



COPAKE PLANNING BOARD

MAY 5, 2011

MINUTES

Approved

June 2, 2011

Please note that all referenced attachments, comprising 5 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 Chris Grant, Gray Davis, George Filipovits, Skip Pilch, and Steve Savarese. Jon Urban was excused. Teri Traver was present to record the minutes in the absence of Lisa DeConti. Tal Rappleyea, Town Attorney was also present.

ZONING BOARD OF APPEALS – Referrals

1. SIDE & REAR VARIANCE – KEN FREED – Lakeview Road [Copake Lake] – (2011-7)

Ms. Becker reviewed the file with the board members, reminding them that they were awaiting a letter from Mr. Freed as promised by Scott Decker to the affect that the addition that he is proposing to build will not be used as an additional bedroom. We had approved the site plan pending receipt of that letter. As of date there is no letter, neither the ZBA, nor the Building Inspector have a copy of this letter.

After review of the ZBA Action Form, Ms Becker informed the Board that the homeowner will increase the septic tank capacity to 1250 gallons. The question remains will there be a fifth bedroom? After reviewing the plans supplied by the ZBA, Ms. Becker said that it was pretty clear that there is no intention to have a fifth bedroom. An executive decision was made, that approval could be granted without the letter of intent from the homeowner, providing the remainder of board members can concur. The remaining Planning Board members agreed with the executive decision.

2. FRONT YARD VARIANCE – DARREN MILLER – County Rt. 7 [West Copake] – (2011-11)

Ms. Becker read the decision of the ZBA. She reminded the board that this request for variance was for a large building/garage/workshop to be placed in the front yard on a small lot. This 1824 square foot building would be placed fifty feet from the road, with windows for ventilation and a doorway connecting workshop and garage for safety.

She continued that this decision led Chris Grant to research the definition of an accessory building which is subordinate to the main or principle building. Mr. Grant reported that an accessory building that is subordinate must be proportionately smaller than the principal use. This was not specified anywhere so is good to know for future. Recapping, the ZBA considered this fact as another variance request within the application. The decision was granted to allow a larger building to be placed in the front yard, but did not allow the building to intrude on the required fifty foot front yard setback.

3. SPECIAL USE PERMIT – VINCENT TRAVER – Anthony Street – (2011-10)

Ms. Becker read the ZBA decision for an accessory dwelling permit. The approval was subject to approval from the Columbia County Board of Health for a working separate septic system with location considerate of neighboring well locations, taken into consideration. Also contingent on NY Fire prevention code adherence, building permit issued contingent to the above listed approvals.

PUBLIC HEARING

2011-11 MINOR SUBDIVISION – WONELL B. & WAYNE N. MILLER – Farm Road

The Millers were not present to continue this public hearing. This hearing will remain open.

SUBDIVISION/SITE PLAN

2010-13 SITE PLAN REVIEW – KATHY GLEESON & ELIZABETH FEENEY – The Presidents – Copake Lake

The ZBA has amended the Original Action Taken Form. The variance was granted for a side yard setback, pending site plan approval, with a contingency that the loft area would remain uninhabitable, cannot be used as a bedroom. It would be for storage only. The HOA septic system at the time was in a state of failure, and the Board didn't know how to proceed with this.

The applicants are currently in Switzerland. Neither they nor their representative could be present for this meeting. The Board received an e-mail from them stating that the application can be finished without them being present. They are waiving the right of representation. Ms. Becker questioned whether the Board could proceed without the applicants present? Attorney Rappleyea checked the Town Codes and informed the Board that it does not say the applicant must be present to discuss this application.

Site Plan approval would be needed before the applicant could proceed. It is currently a three bedroom house and will remain a three bedroom house. The issue was that there was a failing septic system which has still not been resolved. The Transportation Corporation has not yet been

formed. Ms. Becker has checked with Attorney Rappleyea, regarding the current septic system and the language is as follows: *It is legal and appropriate as the DEC is allowing them to continue.*

Regardless if continued pumping is costing additional money, DEC is monitoring the system as of today. However, if DEC decides tomorrow to close it down, the site plan approval is also closed down. Let it be known that the applicant is bearing all risk.

Mr. Savarese made a motion to approve the site plan dated May 7, 2010, signed by Michael Palumbo for the Gleeson/Feeney application on 14 Polk Drive, Copake Lake. The applicant is to bear all risk. This was seconded by Mr. Pilch. This motion carried, unanimously.

2011-4 SITE PLAN REVIEW – CAMPHILL VILLAGE – Camphill Road

Jolanda G Jansen, project engineer and Alex Sloan, a project architect were present and came forward to answer questions of the board.

Maps were displayed to show that a situation exists that complicates the merge of the properties. One parcel will have a tax map number for the Town of Taghkanic and one for the Town of Copake. A tax map technician from Columbia County and Attorney Virginia Bendics, will be needed to proceed as there will be two tax map numbers, but one parcel.

Surveyor Jeff Plass is currently preparing the deed survey for the merger with the obligation of preparing a clear boundary map for Camphill later on.

Attorney Rappleyea asked for proof that taxes were paid on each one of the parcels, Ms. Jansen responded that Camphill is not for profit.

Ms. Jansen continued that it is our intention to treat this merged parcel of the property for the wells and infrastructure, as well as any village improvements in the future. The other lands of Camphill will not be included for the density coverage.

Ms. Becker asked about any endangered species that may or may not be within that parcel. Ms. Jansen responded that the way the DEC identifies possible endangered species is within a radius. If in the middle of the radius suitable habitat is recorded for the species, than a study of the parcel for any of this species is conducted. If there is suitable habitat, what is the appropriate mitigation? She reminded them that just because you have suitable habitat doesn't mean that the species resides within the radius. The research, the site visit and study of habitat assessment are part of the required review. Camphill has a wildlife biologist on retainer to study the identified Indiana bats, a species of turtle, and a bird. If found it is our intention to apply protective rules and to act appropriately. The data is being compiled now and will be submitted after it is compiled.

Mr. Grant asked how the DEC will sign off, or how will it be handled. Ms. Jansen replied that it was their intention to provide the Planning Board with a completed long form for SEQR. Ms. Becker informed them that the Planning Board has the right to have their own specialist review the data.

The DEC is directly involved with the storm water pollution prevention and will need to sign off. This is in the works however one typically does not file this until closer to construction as there is a fee involved. This has been addressed with a letter of intent.

Again, Mr. Grant added that the Board's consulting engineer will need to review this. Copake Planning Board usually use Clark Engineering, New Lebanon. Ms. Becker complimented the applicants on the preparation of a great check list. It has been determined to be a major site plan. The applicant has filled out the short form EAF. The classification is a Type One Action. There will be a physical disturbance of more than ten acres in an agricultural district. It was determined that with the Type One classification the SEQR Long Form would be needed.

The DEC, Columbia County Planning Board, The Army Corps of Engineers and the Copake Planning Board, will be involved agencies. When asked about contacting the NY State Office & Parks, Recreation and Historic Preservation regarding any archeological research, the applicants informed the Board that they had contacted the NYSOPRHP and were informed that this would not be needed here. Ms. Becker asked for documentation on this for their file.

Mr. Savarese made a motion to designate this application as a Type One Action under NY State SEQR. This was seconded by Mr. Filipovits. This motion carried, unanimously.

Mr. Savarese made a motion to designate the Copake Planning Board as the lead agency for this review. This was seconded by Mr. Filipovits. This motion carried, unanimously.

To summarize:

1. The application will be submitted with a Long Form Full EAF.
2. A draft cover letter will be submitted.
3. The applicant will work with the Fire District and appropriate towns of Copake, & Craryville for any interests and involvement.
4. The Town Highway Department is seeking a user right, since they maintain the roads, which has not yet been established. There is an issue to be addressed with the sidewalks and roundabouts.
5. The engineer will review the road ownership and right-of-way issues. The applicant wishes to wait to see what will be asked for before proceeding, as we are not 100% sure what will be required.
6. The total number of parking spaces may be fewer than required by the Code. Since most of the residents walk, the applicant may need to obtain a variance for this.

Army Corps of Engineers has identified some federal wetlands for flagging and surveying . It is the applicant's intention not to disturb these areas even though some exist on the merged parcel along the edges near the stream. The same person who did the habitat assessment flagged the wetlands. These will be indicated on the maps and on the long form once the assessment comes back and hopefully in time for the June meeting.

Ms. Becker reminded her that a site plan map would be required with detail for the review of all the buildings within the Camphill complex and what they are used for, residential or care

facilities, etc. All the facilities within the master plan need to be identified as to the number of bedrooms, how many people for defining the septic system capacity, well capacity, and the parking requirement. These identifications are necessary so that the Board can determine what each will need. Ms. Jansen responded that they are not yet ready for that detail. This will help identify which buildings will need variances.

Agricultural data statement will also be needed. Ms. Becker asks if this has been prepared yet, since there are farms around and Camphill is within an agricultural district. Ms. Jansen has not yet prepared this statement but will do so.

When asked if there could be anything overlooked, Attorney Rappleyea added that the Columbia County Highway Dept will need to be referred to as the entrance of the complex is within 1000 feet of Cty Rt 7. Even though there will likely be no additional traffic impact, they will need to review.

Columbia County Planning referrals will need to be sent but not until almost completed. They should be informed as per the SEQR and EAF, in terms of the environmental impacts. The Board will need their review for the Public Hearing and/or prior to making a decision. An Escrow Account is required with a deposit of \$ 5,000.00. An Escrow Agreement will need to go to Alex Sloan. Ms. Jansen asked if she could send a copy of the package directly to Clark Engineering so that they will have more time to look at it. She added that they would like to aim for the June meeting and will have all paperwork submitted by the ten days as required .

2011-8 CELL TOWER – MARINER’S TOWERS – West Copake

An Escrow and Agreement has been established. Ms. Becker read part of the agreement and questioned its intent. *The Town shall submit an itemized bill to the applicant through their attorney at least five days prior to deduction...*

Attorney Rappleyea responds that this is right, explaining it is an itemizing form for auditing purposes and allows for the applicant to question deductions prior to the withdrawal. Mr. Ciolfi requested that the itemized bill be sent to him.

During the review of logged in submissions for this application, the Board had a few questions on them. Some things have not yet been provided including the visibility maps and site lines. Chris Ciolfi responded that typically this is done with a balloon float which has proven to be the most accurate. It is usually done for a period of three to four hours preferably at sun rise since the winds are calmest at this time of day. It will be mapped out ahead of time, and the team will drive around on all the roads that are mapped and log in whether the balloon was or was not visible and the location. Most of this is based on the vegetation and topography. He questioned whether there were points of interest, like a famous house, or monuments within town that would not show up on a map but would be of specific concern. They would make a special point of visiting the site for visibility.

The public notice requirements are for a seven to fourteen day prior notice. The difficulty with this is it will list more than one day as the tests are weather permitted. Floating balloons is like

flying a kite. Preference is for a weekday but could be on a weekend if necessary. He asked for the publication used for official town business.

Ms. Becker read part of the law and informed the applicant that the Planning Board would be following law for this review:

The purpose of the law is to preserve the character and appearance of the town and to protect the surrounding property values while allowing adequate telecommunications services....within a reasonable time of requests.

Under definitions in the law, *Adequate Coverage* was brought up. Mr. Ciolfi explained that the area was not in compliance with a standard public safety signal. This signal is typically 45 to 50 mgh. The higher the frequency, the shorter the wave or signal length. The more negative the number the better wave or signal strength. It has been determined that in this location a negative 98 would carry a call. During the analysis, the Town/area has pretty much a standard negative 90 dbm, which barely can carry a call. This business is very competitive now, and many companies are trying to compete. They are trying to locate the highest signal strength, since many customers are illuminating their home phones for cellular service. More competitive is text messaging, which requires the stronger signal strength. Presently, in much of the area the signal is weak and will not penetrate a building. Hence, you would need to use the cell phone outside or in a vehicle. He displayed a coverage map showing the area with the signal strength represented in color codes. The map showed a significant area with a negative 98 signal strength.

Mr. Grant led a discussion informing Mr. Ciolfi that the Town would be advised by a town consultant for the Planning Board, since they are not experts in this field. The Board advised Mr. Ciolfi that an RF Engineer has been recommended by Chris Round of Chazen Companies and has a very good recommendation. Mr. Ciolfi asked that prior to contract, he would like to review his background as they may take issue with his expertise. He continued that there are many good consultants, and many that have little or no expertise and requests that Copake use someone with knowledge.

The escrow & agreement have been done. The Town's consultant will be chosen and will need the opportunity to review this application.

The Planning members reviewed the submissions of this application for completeness, along with assessment for compliance. Ms. Becker asked Attorney Rappleyea if the surety and compliance agreements (Sections 230-10 *Monitoring and Evaluation of Compliance*, 230-15 *Insurance and Indemnification*, 230-16 *Abandonment and Discontinuation of Use* and 230-17 *Duty to Remove* of the Town Code) needed to be included before the application can be deemed complete. Attorney Rappleyea responded that this was not necessary.

Two revised drawings were submitted showing distances from abutter properties, fall zones, etc. The plans for the base facility and tower structure were also submitted. The Memorandum of Leases has been submitted (not executed leases). Mr. Ciolfi was questioned regarding this. He replied that the leases are private because of privacy issues not detailed as part of the application. The memorandum does demonstrate to the Board that the leases exist, along with their basic content. Attorney Rappleyea deemed this appropriate.

There will be a need for a ZBA referral, because there will be some variances required. It was asked whether or not to wait or work simultaneously to save time. Mr. Ciolfi was informed that the ZBA application would be a separate application. He questioned whether he would be able to apply now for the variances so that he could continue to proceed with the Planning Board.

He showed the Board members a site plan map showing the parcel as large. There could be a buffer zone of trees and shrubs. He displayed the map showing that the tower would be placed next to a wooded area to take advantage of a natural buffer zone. The tower will be buffered on three and a half sides with trees. This will not allow for the setback of the 1500 feet from the residential area. We could pull it out into the middle of the parcel, but it is our view that this would definitely have a negative impact on the area. All within spirit of the law for setbacks etc., the limits to the height and distance will be issue for the effectiveness of this site.

Mr. Grant stated that it would make sense for timing to hold off on the Public Hearing for the results of the balloon testing if possible. Ms. Becker asked Attorney Rappleyea for advise as to the interpretation of the Town Code 232-23A "*Integration of Procedures*" Can the two public hearings be held concurrently. The decisions are separate, but this would streamline the process. This would allow each Board knowledge of public opinion. Maybe it would make sense to concurrently work with both Boards. Ms. Becker wants to talk to the engineer before this application goes to ZBA referral.

Mr. Ciolfi was asked about a generator for emergencies should there be a power outage. He directed the Board to review sheet C-4 for details of the backup power which would have an automatic start up.

Ms. Becker asked about the physical impact memo; you are proposing to use a parcel of about 14,000 square feet. Mr. Ciolfi responded that the lease area would be about 10,000 sq ft with a 75 x 75 fenced in compound. He directed them to sheet plan T-2. The fall zone is calculated at 375 foot radius, which is required by the Town. Ms. Becker reminded him that the minimum acreage for a tower is ten acres and the lease area only shows 10,000 sq ft. She questioned whether there was a limit as to what can be placed on the remaining nearby acreage within the 10 acre limit. Attorney Rappleyea interrupted by stating that in his experience he has never seen any Town question this. Ms. Becker asked whether an easement of the roadway had been obtained. The answer was yes that there is a right-of-way for access and utilities

Mr. Grant recommended that the Copake Planning Board be the lead agency because there will be other agencies involved. The Agricultural Data Statement has been submitted and determination of a Type One Action under the SEQR was made. The Long Form SEQR was submitted. The most significant impact would be visual. Other agencies would include the Columbia County Planning Board, Ag & Markets, and the ZBA.

Mr. Filipovits makes a motion to make the Copake Planning Board the lead agency for the Mariner Tower application, this was seconded by Mr. Davis. This motion carried, unanimously.

The land owner, Mr. Ezra Link has agreed for the Planning Board members to a site visit with him present. This would consist of three visits 3 persons at a time, 2 during the week and 1 during a weekend. Mr. Ciolfi would be available to review the proposed plan at the site.

It was determined that the application was not yet ready to be accepted as complete, waiting for the visibility analysis and this needs to be done within 35 days of issue, per code 230-9.7.g.

Mr. Ciolfi was asked if it would be considered to shorten the height of the tower. He said no, and for many reasons we would want to utilize the leasing availability. He pointed to the coverage maps which were prepared by AT& T. The tower would be a lattice tower. It is more open and has less visibility and more utility. There is some flexibility with the type of tower, but that could hinder its' usefulness.

Decision from Egremont Town Board was forwarded to the Copake Planning Board, Ms. Becker read this to the members. She makes note that this tower has not been shown on the coverage map. Mr. Ciolfi stated that this is because it is within a different market line. The map on display is just for AT & T towers. The business model is for multiple tenants on a neutral host. This will ease the concern that you will have all these towers popping up everywhere.

2010-21 SPR – RICK AND PAM BROWN – Lot #2, Island Drive [Copake Lake]

This application was not ready at this time.

MINUTES

Ms. Becker asked if there were any changes to the minutes of April 7, 2011. Being none, she asked for a motion to approve.

Mr. Pilch made a motion to approve the minutes of April 7, 2011, this was seconded by Mr. Filipovits. This motion carried, unanimously.

ADMINISTRATIVE

BROWN'S DAM & BRIDGE: A letter was written to the Town Board and Building Inspector by Ms. Becker concerning whether or not Colarusso Sand and Gravel had obtained a building permit for the repairs to the bridge at Brown's Dam. This is a county road and therefore the permits may have been approved on a County level. Ms. Becker reported that she had not heard back yet.

2008-21 BRAUNSTEIN: Ms. Becker reported to board members that she had recently received a copy of a letter issued from DEC, stating that his application was not approved by DEC. The last paragraph pertaining to concerns for the wetland was of particular interest. She reported that there has been no further progress with the article 78.

COMPREHENSIVE PLANNING BOARD: The morning of June 4, 2011 will be the presenting meeting at the Town Hall.

PRESIDENTS ESTATES: The Town Board has not yet approved the transportation corporation. Linda Gabaccia, Town Board Liason reported to the Planning Board that there were still many questions and issues that still needed to be addressed.

ACCESSORY BUILDING DEFINITION: This issue has already been discussed.

ASSESSOR: Ms. Becker reported to board members that she had asked the assessor for the proper procedure to combine lots. He said he will combine lots for tax bill purposes, if the taxpayer submits a request for one tax bill. This is not the same as combining the lots with the County Clerk.

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**

ADJOURNMENT

There being no further business to discuss, Ms. Becker asked for a motion.

Mr. Davis made a motion to adjourn, this was seconded by Mr. Filipovits. This motion carried, unanimously. The meeting was adjourned at 8:45 PM.

Marcia Becker, Chair

Please note that all referenced attachments, comprising 5 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

MARINER TOWER

April 27, 2011 Egremont Planning Board (1)

ROBINSON POND BRIDGE

April 19, 2011 Becker to Building Inspector (1)

MICHAEL B. AND BARBARA BRAUNSTEIN

April 15, 2011 Higgens to Demos (2)

DARREN MILLER

May 2, 2011 Becker/Grant to CPB (1)