

Town of Copake Zoning Board of Appeals

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Meeting Minutes of March 24, 2016

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The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on March 24, 2016, at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

An audience of 6 was present as well as, Stanley Gansowski; Town Board liaison.

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:

The approval of the January and February minutes is postponed to the next ZBA meeting.

3) Correspondence:

The following correspondence was reviewed;

03-1 From Linda Chernewsky in ref. to Leistner/Winiker

03-9 From Planning Board: Review for Kiefer/Freshman

03-14 Building department referral for Stella Anastasia .

03-16 Emails between Marc Gross and Ken Dow in Ref to Ben Meir EISs.

03-16 From Guy Winig changes in Konsker project.

03-19 From Ken Dow will be on vacation March 17 to March 23.

- 03-21 From Ron Flaum in ref. to Ellen Wilmer application.
- 03-21 From Stella Anastasia.
- 03-22 From Marc Gross ref. to Ben Meir.
- 03-22 From Hilarie Thomas ref. to swimming pools.
- 03-23 From Guy Winig new plan for Konsker.

~ Jon Strom read Mr. Winig's letter. ZBA members discussed the issue presented in the letter. The size of the patio will be reduced and the overall design simplified.

~ Jeffrey Judd after looking at the new plan indicated that he had voted positively on the project previously, however in the new design the retaining wall will be higher and closer to the lake and that may be an issue for him.

~ *Following this comment Jon Strom asked for a motion to reopen the hearing on the Konsker application, Frank Peteroy made the motion, Jeffrey Judd seconded, all in favor.*

~ Jon mentioned the Building Department referral for Stella Anastasia, she would like to open a bakery in town. An application has not been filed with the ZBA yet.

4) Closed Public Hearing:

2015-18 Leistner/Winiker located at 47 Birch Rd.

~ Jon Strom summarized the reason why the application was back on the agenda; Variances were granted for the renovation of the house including a stipulation that the driveway had to remain unpaved.

~ Linda Chernewsky represents the owners she indicated that at the time of the first application there was no budget for an asphalt driveway. However the property owner would like to have the option in the future to finish the driveway with asphalt. She spoke to the Highway superintendent, the Taconic Shores chairperson as well as Joe Simone.

~ Ken Dow noted that in the Planning Board minutes there was a reference to the lot coverage if the driveway was to be paved.

~ Linda indicated that, the lot is 0.305 Acres, the existing lot coverage is 8.49, the proposed plan will cover 11.75% without the new driveway design, and it is well below the 25% maximum required. The existing driveway will be covered with grass, the new driveway coverage will have to be included. She said that the driveway was engineered to prevent rain water runoff, a swell on the edge of the property will capture and prevent water from going down onto Birch Rd. No trees will be removed. The grade is 13% Copake requires 10%.

~ Frank Peteroy noted that there are no measurements or drawing for the new driveway and a variance will be necessary for the 3% difference in grade.

~ Linda cited Copake Zoning code 232-9 (2).

“The maximum grade for any new driveway accessory to a single-family dwelling and connecting its off-street parking area to a road shall not exceed 10% between the street and the front setback line, except where it can be demonstrated to the satisfaction of the reviewing board or official that, because of practical difficulty or unreasonable hardship affecting a particular property, the construction of such a driveway is infeasible. In such a circumstance, a steeper grade may be approved, provided that the increase in driveway grade is the minimum increase necessary to provide access.”

~ Frank stated that the same entrance will be used but it will be a new driveway.

~ Linda indicated that the owners would like to be able to start work on the property and this driveway issue is holding up the whole project.

Frank Peteroy cited 232-9 Q (4).

“Notwithstanding the maximum permitted grades specified above, no driveway shall have a platform grade in excess of 3% within 30 feet of the edge of the pavement or travel way or within 25 feet of the property line of the road, whichever is greater. The Planning Board may require a greater distance in situations where, because of the nature of the proposed use, substantial traffic volumes and/or truck usage are anticipated”.

He wants to see all the calculations on the plan for the new driveway.

~ Linda agreed to provide that information.

~ Jon Strom suggested that a vote could be taken to reopen the hearing.

Hilarie Thomas made the motion to reopen the public hearing, Frank Peteroy seconded.

Members voted yes unanimously.

A letter will be sent to Taconic Shores Owners ‘Association informing them that the variances applied for previously were granted however the ZBA is still working on the driveway design.

5) Public Hearing:

1) 2016-02 Keifer/Freshman, Southwest Colony Rd Tax Map 165.14-2-7 & 165.14-2-8

~ Hilarie Thomas made the motion to open the public hearing, Jeffrey Judd seconded, all in favor.

~ Jon Strom read the Planning Board recommendation.

“The Board reviewed the previously approved application and have no issue with the pivoting of the structure as long as the original site plan remains as approved. They went on to approve the present application subject to ZBA approval.”

He also mentioned the letter from Christine Markowski expressing her opposition to the application.

~ Linda Chernewsky represents the owners she explained with the excavator present that the whole project has to be pivoted in order to allow excavation work on the lot, an electric pole is in the way as well as a neighbor’s stored decks on the property line. Linda mentioned that the abutter that will be affected by the move has no objections. The existing house has already been taken down.

~ Frank Peteroy noted that the house was lower by one foot than on the 2014 plan.

~ Jon Strom asked if anyone in the audience had comments, being none;

~ Jon Strom asked for a motion to close the public hearing, Hilarie Thomas 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.

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: 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

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 board is voting on the following variances;

A Front Yard Area Variance of 17.6’

A Rear Yard Area Variance of 37.6’

Left Side Yard Variance of 2.4’

Roll call vote: Frank Peteroy;YES Jon Strom;YES Jeffrey Judd; YES

Hilarie Thomas;YES

Variance granted

2) 2015-17 Wilmer, 121 Golf Course Rd.

Tax map 165.05-01-05

~ Hilarie Thomas made the motion to open the public hearing, Jeffrey Judd seconded, all in favor.

~ Jon Strom mentioned Mr. Flawn’s letter;

“The property is an undersized lot. Already the structure of the house overwhelms the property. The height of house towers above the surrounding houses, which are also in close proximity. The addition of a pool would likely further add to the perception that too much is crowded into a small lot.”

~ Gray Davis represents the owners Ellen Wimer, he explained that Ellen Wilmer wants to build a 10’x 36’x 5’ deep salt water lap pool. The pool will be flush with the deck. The side facing the lake will be finished with blue stone. The fences on

the side of the property will be 5', the front wood fence and gate on either side of the house will be repaired and 5' in eight. A wire fence enclosure will be installed as well. A whole new landscape plan is proposed, new trees and shrubs will be planted.

The pool will be located 44' 11 ³/₄ from the edge of the lake,
24' 2 ⁵/₈ from the Flaum side property line and
39' 6" on the other side.

~ Jon Strom noted that the residential code from NYS on pools did not have that many recommendations besides the height of the edges to prevent a child from climbing in.

~ Hilarie Thomas express concerns with access to the pool from inside the house.

~ Gray Davis indicated that there will be a self-closing cover and the doors to the deck will be alarmed.

~ Jon asked what happens with a salt water pool when it has to be drained.

~ Gray Davis explained the salt content for a pool is much less than sea water and much safer than chlorine. The water would have to be pumped out, a maintenance agreement could be set up.

~ Frank Peteroy mentioned that he researched the DEC permit issue that was discussed at the previous meeting and he is challenging the prior building code enforcer observation on the subject.

~ Mr. Flaum's property abuts Ellen Wilmer's. He commented to his objection to the project for diverse reasons; environmental, safety, as well as aesthetic concerns.

~ Barbara and Fred Bunger, residents on the lake, also expressed their worries on water runoff and erosion potential problems connected to the installation of the pool.

~ Stanley Gansowski questioned the impact of a down pour on the water level of the pool and the possibility of overflow. Is there a safety system to prevent that scenario?

~ Gray Davis mentioned the self-closing cover as a protection, he also went over the history of the house. It is connected to the community septic system. The house is relatively new and was built further away from the lake than the existing old house. A new septic system was installed at the time of the construction.

~ Frank Peteroy suggested a drainage ditch around the pool that would handle the water in case of overflow and ask that a maintenance agreement be worked out.

The public hearing remains open for April 28.

3) **2015-01, 2015-02, 2015-03, 2015-04 .Owner, Allon Ben Meir, Upper Rhoda Pond. Special Use Permits.**

~ Jon Strom asked for a motion to open the hearing for public review on the Environmental Impact Statements that were submitted by the applicant, Hilarie Thomas made the motion, Jeffrey Judd seconded.

~ Ken Dow explained the steps to the process;

* The ZBA will be taking public comments on what has been prepared by the applicant. There is also a public written comments period.

* Comments will be reviewed by the ZBA board and forwarded to the applicant for revision of the draft EIS.

* A period of 10 days will follow before the ZBA issues the finding statements (around April 12).

* April 28th responses to input from the ZBA should be ready.

* 45 days later or May the final EIS will then have to be prepared including amendments and modifications.

* Applicant is looking at June for final action.

~ Marc Gross a resident on the Rhoda Pond took the stand.

He wanted to address some concerns regarding the control of renting to large groups.

It appears that the 4 houses are reserved for a block of 2 weeks in June.

~ Mrs. Ben Meir present in the audience indicated that her family will be using he houses for a special event during these 2 weeks.

~ Marc Gross went on and noted that in the EIS it is mentioned that “an effort to rent weakly will be made” however the web site still does not indicate limitation on renting all 4 homes at one time and offers daily rental rates.

He suggested that may be the special use permits could be given on only one or two homes to prevent the large gathering potential issues.

He talked about the suggestion that is made that the KOA and COARC camps generate noise. These two groups have very sporadic gatherings and the locations are underutilized.

~ Jon Strom noted that the ZBA had made that remark already about these two camps. The ZBA is noting as well the marketing nuances. Jon added that the public comments are all and carefully taken in consideration by the board.

The next meeting will be open to the public but no comments will be accepted at that time.

~ Mr. Gross asked about details on the process in order to inform concerned residents.

~ Ken Dow repeated the steps

* April 28, comments and discussion amongst board members.

* May 26, filing of EIS.

* June 23, final EIS submission and final action.

~ Jon Strom indicated that written comments will be accepted from the public until April 12th. He suggested a collective submission from the residents from around the lake.

~ Jeffrey Judd mentioned the fact that his law firm has a business relationship with Mr. Freeman's firm however there are no conflicts of interests whatsoever. Mr. Freeman concurred.

~ Jon Strom mention the short term and long term cumulative impact notion that should be included in the EIS.

The public comments will be emailed to Mr. Freeman.

~ *Jon Strom asked for a motion to close the Public Review on the EISs, review, Hilarie Thomas made the motion, Jeffrey Judd seconded, all in favor.*

Internal business:

Jon Strom talk about Michael Diperi overall work schedule that might prevent him to continue as a member.

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

The meeting was adjourned at 8:45.

Next meeting April 28, 2016

Respectfully submitted. Veronique Fabio, Recording Secretary.

