

# **Town of Copake Zoning Board of Appeals**

~

## **Meeting Minutes of May 25, 2017**

~

The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on May 25, 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, Michael Diperi, Thomas Goldsworthy, Mark Miller and Town Attorney Ken Dow whom came in a little after the beginning of the meeting.

Town Board Liaison, Stosh Gansowski also attended the meeting.

Secretary Veronique Fabio was present to record the minutes.

An audience of about 10 people was also present.

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

Because the April minutes were received late, Jon Strom suggested that the approval be postponed to the next meeting.

### **3) Correspondence:**

The following correspondence was acknowledged and will be reviewed as the meeting goes on. The matter related to Ben Meir and the letter from Thomas Goldsworthy will be addressed at the end.

5/17 from Ken Dow, Ben Meir settlement.

5/24 From Planning Board referral letters for Bernstein, Weiss, Kerbin & Benudis.  
5/24 From Ken Dow in ref. to Ben Meir  
5/24 From Thomas Goldsworthy in ref. to v.r.b.o. solicitation.

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

##### **1) 2017-17 Dowdell, 34 Birch Road Taconic Shores Tax Map 176.1-5-41**

Area variance for garage in the front yard and side yard setbacks.

Architect Sandra Baptie and Eva Dowdell the owner came to present the project. The property is part of Taconic Shores but not on the water. The house will remain a 2 bedroom home after the 12' x 20' addition is built. An 8' x 12' x 10' deck with an outdoor shower is planned, and an 8' x 12' extension of the front existing deck as well as a 24' x 24' proposed garage in the front of the lot. The garage infringes by 12' on the left side yard setback.

~ Thomas Goldsworthy questioned the choice of location for the 2 car garage.

~ Sandra Baptie explained that the option of location for the garage is limited due to the septic system field situated on the right side of the lot. A concern for the amount of impermeable surface also guided the owner's choice.

Relief from 232-24 alteration to a nonconforming structure and 232-8 D (4) accessory building located in the front yard, as well as left side yard variance.

It was suggested that the owner explore a different location for the garage.

~ Frank Peteroy proposed that a lower profile for the roof line be considered as well.

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

The application will be forwarded to the Planning Board.

##### **2) 2017-19 Weiss, 7 High Ridge. 165.9-1-35.** Modification of a nonconforming structure 232-24 B (2).

Christopher Bellamy represents the owner, he came to present the project.

The Planning Board has already reviewed that application.

~ Jon Strom read the referral letter.

“At the May 4, 2017 Planning Board meeting the members reviewed the application of Emily K. Weiss on High Ridge Drive in Copake.

The Board had no issue with this application as the discrepancies are so minor and approved the application subject to ZBA approval.”

~ Christopher Bellamy indicated that it was alteration on a non-conforming structure; The Livingroom size will be increased, a bathroom will be added and the porch will be windowed. The porch will remain a 3 season room with some insulation.

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

### **3) 2017-18 Metjajic, 24 Hedge Rd Tax Map# 155.8-1-19**

Amendment to approved application on side yard variance, garage will be located 4’ away from property line instead of 5’. Approved application # 2016-05.

~ Linda Chernewsky came to the table to present the application. She indicated that the owners decided to move the future garage a foot closer to the property line therefore a 6’ variance on the right side is needed. She mentioned that she had a letter from the neighbor on the right side and that they had no objection to the change.

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

The application will be forwarded to the Planning Board.

### **3) 2017-14 Michael Shadic, lake Shore Acres Rd.155.18-35**

Rep. by Linda Chernewsky. Rear and right side setback variance for new house construction.

This application was presented in April by the owner but was missing a survey. The non-conforming lot is now vacant, a 3 bedroom 30.33’x33.33’ cape style house is planned. A rear yard variance is needed.

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

The application will be forwarded to the Planning Board.

**4) 2017-20 Dennehy, 6 Mansion Drive 176.3-1-9 & 10**

Left & rear setback variance and work within 100' of Robinson Pond.

~ Linda Chernewsky presented the application. It will be a 2 phase project. At the moment an outdoor shower draining in a dry well, a flag stone patio and piers for a future deck are planned, upper level deck, mudroom and Livingroom extension. The house is a 2 bedroom house. Linda presented a letter from an engineer whom performed a dye test for the new septic. Linda also noted that it was a non-conforming structure and the new additions planned will increase the lot coverage however still within the maximum allowed.

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

The application will be forwarded to the Planning Board.

**5) Public Hearing:**

**1) 2017-11 Benudis, 392 Lake View Rd. Tax Map# 176.1-3-1**

Upgrade of Septic Tank within 150' from Robinson Pond.

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

Jon Strom read the referral letter from the Planning Board.

“At the May 4, 2017 Planning Board meeting the application of Elissa and Meir Benudis on Lakeview Road in Taconic Shores to replace a septic system was reviewed. The Board recommended that a Silt Fence be used and added to the prints and requested a letter from the engineer stating that the system conforms to the proper requirements and is up to code. “

The replacement of the septic tank is required by the Taconic Shores owners Association whenever ownership of a property is transferred.

The abutters were contacted and there was no comment from the public on this project.

*~ 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*

Tonight the Zoning Board of Appeals will be voting on Relief from 232-9 P (1), Septic tank located within 150' of a waterbody ( Robinson Pond )

Roll call vote: Frank Peteroy: YES, Jeffrey Judd: YES,

Jon Strom: YES, Michael Diperi: YES, Thomas Goldsworthy: YES.

Variance is granted.

**2) 2017-12 Hebbeler, 111 Mountain View Street Copake Falls. 176.2-2-35**

New entry stairs within front yard setback.

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

Bruce Moore of Red House Design represents the owners, Mr. Moore was present for the public hearing.

A 6' front yard setback variance is needed in order to build a new set of entry stairs. The alterations inside the house do not include a change to the number of bedrooms. The 1000gallon septic tank is in good functioning condition as per Crawford and Associates inspection report letter dated November 29, 2016.

This is a non-conforming structure, relief from 232-24 B (2) (a) 5 is also necessary. The abutters were contacted and there was no comment from the public on this project.

*~ Jon Strom asked for a motion to close the public hearing, Mickael Diperi made the motion, Thomas Goldsworthy 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*

Tonight the Zoning Board of Appeals will be voting on Relief from 232-24B(2)(a) 5 and a 6' front yard setback variance.

Roll call vote: Frank Peteroy: YES, Jeffrey Judd: YES,

Jon Strom: YES, Michael Diperi: YES, Thomas Goldsworthy: YES.

Variance is granted.

### **3) 2017-13 Kennedy, Lot 5 Island Dr. Tax map 165.6-1-48**

Lot grading within 100' of Copake Lake.

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

Andrew Didio of Taconic Engineering represents the owners he was present for the public hearing. Grading within 100' of Copake Lake is planned to improve the use of the lot towards the water. Large mature trees that are close to the water will be saved to preserve privacy.

*~ A. Didio reminded the board that he had presented the erosion & sediment control plan at the first meeting.*

*~ Jon Strom asked about future landscaping plans in the area between the house and the lake.*

*~ A. Didio responded that only grass and the trees already in place are planned. Relief from 232-9P (1) is needed.*

The abutters were contacted and there was no comment from the public on this project.

*~ Jon Strom asked for a motion to close the public hearing, Mickael Diperi made the motion, Thomas Goldsworthy 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*

Tonight the Zoning Board of Appeals will be voting on Relief from 232-9P (1).

Roll call vote: Frank Peteroy: YES, Jeffrey Judd: NO,

Jon Strom: YES, Michael Diperi: YES, Thomas Goldsworthy: YES.

Variance is granted.

### **5) 2017-15 Kerbin, 2177 Ct Rte 7. Tax map 186.-2-27**

Addition on a non-conforming lot within 100' of Upper Rhoda Pond.

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

~ Jon read the referral letter from the Planning Board and a letter from Mark Gross a neighbor in favor of the Kerbin's project.

"At the May 4, 2017 Planning Board meeting the members began the Site Plan Review for the application of Sue Jane Kerbin Evans on County Route 7 in Copake. At this time this application is still under review as the Board is waiting for several items from the applicant."

~ Christie Billeci of CWB Architect was present for the public hearing. She noted that the lot is small, the existing house is within 100' of Rhoda Pond. Two additions are planned and the replacement of an existing porch now located 65'.2 from the pond. The proposed new screen porch will be 15'x 26' and closer to the pond by 1'7.

The front yard and side yard setback are within code. This is a non-conforming structure, no bedrooms will be added. Because of the roof line over the screen porch there is an opportunity to raise the roof and install windows on the second floor facing the pond. There is one bathroom on the first floor and the lot coverage is 8.4%.

The Planning Board is still reviewing the application as of today.

~ 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*

Tonight the Zoning Board of Appeals will be voting on relief from 232-24 B (2), (a), {5} modification of a nonconforming structure and work within 100' of a water body.

Roll call vote: Frank Peteroy: YES, Jeffrey Judd: YES,

Jon Strom: YES, Michael Diperi: YES, Thomas Goldsworthy: YES.

Variance is granted contingent to the Planning Board site plan review approval.

**6) 2017-16 Bernstein, 357 Lakeview Rd. Tax map 165.06-02-59**

Improvements (screen porch, 2 covered porches, & bath addition) within 100' of Copake Lake.

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

*~ Jon Strom read the referral letter from the Planning Board.*

*“At the May 4, 2017 Planning Board meeting the members reviewed the application of Helen and Nathan Bernstein at Copake Lake.*

*The Board had no issue with this application and approved the Site Plan subject to ZBA approval for the covered porch and back bathroom.”*

*~ Linda Chernewsky was present for the public hearing. This is a non-conforming structure within 100' of a water body. The proposed work consists of a front covered porch, a shed roof over the garage door, some retaining walls towards the*

south side of the house, a screen porch on the left side and a bathroom addition. The bedroom count will remain the same. The proposed lot coverage will be 3.56%.

Relief from 232-9P (1) work within 100' of Copake Lake, relief from 232-24B (2) (a) {2} is needed as well as a right side setback variance of 21'6".

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

Tonight the Zoning Board of Appeals will be voting on relief from 232-9P (1) work within 100' of Copake Lake, relief from 232-24B (2) (a) {2} is needed as well as a right side setback variance of 21'6".

Roll call vote: Frank Peteroy: YES, Jeffrey Judd: YES,

Jon Strom: YES, Michael Diperi: YES, Thomas Goldsworthy: YES.

Variance is granted.

#### **4. Closed Public Hearing:**

None

#### **Internal Business:**

~ Jon Strom noted that training is important and mandatory for members.

~ Jon also addressed the email from Thomas Goldsworthy about solicitations from VRBO and RB&B. Jon said that the role of the Zoning Board of Appeals has its limits and it cannot give advice on this type of subject to the public.

~ Ken Dow discussed the agreement to settle the Ben Meir issue and said that there should be a vote on the agreement to formally approve it and allow the chairman of the ZBA to sign it.

Roll call vote:

Frank Peteroy: abstain, Jeffrey Judd: YES,

Jon Strom: YES, Michael Diperi: YES,

Thomas Goldsworthy did not vote. He was not a member of the zoning board of appeal when the Ben Meir application was reviewed in 2016.

The ZBA approves the settlement agreement and authorizes Jon Strom Chairman to sign the resolution on the Ben Meir matter.

On a motion by Michael Diperi, seconded by Jeffrey Judd and agreed upon by all members, the meeting was adjourned at 8:45.

Respectfully submitted.

Veronique Fabio.

