

Town of Copake Zoning Board of Appeals

~

Meeting Minutes of February 23, 2017

~

The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on February 23, 2017, at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

1) Roll call:

The meeting was called to order at 7:00 PM by Jon Strom, ZBA Chairman. Present were; Frank E. Peteroy, Jeffrey Judd, Thomas Goldsworthy, Michael Diperi, Mark Miller and Town Attorney, Kenneth Dow. Secretary Veronique Fabio was present to record the minutes. An audience of about 10 was also present.

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

Frank Peteroy asked to postpone the approval of the December 1, 2016, and the January 26, 2017 minutes.

3) Correspondence:

The following correspondence was acknowledged by Jon Strom.

2-15-17 Reviews from Planning Board on Spiezia, Fitzgerald, Camp Pontiac, Skyrn and Walsh & Barbato.

2-22-17 From CCPB in ref. to Brousseau

2-22-17 From Lee Heim Building inspector in ref. To Camp Pontiac.

4) New Applications:

2017-06 Judith Kunoff, 78 Cat Track, Tax map 186.-1-78

Relief from 232-15 G “travel trailers are permitted only in trailer parks.”
Installation of a “Tiny House” on a 2.16 acre lot.

~ Judith Kunoff came to the table and presented her project.

She recently purchase a 2.157 acre lot on Cat-Track Rd. across from Chrysler Pond and would like to set a 400 square foot “Tiny House “on her land.

Judith explained the minimal environmental impact of such type of dwelling. Her presentation included the minimal water demand, small waste impact and the curb appeal of the proposed Tiny Home.

~ ZBA members had a number of questions concerning the need for a foundation, and the need for a BOH and DEC approved septic system.

~ Jon Strom noted that the zoning code; 232-15 G, specifically prohibits house trailers or mobile homes in all districts other than mobile home parks. A use Variance would be necessary and it is impossible to obtain in this case as the hardship is self-created.

~ Frank suggested a foundation and abiding with local building code for single family residence.

~ Judith Kunoff repeated that the idea is a non-permanent fixture with minimal environmental impact. She asked if there could be an amendment to the code as this type of housing is becoming more popular.

~ Ken Dow noted that now the code does not make a distinction between “Tiny Houses” and RVs. Even with modifications, like removing the wheels for example, the dwelling will be subject to all building codes including foundation and a DEC approved septic system.

It was suggested that the applicant re-examine their plans for a residence on their property.

2017-07 Raymond Sassoon, 645 Breezy Hill Rd. Tax Map 157.-1-95

Garage located in front of property.

The applicant for this application was not present.

4. Closed Public Hearing:

2016-11, Corey Brousseau, 8010 Route 22, Tax map # 176.-1-32

Requesting Special Use Permit for former “Heads Service Station” to operate a service business (welding shop). The ZBA is waiting for CCPB recommendation before final approval.

Corey Brousseau was present.

~ Ken Dow explained that in December 2016 the ZBA voted on the special use permit in error. The Columbia County planning Board had to make a determination before the ZBA could vote. The CCPB after reviewing the application stated that it had no issues with the proposed welding shop at the location.

~ Jeffrey Judd made a motion to grant a Special Use permit to operate a service business at 8010 Route 22, Tax map # 176.-1-32, Mickael Diperi seconded the motion, all the other board members were in favor.

5) Public Hearing:

1) 2017-01 Camp Pontiac, 2044 County Rte. 7 Tax Map #186.-2-38-100

Area Variance requested for relief from 232-9P for construction and replacement of an onsite waste water disposal system in compliance with DEC within 150 feet of a body of water.

Frank Peteroy recused himself.

~ Jon Strom asked for a motion to open the public hearing, Michael Diperi made the motion, Jeffrey Judd seconded, all agreed.

Andrew Aubin from Crawford & Associates Engineering represents the owner of Camp Pontiac. Andrew presented the diagram and details of the system that the ZBA had requested at the last meeting as well as a letter dated Feb 23, 2017 from the DEC in reference to the conceptual approval of the system design.

~ Jon Strom asked about the cost of the overall project and if any buildings over 3500 square feet will be constructed.

~ Andrew responded that no buildings will be constructed.

~ Jon Strom read the letter dated Feb.23, 2017 from Lee Heim from Copake Building department in reference to a site plan review by the Planning Board. Lee Heim did not consider the construction of a new septic system a “building” therefore a site plan review in his opinion is not required.

~ Jon indicated that he agreed with Lee Heim and stated that in his opinion the Camp Pontiac application did not qualify for a site plan review by the Planning Board.

~ Jeffrey Judd concurred and commented that utilities were added to the existing buildings.

ZBA members agreed with that opinion.

~ Andrew read the letter from the DEC.

~ Andy Aubin clarified the sentence in the DEC letter relating to “the future expansion of the camp”. There are no plans to build any structure but an increase of the number of campers is being considered.

Andy went through the details of the system;

Some septic tanks will be located within 150 feet of the lake, waste will go to multiple pump stations, next to three Orenco ax-Max treatment systems, followed by dosing chambers and finally to three different absorption fields.

A SPDES permit is required for the new system due to the design flow estimated at 35,000 gallons per day discharge when campers are on site. Construction already started under BOH supervision as owners are hoping to be ready for this coming summer opening.

~ Following a question by Thomas Goldsworthy on the duration of the project, Andy Aubin responded that construction will take approximately another 60 days.

~ Jon Strom asked about maintenance of the Orenco system.

~ Bob Haight asked if there will be audio or visual alarms in case of a system malfunction?

~ Andy Aubin indicated that there will be a licensed operator that will oversee the systems maintenance.

~ Jon Strom noted that the DEC will continue to monitor and inspect the construction until the final SPDES permit is issued. Jon also asked if there were any public comments. Two abutters to Camp Pontiac were in the audience and they pointed out that they welcomed the improvement to the septic system.

~ Jeffrey Judd made a motion to close the public hearing, Mickael Diperi 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.

He 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: 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

Tonight the Zoning Board of Appeals will be voting on an Area Variance to relieve the applicant from 232-9,P(1) work on septic system within 100 feet of a body of water.

Roll call vote: Jeffrey Judd: YES Jon Strom: YES Michael Diperi: YES

Thomas Goldsworthy: YES

Variance is granted contingent to final DEC permits.

2) 2017-02 Walsh & Barbato, 7 Memory lane.

Tax Map # 165.10-01-16 & 17.1 & 17.2

Area Variance to enclose an existing porch. Relief from 232-24B (a) [5] modification on a non-conforming structure.

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

Jon Strom read the comments from the Planning Board on this application.

“They concluded that the size, description and location of the Septic System need to be added to the map, the percentage of lot coverage, the access point of the property, any lighting plans, the names of Ryan Walsh and John Barbato be added to the subdivision map and Site Plan and the Title of the Drawing and name of the person responsible for the drawing be added.”

~ Ryan Walsh the owner of the house was present. He noted that he attended the planning Board meeting and all their requirements stated above were completed. He indicated that the distance between the well and the 1000 gallons concrete septic tank was 56Feet. Ryan handed out a floor plan of the existing house and also the proposed final floor plan.

The variance requested is relief from 232-24 B (2) (a) [2] & [5], modification of a non-conforming structure and a front yard area variance of 35feet.

~ Frank Peteroy suggested that the owners have the well water tested because of the proximity of the septic tank.

There was no comment from the public.

~ Jon Strom asked for a motion to close the public hearing, Mickael Diperi made the motion, Frank Peteroy 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.

He 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: NO

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

The board is going to vote tonight on the variance mentioned above.

Roll call vote: FrankPeteroy: YES JeffreyJudd: YES JonStrom: YES

Michael Diperi: YES Thomas Goldsworthy: YES

Variance is granted.

3) 2017-03 Spiezia, 10 Washington Dr. Tax Map # 165.15-1-41

Area variance for new screen porch, deck & mudroom. Update septic tank to 1000gallons. Requesting relief from 232-24 B (2) a [2] & [5].
Set back variances for front, rear and right side also needed.

~ Jon Strom asked for a motion to open the public hearing, Mickael Diperi made the motion, Thomas Goldsworthy seconded, all agreed.

Jon Strom read the comments from the Planning Board on this application.

“The Planning Board conducted a Site Plan Review and approved this application subject to ZBA approval of the requested variances.”

~ Linda Chernewsky represents the owners. She noted that she was in contact with Mike Derizzio about the new septic system that will be installed.

~ Neighbors, Sheila and Dean Taw had some questions about the project time frame and if any trees will be cut down.

~ Linda responded that no trees will be touched and she was not certain of when construction will be over. She indicated that a new concrete septic tank and leach field will be put in and the number of bedrooms will remain the same.

~ *Jon Strom asked for a motion to close the public hearing, Thomas Goldsworthy made the motion, Jeffrey Judd 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.*

He 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: 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

The board is going to vote tonight on the variances requested;

Relief from modification of a non-conforming structure,

Front yard variance of 15'7"

Rear yard variance of 43'04"

Right side yard variance of 12'24"

Roll call vote: FrankPeteroy: YES JeffreyJudd: YES JonStrom: YES

Michael Diperi: YES Thomas Goldsworthy: YES

Variances are granted.

4) 2017-04 Fitzgerald, 69 South West Colony Rd. Tax Map # 165.14-2-33

Area Variance for foundation improvement, new roof and deck on a non-conforming lot as well as front, left and right side yard variances.

~ Jon Strom asked for a motion to open the public hearing, Mickael Diperi made the motion, Thomas Goldsworthy seconded, all agreed.

~ Linda Chernewsky represents the owners.

Jon Strom read the comments from the Planning Board on this application.

” The Planning Board conducted a Site Plan Review and approved this application subject to ZBA approval of the requested variances.”

~ Jon Strom noted that the deck size was reduced by 2feet and that the distance from the deck to the road is now 9'3".

~ Linda noted that the foot print of the house has not been altered however with the new deck and steps a lot coverage variance of 8.02% is requested.

~ Marcy Drozdowicz an abutter, commented that since the parking area of the Fitzgerald home has been elevated, she now gets water run-off and her cottage gets flooded. She suggested that some type of drainage should be done prior to the new construction plans.

~ Jeffrey Judd stated that he owns a home and a lot on South West Colony Rd. He also indicated that the road is not maintained by the town.

~ Jon Strom asked for a motion to close the public hearing, Mickael Diperi made the motion, Jeffrey Judd 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.

He 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: 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

The board is going to vote tonight on the variances requested;

Relief from modification of a non-conforming structure,

Lot coverage variance of 8.02%

Front yard variance of 20'9"

Left yard variance of 3'10"

Right side yard variance of 5'8"

Roll call vote: FrankPeteroy:YES JeffreyJudd:NO JonStrom:YES

Michael Diperi:YES Thomas Goldsworthy:NO

Variance granted 3 to 2.

5)2017-05 Skyrms, 30 Deerfield Circle Tax Map# 186.-3-13

Ara Variance for construction of a pool within 100' of a wetland.

~ Jon Strom asked for a motion to open the public hearing, Jeffrey Judd made the motion, Frank Peteroy seconded, all agreed.

Jon Strom read the planning Board comments on this application.

"The Planning Board reviewed this application and has no concerns at this time."

~ Brian Buchholtz from PondWorks represents the owners Mr. and Mrs. Skyrms. They want to have a naturally filtered swimming pool with new fencing, gates equipment and associated grading.

Brian provided the distance from the pool to the house (30') and to the porch (23') that the ZBA had requested.

~ Barbara Poska a neighbor, had questions on the impact to the wetland. She also made comments about the existence of regulations in place to limit activity in a protected zone.

~ Brian Buchholtz explained the reason for the location choice. With the revised delineation from DEC the only option for a pool would be in front of the house which will also need a variance and would be very visible from the road, offering no privacy to the users. He went on and described the chemical free type of contained system. He emphasized the absence of impact on the wetland. A split rail fence with wire mesh type of fence is planned. Construction should start in spring and last approximately 6 weeks.

~ Frank Peteroy asked details about the construction equipment that will travel across the property yard and the type of liner that will be used, the flow rate and the excavated soil removal from the site.

~ Brian Buchholtz responded that silt fences and erosion control devices will be in place and the lawn will be restored after construction. Brian Buchholtz said that DEC is aware of the fact that the soil will be removed from the site.

There were no other questions from the members or the audience therefor,

Jon Strom asked for a motion to close the public hearing, Mickael Diperi made the motion, Jeffrey Judd 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.

He 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: NO

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

The board is going to vote tonight on the variance requested;

Relief from 232-9 P, Development within 100feet of a wetland.

Roll call vote: FrankPeteroy: YES JeffreyJudd: YES JonStrom: YES

Michael Diperi: YES Thomas Goldsworthy: YES

Variance is granted.

On a motion by Jon Strom, seconded by Jeffrey Judd and agreed upon by all members, the meeting was adjourned at 9:20

Respectfully submitted.
Veronique Fabio.