



COPAKE PLANNING BOARD

JUNE 4, 2015

MINUTES

DRAFT

Please note that all referenced attachments, comprising 10 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, Steve Savarese, Julie Cohen and Ed Sawchuk. Chris Grant and Jon Urban were excused. Lisa DeConti was present to record the minutes. Town Attorney Ken Dow was also present.

ZONING BOARD OF APPEALS – Referrals

2015-13 ZBA REFERRAL – EDWIN KUESTER – Lakeview Road [Copake Lake]

Submissions included:

- Letter from Ed Ferratto date
- ZBA Request for Area Variance
- Building Plans
- Pictures
- List of Abutters
- Letter of Agency dated May 11, 2015
- 2015 Town & County Tax Bill
- Letter & Permit from DEC dated June 5, 2014
- Letter from DEC dated May 15, 2015

Lindsay LeBrecht appeared before the Board representing Edwin Kuester who wishes to repair his shoreline and existing deck. Ms. LeBrecht explained that Mr. Kuester had been doing ongoing repairs to his waterfront and it is now necessary to do a more extensive repair to alleviate this. Ms. LeBrecht advised that this will include the pouring of some concrete. She also stated that the applicant submitted a letter from the DEC renewing the permit to install five (5) ten foot (10') long pre-cast concrete retaining wall pieces three to four feet (3-4') feet back from the water's edge and Mean High Water Level (MHWL) for a total project length of approximately fifty feet (50').

Ms. Becker questioned whether there were more pages to the permit from the DEC as there are usually conditions and further explanations included. Ms. Cohen also made note of the fact that there were additional pages from the DEC letter that were not submitted as the only pages submitted were noted to be 2 of 6. Ms. LeBrecht explained that this was all the applicant had given her. Ms. Becker was not sure whether the applicant would be returning to the Planning Board but felt Ms. LeBrecht should be aware of this should the ZBA request the additional pages.

Ms. Becker believed this application is a complete violation of the Zoning Code as the Code states that there shall be no development within one-hundred feet (100') of a water body. She questioned whether there was ever a building permit issued for this. Ms. LeBrecht commented that it was likely that there was no building permit as the house pre-dates zoning. Ms. Becker pointed out that it doesn't necessarily mean the deck predates zoning however she noted that this is an issue for the ZBA. Ms. LeBrecht explained that if nothing is done the erosion will eventually cause Lakeview Road to fall into the lake. Ms. Becker felt that Mr. Keuster was not doing this to save the town road, but was doing something for his personal use. Ms. LeBrecht explained that he was just improving on what is presently there.

Ms. Becker pointed out that what is presently there is illegal. Ms. LeBrecht questioned what is illegal about this and was advised by Ms. Becker that this is due to the fact that there is development within three feet (3') from a water body. Ms. Becker noted that there is presently a deck that is falling down and Mr. Keuster wishes to build a concrete retaining wall which is more intrusive with more extreme development than what is presently there.

A discussion ensued as to whether the existing structure could be legal or not. Mr. Sawchuk questioned to what extent the applicant can improve this and whether it is in the Town's best interest to repair it with a more substantial structure. Mr. Haight did note that the existing rip-rap is in poor condition. Ms. Becker felt that Mr. Kuester should repair what presently exists and not expand upon the development. Mr. Haight's opinion was that it was beneficial to clean up the area and Mr. Sawchuk suggested using a more substantial wood structure. Ms. LeBrecht explained that the applicant wishes to use something more substantial. She pointed out that there are other existing concrete structures that have been used and noted that the applicant is only increasing the footprint by approximately three feet (3').

Attorney Dow referred to Town Code 232-24(a)[1] & [2] and suggested that this might be helpful for the ZBA. It reads:

(a) Modification.

[1] A nonconforming building or structure shall be maintained in such condition as will not constitute a danger to the health, safety, or general welfare of the public.

[2] A nonconforming building or structure shall not be added to, enlarged, reduced, or altered in any manner in a way which increases its nonconformity. Nothing herein, however, shall prevent the strengthening or increasing of the safety of all or part of a building or structure, provided that the repair or alteration will not increase the nonconformity.

Ms. Becker added that Town Code 232-9P(1) should also be considered. It reads:

P. One-hundred-fifty-foot setback from lake or stream.

(1) No septic tank or tile field shall be located closer than 150 feet from a stream, creek, wetland or other body of water. No development shall be permitted closer than 100 feet to a stream, creek, wetland or other body of water.

[Amended 4-13-2006 by L.L. No. 1-2006]

Ms. Cohen questioned whether Town Code 232-24B(2)(a)[5] & 232-24B(2) (b) should also apply. They read:

(a) Modification.

[5] Any modification of a nonconforming building or structure is subject to a site plan review and approval by the Planning Board, in accordance with § 232-23.

(b) Replacement. A nonconforming structure may be replaced to occupy the same space on the lot or rebuilt providing greater yard space and less lot coverage and not exceeding the height of the prior structure except as provided above or as approved by the Planning Board in a site plan review and approval.

Mr. Sawchuk questioned whether there is any indication that the erosion is continuous. Ms. LeBrecht advised that a draw-down is down every year at the lake however there is a tremendous amount of force and movement from the ice melting and refreezing.

Ms. Becker questioned whether this was solely a Referral or a Site Plan Review and noted that even with a Site Plan Review variances would be required from the ZBA. Ms. LeBrecht asked whether a Site Plan Review would be required if Mr. Kuester did not expand the structure and kept it within the same footprint. She was advised that if Mr. Kuester stayed within the same footprint he would not need a Site Plan Review however if he expands it he will. Ms. Becker suggested Ms. LeBrecht discuss this with Code Enforcement Officer Ed Ferratto as all that is required at this time is a Referral. Ms. LeBrecht asked if she only went to the ZBA for a variance for the concrete would she then not have to come back for a Site Plan Review. Mr. Haight advised her that should she receive a variance for the extra three feet (3') she would need to return to the Planning Board for a Site Plan Review however the Board will not be able to rescind the ZBA ruling. Ms. Becker clarified that should the ZBA say that the structure can be replaced then she would not need to return for a Site Plan Review. Ms. LeBrecht did make note of the fact that the applicant wants to replace the structure with concrete.

A letter will be written to the ZBA with the Board's recommendations.

PUBLIC HEARING

None

SUBDIVISION/SITE PLAN

2015 -12 SITE PLAN REVIEW – NATHAN AND TARYN SAWYER – Lakeview Road [Taconic Shores]

Submissions included:

- Application for Site Plan Review
- Building & Elevation Plans
- Short Environmental Assessment Form (SEQR)
- Pictures
- Referral Letter from Ed Ferratto dated June 2, 2015

Taryn Sawyer appeared before the Board advising them that she and her husband would like to do a renovation and addition to their house on Lakeview Road in Taconic Shores. Ms. Becker asked whether Mrs. Sawyer had been sent to the Planning Board by CEO Ferratto. Ms. DeConti advised her that Mrs. Sawyer had contacted the Planning Board directly and after speaking with CEO Ferratto he referred the applicant for to us for Site Plan Review.

Mr. Haight clarified that Mrs. Sawyer is taking an existing house and building up. Mrs. Sawyer explained that they will be rearranging the alignment of the roof parallel to the water's edge as they would like to put an addition where the side deck is currently located. Mr. Haight asked what the addition will be and was advised by Mrs. Sawyer that it will be a great room and the bedrooms will remain at two (2). Ms. Becker questioned what the demolition would be as there is a demolition plan. Mrs. Sawyer clarified that the demolition will be the interior of the structure, the outside deck and part of the roof. She added that new siding is also planned for the outside of the house.

Ms. Becker asked whether just the foundation of the existing house will remain. Mrs. Sawyer clarified the deck and inside of the house will be demolished. It was Ms. Becker's understanding that the plans showed that what is there is being taken down, made larger and moved closer to the lake. Mrs. Sawyer clarified that an elevated deck is planned off the extension of the current first (1st) floor. Ms. Becker made note of the fact that the applicant is expanding six feet (6') closer to the lake and pointed out that the porch is covered.

Inasmuch as the structure will be closer to the lake with the addition Mr. Haight advised Mrs. Sawyer that she will have to go to the ZBA for a variance. Ms. Becker also advised Mrs. Sawyer that she should contact CEO Ferratto for further direction as she thinks a height variance might also be needed as the required measurement is taken from the lowest grade. Ms. Becker also pointed out that the lower level office/playroom next to the bathroom might be considered an additional bedroom.

The Check List was reviewed so Mrs. Sawyer will have an idea of anything additional she might need. Ms. Becker advised that a permit from the DEC will be needed inasmuch as the addition to the structure will make it closer to the lake as Robinson Pond is a regulated wetland. Mr. Haight explained that a DEC permit is required anytime the soil is disturbed within one-hundred feet of a DEC regulated wetland. He also pointed out that the location of the septic also needs to be accounted for.

Mr. Haight advised Mrs. Sawyer that before she can proceed to the ZBA she needs to go to CEO Ferratto who will then refer her to the ZBA for the proper variances. Ms. Becker informed Mrs. Sawyer that she will need to attend at least two (2) ZBA meetings as they will need to schedule a Public Hearing at their first meeting.

Mrs. Sawyer will contact CEO Ferratto for further guidance.

2015 -9 SITE PLAN REVIEW – GARY SINGH [RUBIN QUICK STOP] – County Route 7A [Copake]

Submissions included:

- Pat Prendergast e-mail dated June 2, 2015
- Updated Site Plans
- Updated Building Elevations

Engineer Pat Prendergast appeared along with owner Gary Singh and Structural Engineer Daniel Wheeler. Mr. Prendergast acknowledged that he came up with a total of thirty-nine (39) parking spaces and pointed out the proposed gravel parking lot on the map for a total of forty (40) cars. Mr. Haight asked where the location of the handicapped parking will be as the parking lot is a distance from the building. Mr. Prendergast explained that there are two handicapped spaces closer to the building and the one that is furthest away is a van accessible space so someone using that space would most likely be in a wheelchair and can be wheeled into the building. He will work with Mr. Wheeler to coordinate a handicapped ramp.

Ms. Becker asked where the company vehicle and employee parking would be. Mr. Prendergast was under the impression that the Code requirements included these in the total number of spaces required. Mr. Haight did acknowledge that the Code does have high requirements for parking. Mr. Prendergast suggested using some of the area of the gas station for parking inasmuch as it is also owned by the applicant. Mr. Prendergast will give this consideration and might be able to reconfigure the parking area.

Mr. Prendergast acknowledged that he made the changes required by the DEC and is resubmitting them for DEC approval. Mr. Prendergast addressed the fact that the DEC is waiting to reissue the SPDES Permit after Jamie Malcom stamps the plan. He also made note of the fact that the name will now be registered under Rubin Quick Stop. Ms. Becker brought up the fact that the location of the propane tanks needs to be included on the site map.

Mr. Wheeler made a presentation of the updated plans. He explained that the air-conditioning unit could be placed on the roof, in the attic or in the back. If it is placed on the roof or in the back it will be screened in. Ms. Becker asked for clarification as to the direction of the North, South, East and West sides. Mr. Wheeler advised the Board that he is open to discussion regarding the color of the building. Mr. Sawchuk asked if any consideration was given for solar panels on the roof. Mr. Wheeler acknowledged that this had not been discussed with Mr. Singh.

Mr. Haight asked what kind of roofing materials will be used and was advised that asphalt shingle roofing is planned for a 312 pitched roof which is the minimum pitch for shingles. Mr. Wheeler noted that additional windows had been added but no changes were made to the floor plan. Ms. Becker asked about the attic area and was advised that it will basically be unheated and uninhabitable. Mr. Haight pointed out that a cathedral ceiling is planned for the bar area but not the kitchen as this is most likely not allowed by the Board of Health.

Ms. Becker asked whether a front porch had been considered. Mr. Singh advised her that the front of the building goes right up to the road and there isn't room for one. Ms. Becker suggested one be placed in the back. Mr. Haight brought up the fact that the liquor license bureau might frown on this and require a completely different license.

Mr. Haight brought up the fact that Mr. Singh's structure is close to the Grange Hall which is a historic building. There was a discussions as to whether this is a Type 1 or Unlisted Actions. Attorney Dow referred to the SEQR hand book and noted that the term used is 'Substantially Contiguous' which refers to something that is not directly adjacent to but in close enough proximity to have a potential impact. Mr. Haight asked if the Board could see that this would have no negative impact would they be able to use the Short Form EAF and was advised by Attorney Dow that this was not a possibility.

Mr. Prendergast acknowledged that he had a discussion with Mike Higgins of the DEC who was undecided as to whether this was a Type 1 Action or not so Mr. Higgins had referred him to someone dealing only with SEQR who was also conflicted. Attorney Dow once again referred to the phrase 'substantially contiguous' which is what he advised the Board has to make a determination of. Attorney Dow did make note of the fact that even in an Unlisted Action something that is 'substantially contiguous' to something in the National Historic Register will then become a Type 1 action requiring a Long Form EAF. He did advise that the Board needs to determine whether the Grange Hall is 'substantially contiguous' to Mr. Singh's structure.

Mr. Haight asked if anyone could see any negative impact this application would have to the Grange Hall. Ms. Becker pointed out that the Board is not at that point yet. Attorney Dow advised that a determination needed to be made as to whether there is a relationship between the two buildings. Ms. Becker believed that there is a history of a relationship between the two buildings as it was just brought up that the Grange Hall used Mr. Singh's property for parking. Attorney Dow asked whether the buildings touch each other and was advised that they do not as they are across the street, kitty-corner to each other. Attorney Down pointed out that construction of a structure across a residential down-town two to four (2-4) lane street to a building listed in the National Historic Register could be considered 'substantially contiguous'. Mr. Prendergast did make note of the fact that this is not a new building being constructed and is an old one that is being fixed up. It was Mr. Haight's interpretation that this would be a Type 1 action requiring the Long Form EAF.

The DEC and Board of Health are the only agencies Mr. Prendergast could think of that need to be notified for lead agency consideration. Ms. Becker questioned whether the New York State Liquor Authority would need to be notified inasmuch as they issue a liquor license. Ms. Becker believed that the Town Board would also issue a permit but it was clarified that they only need to be notified that the applicant is applying for a license. Ms. Becker questioned whether the National Historic Register needed to be notified but was advised that they are only an interested agency and do not issue permits.

Ms. Becker brought up the fact that the waiting period for a response to the Lead Agency letter is thirty (30) days and a Board decision about determination needs to be made twenty (20) days after that. Inasmuch as the meeting date would not fall into that timeline a discussion ensued to change the date of the July meeting as it falls on the 4th of July holiday weekend. Mr. Haight suggested a date of July 16th as that day was available. The Board decided to change the date to July 16th. A Public Hearing would need to be scheduled for the July 16th meeting.

Mr. Haight asked whether the Public Hearing should be before or after the SEQR review. Attorney Dow advised that the Public Hearing should be held after the SEQR Review so it can also be commented on.

Mr. Haight questioned how the interested agencies should be handled. Ms. Becker acknowledged that the County Planning Board needs to receive this as soon as possible. Mr. Prendergast suggested sending plans to them now as they are not involved in the SEQR process. Mr. Haight asked if Steve Savarese would be able to handle bringing this before the County Planning Board this month. Mr. Savarese will take care of this.

Ms. Becker acknowledged that the County Planning Board needs to be notified as well as the US Department of Interior who has jurisdiction over historic places. However, she was not sure of whom to send this to and asked if anyone was familiar with this. Ms. Becker also advised that the Town Task Force and Town Conservation Advisory Committee needed to be notified. Ms. Becker questioned whether the Office of Parks, Recreation and Historic Preservation needed to be notified as this is federal. Mr. Haight believed they were registered both as federal and state. Ms. Becker will look into this. Mr. Wheeler believed the State Historic Preservation Office (SHPO) will notify the Department of Interior as he believes they act as the Department of Interior's representative.

Mr. Haight asked if anything else needed to be added on the plans. Mr. Prendergast brought up the fact that landscaping was discussed and advised that the only place this could be done is in the back as most the area around the building is blacktop. Ms. Becker suggested noting on the Site Plan that the parking entrance is available for use by the Grange Hall. Mr. Singh brought up the fact that this would be a liability issue. Mr. Sawchuk suggested placing an inset on the Site Plan showing the proximity and location of the Grange to Mr. Singh's structure to show that this was considered by the Board.

Ms. Becker had issue with the fact that there is only one entrance/exit to the parking lot and questioned whether this was to code. Mr. Prendergast explained that the entrance/exit is twenty feet (20') wide and believed this conformed to Town Code.

Ms. Becker asked if any landscaping was planned for the front of the building and was advised that it is all blacktop and there is nothing that can be done. It was noted that the rear of the building will be grass and the parking lot will be gravel. Ms. Becker questioned whether the fence and trees on the Site Plan are existing and was advised that the fence is existing but the trees are planned. Ms. Becker made note of the fact that there is a possibility that one of the residences might request some kind of landscaping. It was noted that there is a chain link fence that will remain however Mr. Singh would consider replacing it.

Mr. Haight noted that the proposed lights all point downward. Ms. Becker questioned whether the Board needed to consider pedestrian access and was advised that Mr. Prendergast will discuss handicapped ramps with Mr. Wheeler. It was noted that there are sidewalks and Ms. Becker questioned whether these were acceptable for fire and safety.

Ms. Becker asked whether any signs are planned and Mr. Prendergast acknowledged that one might be placed over the door. Ms. Becker then asked whether there are any storm water and drainage issues and was advised that there are none. Mr. Prendergast acknowledged that a new well is planned and will need to be tested by the Department of Health. He also noted that there will be a UV light used on it. Ms. Becker advised that Department of Health approval will be needed before Site Plan Approval however she did acknowledge that approval could be made conditionally.

On a motion made by Mr. Haight and seconded by Ms. Becker the Board voted unanimously to schedule a Public Hearing for next month's meeting which will be held on July 16th.

On a motion made by Ms. Becker and seconded by Mr. Sawchuk the Board voted unanimously to request to be Lead Agency for this project.

2009 -9 MINOR SUBDIVISION – MICHAEL & EILEEN COHEN – High Meadow Road [Copake]

Submissions included:

- Site Plan
- Re-stamping fee of \$50.00

Mr. Haight advised the Board that the Minor Subdivision previously approved for Michael and Eileen Cohen never filed with the County by the applicant's lawyer and needed to be re-stamped. Mr. Haight re-stamped the maps and a fee was received for this.

MINUTES

On a motion made by Ms. Becker and seconded by Mr. Savarese the Board voted unanimously to wave the reading of the minutes of the May 7, 2015 meeting.

Ms. Becker had one minor correction to the second to last line on page 3 which should read 'Long Form EAF' instead of 'Long Form SEQR'.

On a motion made by Ms. Becker and seconded by Mr. Savarese the Board voted unanimously accept the minutes of the May 7, 2015 meeting as amended.

ADMINISTRATIVE

CAMPBILL VILLAGE: Ms. DeConti advised the Board that she received a letter back from Jos Smeele who acknowledged that Camphill Village will not be moving forward with the Traffic Circle at this time. Ms. DeConti responded to them advising them to contact us when and if they should wish to re-file.

TOWN OF EGREMONT PUBLIC NOTICE: Mr. Haight acknowledged that notice had been given by the Town of Egremont regarding a Public Hearing they will be holding on June 24th for a Special Permit application from the Appalachian Trail Conservancy Center to expand the parking lot at the Kellogg Conservation Center and create a second access to the Center from Route 41.

JULY MEETING: As mentioned earlier in the meeting the Planning Board meeting scheduled for July 2nd will be changed to July 16th due to the 4th of July holiday weekend.

CARRY OVER

The following matters were carried over to the next meeting:

- 2015-6 MINOR SUBDIVISION – SCOTT & JACQUELYNE DECKER – Elm Street & Pine Street [Copake Lake]**
- 2015-9 MINOR SUBDIVISION – CARL CAMPBELL & CHRISTA PROPER – Route 23 [Copake]**
- 2015-5 SITE PLAN REVIEW – MARIKA PRITCHETT & PAUL CASEY – Golf Course Road [Copake Lake]**

ADJOURNMENT

There being no further business, on a motion made by Mr. Sawchuk and seconded by Ms. Becker, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 8:45 p.m.

Bob Haight, Chair

Please note that all referenced attachments, comprising 10 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

EDWIN KUESTER

May 11, 2015	ZBA Request for Area/Use Variance (1)
May 15, 2015	Baker to Kuester (1)
May 18, 2015	Ferratto to ZBA (1)
June 5, 2015	Gabriel to Kuester (2)

TARYN & NATHAN SAWYER

May 8, 2015	Short EAF (4)
June 2, 2015	Ferratto to ZBA (1)