

**Town of Copake
Zoning Board of Appeals
Minutes- June 23, 2011**

The regular monthly meeting of the Zoning Board of Appeals of the Town of Copake, was held on Thursday, June 23, 2011, at the Copake Town Hall, 230 Mountain View Road, Copake, NY. The meeting was called to order by Chairman Jeff Nayer at 7:00 PM.

Present at this meeting were: Jeff Nayer, Mike DiPeri, Leslie Wood, Frank Peteroy, Dustin Bessette, and Hilarie Thomas. Town Attorney, Tal Rappleyea, was also in attendance. An audience of 8 were present including, Ed Ferratto, ZEO, and Marcia Becker, Planning Board Chair.

Minutes:

Leslie made a motion to waive the reading and to accept the April 28, 2011 minutes, this was seconded by Mike. The motion carried, unanimously.

Correspondence:

The following correspondence was either reviewed or read;

- A. Copake Planning Board Minutes, 6/2/11(cell tower)
- B. Association of Towns, (training schedule)

Jeff asked that if any member of the ZBA was interested in attending these trainings they would need to check with Vana to register.

Closed Public Hearings:

Application # 2010-08, Alice Belt, Copake, Amendment to Action Form.

Jeff updated the board members present of the Town Board's request to review again this application for the donation of the pond for the exclusive use of fire protection. He briefly re-capped that this original application had come before them for a variance to create an undersized lot for the zone, in order for her to donate to the Town for the Fire Company to use the pond for fire protection. He reminded the board members that in order to review a closed public hearing, it would require a unanimous decision to re-open this case. Tal included a brief overview of what the town's vision for this property could include.

Frank made a motion to re-open the application for discussion, this was seconded by Mike. This motion carried, unanimously.

A lengthy discussion ensued with Leslie expressing concern that she had not been informed of this request as she is the Chair of the Economic Advisory Committee. She informed the ZBA that the Economic Advisory Committee had been tasked by the Town Board to decide what is the best use of this property for the Town. They had entered into a habitat assessment study of the pond and property, as well as a discussion with Ms. Belt, as to her views towards any other use of this property other than fire prevention. The assessment has revealed that the property is considered a NY Wetland, and that it is habitat for snapping turtles.

Jeff added that he had taken the initiative to also speak with Ms. Belt regarding her views; he reported that she wanted what was best for the Town. He continued that he has also spoken with the Fire Company about this issue and that they have concerns with the suggestions of picnic tables, etc. as they would need direct pond access in the case of emergency fire prevention.

Marcia Becker added that by creating this use, it will change the SEQRE which had already been filed when the subdivision of the property had been approved. The Planning Board will need to review this issue again. This will change the variance, so it will mean that we will need to re-open the subdivision.

Mike made a motion to amend the action form wording from strictly fire protection to; allow it to be a park subject to the Town and Fire Company restrictions, the park name to be the Fireman's Park, and for the Economic Advisory Committee to be lead agency, this was seconded by Jeff. The motion did not carry, Yea votes from: Dustin, Mike, Leslie, and Jeff. Nay vote from: Hilarie.

The Town will need to file a new application or grant themselves an exemption to zoning.

Public Hearings:

None

New Business:

New Applications:

Application # 2011-04, Lisa & Mark Nielson, SW Colony Rd, Copake Lake, Area Variance for a retaining wall and patio within 100' of the lake.

Ms. Nielson was present as well as her attorney, Mark Sweeney to answer questions regarding this application. Board members made a quick review of the application, and made note that on the checklist the photos were not included as indicated. Jeff made

mention that this was a conforming lot, not a non-conforming lot as indicated on the application. He also wanted correction to the indication that this property was a corner lot, to which it is not, SW Colony Road runs through the property.

A discussion ensued that the Comprehensive Plan was strict in its protection of the Town's lakes and streams. The proposed distance to the lake would be sixty feet. The discussion continued as to whether an accessory structure could be allowed on this property as there is no main structure. By definition a patio is considered an accessory structure. The discussion continued as to a front yard setback. After a review of the property map it was determined that the front yard setback from SW Colony Rd would be forty feet.

Questions arose again regarding the checklist and photos. Leslie made note that the application was incomplete and would need to be complete prior to scheduling a Public Hearing. Jeff questions the list of abutters and asked if the listed addresses were in fact the mailing addresses. Ms. Nielson replied that she had acquired the addresses from the Assessor's Office.

This application will return to the agenda for July, the applicant will provide the required pictures.

Application 2011-05, Mariner Tower, Lessee, to be located on the property of Ezra Link, 3124 Cty Rt 7, Area Variance for setbacks and height.

Mr. Christopher Ciolfi, Development Officer for Mariner Tower as well as Ezra Link were present and came forward to answer the questions as the ZBA members reviewed this application.

Mr. Ciolfi quickly reviewed the application. The location of the proposed tower is a wooded area. Mariner Tower is requested relief from zoning law 232 for setback requirement of 1500' from two existing residence, and a relief for height. The property is remote, Camphill Village uses the open field to make hay for their animals. He continued to explain that each residence will be well over 1000' from the proposed location of the tower, and if the tower were to be moved to comply with the 1500' requirement, than it would need to be taller as the terrain dips. The height of the tower is significant due to its affects to propagate the signal and is based on propagation studies.

Jeff announced that the Copake Planning Board would be the lead agency for this application. They have already requested a radio frequency environmental impact study. Mr. Ciolfi added that 750' radius is the common number for the area of concern, however Copake has included into the zoning law 1500'.

Hilary made a statement that this particular technology could become obsolete in the future. There would be no need for giant towers, landlines or poles. What then, does your company make some sort of provision to remove it. Mr. Ciolfi replied yes should the tower be no longer useful there are provisions in the lease agreement with Mr. Link to remove the

tower. He also included that the tower is the vehicle, as technology improves, since the technology aspect of the tower would be within the "hut" of the structure it would be upgraded. He continued that FCC & Federal Law mandates the improved coverage.

Leslie commented that it was the task of the ZBA to balance what is needed and how it will impact the area. She suggested that the tower be moved away from the two residences so that the 1500' requirement could be met, how much taller would it need to be.

Mr. Ciolfi replied that by moving the tower it would increase the cost of the utility lines and road to the tower. Columbia County 911 would have a 20' whip antenna on the top of the tower, this has already been agreed that the rent for the top of the tower would be free. With the tower already proposed at 150' with the addition of the 20' would bring it to 170'. He reminded the ZBA that the law requires anything over 200' would need a light on the top and if possible would like to avoid this, it is less intrusive without.

He was asked about the proposed benefit to the town residences. To which Mr. Ciolfi replied that the proposal would include more than 58% of town coverage for ATT & Verizon users.

He was then questioned about the electricity to the tower. NYSEG would own the lines and poles along the driveway to the tower. An on demand, back-up generator owned by ATT would be on site for emergency power outages. He continued that under the Federal Telecommunications Act of 1996, law requires that the equipment will be in operation 24/7 and 365 days a year.

Questions than arose to a site visit, permission was granted. Leslie asked if the proposed site were marked and if in addition the if this site; could he mark the area that would be the site should the ZBA require them to move the proposed tower to maintain the 1500 setback area from the two residences. It was agreed that both sites would be marked.

Leslie then asked about the balloon test, has it been scheduled yet. Mr. Ciolfi explained that it would be scheduled within 35 days of the Planning Board's decision that the application is complete and ready for Public Hearing, that has not happened as of yet. Jeff asked if it were possible to schedule a preliminary test for the ZBA, prior to their scheduling of a public hearing. It was agreed that a preliminary could be scheduled, he explained that it would need to be early in the morning. July 21 or 22 at 7:00 AM were the agreed upon dates, weather permitting.

Hilary asked for a picture of what the tower would look like. It was agreed that the photo would be provided.

Leslie made a motion to accept this application and to schedule it for Public Hearing, this was seconded by Frank and Mike. The motion carried, unanimously.

This application is scheduled for Public Hearing on July 28, 2011, at 7:00 PM.

A discussion ensued as to whether applicants should be required to pay for the certified mail that goes out to the abutter property owners as notification of the Public Hearings. It was made note that Mariner Tower has already set up an escrow account to cover the additional expenses for the Planning and ZBA.

Comprehensive Planning Committee:

A discussion ensued regarding the meeting for the zoning revisions of the Plan. Jeff asked if anyone from the ZBA would be interested in becoming part of this committee as it begins to adapt a Plan for the Town. Frank, Leslie and Mike all expressed an interest.

Old Business:

Zoning Book & Building Oversight Committee:

Hilary reported that there had been no meetings of this committee, therefore little to report.

Jeff asked that ZBA representatives of both these Committees make the Comprehensive and Oversight Committees aware of the zoning discrepancies that have come to light recently.

A discussion included revisions, clarifications, common definitions, particular examples of discrepancies were the measurement of height for the separate conforming & nonconforming lots as well as a front yard. Frank stated that it should be the same for all.

Ed Ferratto asked that included should be, those certain situations that have arose question around town to which there is no clear law or definition.

Adjournment:

Leslie made a motion to adjourn this meeting, this was seconded by Hilarie . The motion carried. The meeting adjourned at 9:05 PM.

The next meeting will be held on Thursday, July 28, 2011, at 7:00 PM.

Respectfully Submitted,

Theresa A Traver, Recording Secretary

