

Town of Copake Zoning Board of Appeals

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Meeting Minutes of April 28, 2016

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

There was no public attending.

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 and Kenneth Dow; Copake Town Attorney.

Hilarie Thomas and Michael Diperi were excused.

Veronique Fabio: Secretary, was present to record the minutes.

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

The January and February minutes were approved pending corrections.

The March minutes approval is postponed to the next ZBA meeting.

3) Correspondence:

The following correspondence was reviewed;

03-29 from Gray Davis on Wilmer.

Ellen Wilmer withdrew the application for the lap pool.

03-29 from Jeff Nayer free training in Cairo.

Jon Strom indicated that he will participate to the training and recommended that members should attend.

04-12 from Victor Goode in ref. to Ben Meir

04-12 from Marc gross in ref. to Ben Meir

These are the responses to the EIS's for 2015-01-02-03-04

04-21 from Freeman & Howard rep. Ben Meir, response to comments from Gross & Goode.

04-13 from Frank Peteroy, Cornell University "Renting land for land-based Solar Arrays"

04-19 from Andrea Dumond in ref. to T-Mobil antennas on Breezy Hill Rd.

The building and code enforcer is in contact with Miss Dumond.

4) Public Hearing:

1) **2015-18 Leistner/ Winiker**, 47 Birch Rd. Tax map # 176.1-5-11

A variance was previously granted for this project on January 28, 2016.

Applicant is back for modification of the driveway plans and asphalt finish.

~ Jon Strom asked for a motion to re-open the hearing, Jeffrey Judd made the motion, Frank Peteroy seconded.

~ Linda Chernewsky represents the owners of the property, she noted that she had addressed Frank Peteroy's comments from the last meeting.

Linda Chernewsky provided a revised layout and the profile of the new driveway and new plan as well as a letter by Morris Associates engineers & surveying consultants as requested by the ZBA.

The reference location was taken from Jeffrey Plat the surveyor's map.

There should not be issues with runoff from rain and melted snow as it will follow the edge of the existing roadway.

~ Frank declared that he was fine with asphalt on the driveway, any other issues will be the Planning Board concern.

~ Jon Strom said that the new plans should be submitted to the Planning Board.

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

Roll call vote

Jon Strom, YES Frank Peteroy, YES Jeffrey Judd, YES.

Changes to the driveway plans and asphalt finish are granted subject to Planning Board review.

The Action Taken Form will be amended. The new plan submitted as well as the letter attached to it from Morris Associates dated April 13, 2016 will be forwarded to the Planning Board.

2) **2015-15 Konsker**, 45 Golf Course Road, Tax Map # 165.1-1-212
A variance was previously granted for this project on October 22, 2015.
Applicant is back for reduction in size of the original plan.

~ Jon Strom asked for a motion to re-open the hearing, Jeffrey Judd made the motion, Frank Peteroy seconded.

Guy Winig represents the owner, he indicated that the size of the project was reduced. The new plan is for a 32' wide x 22' deep dry laid paver terrace and a 33.5' wide x 10' deep, wood deck near the water. Helical piers will be used to minimize soil disturbance. The stone veneer concrete wall will be at 2' above the lower deck.

The original plan was for 2 decks and wider in size. Guy Wining would like the Action Taken Form to be amended and size reduction taken in consideration. The ZBA members approve the modifications conditional to the DEC permit that should be received soon.

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

Roll call vote

Jon Strom, YES Frank Peteroy, YES Jeffrey Judd, YES

Action Taken Form will be amended.

5) Closed Public Hearing

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

Paul Freeman and Aron DePaolo came to the table, they represent the applicant Ben Meir.

~ Ken Dow, attorney for the town of Copake observed that the ZBA has received two sets of written comments from abutters and the applicant's response to the comments.

~ Ken Dow also stated that the EIS has to meet the ZBA satisfaction. The comments from the public and the applicant's response will be included in the final document.

The EIS is the environmental view not the review of the special use permit, other concerns are off topic. The question for the ZBA is, is there a significant environmental impact and what is the best that could be done to mitigate the impact?

The ZBA has the power to issue a negative declaration if it feels that the significant adverse environmental impacts has been mitigated. Alternatives have been presented by the applicant to minimized impact.

~ Ken Dow noted that there are some conclusions and statements that should be removed from the EIS report prepared by the applicant as well as some comments on the letters from the public. Ken Dow gave some example of contentious statements.

The ZBA main issue is the cumulative effect, we have four requests for four special use permits. He reiterating that the ZBA has to remain focused on the EIS and mitigations. The purpose of the EIS is to balance the impact of the project.

~ Ken Dow goes through the responses from the applicant to the comments from Mark Gross and Victor Good.

~ Ken Dow went on and read Marc Gross's letter.

~ Paul Freeman responded on the marketing point that VRBO always gives a daily rate even if the properties are not rented by the day.

The applicant has stated that they will limit the number of renters according to the septic capacity as well as careful screening.

~ Jon Strom noted that the noise restrictions proposed by the applicant are stricter than the town of Copake ordinances. The applicant has offered reasonable alternatives to the impact.

~ Ken Dow noted that Victor Goode's comments refer mainly to 22 Howard Drive, the property abutting his. Some of the applicant's responses to V. Goode should be altered and were discussed. Ken Dow noted that the purpose of the EIS is to balance environmental issues with social and economic considerations. He also clarified the meaning of cumulative impact, it occurs when multiple significant actions take place over a period of time.

~ Paul Freeman went over the overall mitigation measures and argued that on page 22 of the EIS, 14 mitigations measures were addressed, for example;

*Applicant has agreed that the houses will not be rented to large groups.

- *A rental agent will be nearby and available.
- *The number of occupants will be limited to the septic capacity.
- *A traffic study was done.
- *Longer rental agreements will limit the renters turn over.
- *The customary and usual respect due to residents around the lake is mentioned in the rental agreement.

- ~ Paul Freeman suggested that the board could make a negative declaration and a final EIS would not be necessary.
- ~ Jon Strom indicated that he felt that the applicant had made a reasonable attempt to mitigating the impact.
- ~ Jeffery Judd asked for a confirmation to the statement that an agent was available at all time for the premises rented.
- ~ Paul Freeman responded that the agent lives 5 minutes away. An agent can be readily available.
- ~ Ken Dow suggested routine visits by the agent.

The alternative to the negative declaration would be to incorporate all the comments and more revisions would be done to the EIS with another meeting next month, another public comment time with a final decision in June.

~ Ken Dow and Paul Freeman recapitulated the process; final EIS May 26, a 10 day period for public comments, and on June 23 a potential vote.

~ 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.

Internal business:

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

~ Jeffrey Judd indicated that he will not be able to make the August and September meetings.

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

The meeting was adjourned at 9:00. Next meeting June 23, 2016

Respectfully submitted. Veronique Fabio Recording Secretary.

