

**Town of Copake
Zoning Board of Appeals**

Draft

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

An audience of 10 was 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, 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:

Due to the tardiness of The June 23 minutes 2016, the approval was reported to the next meeting.

3) Correspondence:

The following correspondence was acknowledged;

07/11 from Douglass Clark in ref. to correction on zoning map.

07/11 from Lee Heim in ref. to a fence on 15 Longley Dr. /response from Jon.

~ Jon Strom commented

07/13 from Planning Board referral letters for Metjajic and Crowley.

07/16 from Jeff Nayer in ref. to zoning reg.

~ Jon mentioned that finally his remarks were heard and the workshop worked out well finally.

07/18 from B. Becker in ref. to training.

~ Jon Strom noted that Hilarie Thomas had signed up for training.

4) New Applications:

2016-04, GRJH Inc. Thomas Casey 1763 State Rt. 23, Tax Map #144.4-1-5

Requesting a special use permit to raze existing structure and build a convenience store and gas station.

Mr. Casey indicated that since the zoning map correction, he was now simply applying for a special use permit.

~ Frank Peteroy recused himself from this application as he was involved in the asbestos mitigation issues as an agent for the owner of the property some years ago.

~ Jon Strom read the letter dated 07/11/16 from Douglas Clark in reference to the zoning typo error on the map. After correction, the property in question is located in a B2 zone.

~ Hilarie Thomas indicated that only one special use permit seems necessary taking in consideration the Copake Code Definitions 232-3 “Convenience Store” “*A retail store which sells groceries and sundry items and may include the retail sale of gasoline and petroleum products for automobiles.*”

~ Jon Strom read 232-13 on “Gasoline filling stations;

In any district where permitted, a gasoline filling station shall be subject to the following regulations:

A. *Filling stations shall be permitted only on lots of one acre or more, with 150 feet minimum frontage.*

B. *The area for use by motor vehicles, except access drives thereto, as well as any structures, shall not encroach on any required yard area.*

C. *No fuel pump shall be located closer than 20 feet to any side lot line nor closer than 35 feet to any street line, measured from the outside edge of the fuel island.*

D. *No access drive shall be within 200 feet of and on the same side of the street as a school, public library, theater, church or other public gathering place, park, playground or fire station, unless a public street lies between such service station and such building or use.*

E. All major repair work and all storage of equipment and parts shall be within an enclosed building which has a maximum height of 25 feet. Such repair work shall not include any body repair work or spray painting or car washing which require mechanical equipment in a B-1 District, except by special permit of the Zoning Board of Appeals as provided by this chapter.”

~ Tom Casey noted that he could meet all the criteria. He also mentioned that the underground tanks that were on the site were removed in the late 60’s, there was an asbestos remediation in the early 70’s as well. He has his own geologist that will do core sampling, he does not know yet anything about the well or the septic system at this time.

This application will be referred to the Planning Board, Mr. Casey was told that they might ask for detailed plans of the project.

~ Jon Strom asked for a motion to accept the application for a public hearing on September 22, 2016, Hilarie Thomas made the motion, Jeffrey Judd seconded, all agreed.

2016-07, Stephen & Madeline Silverman 51 Miles Rd Copake Falls

Tax Map 176.2-1-38

Area Variance to build an addition on a non-conforming structure.

Steven and Madeline Silverman accompanied by their architect Elizabeth Slotnick presented their project.

They want to build an addition on the East side of the existing house, the house is a non-conforming structure, and it is also located within 100feet of a man-made pond. The addition will consist of a master bedroom and a master bath.

~ Jon Strom had to recuse himself being an abutter to the property in question.

~ Frank Peteroy estimated that the house is now 40feet away from the edge of the pond.

~ Jeffery Judd asked for more precise measurements for the next meeting, a detailed site plan will be necessary.

~ Elizabeth Slotnick gave a measurement of 28feet from the new addition to the pond once the project is done.

~ Ken Dow note that this is a man-made pond with no connection to the outside world.

The application will be referred to the Planning Board.

~ Jon Strom asked for a motion to accept the application for a public hearing on September 22, 2016, Jeffrey Judd made the motion, Hilarie Thomas seconded, all agreed.

5) Public hearing:

**1) 2016-05, Sefket Metjajic, 24 Hedges Rd. Tax Map 155.18-1-19
Rear and side yard setback for construction of a 2 car garage.**

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

~ Jon Strom read the Planning Board recommendation;

*“At the July 7, 2016 Planning Board meeting the members reviewed the application of Sefket & Kumrija Metjajic who wish to construct a detached garage on their property. The Board had no issue with this application however Mr. Grant suggested the ZBA refer to Town Code 232-8D.(4) which reads: *Accessory buildings shall not be located in front yards; nor within 10 feet of a side or rear property line; and shall not block any window or door of the principal structure.*”*

~ Linda Chernewsky commented that the variance requested is for 5feet on the rear and right side of the property for the planned 2 car garage. She noted that she had given fire codes details to Frank Peteroy and he was fine with that. There was no question from the audience.

~ Jon Strom asked for a motion to close the public hearing, Michael Diperi made the motion, Frank Peteroy seconded, all agreed.

~ 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.

Jon Strom 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

c. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Tonight the ZBA is voting on an area variance for:

A front yard area variance of 18.5’

A right and rear side area variance of 5’

Roll call vote: Frank Peteroy;YES Jeffrey Judd;YES Jon Strom;YES
Hilarie Thomas;YES Michael DiPeri;YES

Variances are granted.

2) 2016-06, Allen Crowley, Ivy Street, Tax Map 155.19-1-30.100
Front yard setback for renovation of existing house.

~ 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 Planning Board recommendation;

“At the July 7, 2016 Planning Board meeting the members reviewed the application of Alan Crowley who wishes to renovate his home. The Board had no issue with this

application however Mr. Grant wanted it noted that the septic is being upgraded and a Building Permit should not be issued until Department of Health approval is received.”

Linda Chernewsky represents the owner of the property. She indicated that she had the Department of health approval for the septic system. The lot is a through lot, it has two front yards. The size of the septic system applied for is for a 4 bedroom home, however the proposed project is designed with only 3 bedrooms.

In the audience, Mr. Dan Paine commented that he was strongly in favor of the project, the house was neglected in the past and is in need of repair. Mr. Crowley has already made welcomed improvements.

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

~ 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.

Jon Strom proceeded to read the 267-b Permitted action by board of appeals.

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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

c. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Tonight the ZBA is voting on an area variance for:
A front yard setback area variance of 22.3’

Roll call vote: Frank Peteroy;YES Jeffrey Judd;YES Jon Strom;YES
Hilarie Thomas;YES Michael Diperi;YES

Variance is granted.

5) **Closed Public Hearing:**

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

Aron Depaolo represent the Ben Meirs, he was present at the meeting.

~ Ken Dow indicated that based on the conversations at the last meeting, a new Resolution Draft was written backing up the rational for the decision by the ZBA members.

(Copies of the Resolution/Notice of Determination are on file with the town clerk.)

~ *Jeffrey Judd made a motion to introduce the new draft, Hilarie Thomas seconded, all agreed.*

ZBA members voted on the **approval of the denial** for each property as follow;

2103 Ct. Rt 7A

Frank Peteroy;YES Jeffrey Judd;YES Jon Strom;NO Hilarie Thomas;YES
Michael Diperi;NO

2111 Ct. Rt 7A

Frank Peteroy;YES Jeffrey Judd;YES Jon Strom;NO Hilarie Thomas;YES
Michael Diperi;NO

2117 Ct. Rt 7A

Frank Peteroy;YES Jeffrey Judd;YES Jon Strom;NO Hilarie Thomas;YES
Michael Diperi;NO

22 Howard Dr.

Frank Peteroy;YES Jeffrey Judd;YES Jon Strom;NO Hilarie Thomas;YES
Michael Diperi;NO

Internal business:

None

~ Jon Strom asked for a motion to adjourn the meeting, Michael Diperi made the motion, Jeffrey Judd seconded, all agreed.

The meeting was adjourned at 8:20.

Next meeting September 22, 2016

Respectfully submitted. Veronique Fabio Recording Secretary.

