

Town of Copake Zoning Board of Appeals

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Meeting Minutes of May 26, 2016

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The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on May 26, 2016, at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

Stanley Gansowski; Town Board Liaison was present as well as the 3 applicants scheduled for the meeting. No one else was attending in the audience.

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, Hilarie Thomas and Michael Diperi. Kenneth Dow; Copake Town Attorney was attending as well. Veronique Fabio: Secretary, was present to record the minutes.

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

The March 24 and April 28 minutes were approved.

3) Correspondence:

The following correspondence was reviewed;

- 5-02 from Frank Peteroy in ref. to leistner/ Winiker
- 5-18 from Planning Board, in ref. to Winiker/Leistner
- 5-25 from Hilarie in ref. to ZBA use variance form
- 5-26 from Marc Gross in ref to Ben Meir

Hilarie Thomas had sent an email requesting a discussion of the present form for use variance.

~ Jon Strom suggested that it could be done at an open meeting at a later date.

~ Ken Dow said he will look into it and draft a new application.

4) New Application:

1) **2016-03, la Conte, 8 Arbor Dr.** Tax map # 165.9-1-8. Area variance for re-construction of a home on a non-conforming lot.

~ Linda Chernewsky represents the owners of the property, she indicated that the house has 2 front yards, it is on a through lot. The main entrance being on Arbor Drive, this side is the main front yard.

She went on and explained that the entire existing house has to be demolished, due to major structural issues. The house was built on concrete piers, some plumbing is exposed and a large crack runs through the whole house.

Linda indicated that the Planning Board had questions regarding the septic. She informed the PB that the bedroom count will be reduced from 4 to 3 in the new house.

A letter dated 5/16/16 from Ed Van Nostrand; Environmental Consultant, describes the septic system has being in good functioning condition.

The owners of the property had indicated to Linda that the well was inspected recently for a sanitary seal and a pit-less adapter. The well has a 42 foot casing and its condition is satisfactory.

The footprint for the new house is slightly smaller than the existing one. There will be a walk out basement, a kitchen, living room, dining room, 2 bedrooms and a full bath on the first level. The second level is not going to be finished right away but will have a home office, lots of storage and another full bath.

~ Jon Strom asked for a motion to accept the application for a public hearing for June 23, Hilarie Thomas made the motion, Michael DiPeri seconded.

2) **2016-04, GRJH Inc. Thomas Casey,** Tax Map #144.4-1-5

Raze existing structure and build a convenience store and gas station on a lot not zoned for intended use.

~ Tom Casey the applicant, presented his project. He does not own the property mentioned above, however he would like to purchase it provided he can build what he planned on it. The property was shown to him as being a commercial lot, he found out later that it is not the case and it is zoned 2/3, BR and 1/3, R1.

Mr. Casey would like to clear up the lot, put it to better use and build a gas station and a convenience store. He cannot submit plans yet, but presented a number of photos of other businesses that he owns and built. Of course the size of the future

project would be adjusted to the size of the lot. In this particular case a 2000 to 2400 square foot building would be adequate.

~ Jon Strom commented that the lot must have been zoned commercially in the past, there used to be a small supermarket and years ago a car repair shop.

Jon questioned the fact that if a use variance was granted 40 years ago is it still attached to the lot?

~ Hilarie Thomas commented that Change of Use Variances were very difficult to obtain. In her opinion the present owner of the property would have a better chance to prove hardship and be granted a variance than Tom Casey. Not being able to dispose of the lot because of the zoning issue and the expenses incurred by the removal of the asbestos from the site, would put him in a stronger position. The lot has been on the market for so long. However it is still a self-imposed hardship because he bought the property.

~ Ken Dow said he will look in the history of the property.

~ Tom Casey commented that if the project goes through it would be a win/win situation for everyone. A business for him, an eyesore removed, a public convenience and more taxes for the town.

Core samplings would be done and the gas tanks planned would be located underground following DEC guidelines.

He wondered if a change of zoning would be easier to obtain.

~ Frank Peteroy suggested checking with the Comprehensive Plan group, as they are in favor of commercial use in that particular area.

~ Jon Strom said that the project should, may be, discussed with the Town Board.

~ Stanley Gansowski; Town Board Liaison, discussed that in his opinion it would be a perfect location for that type of activity. He noted that LURC is working on zoning changes in that area but wondered how long it would take before it will take effect. He will bring the subject at the next town board meeting.

It was determined that at best, 3 months or more could be necessary to complete the process.

The board decided to table the application and bring the issue before the Town Board.

5) Closed Public Hearing:

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

Paul Freeman represents the Ben Meirs, he was present at the meeting.

~ Jon Strom recapped what was discussed at the April meeting and pointed out some typos on the EISs.

~ Ken Dow, attorney for the town of Copake gave an overview of the process; the lead agency is responsible for the adequacy and accuracy of the responses on the EISs. He would like to express less advocacy and more evaluations in some parts of the statement.

Ken Dow noted on page 9/10, the definition of the Rhoda Pond community.

~ Hilarie Thomas commented on page 19, some changes were already made to some of the statements there.

~ Jeffrey Judd questioned the statement on Camp Pontiac being located 1500 feet away.

~ Hilarie commented that KOA does not have access to the pond at all.

Coarc have their own beach and use it only one month a year.

Hilarie also noted on page 20, “recurring tenant” is not a fair assumption, no documentation was presented in regard to that.

On page 21, unsupported fact should be removed “large number of people have access to the pond”.

~ Ken Dow, on page 19, the number of visitors to the ponds upper and lower should be adjusted.

~ Hilarie Thomas on page 26, the speculation on income “if the properties were rented year round instead of on short term” the ZBA never received documentation to support that statement.

~ Jon Strom agreed that financial hardship does not appear to be an issue in this case.

~ Jeffrey Judd on page 10, questioned the inclusion of the two ponds upper and lower Rhoda in the affected community.

~ Ken Dow responded that, that part of it is in response to Camp Pontiac, Coarc and KOA and the presence of a business district located on the other side of lower Rhoda pond.

~ Paul Freeman noted that when you look at the traffic and noise impact, all of the community including both ponds, were taken in consideration.

~ Frank Peteroy expressed his disagreement on the complete executive summary, it seems to apply to all four properties as if they were identical.

~ Ken Dow noted that it was already determined that there was no significant adverse impact and no particular house was determined to rise to a level that needed further review.

~ Ken Dow indicated that the four EISs are identical except for the description of the houses themselves, he will make the corrections and submit a new draft of the EISs.

He indicated that the public has to be given the opportunity to look at the EISs 10 days prior to the next meeting that would be June 13 the latest.

A Public Notice that the EISs are available will be posted.

At the June meeting, findings and act on the vote for the special use permits.

~ 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 brought up a comment from Hilarie Thomas regarding the forms used for Special Use Permits and she suggested that a new form better adapted should be drafted.

~ 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 8:45.

Next meeting June 23, 2016

Respectfully submitted. Veronique Fabio Recording Secretary.

