



# **COPAKE PLANNING BOARD**

**MARCH 3, 2016**

**MINUTES**

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## **DRAFT**

**Please note that all referenced attachments, comprising 2 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 Chris Grant, Marcia Becker, Julie Cohen and Ed Sawchuk. Jon Urban, Steve Savarese and Town Attorney Ken Dow were excused. Lisa DeConti was present to record the minutes. Town Board Liaison Terry Sullivan was also present.

## **ZONING BOARD OF APPEALS – Referrals**

### **2016-5      ZBA/SPR – DAVID KIEFER & ANDREA FRESHMAN – Southwest Colony Road [Copake Lake]**

- Referral letter from the Building and Code Enforcement Officer dated January 14, 2016
- ZBA Request for Area or Use Variance and Special Use Permit
- Application for Site Plan Review
- Letter from Matt Eastwood dated January 15, 2016
- Site Plan

Linda Chernewsky appeared before the Board representing David Kiefer and Andrea Freshman. Mr. Haight reminded the Board that this application had previously been approved. Ms. Chernewsky explained that the applicants wish to pivot their house as the excavator needed more room on one side to access the property. Ms. Chernewsky went on to explain that the pivoting of the house required her to request a two point four foot (2.4') side yard variance from the ZBA.

Mr. Grant asked whether Ms. Chernewsky had already appeared before the ZBA. Ms. Chernewsky acknowledged that she had appeared at the February meeting and is awaiting a public hearing at the March ZBA meeting.

Mr. Haight asked whether any of the dimensions on the structure had changed and was advised that all measurements for the structure remained the same.

The Board reviewed the previous application. It was noted that this application had been approved at the February 5<sup>th</sup> meeting and the only reason it is a new application before the Board at this time is that the pivoting of the structure required a side-yard variance from the ZBA.

On a motion made by Mr. Haight and seconded by Ms. Becker the Board approved the Site Plan for David Kiefer and Andrea Freshman subject to ZBA approval.

## **PUBLIC HEARING**

**NONE**

## **SUBDIVISION/SITE PLAN**

**2016-5            ZBA/SPR – DAVID KIEFER & ANDREA FRESHMAN – Southwest Colony Road  
[Copake Lake]**

SEE ABOVE

## **MINUTES**

On a motion made by Mr. Grant and seconded by Mr. Sawchuk the Board voted, with Ms. Cohen abstaining, to approve the minutes of the February 5, 2016 meeting.

## **ADMINISTRATIVE**

**BARRY WINIKER AND EILLENE LEISTNER:** Ms. Chernewsky advised the Board that they reviewed this application on Birch Road in Taconic Shores at their January meeting. She explained that the original plans were for a gravel driveway that the applicants now want to blacktop. Mr. Haight clarified that under normal circumstances the Code requires that the Highway Superintendent makes this decision however inasmuch as Taconic Shores is a private organization the Highway Superintendent does not make decisions regarding them. Mr. Haight also brought up the fact that Taconic Shores has no problem with blacktopping the driveway and all that should be needed is a building permit from the Building Inspector.

Ms. Chernewsky was asked why she went to the ZBA regarding the blacktopping of the driveway. She explained that the ZBA originally approved the application with the stipulation that the driveway remain gravel and inasmuch as the Highway Superintendent does not make decisions regarding Taconic Shores she went back to the ZBA to resolve this issue. She did note that she could not find anything in the Code stating the driveway could not be blacktopped.

Mr. Haight advised Ms. Chernewsky that the Planning Board cannot override a ZBA decision. Ms. Chernewsky made note of the fact that the ZBA made this decision in error and is just asking how she can rectify this.

Ms. DeConti made note of the fact that ZBA Chair Jon Strom referred to the January 7<sup>th</sup> Planning Board minutes which stated that the driveway would most likely remain gravel as the homeowners could not afford to blacktop it at this time. Ms. Chernewsky was concerned that with a ZBA decision stating that the driveway remain gravel, the homeowner's will not be able to blacktop the driveway should they ever decide to.

Mr. Haight advised Ms. Chernewsky that she would need to resolve this with the ZBA.

**SALVATORE CASCINO:** Mr. Haight acknowledged the Salvatore Cascino verdict. The general consensus was that the verdict wasn't strict enough.

**SOLAR PARKS:** Mr. Haight advised the Board that another application for a Solar Farm located at the intersection of Birch Hill Road and County Route 7 might be coming before the Board. Mr. Grant questioned whether this location is zoned commercial. Mr. Grant also brought up the fact that the Town Code was written before commercial solar parks existed and the intent was to be restricted to residential solar equipment.

Mr. Haight also pointed out that there is nothing addressed in the code about what could be done if the company goes out of business and asked the Board if they should take a vote on bringing the option of a moratorium before the Town Board until there are regulations on how they can be regulated. Mr. Haight also made note of the fact that the upcoming revisions to the Town Code do not allow the construction of solar parks. Mr. Grant felt that the Board should step back at this point inasmuch as there will be workshops on the new zoning laws and suggested a six (6) month moratorium.

Ms. Becker and Ms. Cohen acknowledged that they have both received letters regarding the placement of solar parks on their land. Mr. Grant felt the original Code never intended to apply to commercial solar farms. Mr. Haight brought up the fact that the original intent of the Land Use Review Committee (LURC) was because they were following the Comprehensive Plan to save the farmland and the fields. It was also noted that the visual impact of the existing solar park was a lot more unsightly than originally thought and there have been many complaints regarding it.

Mr. Sawchuk questioned whether the owner of the land should be responsible for disabling the equipment as it will continue to produce electricity until it is disabled. He also felt this could be a hazard if left unattended. Mr. Haight also brought up the fact that there would be issue with disabling them in the event of a fire. He also acknowledged that the Firemen have advised him that at night the lights from the fire trucks produce enough light to activate the panels which is a danger to them.

Mr. Grant felt there was a rationale for a moratorium inasmuch as the Code is being revised at this time. He suggested instituting a six (6) month moratorium at this time with the option of extending it at a later date if needed. Ms. Cohen made note of the fact that the existing code predates this technology. Mr. Grant also felt a moratorium was appropriate inasmuch as the

Town is in the middle of revising the code and there will be some changes proposed concerning the construction of commercial solar parks. He felt that until this is resolved a moratorium will be put on the installation of them. It was noted that residential solar panels are permitted and the issue is with commercial solar.

On a motion made by Mr. Haight and seconded by Mr. Grant the Board voted unanimously to recommend to the Town Board that a moratorium be instituted on commercial solar parks for a minimum of six (6) months pending review of the Town Code revisions which are currently in process.

**GARY SINGH/RUBIN QUICKSTOP:** Mr. Haight advised the Board that some things have been changed inside Mr. Singh's Tavern which is acceptable to the Building Inspector. He noted that the bathrooms have been moved however the count of bathrooms remain the same. Mr. Haight acknowledged that Town Supervisor Jeff Nayer met with the General Contractor regarding the Transom windows and the fact that they are not as depicted on the Site Plan. Mr. Haight asked how the Board wanted to handle this. Although he did not feel one should be issued at this time Mr. Grant suggested issuing a Stop-Work-Order if the Site Plan is not complied with. He also suggested the Board members visit the site to familiarize themselves with it.

The Board reviewed the approved Site Plan. Mr. Haight acknowledged that he reviewed the Building Inspector's copy of the Site Plan to make sure their copy matched the Planning Board copy and they were the same. Mr. Haight pointed out that the windows do not look the same as the original store front due to the fact that the store front was taken down and a new front replaced it. Mr. Grant noted that a Certificate of Occupancy will not be issued if the building does not comply with the Site Plan. Mr. Haight will continue to discuss this with the Building Inspector and Town Supervisor Nayer.

The Board also suggested a letter be written to the Building Inspector advising him that they reviewed the approved Site Plan and the windows as built, do not conform. They would like to set up an on-site meeting with the Building Inspector, the Board and the owner and they felt a Certificate of Occupancy should not be issued until this is satisfactorily resolved.

**ZADRIMA:** Mr. Haight advised the Board that a Certificate of Occupancy had been issued for the Maria Zadrina property before the Board made sure the appropriate trees had been planted. However he acknowledged that numerous trees had been planted on the property.

## **CARRY OVER**

The following matters were carried over to the next meeting:

**NONE**

## **ADJOURNMENT**

There being no further business, on a motion made by Mr. Haight and seconded by Ms. Becker, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 7:50 p.m.

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Bob Haight, Chair

**Please note that all referenced attachments, comprising 2 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**

### DAVID KIEFER AND ANDREA FRESHMAN

January 14, 2016      Code Enforcement Officer to Kiefer (1)  
January 15, 2016      Eastwood to Strom/ZBA (1)