

# Town of Copake Zoning Board of Appeals

~

## Meeting Minutes of June 28, 2018

~

The meeting of the Zoning Board of Appeals of the Town of Copake was held on June 28, 2018 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 and Thomas Goldsworthy.

Town attorney Ken Dow was present.

Mark Miller was absent.

Veronique Fabio recorded the minutes.

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

*Michael Diperi made a motion to approve the April 26 and May 24 minutes, Thomas Goldsworthy seconded, all in favor.*

### **3) Correspondence:**

The following correspondence was acknowledged and reviewed.

06-4 from Steve Smith in ref. to GRJH

06-11 from Christie Billeci in ref. to Lazarus; distance increased from house to lake.

06-20 from Planning Board; Referrals for Lazarus, Vargas/Machado & Black Point Ass.

Jon Strom mentioned that he had just completed a very interesting workshop offered by Greene County Economic Development, Tourism & Planning and Columbia planning? Economic Development in cooperation with NYS Department of State.

**4) New Applications:**

None

**5) Public Hearing:**

**1) 2018-05 Lazarus, 308 lake Shore Drive, Tax Map 176.3-3-4**

Side yards and back yard setbacks variances and work within 100 feet of Robinson Pond.

*Michael Diperi made a motion to open the public hearing, Tom Goldsworthy seconded.*

Jon Strom read the Planning Board review for the application.

“At the June 7, 2018 Planning Board meeting the members reviewed the application of Kristel and Rob Lazarus on Lake Shore Drive in Taconic Shores. The Board found the variance requests minimal and logical and feel the applicant is moving in the right direction by centering the structure on the property and saving the Maple Tree. They approved the application subject to ZBA approval.”

Kristel & Rob Lazarus presented their project. The existing foundation of the house is defective and it has to be torn down. The new 3 bedrooms, 4 baths residence will be relocated in the center of the lot.

The owners are planning to move permanently in a couple of years.

Area variances requested are as follow;

Relief from 232-9 P(1) septic system located within a 150 feet from Robinson Pond. The system will be located approximately 100Feet from the pond.

Relief from development within 100 feet of a body of water.

Rear yard setback variance of 9’.5”

Right side yard setback variance of less than a foot.

There were no comments from anyone in the audience.

Frank Peteroy questioned the need for the 2 septic tanks respectively 1200 and 1000 gallons. Mr. Lazarus indicated that the engineer was going above and beyond capacity, and that was fine with him The DOH did approve the system.

*~ Jon Strom asked for a motion to close the public hearing, Michael 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 the variances mentioned above.

**Vote:** Frank Peteroy; YES      Jeffrey Judd; YES      Jon Strom; YES  
Michael Diperi; YES      Thomas Goldsworthy; Yes

**Variances are granted.**

**2) 2018-06 Vargas/Machado, 123 Golf Course Rd. Tax Map 165.5-1-6 & 165.5-1-18**

Side yard setback on new house construction.

*Michael Diperi made a motion to open the public hearing, Tom Goldsworthy seconded.*

Chris Knox and Attorney Laurence Howard were present.  
Jon Strom read the Planning Board review for the application.

“The Planning Board members reviewed the application of Zavier Vargas and Monica Machado on Golf Course Road at Copake Lake at their March 1, 2018 meeting. At that meeting the Board approved this application subject to ZBA approval.”

It was noted that there were no comments from abutters. Laurence Howard indicated that the application was revised and the overall size of the steps in the rear of the property was reduced. He reminded the board members that the property consists of 2 lots.

~ Frank Peteroy noted that a storm drainage on the right side of the property dictated the location of the house.

The variances requested are as follow;

Left side yard setback variance of 10 feet.

Front side yard variance of 26 feet.

Rear yard setback variance of 25feet.

~ Frank Peteroy raised an issue concerning the fact that the property is a corner lot and has 2 front yards. Frank also indicated that the lot appears to be located less than 500 feet from the Taghanic Town line, therefore a referral of the application to the Columbia County Planning Board is necessary.

Frank Peteroy distributed a memo to the ZBA members as well as to the applicant.  
(*Copy of the memo can be found on file.*)

Chris Knox will check the exact measurement to the line and get back to the ZBA. If the property is in fact within 500 feet of the property line the application will be forwarded to CCPB.

*~ Jon Strom asked for a motion to close the public hearing, Michael 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***

The Board's attorney advised that when an action is subject to review by the County Planning Board under section 239-m of the General Municipal Law, the

Zoning Board cannot vote prior to action by the County Planning Board or 30 days elapse after submission. Because it is undetermined whether the subject parcel is within 500 feet of the Taghkanic town line and therefore undetermined whether the action is subject to review by the Columbia County Planning Board, the Zoning Board elected to vote tonight with the understanding that the vote will be effective only if the project parcel is more than 500 feet from the town border and the project is not subject to review by the County. If the project turns out to require submission to the County Planning Board, tonight's vote will be nullified and the Zoning Board will take a new vote after the County Planning Board acts.

Variances requested:

Left side yard setback variance of 10 feet.

Front side yard variance of 26 feet.

Rear yard setback variance of 25feet.

**Vote:** Frank Peteroy; YES      Jeffrey Judd; NO      Jon Strom; YES  
Michael Diperi; YES      Thomas Goldsworthy; NO

**Variances granted; 3 positive votes out 5.**

**3) 2018-07 Kirk Kneller, 179 County Rt 7A 187.1-1-23**

Relief from 232-11 A (1) parking spaces.

*Michael Diperi made a motion to open the public hearing, Tom Goldsworthy seconded.*

Frank Peteroy recused himself.

Jon Strom read the Planning Board review for the application.

“At the June 7, 2018 Planning Board meeting the members reviewed the application of Black Point Associates LLC/Kirk Kneller on County Road 7. They are in the process of conducting a Site Plan Review and have no issues with lowering the parking to 10 additional spots from what exists now.”

~ Mr. Kneller was present. He explained that under the current code, 74 parking spaces for the two planned businesses would be required.

At this time 16 spaces are offered for the bank business. After construction of the other building, a total of 26 spaces can be created.

Therefore a variance of 48 parking spaces is requested.

In the audience, there were a few neighbors whom properties abuts the project and they were all in favor.

~ Ingrid Kane stated that the proposed development was a good thing for the community.

*~ Jon Strom asked for a motion to close the public hearing, Michael 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 the variance requested.

**Vote:** Jeffrey Judd; YES Jon Strom; YES  
Michael Diperi; YES Thomas Goldsworthy; YES

**Variances granted; 4 positive votes.**

**6: Closed Public Hearing.**

No closed hearing

**7: Internal Business.**

Discussion on possibly changing the dates of the July and August meeting.  
No changes at this time.

*On a motion by Jon Strom, seconded by Thomas Goldsworthy and agreed upon by all members, the meeting was adjourned at 8:30.*

Respectfully submitted.  
Veronique Fabio.

*Last revision 8-30-2018*