



# **COPAKE PLANNING BOARD**

**MARCH 7, 2019**

## **MINUTES**

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### **DRAFT**

**Please note that all referenced attachments, comprising 76 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 Marcia Becker, Julie Cohen, Ed Sawchuk and Steve Savarese. Chris Grant, Jon Urban and Town Board Liaison Richard Wolf were excused. Attorney Ken Dow and Town Supervisor Jeff Nayer were also present. Lisa DeConti was present to record the Minutes.

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

**NONE**

### **PUBLIC HEARING**

**2017-38      SITE PLAN REVIEW – GRJH INC. – State Route 23 [Craryville]**  
*(Open since November 2, 2017)*

- Save Craryville Summary of Required Updates to Site Plan

No one was present to represent GRJH. Mr. Haight reminded everyone that the Public Hearing remained open and asked whether anyone wished to comment on this application.

Mr. Haight reminded everyone that there is a two (2) minute time limit to speak and asked that anyone that has spoken before not repeat what was previously said. He also noted that this is for Public Comments and not a question and answer session. Mr. Haight addressed the fact that a Special Use Permit has already been approved by the ZBA so anyone that objects to this application simply because they don't want it will not have any bearing on the Board's decision as this process deals only with Site Plan and approval. Mr. Haight also reiterated that this application is not an application for a Truck Stop as in the past month this has been brought up again. He clarified that this application never was for a Truck Stop and will not be a Truck Stop.

Mr. Haight asked if there was anyone present that never spoke before and wished to speak. There were none.

**Hillsdale Resident and Save Craryville Director JAMIE CARANO...** Ms. Carano submitted a Summary of Updates the Save Craryville Group feel are pertinent to the Site Plan. Mr. Haight advised that this will be included in next month's packet inasmuch as it was received after the 10-day deadline so that the Board will have time to review it prior to next month's meeting. Ms. Carano questioned this as she was allowed to submit things at the meeting before. Attorney Dow clarified that documents can be submitted at any time however they do not have to be addressed at the time of submission.

Ms. Carano had issue with the fact that the Site Plans that were available for viewing are over a month old and some of the revisions previously spoken about for the past two or three months haven't been made as yet.

Ms. Carano had issue with the fact that the total number of gas pumps has not been reduced to three (3). Mr. Haight clarified that it was not required that the number of pumps be reduced however the number of nozzles did need to be reduced. Mr. Haight also acknowledged that he had been in contact with the applicant and they do have updated prints and they are continuing to work on others.

Ms. Carano also had issue that a Bond has not been set up as yet. Mr. Haight advised her that this is still in negotiations. Ms. Carano again expressed her displeasure that the plans are not updated inasmuch as experts are being brought in. Mr. Haight addressed this and assured her that everything needed will be handed over to the experts in regard to whatever subject the Board wants looked. He also noted that this is one of the reasons there are no updated plans.

**Save Craryville Associate Attorney EMILY SVENSON...** Ms. Svenson addressed the issue of the Escrow for an independent Engineer. It was Ms. Svenson's belief that a negotiation was unnecessary and the Planning Board can hire its own engineer at the expense of the applicant that will then be charged to the Escrow. Attorney Dow addressed this and clarified that an amount has to be set up with the applicant ahead of time based on estimates and the Board has to have a basis for saying what amount is requested for an Escrow. They are not dictating what gets looked at or dictating the process. Mr. Haight also made note of the fact that he is speaking to more than one engineer and negotiations aren't just with the owner.

**Hillsdale Resident STEVE SMITH...** Mr. Smith's comments concerned an update on the status of the DOT determination of the Traffic Study submitted by GRJH and whether a traffic control will be required at that intersection. Mr. Haight advised that the DOT is not completed with any of their work as yet.

**Hillsdale Resident AMY DAVIDSON...** Ms. Davidson addressed enlarged photos that she brought to the meeting showing the Cobble Pond Convenience Store on the corner of Route s 9H and 66. It was Ms. Davidson's understanding that the applicant will be leasing the proposed building in Craryville. Mr. Haight advised her that this has nothing to do

with the Board's Site Plan. Ms. Davidson's concerns addressed how the building can be maintained to keep the look and feel the residents want at a level they want. Mr. Haight advised her that under Site Plan Review there is nothing the Board can do to control how the site is maintained and this would fall under the building codes. Ms. Davidson was distressed that this aspect cannot be controlled. Attorney Dow clarified that the Site Plan process concerns the operation, function and use of the proposed project and ownership is off the table as far as zoning is concerned. He added that any maintenance would fall under the New York State Property Maintenance Code.

**Hillsdale Resident and Save Craryville Director JAMIE CARANO...** Ms. Carano also had issue with the upkeep of the Cobble Pond in the picture submitted by Ms. Davidson and the legacy she feels is associated with GRJH and Cobble Pond Farms. She also felt proper screening can mitigate some visual concerns seen on other sites. Attorney Down clarified the fact that screening is in the Code and Ms. Cohen brought up the fact that the Board addressed this in an earlier Site Plan where a fence was constructed for screening purposes. She assured Ms. Carano that the Board takes these things into consideration. Mr. Haight did make note of the fact that future maintenance is not part of the Site Plan Review.

**Craryville Resident LEIGH McBRIDE...** Ms. McBride had issue with the kitchen on the plans and questioned why there is a need for a kitchen. She felt that since there is no permit for a kitchen it should be removed.

Mr. Haight closed the Public Hearing for the evening and noted that it will remain open.

## **SUBDIVISIONS/SITE PLANS**

### **2018-28      SITE PLAN REVIEW – CATAMOUNT SKI AREA – State Route 23 [Copake]**

- Columbia County Planning Board Decision dated February 20, 2019
- Department of Transportation (DOT) Letter dated February 7, 2019
- Letter from Attorney Ken Dow to Timothy Stalker/Columbia County Planning Board (CCPB) dated February 27, 2019

Pat Prendergast appeared representing Catamount Ski Area. Mr. Prendergast acknowledged that since he last appeared before the Board this application was sent to the County Planning Board who found that this proposed action has no significant county-wide or intercommunity impacts associated with it and the Town of Copake Planning Board may take final action with a simple majority vote.

Mr. Prendergast also made note of the fact that this application was reviewed by the Department of Transportation (DOT) who required that the apron be paved and curbed. Mr. Haight

acknowledged that all the Board's requirements have been met and asked if anyone had anything to say regarding this application.

Being none,

- **On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to approve the Site Plan for Catamount Ski Area dated December 14, 2018.**

Mr. Haight will stamp the plans on Saturday.

#### **2018-17      SITE PLAN REVIEW – JEFFREY BUDD – Route 22 [Copake]**

- Revised Site Plan
- Department of Transportation (DOT) Letter dated March 7, 2019

Pat Prendergast appeared before the Board to represent the applicant. Mr. Prendergast acknowledged that as requested by the Board this application was sent to the DOT for review. He pointed out that the DOT required a bigger apron and that the driveway be paved. He added that no curb-cut was needed. Mr. Prendergast went on to explain that there will be some screening added along with a six foot (6') stockade fence and the existing driveway will be top-soiled and seeded.

Mr. Haight asked whether the entrance to Yonderview Road will remain and was advised that it will. Mr. Prendergast submitted an approval letter from the DOT that he received this day and noted that in addition to the requirements above they also asked that the shoulder be widened to ten feet (10') instead of the existing six feet (6').

Ms. Becker asked whether there will be any screening from the Yonderview Road side of Mr. Budd's property and was advised that this area will be cleared and any unsightly materials will be moved to an area that is being screened.

Mr. Haight asked if the Board had any other questions. Being none,

- **On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to approve the Site Plan for Jeffrey Budd dated October 23, 2018.**

Mr. Haight will stamp the plans when three (3) full size sets are received.

#### **2018-23      SITE PLAN REVIEW – MIKE FALLON – County Route 7A [Copake]**

- Columbia County Planning Board Decision dated February 20, 2019
- Letter of Agency from David and Cheryl Brown dated September 22, 2018

Lindsay LeBrecht appeared representing the applicant. Mr. Haight made note of the fact that inasmuch as the sale of the property has not been finalized a Letter of Agency was received from David and Cheryl Brown who are the present owners of the property.

Ms. Becker brought up the fact that at last month's meeting Mr. Haight asked for a copy of the approval for the driveway that the applicant received from the Highway Superintendent. Ms. Becker also acknowledged receipt of the Columbia County Planning Board (CCPB) decision.

- **On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to approve the Mike Fallon/Copake Auction Site Plan dated January 2019 subject to receipt of the approval from the Highway Superintendent.**

Mr. Haight will stamp the plans once the conditions are met.

**2017-31        SITE PLAN REVIEW – 13 LACKAWANNA PROPERTIES [BUILDING #1] –  
Lackawanna Road [Copake]**

**2017-32        SITE PLAN REVIEW – 13 LACKAWANNA PROPERTIES [BUILDING #2] –  
Lackawanna Road [Copake]**

- Letter from William Kimball of the Department of Agriculture and Markets dated March 11, 2009
- Letter from William Kimball of the Department of Agriculture and Markets dated July 14, 2005
- Decision and Order from the Chambers of Jonathan D. Nichols dated June 16, 2010
- Copake Valley Farm Proposed Operating Plan (no date or signature)

David Weiner appeared representing Salvatore Cascino. Ms. Becker asked for the file which shows the original Site Plan that was denied in 2008.

Ms. Becker asked Mr. Weiner whether the twenty-three hundred (2,300) square foot building to which a building permit was issued in October of 2018 was ever built. Mr. Weiner acknowledged that this building was built and is referred to as the Stable however a CEO has not been received as yet.

Ms. Becker then referred to a letter received in 2013 from the Hudson River Valley Engineers that refers to two (2) silage bins [Silo 1 and Silo 2]. Mr. Weiner explained that on the new plan they are referred to as Bunker 1 and Bunker 2. Mr. Haight clarified that these are the two (2) buildings the applicant is trying to get permits for at this time. Ms. Cohen asked whether these permits have been closed out or inspected as yet but was advised by Mr. Weiner that they have not. Ms. Becker made note of the fact that there was a question as to whether the two (2) bunkers were on the 2008 Site Plan and acknowledged that they were not. Ms. Becker asked that all submissions from the applicant be dated and signed.

Mr. Haight asked Attorney Dow how much of a change there has to be between the 2008 Master Plan involved in the Article 78 and denied by the Planning Board and the new Master Plan that has recently been submitted to the Board for a new decision.

Attorney Dow explained that this is very tricky inasmuch as a lot of the problems with the 2008 plan were that it was concluded that the buildings were not being used as an Agriculture operation although it was reported to be one. He pointed out that there was along litany of misbehavior not only in the Town of Copake but in other towns as well and there was an ongoing pattern of things going on that were not legal under the cover of an Agriculture operation. He explained that this is the reason the Board did not approve additional buildings as it appeared that they were going to be used for illegal activities.

Attorney Dow also brought up the fact that the Board asked for a number of things that they never received. He pointed out that so many things contributed to the Board's decision to deny the application at that time. One being the fact that they did not have the information they needed to make their decision. Another being that the buildings on the plan were not going to be used for agricultural work. They were going to be used for demolition debris and dumping. Attorney Dow added that this happened in the Town of Copake and other towns as well which produced a number of fines and settlements with other agencies such as the DEC and EPA. He also made note of the fact that the Courts upheld this decision and decided that the Board had not gone above its lawful scope and as long as the Board operated within what is reasonably based and rational they were within their authority to do so.

Attorney Dow explained that when a plan has been presented and a decision has been made on it that is normally the end of it unless things change whether they be physical changes or conditions. He noted that it is more complicated than just looking at two (2) maps to see if the maps are the same. A map would have to be looked at in conjunction with the activities that are taking place that were not agricultural. It is the burden of the applicant to show that there is a substantial change in the circumstances that apply to it before it could warrant a new process. He pointed out that a lot of the circumstances that led to the disapproval were the continued illegal activities, in various types, that led the Board to conclude were related to the applicant trying to do things that were not acceptable. He added that there were a lot of deficiencies and credibility issues that were found that led to the decision that the old plans were not legitimate. He explained that an applicant can come back if they can demonstrate there has been a significant change whether a physical change to the plans or to the circumstances under the context to which it is being presented. However this has to be a different situation, not just a revisiting of the same thing under the same context. It has to be demonstrated how the picture is the same or different and to present it again the applicant needs to show that it is meaningfully different and can be looked at in a different way.

Mr. Weiner asked Attorney Dow what his take was on the Ag and Markets letter on some of the reasoning behind the Town's disapproval. He understood that it was deemed a credibility issue on several fronts however he noted that there was a lot of information and detail that was requested by the Town that the Ag Department pointed out shouldn't have been part of the basis of the decision process. Mr. Haight pointed out that the first thing that has to be decided is whether this is a legitimate farm operation as this appeared to be the original problem.

Attorney Dow referred to some of the discrepancies of the original Review.

- 1. The Board contends that the petitioner is not a farmer but is in a waste recycling and hauling business and is intending to use the property in question for purposes related to that**
- 2. Fifteen years ago the Town spent over \$100,000 in legal fees in proceedings against the petitioner.**
- 3. In 2003 the Town had an action to enjoin them from violating laws to prevent the property from being used as a tire recycling facility for garbage and waste transfer.**
- 4. In 2006 the Town had to enjoin the dumping of solid waste garbage, construction demolition debris on the property**
- 5. Sought to enjoin the use of the property as a depo for storage site for equipment for waste hauling for maintaining construction material on the property.**
- 6. Prevent the property from being utilized for the transfer of gravel**

Attorney Dow made note of the fact that the only way the Town could stop the applicant from doing this was by continually going to court to get court orders to stop the applicant from doing this over and over again.

Ms. Becker acknowledged that the build-out of the Site is pretty much the same plan as the 2008 plan but the narrative recently submitted by Mr. Weiner is different. Mr. Weiner disagreed that the build-out was the same. Mr. Haight reiterated that the main objective is whether the applicant is conducting a legitimate farm operation. Attorney Dow agreed and pointed out that if this is a legitimate farm then there would be a lot more pre-disposition required to approve the layout consistent with that. Mr. Weiner noted that Ag and Markets was there last Fall.

Attorney Dow made note of the fact that the petitioner sat in jail for a year and a half because there was illegal activity that wasn't being rectified. Attorney Dow also pointed out that this took place in 2013 demonstrating that the applicant did not immediately stop these activities after the 2008 decision. He questioned how and what will determine that the applicant has or hasn't changed his ways, He pointed out that it isn't that clear cut and questioned what it would take to show credibility. Ms. Becker questioned why the buildings remain the same.

Mr. Haight made note of fact that in 2008 one of the buildings was supposed to have a grinder. Ms. Becker clarified that there is an existing grinder. Mr. Haight believed that this is not presently in operation and questioned whether it will be put into operation. Mr. Weiner claimed that the grinder is not part of the farm operation. Ms. Becker questioned why this building is being enclosed. Mr. Weiner stated that the building is not being enclosed but only planned to have an overhang on the roof inasmuch as the plan is to put hay in and around it. Ms. Cohen questioned whether the applicant plans on having it removed. Mr. Weiner noted that the grinder was part of the composting operation and there are no plans to compost at this time.

Attorney Dow readdressed the credibility aspect of this application and noted that although the revised Site Plan application no longer included composting the plans did seek the

operation of a compost grinder. Mr. Weiner explained that the original plan for the grinder was to have compost wind rows in the field but that scenario went away. Mr. Weiner explained that the grinding that was going to take place was going to be part of a new technology called a compost vetted barn whereas wood chips would be created that would then be mixed in and everything would be composted in the barn and at the end of the day when everything was scraped out it would be composted. Mr. Weiner went on to explain that the present operation focuses more on the greenhouse, beef cattle and sheep operations.

Ms. Cohen questioned whether it is safe to grow crops for human consumption or graze animals on property that has had all this previous dumping. Mr. Haight pointed out that according to the last Court decision dirt was removed from an area designated by the DEC and the Court was satisfied with what was removed unless the Town could locate more areas on the site that were questionable and needed to be removed again. Attorney Dow asked whether Mr. Haight was referring to the Contempt issue. Mr. Haight acknowledged that this was what he was referring to. Attorney Dow acknowledged that the order of what was to be removed was not quite specific enough and to be in contempt of that the order of the Court has to be very precisely stated in order to hold someone in contempt for violating it. He added that the Court order was a little too general so the appellate Court did not really get into what was removed and not removed.

Ms. Becker asked whether a location was designated for the growing of shrubs and plants for the greenhouse. Mr. Weiner acknowledged that these will be grown in the greenhouse. Mr. Haight questioned whether the intent was to open the farm market and sell these. Mr. Weiner acknowledged this. Mr. Haight asked whether anything had been submitted to the DOT regarding the driveways. Mr. Weiner explained that nothing had been sent since the applicant doesn't have approval for the building as yet. Attorney Dow asked whether the applicant has reconciled the amount of traffic and parking facilities needed for the farm stand as a hundred head of cattle would produce a considerable amount of beef and would attract a fair amount of traffic if sold from the Farm Stand.

Mr. Haight questioned whether the Board would be approving a Master Plan and then approve each building individually as done in the case of Camphill Village. Attorney Dow addressed the Master Plan for Camphill Village and brought up the fact that their Master Plan was somewhat conceptual, they didn't have architectural drawings and they did have to come back for each individual structure to explain what they were doing and whether it conformed to their plans.

Ms. Becker noted that this is the same correlation Attorney Dow referred to earlier regarding the amount of cattle and questioned what size barn would hold forty to sixty (40-60) head of cattle. She also noted that hay is only good for nine months or so. Attorney Dow pointed out that the applicant's narrative did state that all of the farm activity will go through the farm stand for retail sales.

Ms. Cohen asked whether the applicant will not be selling wholesale any more or will be doing a mixture of both. Mr. Weiner acknowledged that the applicant plans are to have a mixture of both. Ms. Cohan noted that this is not what the plan states. Mr. Weiner addressed the fact that the Board is asking questions about something that is still in a conceptual stage and at this time he doesn't think it is reasonable to expect the applicant to do a traffic study or a balancing situation. He noted that if it comes to a point that the applicant wants to put the barn in for a certain cattle head size then this would make sense.

Ms. Becker explained that when a whole build out is proposed the Board has to consider the run-off. Mr. Weiner felt that this would be more reasonable at the time these would be built. Ms. Becker informed him that the Board looks at this at the Master Plan level inasmuch as they are looking at the build out of the whole project. Mr. Weiner felt this was way too premature and contradicted what the Ag Department said. He felt an operating plan was reasonable but questioned what this would come to.

Attorney Dow noted that the main purpose is to look at the plan, the narrative, the history and the applicant's behavior in order to form a coherent picture to figure out whether this is a legitimate farm operation that is being proposed and to be used as a legitimate farm operation. Attorney Dow did address the fact that there is a big credibility hump to get over in this situation and the plan is not so much to decide whether this is a proper agricultural farm layout. He added that right now the plan is to show that if it were done in conjunction with the plan how can the Board be persuaded that this is being done for an agricultural purpose and not for unacceptable activities so it can be treated as an agricultural site plan. Attorney Dow noted that the Board is still in the phase where the applicant or the applicant's agent has to present enough information convincingly to show that the circumstances have changed and it is actually a real farm operation and if the process doesn't get past that it won't get evaluated as an agricultural operation. Mr. Weiner asked where he is in answering whether this is a legitimate farm operation.

Ms. Becker pointed out to Mr. Weiner that there is a new section in the Town Code, Article IX: 232-21H (4) called Modified Site Plan Review for Agriculture and Agri-tourism Uses and it lists the basics. Ms. Becker did explain that the Planning Board can determine that the modified view is insufficient and ask for more as long as what is asked for is consistent with the Comprehensive Plan.

Mr. Haight addressed the fact that first the Board needs to figure out whether the operation is a legitimate farm operation or not. Mr. Weiner asked where they are in this process. Mr. Haight asked if anyone on the Board did not feel that this application is a legitimate farm operation. Ms. Becker acknowledged that she would like more facts like where the animals are, how many there are, what fields are presently being used for crops, what the buildings are presently being used for, who is leasing the land. Mr. Weiner explained that there are presently 40-60 head of cattle, the fields south of Lackawanna Road were planted all year, there were a couple of grazing pastures.

Ms. Cohen also questioned whether the applicant has the acreage to support what he plans to do. Mr. Haight asked the number of acres the applicant has and Mr. Weiner stated that there are three-hundred (300). Ms. Cohen noted that if the farm is not being used solely for cattle than the applicant doesn't have the whole three-hundred acres to work with. Mr. Weiner noted that it was referenced in the Ag Department letter that they concluded that the acreage was sufficient for one-thousand (1,000) cattle. He also noted that the maximum cattle count was just over one-hundred (100) and down to about fifty-sixty (50-60) at the end of the season so he doesn't see a problem going to two-hundred (200) head of cattle.

Ms. Becker made note of the fact that the one-hundred year flood plan needs to be considered. Attorney Dow referred to Article IX. 232-21A which reads: *The Planning Board chairperson or acting chairperson may administer oaths and compel the attendance of*

witnesses, as authorized by New York Town Law section two hundred seventy-one and noted that the Board doesn't usually require an oath but the Board does have the power to do so and maybe in this instance the principal needs to come in and make some declarations. Ms. Becker was in agreement with this. Attorney Dow addressed the fact that in this instance this may be something that is evoked because of some of the questions such as what is going to happen to the grinder. He made note of the fact that the Boards in this Town have a hard time taking the applicant's word on anything.

Mr. Weiner stated that the applicant has had crops and cattle for the past five to eight (5-8) years. Attorney Dow asked what the status is of Mr. Cascino's other business. Mr. Weiner explained that in 2012 Mr. Cascino exited the Concrete Recycling Business in the Bronx and leased the property to someone else in the business. He said there was an announcement recently that this strip along the Harlem River is going to be developed into approximately two-thousand (2,000) apartments.

Mr. Weiner also brought up the fact that in 2008 Mr. Cascino had a dozen tractor trailers in various locations as well as several dump trucks and he is now down to two (2) tractor trailers, one of which hardly ever gets used and two (2) dump trucks and are basically used to haul materials on the farm. Mr. Weiner added that Mr. Cascino hasn't had any construction projects lately. Ms. Cohen asked where these trucks are parked on the property. Mr. Weiner explained that it depends on what time of year it is however the location is generally behind the farm stand where the proposed barn is planned. Mr. Weiner did state that Mr. Cascino does not have any connection with the waste business at this time and no longer has any waste permits and the activity on the farm has been pretty consistent for the past five to eight (5-8) years.

Ms. Becker asked whether Mr. Weiner had any idea what the cost would be to build the Master Plan all out. Mr. Weiner was not aware of this. It was Ms. Becker's recollection that the original cost was stated to be around twelve-million dollars (\$12,000,000.00). Mr. Weiner thought this figure to be extremely inaccurate. Ms. Becker questioned the square footage of the proposed buildings. Mr. Haight did point out that it needs to be decided what the operation is before the Board can move forward.

Mr. Haight questioned how the Board can move forward. Attorney Dow made note of the fact that the purpose of this application at this point is not to decide on approval of a Site Map but the question is what the Board needs to know to make a decision on whether this is legitimate and the applicant is doing this for agricultural purposes.

Attorney Dow addressed the fact that in the previous applications there was a long list of problems and a lot of them need to be revisited to see if they are different. He made note of the fact that what needs to be addressed is whether this is a legitimate agricultural layout that can be reconciled with the plans that are being proposed and is there a level of credibility that is in fact what is going on. The Board needs to get to the point that they are either persuaded that it is a legitimate agricultural operation or not. Attorney Dow pointed out that to be persuasive there should be consistency as to whether it make sense and has credibility.

Attorney Dow suggested the use of an Agricultural Expert to help in the process of coming to the conclusion of the legitimacy of the operation. Some verification that Mr. Cascino is no longer in the Recycling Business, the facility is being demolished, and the capacity not to do what was

being done before would carry a lot of. Attorney Dow acknowledged that clearly some things have changed and maybe the Board will reach a decision that there is no reason to doubt things.

Mr. Weiner asked what the threshold is in coming to a decision that this is an agricultural enterprise. Attorney Dow suggested he itemize the reasons of the old Court decision as to why the Board did not believe this to be a legitimate agricultural operation. Mr. Weiner asked where the Board is in moving forward with this decision. Attorney Dow felt that a big move forward was made at this meeting as first there was a map and not there is a map and a plan. He addressed the fact that the question now is how long has it been since there was no illegal actions and when was the last time that the property was being used for unlawful purposes. He added that if there have been years of not doing this then that is something that can be pretty persuasive. He suggested the Board go through the specific and see what has changed and when they changed and go from there.

Mr. Savarese made note of the fact that if this is a legitimate farm operation then the applicant will have records of sales, leases, cattle or crops and suggested these be submitted to the Board to prove that this is a legitimate agricultural business. Mr. Haight asked how long Mr. Cascino has been leasing his farm

Mr. Weiner addressed the fact that it was brought up previously that Mr. Cascino's capability to run the farm was questioned and the fact of the matter is that he has known Mr. Cascino since about 2002/2003 and Mr. Cascino has always decided what to plant and where and how the farm is going to be run. He has made all the decisions about the cattle, he made the decision to buy sheep now and the record needs to be corrected on that account that he is competent to run the farm.

Mr. Haight agreed with Mr. Savarese and felt records would be helpful. Mr. Haight also felt that it might be helpful to hire an expert to help in this decision. Mr. Weiner asked what weight the Ag Department carried. Mr. Haight agreed that the Ag Department carried some weight but they are not the sole decision maker. Ms. Cohen pointed out that the Ag Department qualifies their letter by stating that 'Whether or not something is used for agricultural purposes on any given day requires inspection. The Town of Copake determines if buildings are used according to the Town's Zoning Code and evaluates compliance with the National Fire and Prevention Building Codes.'

Mr. Haight addressed the fact that the applicant was turned down for a similar plan because the Board thought there was a different operation. Now the applicant has to prove that the operation doesn't exist and can't exist and a different route in farming is now being taken.

Mr. Sawchuk asked what the name of Mr. Cascino's recycling operation is and Mr. Weiner informed him that it was Bronx County Recycling. Mr. Sawchuk also asked whether Mr. Cascino had a DIC Licence. Mr. Weiner acknowledged that Mr. Cascino did have this license however he no longer has one. Mr. Weiner noted that he also had a registration which he no longer has and in 2012 when Mr. Cascino had his settlement in Albany part of it was that he relinquish that registration and leave the business. He added that when he signed that agreement he had already exited that business and executed the lease with his tenant. Ms. Cohen asked if an arms-length transaction transpired when Mr. Cascino exited the business and entered into that lease. Mr. Weiner acknowledged that it was.

Attorney Dow asked if Mr. Cascino owns the land in the Bronx. Mr. Weiner acknowledged that Mr. Cascino does own the land and in 2012 another party came in and rented the facility along with a good portion of his equipment and continued to use it as a recycling facility. He noted that in the past couple of weeks it was announced that on this whole strip of land a complex of 2,000 apartment will be constructed. Ms. Cohen asked the address of Mr. Cascino's property in the Bronx and Mr. Weiner advised her that it is on the corner of 149<sup>th</sup> and Exterior Street and the address is 475 Exterior Street.

Mr. Weiner will compile other information for the next meeting.

## **2017-38 SITE PLAN REVIEW – GRJH INC. – State Route 23 [Craryville]**

- None

No one appeared representing GRJH.

### **MINUTES**

The Minutes of January 3<sup>rd</sup> and February 7<sup>th</sup> meeting were approved by the Board.

- **On a motion made by Ms. Becker and seconded by Ms. Cohen the Board voted unanimously to approve the minutes of the January 3<sup>rd</sup> and February 7<sup>th</sup> meeting minutes.**

### **ADMINISTRATIVE**

**ADVISORY REPORT ON PROPOSED LOCAL LAW FOR LOT MERGERS:** Mr. Haight brought up the fact that Ms. Becker was against the Planning Board overseeing the merger of more than one lot because she felt it was another burden on the applicant when they can just go to the County to accomplish this. Mr. Haight and Ms. Cohen were in agreement with Ms. Becker. Ms. Becker made note of the fact that the job of the Planning Board is to approve, approve with conditions or disapprove and inasmuch as the Planning Board really cannot disapprove of a person who wishes to merge their property it should not be handled by them. Attorney Dow did make note of the fact that the County has to check for unpaid taxes before a property is merged. The Board agreed that it would be more burdensome and more costly for someone to have to come to the Planning Board if they wanted to merge two pieces of property. A letter will be written to the Town Board advising them of the Board's decision. It was decided that a property owner will be referred to the County to accomplish this.

**SELECTION OF PLANNING BOARD OFFICERS:** Mr. Haight asked what the Board wanted to do regarding the offices of the Planning Board members. Ms. Becker and Ms. Cohen suggested leaving the offices the same. Mr. Haight as Chair, Mr. Grant as Vice-Chair and Ms. Cohen as

Secretary. Mr. Sawchuk asked whether this could be put off until the next meeting inasmuch as he objected to the summary description of the transaction of the Zoning Resolution that got passed. He felt it was handled irresponsibly by Mr. Grant given his 'I'm not going to go into that' comment. Mr. Sawchuk felt the Board had no review of the Zoning Code Resolution prior to it being passed. Ms. Cohen brought up the fact that she had read two different versions of the Code prior to its passing. Attorney Dow did make note of the fact that how someone handles something in the past is a qualification of being an officer. The Board agreed that this will be carried over to next month's meeting.

**GENERAL DYNAMICS/AT&T LIABILITY ESCROW:** Mr. Sawchuk did extensive research in trying to find a Radio Frequency Engineer for the Cell Tower and he was unable to find someone. Ms. Becker also acknowledged that she had found one at the time but he never showed up. Ms. Cohen questioned how this should be handled and whether the Escrow should be returned or not. Supervisor Nayer explained that the Town is holding this money and it cannot be touched and he needs to know what needs to be done. Ms. Becker felt the money should be held onto until an engineer is found. The Board was in agreement that the money be kept in Escrow.

**NYPF CONFERENCE:** Ms. Becker said she might ask the Town Board for money to go to the NYPF Conference on April 28-30. Ms. Becker will write to the Town Board regarding this.

### **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. Cohen , the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 8:55 p.m.

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Bob Haight, Chair

**Please note that all referenced attachments, comprising 76 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**

GRJH INC.

March 7, 2019                      Save Craryville Updates to Site Plan (7)

CATAMOUNT SKI RESORT

February 20, 2019                CCPB to Haight/CPT (1)  
February 7, 2019                Visconti to Prendergast (1)  
February 27, 2019               Dow to Stalker/CCPB (1)

JEFFREY BUDD

March 7, 2019                      Visconti to Prendergast (1)

COPAKE AUCTION INC.

February 20, 2019                Stalker to Haight/CPB (1)

13 LACKAWANNA PROPERTIES

March 11, 2009                    Dept. of Ag & Markets to Crowley/Becker (30)  
June 16, 2010                    Decision and Order Index No. 5509-08 (23)  
February 20, 2019                Haight to Weiner/CPB (2)  
February 21, 2019                Memorandum and Order (6)  
March 7, 2019                    Proposed Operation Plan (3)