



**COPAKE PLANNING BOARD**  
**JUNE 7, 2012**  
**MINUTES**

**Approved**  
**July 5, 2012**

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**Please note that all referenced attachments, comprising 7 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 Marcia Becker, Chair. Also present were Chris Grant, George Filipovits, Bob Haight, Steve Savarese and Jon Urban. Gray Davis was excused. Lisa DeConti was present to record the minutes.

**ZONING BOARD OF APPEALS – Referrals**

**1. USE VARIANCE – ROBERT KITCHEN – Farm Road – (2012-17)**

Ms. Becker reminded the Board that Robert Kitchen previously appeared before the Board and owns the farm and farm stand at the intersection of Farm Road and Route 22. Ms. Becker then advised the Board that Mr. Kitchen has applied to the Zoning Board of Appeals for a use variance to process two-thousand six hundred (2,600) chickens per year on his farm.

Ms. Becker informed the Board that this use is not allowed by the Town and referred to Town Code 232-9.0(2) which reads: *The processing and storage of agricultural products, including packing, warehousing and storing, is permitted, except that slaughterhouses, rendering, fertilizer plants and canneries are prohibited.* Ms. Becker advised that Town Attorney Ken Dow researched this and all Board members were given the results for their review.

Mr. Haight brought up the fact that selling something from his farm stand to local restaurants is something the Board wants promote but the Board is hesitant to promote a slaughterhouse. Mr. Grant made note of the fact that a use variance is much harder to prove the need for than an area variance is because that is at the heart of zoning. Mr. Filipovits felt that a slaughterhouse would refer more to cattle than it would to chickens with the difference being that chickens are much easier to slaughter. Mr. Grant pointed out to Mr. Filipovits that Attorney Dow stated that this use is not allowed by the Town Code. Mr. Haight made note of the fact that this would fall under the state laws as a slaughterhouse as well.

Ms. Becker acknowledged that this is a violation of Town Code and that is all the Board can say to the ZBA. Ms. Becker did note that Mr. Kitchen has been quite cooperative and follows the laws of the Town in his approach of what he is trying to do. Ms. Becker also pointed out that the

final decision is that of the ZBA. She made note of the fact that she believed there would be some opposition by the neighbors. Mr. Grant advised that with a use variance the applicant would need to prove that this is an economic hardship with no alternative and that this is not self inflicted where as with an area variance the ZBA could use some discretion. Mr. Grant believed that the Board's advice to the ZBA should be that Attorney Dow interprets this as a clear violation of the Town of Copake's Zoning Code.

Ed Ferratto, Zoning Enforcement Officer, advised the Board that he believed Mr. Kitchen's application was in reference to a pre-fab building and how the processing would take place. Mr. Grant clarified that the variance requested is for a use variance and not how the process would take place. Mr. Becker acknowledged that she spoke with Mr. Kitchen who advised her that he would not consider issues with the building until he finds out whether he would be able to receive a use variance.

## **PUBLIC HEARING**

**None**

## **SUBDIVISION/SITE PLAN**

### **2012 - 14      SITE PLAN REVIEW – CAMPHILL VILLAGE BLUESTONE AND TRAFFIC CIRCLE – Camphill Road**

Ms. Becker advised the Board that the Camphill Village Bluestone and Traffic Circle project is on hold.

### **2012 -18      BOUNDARY LINE ADJUSTMENT – DRINDA POST – County Route 7**

Dan Russell appeared before the Board representing Drinda Post and presented the Board with the pertinent maps. Mr. Russell advised the Board that he researched whether there was some precedent allowing a Boundary Line Adjustment to a non-conforming lot but could not find anything.

Mr. Russell advised the Board that Ms. Post owns both the larger and smaller parcels on the map and would like to sell the southern-most smaller parcel. Mr. Russell made note of the fact that Ms. Post would like to adjust the boundary between the two parcels, however, the parcels are located in the three (3) acre zoning area with the smaller parcel already non-conforming for that zone. Mr. Russell pointed out that because of the way the lawn is situated and because of the location of the pond and shed the boundary line adjustment would make the non-conforming lot more non-conforming. Mr. Grant advised him that Town Code does not allow this.

Mr. Russell questioned whether he should proceed to the ZBA. Mr. Grant advised him that he believed this could not be done legally even with an appeal. Mr. Russell asked Ms. Becker if she was able to discuss this with Attorney Dow. She advised him that she was not able to speak with Attorney Dow but did cite two places in the Town Code which stated that this could not be done. Ms. Becker did advise that the ZBA would ask whether there were any alternatives and would take into consideration the fact that Ms. Post also owns the adjacent larger parcel of fifty seven (57) acres.

Mr. Russell informed the Board that Ms. Post did not want to adjust the boundary by taking a piece of the larger parcel but would consider this if there was no other option. Mr. Grant advised Mr. Russell that the Board could not legally create a non-conforming lot even with ZBA approval but believed Attorney Dow should be consulted about increasing the non-conformity of an already non-conforming lot. Mr. Urban felt that inasmuch as the other lot is quite a large parcel the Boundary Line Adjustment could easily be done in that way. Mr. Russell explained that the reason Ms. Post was hesitant to do this was because of the location of the present driveway but he believed there would be enough room to accomplish this. Ms. Becker will consult Attorney Dow for his opinion.

Mr. Urban questioned whether it matters if the Board lessens a non-conforming lot. Ms. Becker advised him that this is the question. Mr. Grant believed that the Board could not. Mr. Urban questioned whether this was a law. Mr. Grant advised that he believed the intent was to not increase the non-conformity. A discussion ensued as to why this couldn't be done. Mr. Grant pointed out that it was inconsistent with the Comprehensive Plan.

Mr. Russell questioned whether a Public Hearing could be set at this time. Ms. Becker advised him that a Public Hearing could not be set without the Board seeing the new configuration of the map.

## **2012-10 SITE PLAN REVIEW – LYNN MAIN – North Mountain Road**

Ms. Becker informed the Board that she sent a second letter to Town Supervisor Jeff Nayer and the Building Inspector saying that Mr. Main did not complete a Site Plan Review but did not receive any response.

## **MINUTES**

Ms. Becker questioned whether the March minutes could be approved because a quorum of members present at that meeting included Mr. Davis who was excused from this meeting. She wondered whether the minutes could be approved subject to Mr. Davis's approval. Mr. Grant and Mr. Savarese believed this would be acceptable and the Board agreed. On a motion made by Mr. Savarese and seconded by Mr. Filipovits the Board voted unanimously to approve the minutes of the March minutes subject to approval from Mr. Davis.

On a motion made by Mr. Filipovits and seconded by Mr. Savarese the Board voted unanimously to accept the minutes of the May 5, 2012 meeting.

## **ADMINISTRATIVE**

**AMERISTOP:** Ms. Becker informed the Board that a letter was sent advising that this project had been deemed abandoned and if they want to go forward with their project they would need to re-apply. Mr. Urban questioned whether this application was for the gas station. Ms. Becker advised him that this was but the applicant may now want to concentrate on expanding the Pizzeria portion of his building.

**CAMPBILL VILLAGE:** Ms. Becker advised the Board that Sloan Architects are in a contract dispute with Camphill Village so their projects are on hold. Ms. Becker brought up the fact that the Administration Building had been conditionally approved by the Board as one document is still needed, however this application is now on hold.

**ISLAND OF COPAKE LAKE SEWERAGE GROUP:** Ms. Becker advised that a letter was written to the Island of Copake Lake Sewerage Group regarding the large houses being built there and a letter of response was received from the engineer they hired to evaluate this. Ms. Becker questioned whether the Board felt Engineer Doug Clark should review these calculations. Mr. Urban noted that he read their engineers letter which stated that there is still room left to the system. Mr. Grant felt this was beyond the Board's capacity and should be negotiated with the DEC. Ms. Becker felt Mr. Clark should review this. Mr. Urban questioned what prompted the Group to consult with an engineer. Mr. Filipovits informed him that the size of the recent Frank residence was the dominant factor. The Board was in agreement with Mr. Clark reviewing this and noted that Mr. Clark will communicate directly with Mr. Higgins of the DEC.

**SALVATORE CASCINO:** Ms. Becker advised the Board that they can review the updates concerning Salvatore Cascino before Mr. Cascino makes a decision whether he will be appearing before the Board again or not. Mr. Urban questioned whether the Board should be concerned with what is being done on Mr. Cascino's property. Mr. Becker advised him that the Board needs to be kept informed of what is being done on Mr. Cascino's property because if Mr. Cascino appears before the Board these violations will be something the Board would have to consider. Mr. Haight brought up the fact that Mr. Cascino owes the Town a considerable amount of money and questioned why Building Permits were still being issued to him. Ms. Becker advised that there is nothing in the Town Code that states a Building Permit cannot be issued if monies are owed the Town. Mr. Ferratto pointed out that if someone has an on-going project they can still apply for other permits. Ms. Becker acknowledged that something is going on but was unaware of what it is. Mr. Ferratto believed that violations will be forthcoming. Mr. Haight advised of putting something in the Code regarding the issuance of permits when an applicant is not in good standing with the Town.

**NEW SEQR FORM:** Ms. Becker informed the Board that Mr. Haight went to the presentation for the new SEQR Form. Mr. Haight acknowledged that there will be a new Environmental Assessment Form (SEQR) that will need to be used starting in October and the DEC is expecting a workbook out this month. Mr. Haight explained that the new Form will come out in August and there will be more questions included on these forms for the applicant to complete. He made note of the fact that the DEC would eventually have everything done on the computer with some things such as a flood zones, wetlands, etc. being recognized by the lot in question. Mr. Haight believed this would be less complicated for the Board to deal with. Mr. Haight also noted that both the long and short forms will have more questions added. He brought up the fact that many

of the Towns were using the long forms to make sure they covered what needed to be covered and the added questions to the short form should simplify this so that the Towns will be protected when they use the short form. Ms. Becker questioned whether the Board will be notified of these changes. Mr. Haight believed they would send out information regarding this. Mr. Haight made note of the fact that the short form increased to twenty (20) questions from the previous twelve (12) and the long form increased to eighty (80) questions from the previous fifty seven (57).

**JULY MEETING:** Ms. Becker informed the Board that the July meeting falls on July 5<sup>th</sup>, the day after the Fourth of July holiday and questioned whether the Board was in agreement with this date. Mr. Filipovits advised her that he will be away that week. The Board felt it was unnecessary to reschedule the meeting date.

## **CARRY OVER**

The following matters were carried over to the next meeting:

**2008-21 MAJOR SUBDIVISION – MICHAEL B. & BARBARA S. BRAUNSTEIN – Off Golf Course Road**

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

**2011-27 SITE PLAN REVIEW – RUTH THOMAS – Route 7 [Copake]**

## **ADJOURNMENT**

There being no further business, on a motion made by Mr. Filipovits and seconded by Mr. Grant, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 7:30 p.m.

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Marcia Becker, Chair

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## **ADMINISTRATION**

### ROBERT KITCHEN

April 11, 2012          Dow RE: Slaughter House (4)

### ISLAND AT COPAKE LAKE

May 21, 2012          Sullivan to Becker (3)