



COPAKE PLANNING BOARD

MARCH 5, 2015

MINUTES

DRAFT

Please note that all referenced attachments, comprising 8 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 Chris Grant, Marcia Becker, Jon Urban and Julie Cohen. Steve Savarese and Ed Sawchuk were excused. Lisa DeConti was present to record the minutes. Board Liaison Teresa Sullivan and Attorney Ken Dow were also present.

ZONING BOARD OF APPEALS – Referrals

- 2015-1 ZBA REFERRAL – ALON BEN-MEIR – Howard Drive [Copake]**
- 2015-2 ZBA REFERRAL – ALON BEN-MEIR – County Route 7A [Copake]**
- 2015-3 ZBA REFERRAL – ALON BEN-MEIR – County Route 7A [Copake]**

Submissions included:

- CEO Ed Ferratto's letter dated February 18, 2015
- Joe Iuviene letter dated February 23, 2015
- Information Bulletin from NYS Department of State
- Building Permit Applications and Building Permits
- Sketch Plan

Mr. Haight asked Attorney Dow whether this should be considered a residential or commercial use. Attorney Dow advised that there are inconsistencies in the Town Code. Deciding whether something is residential or commercial in the Zoning Code only applies to the Zoning Code but does apply beyond that, it would not apply to the Uniform Building Code. Because of the way the Town Code is set up Attorney Dow believes it is a residential use. He added that when there are ambiguities the landowner is usually favored. It was Attorney Dow's opinion that under the Town Zoning Code there would be a little better argument to consider this residential, however he added that this would not refer to the New York State Building Code which has a completely different set of codes.

He pointed out that CEO Ferratto needs to apply a whole different set of standards for the Building Code and Fire Code so as to classify this according to their standards. Attorney Dow advised that the Town Zoning Code cannot supersede the New York State Building Code. He explained that a Town can describe things anyway they want to however this cannot change the application of the Building Code. Attorney Dow made note of the fact that it is up to the Building Inspector to make this decision and standards need to be applied based on that activity. He said that in granting the special use permit it doesn't matter whether it is called commercial or residential, standards need to be applied according to the activity taking place. He pointed out that when applying the Building Code it is up to CEO Ferratto to make a determination as to whether they have to meet commercial standards or residential standards.

Mr. Haight made note of the fact that the ZBA could grant a Special Use Permit for a residential building however the applicant would then need to go to the Building Department where it can be deemed commercial. Once deemed commercial it will fall into a completely different category where it would have to comply with the proper regulations.

Ms. Becker questioned whether all that is needed by the Board is to write a referral letter. Mr. Grant believed this was all the Board could do however he would point out that residential does exclude transient occupancy. It was noted that the New York State Building Code states a Boarding House is under two categories, residential for occupancy over thirty days and commercial for occupancy under thirty days.

Mr. Haight questioned whether the Board's decision on this would affect any other applications coming before the Board for the same thing. Mr. Haight acknowledged the fact that each case is different, however Attorney Dow pointed out that they have to be consistent with their reasoning as the facts for each case might be different. He clarified that a person who lives in their house for a certain period each year and rents it out part of the time is different than a building that is used for continued transient turnover.

Attorney Dow brought up the fact that several different applications were brought before the ZBA with different names however were marketed on the website as a three (3) house parcel.

Mr. Grant was not quite sure of what the Planning Board's role regarding this is. Ms. Becker advised that a referral needs to be made. She suggested that the ZBA make sure they have very complete applications with all the information and to conduct a thorough review of the site. Mr. Haight acknowledged that the ZBA has consulted an engineer and has requested that the septic systems be checked out on all the sites. Mr. Grant hoped that a Special Use Permit isn't granted until the buildings comply with the building code. Mr. Grant pointed out that it is the Planning Boards responsibility to protect the health, safety and welfare of the community and if these houses do not comply with the Building Code for a transient Boarding House then a Special Use Permit should not be granted. Mr. Grant noted that the ZBA needs to consider the type of Boarding House it is and if a determination is made that it is a transient Boarding House it needs to conform to New York State Building Codes. Mr. Haight added that it also needs to meet the Department of Health standards.

A letter will be sent to the ZBA addressing the Board's concerns.

2015-8 ZBA REFERRAL – STEVEN ROSE– County Route 7A [Copake]

Submissions included:

- ZBA Request for Special Use Permit and Questionnaire dated January 21, 2015
- Sketch Plan
- Deed
- Short Form SEQR
- House Floor Plan
- Building Permit Application
- Building Permit dated August 13, 2003
- Inspection Letter from CEO Ed Ferratto dated October 18, 2014

Lisa DeConti questioned how the Steven Rose referral should be handled. Mr. Haight advised that it had been determined that this is also being advertised under the same phone number so all of the above details pertain to this as well.

2015-9 ZBA REFERRAL – JOAN SPENCER – North Mountain Road [Copake Falls]

Submissions included:

- ZBA Request for Special Use Permit and Questionnaire dated January 12, 2015
- Referral Letter from CEO Ed Ferratto dated October 7, 2014
- Property Map
- Pictures

Mr. Haight advised the Board that Joan Spencer is requesting a variance for a Chicken Coop from the Zoning Board of Appeals (ZBA). Mr. Haight explained that Ms. Spencer is requesting an eight by ten foot (8' x 10') addition to an existing garden shed to be used to raise chickens. Mr. Haight attended the ZBA meeting and noted that their Board pointed out that Ms. Spencer does not have a rooster that could disturb neighbors in the area.

Mr. Grant referred to Town Code 232-90.(5) which reads: *Buildings for the housing of fowl or farm animals, including horse stables shall not be located in the required front yard or within 200 feet of a property line or public street right-of-way.*

Ms. Becker asked whether Ms. Spencer's property is located within an Agricultural District. She later pointed out that the lot is an undersized lot in the 'R' District which is mostly zoned as agricultural. Ms. Becker also brought up the fact that the property at the rear of the lot is state land with no residence on it and if the chicken coop were placed at the rear of the property no one would be disturbed. Ms. Becker questioned the slope of the land at the rear of the property and was advised by Ms. Cohen that it is quite steep and slopes down to a pond. Ms. Becker hoped that the ZBA might be able to think of an alternative to placing the structure in the side

yard where it is sixty-five feet (65') to the adjoining property line. Mr. Urban felt that a distance of sixty-five feet (65') wasn't an issue.

A letter will be written to the ZBA expressing the Board's concerns.

PUBLIC HEARING

None

SUBDIVISION/SITE PLAN

2015-6 MINOR SUBDIVISION – SCOTT & JACQUELYNE DECKER – Elm Street & Pine Street [Copake Lake]

Submissions included:

- Application for Minor Subdivision
- Short Form SEQR
- Property Title
- Application Fee

Scott Decker appeared before the Board for a three lot subdivision on Elm Street and Pine Street at Copake Lake. Mr. Decker advised the Board that the homeowners on Elm Street have secured a Grant to widen and re-surface the road. Ms. Becker questioned how this would be done with houses on the sides of the road. It was noted that the road is approximately nineteen feet (19') wide and about one-hundred and twenty feet (120') long.

Ms. Becker referred to the road being only nineteen feet (19') wide and brought up the fact that land cannot be subdivided without safe access. Mr. Haight advised that the road has been in existence prior to zoning. Ms. Becker acknowledged that the single parcel is a grandfathered parcel but felt this did not apply to additional subdivided lots. Mr. Haight believed the right-of-way was to the land.

Attorney Dow questioned who the owner of the land was that the right-of-way is on. Mr. Decker explained that the homeowners own the land. Mr. Dow questioned who granted the right-of-way. Mr. Decker believed this would have to be answered by Attorney Scott Shallo who secured the Title insurance. Ms. Becker pointed out that ownership is not the issue. Attorney Dow suggested that the owner might grant an additional ten feet (10') that could be added to the road. Mr. Decker explained that once that portion of the road is passed the road becomes fifty feet (50') wide. Mr. Grant agreed with Ms. Becker and acknowledged that the Town's Subdivision Regulations have certain design standards. He referred to Town Code 197-14A(1) for Street Access which reads: *Width, location and construction. (1) Streets shall be of sufficient width, suitably located and adequately constructed to conform to the Master Plan, if such exists, and to accommodate the prospective traffic and afford access for fire fighting, snow removal and other road maintenance equipment.*

Real Estate Agent Lindsay LeBrecht made note of the fact that two other lots were permitted to have been created on that road. Mr. Grant acknowledged this and suggested that the Board request a letter from the Fire Commissioner stating that a fire truck would be able to access the proposed subdivision.

Ms. Becker brought up the issue that design standards refer to the Highway Code and the Highway Code states that right-of-ways have to be fifty feet (50') wide. Ms. Cohen acknowledged that these right-of-ways already exist on the subdivision map. Ms. Becker agreed that this refers to the existing properties however Mr. Decker wishes to create additional lots which she feels is a violation of the zoning code regarding fire and safety. Mr. Decker said he spoke with the Highway Superintendent who did not have any issues with this. Ms. Becker suggested the Board get a letter from him as well so as to exonerate the Board. Attorney Dow did advise that the Code allows building on a pre-existing lot but a subdivision needs to meet the Code Regulations.

Mr. Decker made note of the fact that once his property is reached the road becomes fifty feet (50'). Mr. Grant clarified that within the subdivision the streets will conform to the required standards. He acknowledged that his biggest concern is the issue of public safety and for fire truck access. Ms. Cohen suggested having the maps re-drawn showing that the planned subdivision road conforms to fifty feet (50') once reaching his property.

Mr. Grant questioned whether there is a Road Maintenance Agreement. Mr. Decker believed that one is being put together in connection with the Grant to improve Elm Street. The Board requested copies of the Grant and Road Maintenance Agreement.

Mr. Haight advised Mr. Decker that he will need:

- a letter from the Fire Commissioner
- a letter from the Highway Superintendent
- a copy of the Grant
- an agreement from the existing homeowners that they will agree to maintain access to Mr. Decker's three lots'
- a revised map showing the rights-of-way

Mr. Haight questioned whether Mr. Decker had any documentation from the Board of Health. Mr. Decker advised him that perc tests have been done on the property however he was not sure whether they were still valid. He acknowledged that he was willing to have new tests done if needed.

Mr. Grant asked whether the land had been previously subdivided and Mr. Decker responded that to the best of his knowledge it had not been.

On a motion made by Mr. Haight and seconded by Ms. Becker the Board voted unanimously to classify the application for Scott and Jacquelyne Decker as a Minor Subdivision from a map dated February 17, 2015 and drawn up by Plass, Rockfeller and Nucci

Mr. Decker had previously submitted a check in the amount of one-hundred and fifty dollars (\$150.00) as a Minor Subdivision fee. However he was advised that Planning Board fees had been increased as of January first. He submitted an additional amount of one-hundred and fifty dollars (\$150.00).

**2015 -5 ZBA REFERRAL/SPR – HENRY & BARBARA GINSBERG – Lakeview Road
[Taconic Shores]**

Submissions included:

- Request for Area or Use Variance and Special Use Permit
- Variance Request Form
- Building Permit Application and Permit Form dated February 13, 2015
- Plot Plan and Pictures
- Letter of Agency dated February 17, 2015
- CEO Ed Ferratto letter dated April 24, 2012

Jason Werner appeared representing Henry & Barbara Ginsberg. Mr. Haight explained that the Ginsberg's need a DEC Permit for replacement of an existing dock and they also wish to have a roof constructed over an existing deck.

Mr. Werner advised that he had been under the impression that the deck was grandfathered but it was not and the homeowners received a fine from the DEC which they paid. He also acknowledged that they are waiting for a DEC Permit regarding this. Ms. Becker brought up the fact that a new dock had been constructed and enlarged were the old dock was.

Mr. Werner then acknowledged that there is an existing deck that they wish to make into a three season deck.

Ms. Becker acknowledged that there is public water however the water line is not shown on the map. She brought up the fact that with a Site Plan the Board needs to work from a Site Map. Ms. Cohen brought up the fact that Dan Russell of Crawford and Associates should have copies of the map in their files and should be able to update them with the planned changes. Ms. Becker suggested having the water lines added as well as the septic. Mr. Haight advised that there is no digging planned for the enclosure of the deck so they do not need to be concerned with the location of the water pipes and septic.

Ms. Becker brought up the fact that a specific section of the code states that an open deck is exempt from the one-hundred foot (100') set-back from a water body and part of that exemption states that it shall never be enclosed. It was noted that the section of the deck being enclosed is nine feet by fourteen feet (9' x 14'). Mr. Grant and Mr. Haight did not see this as a problem however Ms. Becker noted that there is a big issue in the Town with people building decks close to the water. It was noted that the deck is approximately seventy-five feet (75') from the water line.

Mr. Grant questioned where the application stands before the ZBA. Mr. Werner advised that they are waiting for the DEC Permits at this time. Ms. Becker questioned whether Mr. Werner should complete the ZBA process before proceeding to the Planning Board rather than running the applications simultaneously. The Board agreed that the ZBA process should be completed first as should they deny the variances the Planning Board cannot move forward with their Site Plan.

2015-5 SITE PLAN REVIEW – MARIKA PRITCHETT & PAUL CASEY – Golf Course Road [Copake Lake]

No one was present for this application as the applicant was not able to proceed with last month's ZBA process.

MINUTES

On a motion made by Mr. Haight and seconded by Ms. Becker the Board voted unanimously to approve the minutes of the February 5, 2015 meeting minutes.

ADMINISTRATIVE

CAMPBILL VILLAGE BLUESTONE & TRAFFIC CIRCLE: Mr. Haight questioned how long this application needs to be held over as this has never been approved. A letter will be written to the applicant asking what their intentions for the future are.

SPECIAL USE PERMITS: Mr. Haight acknowledged that he sent all the Board member a copy of the letter he read before the Town Board regarding the possibility of the Planning Board issuing Special Use Permits. He made note of the fact that this was forwarded to the ZBA and they feel that keeping these permits gives them a 'checks and balance' by not giving the Planning Board too much power. In Mr. Haight's view he felt this would streamline the process

TOWN OF EGREMONT PUBLIC NOTICE: Ms. Becker acknowledged that she will be attending the Public Hearing to rezone the Town of Egremont to create an Open Space and Recreation Overlay District on the entire Town.

CARRY OVER

The following matters were carried over to the next meeting:

2015-5 SITE PLAN REVIEW – MARIKA PRITCHETT & PAUL CASEY – Golf Course Road [Copake Lake]

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

ADJOURNMENT

There being no further business, on a motion made by Mr. Grant and seconded by Ms. Cohen, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 8:15 p.m.

Bob Haight, Chair

Please note that all referenced attachments, comprising 8 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

ALON BEN-MEIR

February 18, 2015 Ed Ferratto to ZBA (1)
February 23, 2015 Iuviene to Freeman (2)
February 23, 2015 NYS Department of State (1)

SCOTT AND JACQUELYNE DECKER

February 16, 2015 Short SEQR Form (3)

HENRY AND BARBARA GINSBERG

February 16, 2015 Ferratto to ZBA (1)