

Town of Copake Zoning Board of Appeals

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Meeting Minutes of January 28, 2016

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The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on January 28, 2016, at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

An audience of 13 was present as well as, Jef Nayer ; Town Supervisor, Stanley Gansowski; Town board liaison, and Bob Haight; Planning Board.

1) Roll call:

The meeting was called to order at 7:00 PM by Jon Strom.

Present were, Frank E. Peteroy, Jeffrey Judd and Hilarie Thomas.

Kenneth Dow; Copake Town Attorney

Michael Diperi was excused.

Veronique Fabio: Secretary was present to record the minutes.

2) Reading and approval of the minutes of preceding meeting:

~ Jon Strom asked for a motion to waive the reading of the December 17, 2015 minutes and to approve them.

Jeffrey Judd made the motion and Frank Peteroy seconded, motion carried unanimously.

3) Correspondence:

The following correspondence was reviewed;

From Gray Davis in ref. to Wilmer 2015-17. Holding off on the project at this time.
From Larry proper in ref. to reappointment of Frank Peteroy.
From Brett Merker & Kim Fallon signed representation letter for application 2015-21.
From Paul Freeman rep. for BenMeir will be attending the 01-28 ZBA meeting.
From Michael Diperi, he will not be able to attend today's meeting.

4) New Application:

2016-01 Gary Singh/ Rubin Quick Stop, 1682 County Rt 7A. **Tax Map # 187.1- 1-51 & 187.1-1-52**

Area variance requested for relief of Article V, Section 232-11D. (Parking areas for more than five cars shall be paved). Owner would like to use gravel on the parking lot.

Kevin Thiemann; Attorney, was retained by the owner Gary Singh to represent him.

Mr. Thiemann presented the project accompanied with Jo Malhiero the project manager.

~ Thiemann indicated that under Copake regulations parking lots for more than five cars should be concrete or covered with black top. Taking in consideration the Planning Board recommendation and the water drainage issue the applicant requests that the parking lot be covered with gravel instead.

~ Jon Strom read the Planning Board recommendation.

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At the August 6, 2015 Planning Board meeting the members approved the application of Gary Singh/Rubin Quickstop subject to a variance from the ZBA for Section 232-11D.

After thorough review and two public hearings the Board unanimously recommended that the Rubinquick Stop Tavern application project be granted relief from Section 232-11 D to install a gravel parking lot instead of a paved lot as this would mitigate storm water drainage more efficiently.

~ Malhiero explained that the water run-off has to be directed away from the road and at the same time away from the building. Consideration has to be given as well for the adjacent properties.

~ Frank Peteroy asked the applicant if he had a cross section plan of the materials intended for the lot.

~ Malhiero responded that item 4 as a base and 3/8 crush stone on top was planned.

~ Jon Strom asked about the parking spots to the front and the side, will they be covered with blacktop? He pointed out a leach field next to the Sunoco gas station. 23 feet from the municipal parking area.

~ Hilarie Thomas questioned how the gravel will be held in place in the winter when the lot is plowed.

~ Malhiero explained that the gravel will be held by the edge of the blacktop area on the road side.

It was suggested that the applicant seeks advice with William Gregory from the Copake Highway Department.

The application will be forwarded to the Copake Highway Department as well as to the County Planning.

Asphalt should be used on the front of the building parking area and on the side towards the gas station as well.

~ Frank Peteroy asked about the number of dedicated handicapped parking spaces. 10% of the total number of parking spots should be labeled as handicapped parking spaces.

~ Bob Haight from the Planning Board indicated that the parking spaces in the front by the clock tower were not allowed by the county.

Applicant will make the changes to the plan for the public hearing.

The Planning Board is the lead agency and they will review the SEQRA forms.

~ Jon Strom asked for a motion to accept the application for a public hearing, February 25, 2016, Hilarie Thomas made the motion, Frank seconded, all in favor.

5) Public Hearing:

1) 2015-20, 1094 Lake View Rd Taconic Shores.Karnig/ Kaprelian Tax map # 176.1-3-21. Relief from 232-8D (4).

Construction of a garage in front yard.

~ Jon Strom asked for a motion to open the public hearing, Jeffrey Judd made the motion, Hilarie Thomas seconded, all in favor.

~ Sam Spragis, the builder presented a letter from the owner explaining his reasons for wanting the garage in the front yard. That particular location shortens the length of the driveway as well as allow the 2 side yards to be seeded with wild flowers and keep a pastoral look. It also intrudes less on the views towards the water. It appears that quite a few houses in the area have a garage in the front. Someone in the audience wanted to share his opinion on the project.

~ Gary Menchen an abutter stated that the house used to be an eye sore and the new owners are doing a terrific job renovating the property, and he has no objection to the proposed location for the garage.

~ Jon Strom read the Planning Board recommendations.

“There is an empty lot on either side of the applicant’s house.

- Are the side lots being used as set-backs and if so this should be considered as a condition should the lots ever be sold.
- As an accessory structure in the front yard the ZBA should be encouraged to look at possible alternative locations as the applicant has other options for placement of the garage with empty lots on either side.
- A front-yard set-back variance of twenty-five feet (25’) might also be required.
- Coverage could be an issue if the lots have not been merged. “

~ Jon Strom noted that if the lots were separate the variance necessary for the garage would be different.

It appears that on the tax form the 3 lots are combined.

The distance from the projected garage to the front property line is 25’ as required by Taconic Shores therefor no variance is needed there.

~ Frank Peteroy questioned the need for a garage in the front and offered other possible options.

~ Sam Spragis indicated that the front location made it more convenient for snow removal as well. The garage planed is a 2 car single story.

~ Jon Strom agreed that the front location could be advantageous for keeping the open feeling to the sides.

~ Hilarie Thomas noted that the ground is more level in the front than on either sides of the property making the location chosen for the garage more adequate. There were no more questions from the members or from the audience therefor;

~ Jon Strom asked for a motion to close the public hearing, Jeffrey Judd made the motion, Hilarie Thomas seconded, all in favor.

~ Jon Strom indicated that the ZBA had 62 days before rendering a decision, but he believed that the members will be able to make a decision tonight.

Jon Strom proceeded to read the 267-b Permitted action by board of appeals.

a. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.

b. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall consider:

1; Whether an undesirable change will be produced in the character of the Neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Answer: NO

2; Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance;

Answer: YES

3; Whether the requested area variance is substantial;

Answer: YES

4; Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

Answer: NO

5; Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

Answer: YES

c. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Tonight the ZBA is voting on an area variance for: Relief from from 232-8D (4), 2 cars garage located in the front yard.

Roll call vote: Frank Peteroy;YES Jon Strom;YES Hilarie Thomas;YES

Jeffrey Judd; “YES based on the belief that the 3 lots are combined.”

Variance granted

2) 2015-19, John & Julia murphy, 384 lake View Rd. Taconic Shores.

Tax Map # 176.1-2-51. Addition of two decks 10x10 & 12x10, front yard area variance of 3' requested.

~ Jon Strom asked for a motion to open the public hearing, Jeffrey Judd made the motion, Hilarie Thomas seconded, all in favor.

Eric Pilch represents the owners, a letter will be provided allowing him to do so.

~ Jon Strom asked if anyone in the audience had comments.

There were no comments from abutters.

Jon Strom read the Planning Board recommendation;

“At the January 7, 2016 Planning Board meeting the members reviewed the application of John Murphy. The Board had no concerns with this application however Ms. Becker suggested that the lot coverage be considered.”

Jeffrey Judd asked if there was a foundation on the decks.

The decks are just resting on the ground.

The child pool has been removed.

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Answer: NO

2; Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance;

Answer: YES

3; Whether the requested area variance is substantial;

Answer: NO

4; Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

Answer: NO

5; Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

Answer: YES

c. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Tonight the ZBA is voting on an area variances for: Addition of 2 decks; 10'x10' & 10'x12'. A front yard area variance of 3' is needed.

Roll call vote: Frank Peteroy;YES Jon Strom;YES Hilarie Thomas;YES

Jeffrey Judd; "YES

Variance granted contingent to a letter authorizing Mr. Eric Pilch to represent John & Julia Murphy.

3) 2015-21, Fallon/ Merker, 2628 County Rt.7 Tax Map # 186.2-1-200

Area variance for fence in the front yard higher than 4' in an R district.

~ Jon Strom asked for a motion to open the public hearing, Jeffrey Judd made the motion, Hilarie Thomas seconded, all in favor.

~ Linday LeBrecht represents the owners of this property, she presented new photos, a new survey and a letter from the neighbor where the Fallon's fence encroaches stating that they will remove the fence as soon as the ground thaws.

~ Jeff Nayer's property abuts the Fallons. He noted that he was aware of the need for the Fallons to have a fence in the front yard to safely contain a large dog and 3 young children.

The fence is scalloped, 5.5 feet at the posts and pickets ranging from 54" to 60". Planning Board has no objection to this project.

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1; Whether an undesirable change will be produced in the character of the Neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Answer: NO

2; Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance;

Answer: NO

3; Whether the requested area variance is substantial;

Answer: YES

4; Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

Answer: NO

5; Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

Answer: YES

c. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Tonight the ZBA is voting on an area variances for: Relief from Article V, section 232-9 (F). Fences in front of properties should not exceed 4 feet in height.

Roll call vote: Frank Peteroy; YES Jon Strom; YES Hilarie Thomas; YES

Jeffrey Judd; YES

Variance is granted contingent to the removal of section of fence that encroaches onto the Hugh & Sharon Davis property.

4) 2015-18, Winiker/Leistner 47 Birch Rd (Taconic Shores)

Tax map 176.1-5-11

Relief from 232-24B (2) (a) [2]. (*Modification and replacement of a nonconforming structure*).

As well as a rear area variance of 51'7" and a side yard area variance of 22'.

~ Jon Strom asked for a motion to open the public hearing, Hilarie Thomas made the motion, Jeffrey Judd seconded, all in favor.

~ Linda Chernewsky represents the owners. The project consist of a one story addition, deck, screen porch and relocation of the driveway. New location of driveway would make access easier. The bedroom count (3) is under the capacity of the septic system (4). The fourth bedroom will be used as a home office.

~ Jon Strom read the Planning Board recommendation;

"The Board questioned what the lot coverage would be if the driveway was to be asphalt. They approved the Site Plan subject to the variance approvals."

Linda indicated that the driveway will be gravel, there is no budget for asphalt. Bedroom count will not be increased.

All the abutters were notified. There is no comment from anyone on the project.

~ Jon Strom asked for a motion to close the public hearing, Jeffrey Judd made the motion, Hilarie Thomas seconded, all in favor.

~ Jon Strom indicated that the ZBA had 62 days before rendering a decision, but he believed that the members will be able to make a decision tonight.

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1; Whether an undesirable change will be produced in the character of the Neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Answer: NO

2; Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance;

Answer: YES

3; Whether the requested area variance is substantial;

Answer: YES

4; Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

Answer: NO

5; Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

Answer: YES

c. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Tonight the ZBA is voting on an area variances for:

Section 232-24 B (2) (a) [2]

Area variance for rear yard of 51.7'.

Area variance for right side yard of 22'.

Roll call vote: Frank Peteroy; YES Jon Strom; YES Hilarie Thomas; YES

Jeffrey Judd; YES

Variance is granted contingent to the mention on the plans that the driveway will be gravel.

A discussion went on regarding the changes for application Keifer/Freshman 2014-14.

~ Ken Dow noted that if the application is just re-opened a unanimous consent of the board will be necessary. If it is a new application there are more chances that the new variance be granted.

Jeffrey Judd voted against the project in 2014, therefore it would be wise to file a new application.

Linda Chernewsky has a letter from the side property owner that will be impacted by the “rotation” of the house as well as new plans. The reason for the change is that the construction crew has no easy access to the property now.

The lot coverage will remain the same, nothing else is moved, a 2’ set back is necessary.

It was recommended that a new application be filed for a public hearing in March.

6) Closed Public Hearing:

2015-01, 02, 03, 04 .Allon Ben Meir, Upper Rhoda Pond.

Mr. Paul Freeman was present.

~ Jon Strom asked for a motion to open the closed public hearing, Jeffrey Judd made the motion, Hilarie Thomas seconded, all in favor.

~ Jon Strom noted that the members had received the Environmental Impact Statements for each of the 4 properties.

~ Ken Dow explained that what was submitted to the board are drafts EISs. The ZBA members have to evaluate the adequacy of the drafts for the public review. The board has 45 days to make their determination.

There are standards to determine whether to accept the draft EIS as adequate with respect to its scope and content for the purpose of commencing public review. EIS must be clearly and concisely written in plain language that can be read and understood by the public.

EIS should not contain more detail than is appropriate considering the nature and magnitude of the proposed action and the significance of its potential impacts.

All draft and final EISs must be preceded by a cover sheet stating a concise description of the proposed action, its purpose, public need and benefits, including social and economic considerations.

A concise description of the environmental setting of the areas to be affected, sufficient to understand the impacts of the proposed action and alternatives.

When the lead agency has completed a draft EIS or when it has determined that a draft EIS prepared by a project sponsor is adequate for public review, the lead agency will determine whether or not to conduct a public hearing concerning the

action.

In determining whether or not to hold a SEQR hearing, the lead agency will consider: the degree of interest in the action shown by the public or involved agencies; whether substantive or significant adverse environmental impacts have been identified. The adequacy of the mitigation measures and alternatives proposed and the extent to which a public hearing can aid the agency decision-making processes by providing a forum for, or an efficient mechanism for the collection of public comment.

~ Jon Strom had comments to make on the drafts as follow;

The term “Boarding House” is used in the drafts, however in the Copake code the “Tourist House “is the only type of accommodation that allows transient occupation. It also limits the number of occupants to 10 per houses.

Mr. Freeman read the code under the definition for boarding house;

“A building, other than a hotel, containing a general kitchen and a general dining room, in which at least three but not more than six sleeping rooms are offered for rent, with or without meals. A lodging house, tourist house or rooming house shall be deemed a boardinghouse.”

Jon also mentioned a discrepancy with the mention for a time table for renting the properties; will it be all year round use or primarily during the summer.

~ Ken Dow going back to the term “boarding House” noted that it is categorized as a residential use and residential use is categorize as specifically non transient. A boarding house or a tourist home is capped at 10 occupants.

~ Jon Strom went on to the mention in the drafts that this is not a commercial enterprise and the reasons for renting the properties are to pay for the taxes until the children take over. Can a time frame be given to the public as when to expect the homes will no longer be rented.

There is also a reference to the fact that if the homes were rented on a yearly bases instead, the income generated would not be sufficient to carry the expenses.

~ Jeffrey Judd clarified the fact that the special permits if granted would run with the lands.

~ Ken Dow indicated that at the next meeting the board should give its determination with a public review planned for March if all goes well.

~ Jon also questioned the inclusion of Camp Pontiac and KOA in the EIS. That is the first time that these two establishments were mentioned during the application process.

~ Hilarie Thomas noted that the lake is used by Camp Pontiac only a couple of weeks every summer.

~ Mr. Freeman pointed out that there were mentions of KOA and Pontiac related to traffic being altered as well as noise and the fact that the neighbors did no talk about it does not mean there is no issue there. In the opinion of the applicant they are part of the community as much as the next door neighbors.

Once the EISs are evaluated by the ZBA they will be posted on the town website.

~ Jeffery Judd noted that his firm has a business relationship with Paul Freeman's firm however there are no conflicts of interests perceived at this time.

Internal business:

It was noted that there is an ad on the town website for the position for an alternate ZBA member still available.

~ Jon Strom asked for a motion to adjourned, Frank Peteroy made the motion, Hilarie Thomas seconded.

The meeting was adjourned at 8:45.

Next meeting February 25, 2016

Respectfully submitted.

Veronique Fabio, Recording Secretary.

