

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

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## **Meeting Minutes of September 22, 2016**

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The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on September 22, 2016, 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, and Hilarie Thomas.

Michael Diperi was excused.

Kenneth Dow; Copake Town Attorney will come at 8PM, he has some documents for members to sign tonight.

Lisa DeConti was present to record the minutes.

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

The June 23 and July 28, 2016 minutes approval still on hold.

### **3) Correspondence:**

The following correspondence was acknowledged;

08/6 from Elizabeth Slotnick for Silverman 2016-07 Revised Site Plan submission.

08/03 from Lee Heim denial letter for 395 Lakeview Road

09/14 from Planning Board referral letters for Silverman and GRJH Inc. /Thomas Casey.

09/21 from Lindsay LeBrecht in reference to GRJH Inc. /Thomas Casey.

09/22 from Frank Peteroy in reference to Ben Meir. Frank wants the documents entered in the June minutes.

Frank added that some corrections were necessary as well on the June Minutes.

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

##### **1) 2016-08, Anthony & Patricia Chibbaro, 395 Lakeview Road, Copake Lake, Tax Map #165.7-2-6**

Requesting an area variance for relief from Article V section 232-9P (1) for development within 100' of a water body.

Jed Fink the builder was present at the meeting as well as Mr. and Mrs. Chibbaro. The project consist of the removal of an existing deck and stairs, replacement is necessary due to erosion, a privacy fence is also planned to be attached to the new deck. The new deck at the water's edge will be 10' x 27'.

Mr. Fink indicated that he had met with Lee Heim the building inspector and was given a permit however a neighbor had an issue with the project. The footing using techno post for the deck was already installed.

~ Hilarie Thomas noted that a variance for development within 100 feet of a body of water is necessary no matter what.

Deck will be expended substantially

~ Jon Strom asked if a side variance was necessary.

~ Hilarie commented that a 6foot high privacy fence needs a variance.

Abutters need to be informed of such a project

Board members asked for pictures of existing deck as well as previous and future plans for the next meeting.

The applicant noted that they have removable docks and will provide the requested documents.

The application will be referred to the Planning Board.

*~ Jon Strom asked for a motion to accept the application for a public hearing on October 27, 2016, Jeffrey Judd made the motion, Frank Peteroy seconded, all agreed.*

##### **2) 2016-09, Charles Schade, 314 Lake Shore Drive, Taconic Shores, Tax Map #176.3-3-2**

Requesting an area variance for relief from Article V section 232-9P (1) for development within 100' of a water body and 232-24B (2) a [5] for modification of a non-conforming structure.

Linda Chernewsky presented the project.

Mr. Schade would like to add a 2 car garage on his property, a natural stone shoreline wall, a new septic tank and field, as well as create a master bedroom suite.

Linda spoke with DEC who feels everything is under DEC standards, she will provide a letter to that matter.

DEC requested boulders for the retaining wall.

The footprint will be increased however still under the percentage for the lot size. Existing lot coverage is 1,782.16 sq. ft., proposed coverage 3,771.5 sq. ft.

Variances for the front yard of 23.1 ½' and rear setback of 2.5' as well as relief for development within 100 feet of a body of water are necessary for the project.

A referral from the Planning Board would allow the work to be performed while the water level is low. Taconic Shores will be notified.

The septic system will be improved, the bedroom count will remain the same as the existing one.

The owners are trying to save as much as possible on this project.

The application will be referred to the Planning Board.

*~ Jon Strom asked for a motion to accept the application for a public hearing on October 27, 2016, Jeffrey Judd made the motion, Hilarie Thomas seconded, all agreed.*

**3) 2016-10, Eugene Rice & Victoria Hart, 1238 Lakeview Rd, Taconic Shores,**

**Tax Map #176.1-4-12**

Requesting an area variance for relief from Article V section 232-9P (1) for development within 100' of a water body.

Project presented by Linda Chernewsky.

There is an existing deck attached to the house on the ground level, the project consists a 10'x 22.6' second story deck will be added over the existing deck. There will be no increase of footprint.

A variance of 36.59' for rear set back as well as relief for development within 100 feet of a body of water are necessary in order to complete the project.

~ Hilarie Thomas feels that a variance for modification of an existing non-conforming structure is needed as well.

Linda argued that since there is no increase on the foot print it is not necessary  
The application will be referred to the Planning Board.

*~ Jon Strom asked for a motion to accept the application for a public hearing on October 27, 2016, Hilarie Thomas made the motion, Jeffrey Judd seconded, all agreed.*

### **5) Public hearing:**

**1) 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.

*~ Jon Strom asked for a motion to open the public hearing, Jeffrey Judd made the motion, Hilarie Thomas seconded.  
Frank Peteroy recused himself.*

No new documents were submitted.

Thomas Casey just received a new survey today however it is a carbon copy of the one he had submitted prior.

~ Jon Strom read the Planning Board recommendation;

At the September 1, 2016 Planning Board meeting the members reviewed the application of GRJH Inc./Thomas Casey for a Convenience Store on Route 23 in Craryville.

The Board discussed in length the discrepancy on the Town maps regarding whether the location of the applicant's property is in the B-R or B-2 district. They were advised by Attorney Dow that after extensive research by him it became clear that the property in question is in the B-2 zoning district due to an error on the 2007 Clark Engineering Town of Copake Zoning Map that added the Scenic Corridor Overlay on the unofficial map that was prepared for Planning Board use only.

Chris Grant requested that Attorney Dow provide a letter for the Planning Board acknowledging this error and the fact that the applicant's property is located within the 'B-2' Zoning District and a Convenience Store and Gas Station is a permitted use within this district with a Special Use Permit and a full Site Plan Review by the Planning Board.

It was noted that no full site plan as yet.

~ Tom Casey explained that the existing structure will be razed in order to construct a 2400 to 3000 square feet convenience store and gas station. All the criteria required can be met. In his opinion the lot is prime for this type of development.

~ Jon Strom asked if anyone in the audience wanted to comment on the project. Jon read Lindsay Lebrecht's letter, she feels the project will have a negative impact on the area and that there are already 2 gas stations on that stretch of road.

~ Bob Haight as a private resident noted that there is a public hearing but there are no plans or site plans to look at.

~ Jon Strom agreed that without anything to support the project it is difficult to have an opinion. Where will the entrances be, what kind of lights...etc.

~ Hilarie Thomas noted that these are site plan review concerns.

She was wondering; if the ZBA was to grant the special Use Permit, will the project go to the Planning Board after.

~ Bob Haight said yes the Planning Board would review that application, but reiterated that without plans it would be difficult to move forward for the Planning Board.

~ Tom Casey noted that he presented other projects that his company has executed with the application, this one will be similar.

~ Jeffrey Judd stated that the ZBA cannot issue advisory and board cannot work on concept.

~ Hilarie Thomas noted that the proposed use is permitted in that zone, if it meets regulations.

~ Jon Strom stated that Special Use Permit is specific to that particular application, the applicant will have to come back with more details and he read from the Zoning Code;

“Members cannot begin the process without plans.”

“Before issuing a special use permit, the Zoning Board of Appeals shall assure itself of the following:

There shall be no detrimental effect by the establishment of such use.

Such use will be in harmony with the district in which located.

Such use will be in conformance with the New York State Uniform Fire Prevention and Building Code and applicable local codes and ordinances.

For a use variance, area variance or special use permit, complete plot plans, floor plans, building plans and other supporting information shall be filed with

the application to the Zoning Board of Appeals. Such plans shall be accurately drawn to scale and shall show all buildings, parking areas, traffic access drives, open spaces, landscaping and any other pertinent information.”

~ Tom Casey is aware that he will have to provide eventually, a full site plan, a SEQRA, an environmental study. He pointed out that the Planning Board minutes of last month reflect the fact that they have no objection to reviewing the application while it is before the ZBA.

~ Bob Haight noted that the Planning Board will want Tom Casey to have his approval from the ZBA before they can do anything.

Robert Bradway commented that local business should be protected.

~ Tom Casey indicated that his company builds the stations and then leases them out to locals.

~ Stoch Gansowsky stated that the Valatie store is well maintained, cannot dictate who comes and who does not, if someone wants to build they should be able to do so.

~ Jon Strom stated that the public hearing will remain open.

~ Tom Casey will provide the board with plans as soon as possible.

## **2) 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 and within 100 feet of a body of water.

Jon Strom recused himself as he is an abutter to the property presented.

Steven Silverman wants to increase the size of the master bedroom and bathroom as well as build a patio adjacent.

Plans have been resubmitted with additional measurements as required by the board.

~ Jeffrey asked if anyone in the audience had comments.

~ Jeffrey Judd read the Planning Board recommendations and asked Bob Haight if he had anything to add to the letter.

At the August 4, 2016 Planning Board meeting the members reviewed the application of Stephen and Madeline Silverman who wish to increase the size of their existing bedroom and bathroom and add a pergola/patio.

The Board had no issue with this application however Board approval was granted subject to any recommended screening that might be required by the ZBA and the granting of the variances

There were no comments from the abutters.

*~ Jeffrey Judd asked for a motion to close the public hearing, Hilarie Thomas made the motion, Frank Peteroy seconded, all agreed.*

*~ Jeffrey Judd 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.*

Jeffrey 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 ZBA is voting on; A variance of 76' from the pond and relief from 232-9P (1) for development within 100 feet of a body of water.

Roll call vote: Frank Peteroy;YES Jeffrey Judd;YES Hilarie Thomas;YES

Variance is granted.

5) **Closed Public Hearing:**

No closed Hearing

**Internal business:**

Jeffrey Judd notified the board that he might not be present for the next meeting.

*~ Jon Strom asked for a motion to adjourn the meeting, Hilarie Thomas made the motion, Jeffrey Judd seconded, all agreed.*

***The meeting was adjourned at 9:17.***

**Next meeting October 27, 2016**

Respectfully submitted.

Lisa DiConti and Veronique Fabio.

