



COPAKE PLANNING BOARD
MAY 3, 2012
MINUTES

Approved
June 7, 2012

Please note that all referenced attachments, comprising 3 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 Marcia Becker, Chair. Also present were George Filipovits, Bob Haight and Jon Urban. Chris Grant and Steve Savarese were excused. Gray Davis arrived at 7:15 pm. Lisa DeConti was present to record the minutes. Town Attorney Kenneth Dow was also present.

ZONING BOARD OF APPEALS – Referrals

1. SITE PLAN REVIEW – GLEN AND DOREEN GANZ – Fairview Road [Taconic Shores] – (2012-12)

Glen Ganz appeared before the Board with his builder Mark Benner. Ms. Becker advised the Board that this application was somewhat of a complicated situation. She referred to Town Code 232-24.B(2)[2] which reads: *A nonconforming building or structure shall not be added to, enlarged, reduced, or altered in any manner in a way which increases its nonconformity*, Town Code 232-24.B(2)[4] which reads: *Where a single-family dwelling exists on a nonconforming lot, a second story may be permitted over the same footprint, provided such addition does not exceed the height limitations in the density control schedule* and Town Code 232-24.B(2)[5] which reads: *Any modification of a nonconforming building or structure is subject to a site plan review and approval by the Planning Board.*

Ms. Becker acknowledged that Mr. Ganz was granted a variance by the Zoning Board of Appeals and questioned what distance the variance was granted for. Mr. Ganz advised her that he was granted a variance for the existing structure which is seven feet (7') from the house and three feet (3') from the property line. Ms. Becker expressed concern that this was quite close to the property line. Mr. Ganz pointed out that the structure was an existing structure and the new structure is not being enlarged. Ms. Becker made note of the fact that Mr. Ganz' property is in the R-2 zone which has a side yard set-back distance of thirty feet (30').

Ms. Becker also brought up the fact that she had been advised by a local Building Inspector that there is a five foot (5') set-back requirement for the New York State Building Code for construction from the property line. Mr. Filipovits questioned whether this was on existing structures or new structures. Ms. Becker questioned whether a Building Permit had been issued for this previously. Mr. Ganz

advised her that a Building Permit was issued due to the fact that the deck was not considered living space. Inasmuch as he now wishes to convert the space into living space he requested a variance for that purpose. Ms. Becker did make note of the fact that she discussed this with Town Attorney Ken Dow and was advised that a variance can be applied for with the State if needed.

The Check List was reviewed. Ms. Becker questioned what the buffer was between the two houses. She was advised that there were trees between the two properties. The Board felt this was an adequate buffer.

On a motion made by Mr. Filipovits and seconded by Mr. Haight the Board voted unanimously to approve the Site Plan for the Ganz project from a site map dated April 18, 2012 for the conversion of an open deck into a sun room. Ms. Becker will stamp the maps on Saturday and look into whether or not a variance is needed from New York State. She noted that if there is a violation of the State Code the Building Inspector will require something be done about it.

2. SITE PLAN REVIEW – STEVE & EVA DOWDELL – Birch Road [Taconic Shores] – (2012-11)

Linda Chernewsky appeared before the Board and presented them with a letter giving her permission to represent Steve and Eva Dowdell. The Dowdells are requesting to build a porch in the back of their existing structure. Ms. Chernewsky advised the Board that she had received the Check List from Ms. Dowdell given to her by Ms. Becker. Ms. Chernewsky prepared the Site Plan accordingly.

Ms. Chernewsky pointed out the septic and water locations on the map and made note of the buffers between the neighbors. Ms. Becker acknowledged from the aerial photos that the neighbors are screened and protected and there was no visual impact on anyone. Ms. Chernewsky advised that she was not aware of any outdoor lighting however Ms. Becker believed a porch light had been mentioned.

Ms. Becker questioned the front yard setback from the front porch and Ms. Chernewsky clarified that this was an existing distance of forty feet (40') and a proposed distance of forty two feet (42'). Ms. Becker also questioned whether another variance would be needed and pointed out that this was an existing porch. Ms. Becker made note of the fact that a variance was needed for the rear yard set-back.

The Check List was reviewed. On a motion made by Mr. Filipovits and seconded by Mr. Davis the Board voted unanimously to conditionally approve the addition to the Dowell house based upon a site map and building elevation done by LMC Designs dated May 2012 subject to the granting of a variance by the ZBA.

3. REFERRAL – LARRISON PROSS – Lakeview Road [Copake Lake] – (2012-15)

Ms. Becker advised the Board that this was a ZBA Referral and not a Site Plan. Ms. Becker explained that Mr. Pross owns two unattached lots at Copake Lake and want to put a shed on the non contiguous lot. Ms. Becker made note of the fact that there is a shed regulation that determines the size, states that it cannot be put on a permanent foundation and must be further

than ten feet (10') from the boundary line. Ms. Becker questioned whether this is considered development and also considered a building inasmuch as it is the only structure being put on the unattached lot. Mr. Haight brought up the fact that without a foundation the structure would not be permanent. Ms. Becker did not think this could be considered development according to Town Code. The Board agreed since it would not be permanently affixed to the land and would be put on gravel. Mr. Haight questioned the size of the shed. Mr. Davis advised him that the shed measures twelve feet (12') by sixteen feet (16').

Ms. Becker questioned why this was before the ZBA and then clarified that this was before the ZBA because it was being put on an undersized lot. The placement of the shed was discussed. Ms. Becker made note of the fact that it had to be at least ten feet (10') from the property line. Mr. Davis recommended a distance of at least ten feet (10') from the rear property line. Ms. Becker clarified that the shed could not be larger than one hundred and twenty (120) square feet. Mr. Urban advised that the proposed shed is one hundred and eighty four (184) square feet. Ms. Becker pointed out that the shed needs to be smaller and meet the set-backs.

Mr. Urban questioned the size of the lot. Ms. Becker advised that the lot is thirty four hundred (3,400) square feet and nothing permanent can be placed on the property however she believed a shed could be placed on it. Mr. Davis expressed a concern regarding a six foot (6') right-of-way on the left side of the property and also expressed concern that the structure is being placed seventeen feet (17') from the road. A discussion ensued regarding a shed being placed in the front yard of a property. Mr. Filipovits questioned whether a building had to be on a piece of property for it to have a front yard.

Ms. Becker did note that this was just a referral from the ZBA and all that was needed was for a recommendation to be sent to them. Mr. Davis questioned whether the request was for a special use permit or a variance for a larger shed than is allowed by the code. Mr. Davis then asked whether this should be tabled. On a motion made by Mr. Davis and seconded by Mr. Filipovits the Board voted unanimously to table this application until more information was received.

4. REFERRAL – MARK AND LISA NIELSEN – Southwest Road [Copake Lake] – (2012-16)

Ms. Becker advised the Board that this was also a ZBA Referral. Ms. Becker reminded the Board that Lisa Nielsen came to the ZBA and the Planning Board a year ago and a referral letter was written to the ZBA. Ms. Becker noted that the ZBA granted a variance to build a twenty foot (20') by twenty foot (20') patio no closer than sixty feet (60') from Copake Lake with patio and walkway located so that both side easements are protected.

Ms. Becker acknowledged that a patio was built in complete violation of the variance granted as it was built thirty feet (30') from Copake Lake with both easements blocked out. Ms. Becker informed the Board that the Building Inspector went to look at the patio and told the Nielsens that they needed to take the patio down or reapply for a variance. She noted that the patio was not taken down and a variance was reapplied for. Mr. Davis made note of the fact that the Neilsens knew what they were supposed to do and blatantly disregarded it. Ms. Becker reviewed the letter written to the ZBA last year advising that a patio could not be built within one hundred feet (100') of Copake Lake. Another letter will be written to the ZBA reiterating the set-back from the lake and advising that the previous restrictions were blatantly disregarded.

PUBLIC HEARING

2012-1 MAJOR SUBDIVISION – COPAKE LAKE GOLF LLC – Lakeview Road [Copake Lake]

On a motion made by Mr. Haight and seconded by Mr. Filipovits the Board voted unanimously to waive the reading of the notice of the Public Hearing.

On a motion made by Mr. Davis and seconded by Mr. Filipovits the Board voted unanimously to open the Public Hearing.

Ms. Becker asked if anyone present wished to speak on this application. Being none, on a motion made by Mr. Davis and seconded by Mr. Filipovits the Board voted unanimously to close the Public Hearing.

SUBDIVISION/SITE PLAN

2012-1 MAJOR SUBDIVISION – COPAKE LAKE GOLF LLC – Lakeview Road [Copake Lake]

Jon Urban who previously recused himself from the Board left the Board to review his application along with his attorney Lawrence Howard, Surveyor Jeff Plass and Engineer Pat Prendergast.

Ms. Becker brought up the fact that this application is a continuation of a Major Subdivision that was approved in 2007. Attorney Howard made note of the fact that this application had been referred to the ZBA to allow them to move the road and bury some septic lines. Attorney Howard referred to the two new maps presented and explained that the lots are arranged in such a way that there is a small piece connected to parcel one on the other side of small parcel six.

Ms. Becker acknowledged receipt of letters from all the necessary agencies. Mr. Prendergast reviewed the map and explained the grinder pump station he recommended for the sewer system. He also noted that the DEC advised him that the stream the septic lines will be crossing is unregulated and a permit was not needed. Mr. Prendergast made particular note of the fact that the DEC advised him that an Army Corp permit was needed and that they usually do a water quality certification which in this case they are waiving because it is so minor. Mr. Prendergast explained that a new letter was received from the Department of Health as the first letter said that they agree with this being sent to the Army Corp of Engineers and DEC but requested it be re-submitted when they are done. Mr. Prendergast spoke with Mr. DeRuzzio who advised him that this was a form letter and that was why the resubmission request was on it. After explaining that this was causing concern at the ZBA Mr. DeRuzzio sent him another letter advising that this was acceptable to ease the concerns of the ZBA as no approval was needed.

Mr. Prendergast referred to the letter received from the Army Corp and explained that this is a Nationwide Permit No. 12 stating that they can come and look at it when it is completed. Mr.

Prendergast will supply a copy of this for the Board. Ms. Becker questioned whether the Army Corp would come to check this. Mr. Prendergast advised her that this is usually not done. Ms. Becker made note of the fact that all the agencies, the County Planning Board, the DOH, the DEC and the Army Corp of Engineers all had no objections.

Ms. Becker did point out that the Flow Data Collection and Comments were the one outstanding item. Mr. Prendergast explained that he had Mr. Urban's operator Ken Sawyer give him all his log data and records which he sent to the DEC. Mr. Prendergast made note of the fact that the DEC acknowledged that it was alright to hook the lots up. He also noted that they advised him that they will be doing a spring check up and gave him a list to give to the operator so that he could make a check list of items that will be mailed in when completed. He will give this to the Board at that time.

Ms. Becker acknowledged receipt of the new map, Mr. Prendergast's letter to the DOH and the DOH response to him and the Planning Board's referral letter to the ZBA listing everything that was received. Ms. Becker also acknowledged the Declaration of Easements and Restrictions located in a previous file for the 2007 original subdivision and questioned whether this carries over to the new subdivision. Attorney Howard advised her that this had been recorded and still applies. Attorney Howard explained that the residents on the road have a right to travel across the existing road and his intent is to get them to relinquish that right and agree to travel on the new road. However, Attorney Howard pointed out that they cannot be forced to relinquish that right. He did make note of the fact that the road will eventually not be maintained and will have to be maintained by them if they want to continue to travel on it. Attorney Howard acknowledged the fact that they were all in agreement with using the new road. Ms. Becker did advise that a revised copy of the Declaration of Easements and Restrictions is needed. Attorney Howard assured her that a copy would be provided but will take a while before it is completed.

A discussion ensued as to whether any of the homeowners would object to the new road. Attorney Dow believed that as long as they have access to their properties it shouldn't be a problem but noted that someone cannot be denied access from the present easement. Attorney Howard did agree that this could be an issue if someone was adamant about it but he pointed out that no one was in objection to this and no problems are expected. Ms. Becker requested a copy of this when completed.

After the SEQR was reviewed on a motion made by Mr. Filipovits and seconded by Mr. Haight the Board voted unanimously to make a Negative Declaration.

The Major Site Plan Check List was reviewed. Mr. Davis questioned whether an existing power line that runs across the property will remain. Mr. Urban explained that the existing line cannot be completely buried but part of the line will go toward the road and another part will go underground to the building. Mr. Davis then questioned whether the embankment will be cut back. Mr. Prendergast acknowledged that plans are to cut back the embankment to have better visibility to the road. Mr. Davis expressed concern that several trees might be removed. Mr. Urban reassured him that the berm being cut back is mostly shale and does not contain plantings. Mr. Davis also questioned whether the one-hundred year old oak tree would be removed. Mr. Urban assured him that the tree would remain. Ms. Becker clarified that there is room on the right of way to work around the tree.

On a motion made by Mr. Haight and seconded by Mr. Filipovits the Board voted unanimously to approve the major subdivision of Copake Lake Golf LLC from a map by Plass, Rockfeller and Nucci revised March 29, 2012 subject to the ZBA decision and submission of the results of the Flow Data study from the DEC. Ms. Becker questioned when the Flow Data study would be completed. Mr. Prendergast believed it could take up to two months or longer. Ms. Becker advised that the maps are not stamped until the conditions are satisfied. Mr. Prendergast will discuss this with the proper authorities to see if he could speed up the process. Mr. Urban presented the Board with the proper fee.

2012 -13 SITE PLAN REVIEW – BOB GOLDEN – Route 27

Project Engineer Nick Demos appeared before the Board along with the project builder Wesley Coon. Mr. Demos explained that Mr. Golden has a large piece of property he wishes to build a storage barn on approximately eighty feet (80') from the property line. Mr. Demos made note of the fact that the barn will not be visible from the road and does not appear to have a lot of impact.

Ms. Becker questioned why Mr. Demos was before the Board as the square footage of the structure is below thirty five hundred (3,500) square feet. Mr. Coon explained that the barn is a three story structure and all 3 floors were considered in the square footage calculation by the Building Inspector. Ms. Becker questioned what the total square footage of the barn was. Mr. Demos clarified that the barn is eighty two feet (82') by thirty six feet (36') and three stories high. Ms. Becker questioned whether any water was being supplied to the barn. Mr. Demos advised her that there is an existing water connection at the garage and at this point there are no plans to have water go into the barn but he is not sure whether an outdoor tap would be installed. Mr. Haight questioned what the average height was. Mr. Demos advised him that the average height would be about thirty five feet (35').

Ms. Becker questioned what the side distance to the property line was. Mr. Demos advised her that the side yard distance was seventy seven feet (77'). Ms. Becker checked what the required set-backs are and discovered that the required set-back is fifty feet (50').

Ms. Becker acknowledged receipt of the application, an introduction letter and check list from Mr. Demos, a survey and the elevations. Ms. Becker advised that there is a fee of \$50.00 required and Mr. Demos submitted payment of \$50.00 cash.

The check list was reviewed. Ms. Becker questioned the water courses. Mr. Demos advised her that there are no flood plains in the area of Chrysler Pond. Ms. Becker expressed concern to the fact that Mr. Coon advised that a bathroom may later be added to the structure. Mr. Davis advised that should this be done, a building permit would be needed and didn't affect a Board decision. It was stated that there was no impact to wetlands as the buffer zone is one hundred feet (100') and Mr. Demos advised that the structure is one thousand feet (1,000') away. Ms. Becker questioned whether any state or county permits were required. Mr. Demos advised her that there were none. Ms. Becker questioned whether a SEQR was required. Mr. Demos did fill one out for the Board. It was decided that a SEQR would be read in the case it was required. A signed copy would be provided along with a letter of agency.

On a motion made by Mr. Davis and seconded by Mr. Filipovits the Board voted unanimously to make a Negative Declaration.

On a motion made by Mr. Davis and seconded by Mr. Filipovits the Board voted unanimously to approve the Site Plan for the Golden Storage Barn from a map by Nick Demos, Hudson River Valley Engineers dated April 20, 2012. Ms. Becker will stamp the map when the outstanding items are received.

2011 -28 SITE PLAN REVIEW – CAMPHILL VILLAGE NEW HOUSE – Camphill Road

Yolanda Jansen appeared before the Board along with Alexandra Sloan. Ms. Becker advised the Board that there is a revision on the previously approved New House application.

Ms. Jansen explained that Camphill Village has many activities within it and the agricultural group had proceeded to clear a new field and build an access driveway to the new field. Ms. Jansen continued to explain that it made more sense to upgrade the agricultural access driveway to become the residential driveway and use it for access to the house. Ms. Jansen informed the Board that the gravel driveway on the map will be improved over and above what it is at this time with more drainage, culverts on the road and the steep section flattened out some. Pull-offs are also being proposed for emergency vehicles and the road will now be paved.

Ms. Jansen also pointed out that part of the property is in the Town of Taghkanic and informed the Board that the contractor met with the Highway Superintendent of Taghkanic who had certain wishes about where the culvert be placed. Ms. Jansen went on to explain that the Town of Copake Highway Superintendent Bill Gregory was not aware of this and graciously accepted ownership of it saying he would have no problem plowing it in the winter. Ms. Jansen noted that there are differences in the Taghkanic side of the road and the Copake side of the road and they are very happy in Mr. Gregory's decision to maintain the road as they were unsure as to how this would work out when proposed.

Ms. Jansen advised the Board that the footprint of the building was also revised as a proposed apartment is being removed and given placed on the inside of the building. Ms. Becker requested New House elevations and was given a copy for her records. Ms. Jansen acknowledged that previous issues which had to do with the DEC were addressed. Ms. Becker clarified that the conditions for approval have been satisfied as she had been advised that the double check valve specifications are on the approval list of the New York State DEC list and is acceptable for use. Ms. Becker also acknowledged that the Flow Data information had been received.

On a motion made by Mr. Filipovits and seconded by Mr. Davis the Board voted unanimously to accept the amended site plan for New House at Camphill Village amended April 20, 2012.

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

Yolanda Jansen informed the Board that there is no actual building being constructed on this application but there is a building being taken down as well as changes to Copake Road that are being made. Ms. Jansen expressed Highway Superintendent Bill Gregory's concerns of who

would be maintaining the road, as well as who would be building what and how the circle would be built so that major vehicles could navigate through the circle.

Ms. Jansen advised the Board that the Bluestone building is being removed along with all of the infrastructure associated with it. Ms. Jansen pointed out that additional parking for the Administrations building will be placed in the area where Bluestone once stood.

It was explained by Ms. Jansen that Mr. Gregory will plow the snow through the Traffic Circle going in one direction at a time turning at the end of the road and then proceed to clear through the Traffic Circle going in the other direction. Inasmuch as the Town Plows are too big to navigate around the circle, this will leave considerable snow in the circle itself which Camphill Village has agreed to clear. Ms. Jansen explained that the purpose of the circle is to slow cars down as there will be people walking the roads. In order for the Town plows to navigate through the circle she noted that it would have to be too large.

Ms. Jansen made note of the fact that a lot of stripping will be introduced which will help people to navigate properly through the circle and the stripping will be maintained by Camphill Village. Ms. Jansen also noted that there will also be quite a bit of signage which will be installed by Camphill Village but maintained by the Town. The curbing pavement will be maintained by Camphill Village as well. Ms. Jansen explained that there are travel paths for major vehicles included in the circle which will be avoided by cars but available to trucks.

Mr. Urban asked if there was enough clearance to the crosswalk and whether there were guidelines from the Department of Transportation. Attorney Dow expressed concern as well. Ms. Jansen assured him that the clearance was sufficient. Ms. Jansen made note of the fact that there will be signs as well as some small bushes or flowers in the circle so that it would appear to vehicles that they need to slow down.

Ms. Becker advised Ms. Jansen that they do not need approval from the Planning Board for a demolition permit and all that is needed is a review of the Traffic Circle. Ms. Becker acknowledged that responses from Mr. Gregory, the Town Engineer and the Fire Chief are needed. Ms. Becker also advised that a Fee in the amount of \$50.00 is due. Ms. Becker asked if the demolition permit would be received soon. She was advised that this would not be done until the New Administration Building is completed as the people presently in the Bluestone house need to be moved there. Ms. Jansen will follow up with the Town Engineer, the Fire Chief and Mr. Gregory.

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

Ms. Becker informed the Board that Lynn Main was supposed to come before the Board for a Site Plan Review and did not. Ms. Becker made note of the fact that he received a Building Permit after the building was built in violation of the Code and was told that he needed to go for a Site Plan Review after the fact. Ms. Becker questioned whether the application should be taken off the agenda.

Mr. Haight questioned what kind of building was built. Ms. Becker advised him that it was a large barn. Mr. Davis felt something should be done as people would continue to do this. Mr.

Haight asked whether a Certificate of Occupancy permit was given and noted that this could be stopped. Ms. Becker was not aware of this being issued and questioned whether this was needed for a barn. Mr. Haight advised her that if there is any kind of electricity in the building a permit would be required. Ms. Becker will pursue this further.

MINUTES

The March minutes could not be approved inasmuch as Mr. Grant and Mr. Savarese were absent and there was not a quorum of members that attended the March meeting. On a motion made by Mr. Filipovits and seconded by Mr. Haight the Board voted unanimously to accept the minutes of the April 5, 2012 meeting.

ADMINISTRATIVE

ISLAND OF COPAKE LAKE SEWERAGE GROUP: Ms. Becker advised that she received a letter from the Homeowner's Association at Copake Lake who requested information from the Building Inspector as to exactly what has been built on the island and how many bedrooms there are. Ms. Becker made note of the fact that Crawford and Associates has been retained by the Island at Copake Lake Homeowners Association to review the capacity of the Island's existing Septic System. Mr. Urban wondered why this wasn't based on the number of lots. Mr. Haight pointed out that this was probably based on three (3) bedrooms per lot. Ms. Becker acknowledged that this was the case. Mr. Filipovits brought up the fact that the Frank residence will have eight (8) bedrooms. Ms. Becker brought up the fact that the Frank residence was staked out exactly at the set-backs. Mr. Davis questioned whether the Building Inspector could investigate this because when he drove by the property the stakes looked closer than the required set-back. Mr. Davis also brought up the Zigler residence and the fact that he believed that more work had been done than was originally filed for and is this work is taking place by the lake. Ms. Becker will look into this.

CARRY OVER

The following matters were carried over to the next meeting:

- 2010-2 SITE PLAN REVIEW CONSULTATION – AMERISTOP – Route 23**
- 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. Urban, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 9:15 p.m.

Marcia Becker, Chair

Please note that all referenced attachments, comprising 3 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

COPAKE LAKE GOLF, LLC

April 23, 2012	Prendergast to DeRuzzio (2)
April 24, 2012	DeRuzzio to Prendergast (1)