

# Town of Copake Zoning Board of Appeals

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## Meeting Minutes of April 25, 2019

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The meeting of the Zoning Board of Appeals of the Town of Copake was held on April 25, 2019 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; Jon Strom, Jeffrey Judd, Michael Diperi, Thomas Goldsworthy, and Dionisio Fontana.

Town Attorney, Ken Dow and Town Board Liaison, Stosh Gansowski and were also present.

Veronique Fabio recorded the minutes.

An audience of about 8 was present.

### **2) Reading and approval of the minutes:**

A typo was noted and will be corrected in the March Minutes.

*The Minutes of March 28, 2019 were unanimously accepted.*

### **3) Correspondence:**

The following correspondence will be reviewed as the applications come up.

3-30 from Judith Church

4-8 from Bill Gregory Highway Sup. In ref. to J. Church

4-8 from Lindsay Lebrecht in ref to a lot in Taconic Shores

4-17 from Town Board in ref. to appointment of D. Fontana

4-17 from Planning Board, referrals for J. Church and Copake Camping Resort  
4-17 from Dean Knox in ref. to J. Church Project.

~ Jon Strom addressed the email sent by Lindsay Lebrecht, she was present in the audience.

~ L. Lebrecht indicated that she has a potential buyer for a small corner lot (100' x 50') in the Taconic Shores area. This potential buyer would like to build a house but wants to know what he will be facing as far as variances ahead of his purchase.

~ Jon Strom responded that the ZBA cannot speculate and recommend anything without knowing what the project will be. The ZBA is not an advisory board. The Building Code Enforcer is the person to have a conversation with at this point.

#### **4) New Applications:**

##### **2019-06 Copake Camping Resort, 2236 CR.7. Tax Map # 186.2-41**

The applicant is represented by Civil Engineer Richard Andreassen and Attorney Dan Huffenus.

The property was purchased last year by David Sweig. Minor improvements are being made and Mr. Sweig is seeking a variance for the addition of 32 camping RV and camper sites throughout the campground as well as a Special Use Permit to change operation of the campground from seasonal to year-round.

Currently there are 241 sites consisting of RV/camper sites, tent sites and cabin rentals. 23 cabins have below frost line pipes and could be used year round.

The lot is 184 acres and is situated within the Hamlet Business and Rural Residential Zoning Districts.

~ Ken Dow noted that in the Hamlet Business district (HB) camp and campground use is prohibited, however the camp ground has been operating without a permit for a long time.

In the Rural Residential district (RR) campground use is now allowed under the new code, providing a special permit use is secured.

Ken Dow recommended that the new sites should only be located in the RR district.

~ Thomas Goldsworthy asked if there were any variances that were granted in the past for the camp site.

~ Jon Strom read the referral from the Planning Board.

“At the February 7, 2019 meeting the Planning Board reviewed the application of Copake Camping Resort who is requesting to add an additional 32 RV Sites throughout the campground. The applicant is also planning on remaining open throughout the year. Mr. Haight explained that in order for the applicant to open year-round an area variance would be needed from the Zoning Board of Appeals (ZBA) as stated in the definition of a Campground according to the Town Code which is as follows:

*CAMPGROUND - Any parcel or tract of land including buildings or other structures, under the control of any person, where five or more campsites are available for temporary or seasonal overnight occupancy. Seasonal is to be defined as six months, subject to obtaining an area variance from the Zoning Board of Appeals.*

Attorney Dow advised that a campground is prohibited in the Hamlet Business District so there cannot be any expansion in that part of the property and an Area Variance will be needed to expand in the RU District where the bulk of the property is located. “

~ Ken Dow pointed out the notion of temporary and/or seasonal occupation, an area variance would be needed to extend the time of use. If the camp is operated year round without interruption it is no longer a campground and that would be a fundamental change.

~ Attorney Dan Huffenus argued that there was a demand for year round occupation. People would come and stay for short periods of time throughout the year. It would be a year round transient use.

~ Michael Diperi asked if the applicant was looking for use for a full 12 months or just say May to October?

~ Dan Huffenus responded that they were looking to remain open the whole year.

~ Tom Goldsworthy noted that the concept of a campground is a recreational, temporary use, anything besides that would make it a trailer park.

~ Ken Dow stated again that the Hamlet Business district does not permit non-conforming use, however the applicant is proposing 4 new RV camp sites in that particular district.

~ Jeffrey Judd asked that in the eventuality the ZBA agreed to the proposal, could a limit on the length of occupation be mentioned on the rental contracts?

~ Ken Dow noted that if the land is within 500 feet from a farm operation, the Ag & market would have to be notified. Also before a Special Permit is issued the State Highway will need to review the application as the area is within 500 feet of a state road.

~ Jeffrey Judd asked about the septic system.

~ The applicant responded that they are working with DEC now and updating the system.

A short EAF was presented to the Planning Board prior to this ZBA meeting.

*~ Jon Strom asked for a motion to accept the application for public hearing next month, May 23, 2019. Michael Diperi made the motion, Jeffrey Judd seconded, all agreed.*

## **5) Public Hearing:**

### **1) 2019-05, 12 Stonewall Ridge, Tax Map 186.-1-14.200, Judith Church.**

Area variance for the installation of an 8foot deer fence around the above mentioned property (3.77acres).

Judith Church was present.

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

~ Jon Strom read the Copake Planning Board recommendation on the project.

“At the April 4, 2019 meeting the Planning Board reviewed the application of Judith Church who would like to install an eight foot (8’) deer fence around her entire property. The Board had issue with this type of fence being installed in a non-agricultural area. The Board noted that Ag and Markets requires a minimum of 7 acres for farming and Ms. Church has 3.77 acres. It is the Board’s recommendation that the garden be fenced in and not the whole area. “

~ Jon Strom also read the Columbia County Department of Public Works letter.

“In regards to the inquiry to the Columbia Co. DPW offices by the Copake ZBA in regards to the proposed Judith Church deer fence installation proposal along Co. Rte. 27 in the Town of Copake, please be advised that we have reviewed the fence application, checked our Co. Rte. 27 Highway ROW information and looked over the proposed location in the field. Our review has indicated that the following requirements must be adhered to for the proposed deer fence installation parallel to Co. Rte. 27:

1. The new deer fence shall not be installed within the Columbia Co. Rte. 27 public highway ROW boundaries.
2. The new deer fence can be installed directly on the Co. Rte. 27 highway boundary line (see Item # 3 below), or at whatever distance off our highway ROW and on Ms. Church's property that she desires, or is required by the Town of Copake as a front yard fence setback from the front lot line/highway boundary line.
3. Our Co. Rte. 27 Highway ROW mapping (via ROW Acquisition Map #44 - Parcel 5, acquired on 10/4/1937) indicates that the CR 27 Highway Boundary Line is a consistent **38' off the CR 27 centerline** (measured perpendicular from said highway centerline) along all of Ms. Church's CR 27 road frontage.
4. We would strongly recommend that the ZBA advise Ms. Church to have her fence installer/contractor lay out the proposed fence line and then contact Mr. Jim Everett or this department to arrange for a field review by CCDPW staff of the fence line layout, prior to the fence physically being installed.

As per your April 3, 2019 request, the above items represent our recommendations and requirements for this proposed deer fence installation along a portion of Co. Rte. 27 in the Town of Copake. Thank you very much for providing us the opportunity to review this fence construction proposal and provide our recommendations prior to its installation. “

~ Mrs. Church explained that there is no “garden area” per say, as she intends to plant eatable crops throughout the entire property. Now, each vulnerable plants are individually protected which is not practical.

She noted that she will set back the fence following the ZBA and Dean Knox recommendations. She added that the fence is transparent and it will disappear in the landscape.

~ Lisa Brainard, an abutter, was in the audience and she expressed concern about the fence and also the loss of privacy. There used to be a row of trees between her property and Mrs. Church's. The trees are now gone and her back deck faces Mrs. Church yard with the occasional gardeners working on her property.

~ John Sinico, another abutter, agreed with Miss Brainard about the loss of natural screens.

~Judith Church acknowledged the fact that before the house was built, her property was a wooded lot.

~ Dionisio Fontana asked the abutters what would be acceptable to them to fix the privacy issue.

Miss L. Brainard responded that a privacy fence would offer visual protection.

~ Judith Church said that trees were planted and they will provide privacy, and the sets back for the fence will be respected.

~ Tom Goldsworthy mentioned the idea of the double 4' fences for deer protection as he had already done at last month meeting.

~ J. Church responded that the fence installer said the deer will get used to the double fence and it will become rapidly ineffective.

~ Jon Strom and Tom Goldsworthy noted that this is not a farm as it is only 3 acres, this is a residential property and should be treated as such. If every home owner decided to erect deer fences the feel of the neighborhood would be seriously impacted.

~ Jon Strom also remarked that the ZBA had recommended to the applicant some adjustments to the plan and nothing new is proposed today.

~ Ken Dow noted that the project has a commercial purpose which is fine, however this is a residential property and the commercial plan does not justify a deer fence.

~ Tom Goldsworthy remarked that a number of home owners grow fruit and vegetables on unfenced properties, this is not an agricultural district but a residential area surrounded by other residential properties.

~ Ken Dow mentioned that the abutters present seem to be more concerned with the loss of privacy than the fence itself.

~ Judith Church responded that the town should support individual entrepreneurships, especially one that would provide natural produce that will feed the local residents.

~ Jeffrey Judd noted that the arguments presented are not strong enough to support the granting of a variance.

~ Jon Strom asked Judith Church is she wanted the ZBA to close the hearing and vote on the project tonight or would she be willing to revise her fence project and re-present it in May.

~ Judith Church choose the latter.

*~ Jon Strom asked for a motion to table the public hearing to next month, Tom Goldsworthy made the motion, Michael Diperi seconded, all agreed.*

None

**6: Closed Public Hearing:**

None

**7: Internal Business:**

None

*~ Jon Strom asked for a motion to adjourn the meeting, Michael Diperi made the motion that was seconded by Jeffrey Judd and agreed upon by all members. The meeting was adjourned at 8:10.*

Respectfully submitted.  
Veronique Fabio.