr. Plass explained that for approximately one-hundred feet (100') of Ms. Braunstein's property is thirty feet (30') at Golf Course Road and then becomes fifty feet (50'). Ms. Becker made note of the fact that Mrs. Braunstein's access is grandfathered but questioned how this

would affect a subdivision. Mr. Urban explained that Mrs. Braunstein's deed allows for access and right of way over the entire Golf Course Road and for any other parcels that are subdivided off. The Board asked to see this deed. Ms. Becker noted that the SEQR will be done at next month's meeting.

On a motion made by Mr. Urban and seconded by Ms. Cohen the Board voted unanimously to accept the two parcel Subdivision Map for Barbara Braunstein as a Preliminary Sketch and schedule a Public Hearing for the March Planning Board meeting.

Mr. Plass brought up the fact that the Board can only stamp the maps once it is approved by the Taghkanic Planning Board so he will bring the maps from the Taghkanic Planning Board once they are stamped so that Copake can put their stamp on them as well.

Ms. Becker questioned whether Taghkanic had any issues that concerned them. Mr. Plass explained that the only issue concerning the Town of Taghkanic was whether the airplane access goes with the land or whether it goes away once the property is subdivided.

2014-6 MINOR SUBDIVISION – NORMAN BASNER – Center Hill Road – [Copake]

Scot Cohen appeared representing Norman Basner. Ms. Becker acknowledged

- an application for a Boundary Line Adjustment
- Letter of Agency
- Sketch map dated February 6, 2014

Mr. Cohen explained that a neighbor wishes to purchase eleven point twenty-two (11.22) acres with an option to buy more in the future if they wish.

Ms. Becker questioned whether there was enough information to schedule a Public Hearing for next month's meeting as all that was needed was the survey and SEQR. Ms. Becker noted that no DEC permits are required. Mr. Cohen offered to provide any necessary documents prior to next month's meeting so that they can proceed with the Public Hearing at the next meeting. The Board was in agreement with this.

On a motion made by Mr. Haight and seconded by Mr. Urban the Board voted unanimously to accept the preliminary sketch map for the merger of eleven (11) acres of the Basner property to the forty-one (41) acres of the Goldsworthy property from a sketch map by Scot Cohen dated February 6, 2014 and to accept this as a Preliminary Sketch and set a Public Hearing for next month's meeting.

MINUTES

On a motion made by Mr. Haight and seconded by Ms. Cohen the Board voted unanimously to approve the meeting Minutes of December 5, 2013 and January 11, 2014.

Mr. Haight questioned whether there were enough members present from those meetings to approve them. Ms. Becker explained that after discussion with Attorney Dow and Lisa DeConti it was decided that the minutes should be posted right after the meeting in Draft form and not to wait two months until they are approved. Ms. Becker acknowledged that Attorney Dow advised that the minutes don't necessarily need to be approved. Attorney Dow made note of the fact that the minutes should be made available right away so that the people will know what went on at the meeting.

Supervisor Nayer questioned whether the minutes needed to be made available in the Clerk's office or on the website as well. It was noted that the minutes were previously posted in Draft form rather than waiting for approval which would delay them. It was acknowledged that minutes posted to the website in Draft form should state this.

Attorney Dow advised that the legal purpose of the minutes is to record the votes, motions and actions that took place however the detail does inform the public and lets them know what went on.

ADMINISTRATIVE

ELECTION OF OFFICERS: Ms. Becker advised the Board that it is the practice to elect officers yearly so that if she or Mr. Grant were not able to attend a meeting there would be someone present to sign something when needed. Supervisor Nayer noted that this is done at the ZBA on a yearly basis as well. Ms. Becker volunteered to remain as Chair and Mr. Grant as Vice Chair however Mr. Davis who recently resigned from the Board was the previous secretary. Mr. Haight volunteered to be the Secretary. Mr. Haight questioned what would happen in the event that both Ms. Becker and Mr. Grant were not present. He was advised that he would then chair the meeting. Attorney Dow made note of the fact that under state law in the absence of the Chair the Board could nominate someone to chair the meeting.

BERKSHIRE MOUNTAIN CLUB AT CATAMOUNT RESORT NEW APPLICATION: Ms. Becker brought up the issue of how the new application of the Berkshire Mountain Club at Catamount Resort should be dealt with. Attorney Dow noted that although this is a new application actions by the Board in the past do carry weight even though not all present Board members were there to review it. He pointed out that there is supposed to be consistency and the Boards are supposed to act in accordance and be making the same determinations unless they can demonstrate a reason why they cannot. Attorney Dow will review the information he received from Attorney Howard. Ms. DeConti questioned whether the fact that the application expired had any bearing on the Boards review. Attorney Dow commented that the statute ran out on the Site Plan but the variances run indefinitely and run with the land. Attorney Dow did point out that if something is granted it is granted in a particular form and if someone comes back with something different they can't say they already received it. However if nothing really has changed that should carry

quite a bit of weight. Mr. Haight brought up the Traffic Study which was done previously and a letter was presented updating the previous basis. Supervisor Nayer pointed out that people frequenting the resort will most likely be staying in the resort longer and not running out for a 4 pm rush. His biggest concern was the use of the roads and whether a bond should be put up for this purpose. Mr. Sawchuk had reservations on relying on a previous Board's review. A discussion ensued regarding the traffic study and the methods used to produce the data.

CARRY OVER

The following matters were carried over to the next meeting:

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

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

ADJOURNMENT

There being no further business, on a motion made by Mr. Haight and seconded by Ms. Cohen, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 9:20 p.m.

Marcia Becker, 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

CATAMOUNT CREST RESORT HOTEL

January 22, 2014 Stalker to Thomas (3)
January 31, 2014 Johnston to Prendergast (1)

PIGASSO FARM

January 27, 2014 Pigasso to CPB (1)