

**Town of Copake
Zoning Board of Appeals
Minutes-January 24, 2013**

The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on Thursday, January 24, 2013, at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

An audience of about 6 was present including Marcia Becker; Planning Board , Susan Sweeney; Town Board Liaison and Edward Ferrato; Building Inspector.

The meeting was called to order by Chairman Hilarie Thomas at 7:00 PM.

Roll call: Present at this meeting were: Hilarie Thomas, Frank E. Peteroy, Michael DiPeri, and Jon Strom.

Kenneth Dow; Copake Town Attorney was also present.

Minutes:

Hilarie asked for a motion to waive the reading of the December 2012 minutes and approve them. Michael made the motion, Jon seconded, all in favor.

It was noted that The October and November minutes were still open.

Correspondence:

Hilarie reviewed the following correspondence

12-31-12-----from Hilscher & Hilscher attorneys in Ref to 2012-15 Mormando.

1-5-13-----from Hilscher & Hilscher attorneys ref to filling a new application / 1-17-13 response from Hillarie.

1-21-13-----From from Hilscher & Hilscher attorneys.

Hilarie asked for clarification in reference to what the attorney was told when present at a ZBA meeting of October 2012. Frank explained that Hilscher & Hilscher was told the lot was a bonifide deeded lot and they will have to submit an application and plans.

The owners want to sell the property as a buildable lot and are looking to get some kind of “proof” from the ZBA to market the lot as such.

\Hilarie sent Hilscher & Hilscher a letter and noted that it is a conforming lot in an R zone, the lot is ¾ of an acre and owners would have to comply with all the requirements under the district codes.

Frank noted that they will have to create a building and follow the regular procedure.

1-02-13-----from Kenneth Dow in ref to designation of ZBA chair.

1-05-13-----from Planning Board in ref. to 2012-19 Greene and 1-8-13-----from Erin Robertson in ref. to 2012-19 new plans submitted; will be reviewed during the public hearing.

1-07-13-----from Planning Board to CEO, cc; to ZBA in ref to Matschulat..

1-15-13-----From JeffNayer; memo in ref. to new policy manual.

Closed Public Hearing:

None

Public Hearing:

1 #2012-19----210 Island Drive Copake, Terence & Tamela Greene, Tax Map # 165.06-01-59. Area variance requested for construction of a new deck, and addition of a carport (12x20) within a 150 ft of a body of water.

Erin Robertson and Mrs. Greene came to the table. Erin submitted new plans for the project.

Hilarie asked for a motion to open the Public Hearing, Jon Strom made the motion, Michael Dipieri seconded.

Hilarie read the Planning Board message dated 1-5-13;

“At the January 3, 2012 Planning Board meeting, the Board conditionally approved the site plan for the Greene property at Copake Lake subject to the awarding of the variances identified by Ed Ferrato, Code Enforcement Officer in his letter of Dec. 11, 2012. The site map will be stamped if the variances are granted.”

Erin Robertson pointed out that the deck size was reduced, she also indicated on the new plan the distances to the water of the deck, carport and new path.

The proposed project is now; New deck = 1882 sq ft,
New Carport = 368 sq ft,
New front Path = 250 sq ft.

She also noted a plan for mitigation as follow; Storm water drainage, new gutters and leaders for the house and carport. Downspouts on the North side will be directed to a dry well to be located under the proposed deck to eliminate surface runoff.

4500 sq ft of native plants for buffers and protection of the shore line, plants to consist of grasses, sedges, perennials, shrubs and trees.

Frank asked for the size of the property, Erin indicated it is 1.65 Acre.

Jon clarified the variances being applied for; a rear yard and side yard variance.

Frank commented on the success of the proposed dry well, the property being at a low elevation. Erin said a structural review will be done by an architect and that potential problem will be looked at. Grade beams are also planned instead of piers for the deck. Hilarie asked if anyone in the audience had comments, she confirmed that the abutters were contacted.

Frank suggested that an average distance from the shore line will be calculated later. The side set back from the property line on the East side is 85.6 and 14.6 ft from the water, the rear set back from the water is 22.00 ft for the deck and 31.7 ft for the carport, the average variance measurements will be calculated.

Hilarie asked for a motion to close the public hearing, Jon made the motion, Michael seconded. Public hearing for application 2012-19 closed.

The board is ready to vote on the application.

Hilarie 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.

**Roll call vote; Frank, YES. Hilarie, YES. Jon, YES. Michael, YES
Variance granted.**

2 #2012-20---Wagner , 103 Golf Course Rd. Tax Map #165.5-1-2, Area Variance; Add second story , square house off to even 26' wide.

Linda Chernewsky approached the table accompanied by Mr. Wagner.

Hilarie asked for a motion to open the public hearing, Jon made the motion, Michael seconded.

Linda Chernewsky explained the plan to square off the house, she noted that the planning board had asked for an asbestos test, it came back negative. Mr. Wagner clarified that the second story exists already.

The pic of the roof will be reoriented, the roof now, slopes towards the lake and will be turned around.

Frank asked if Linda had the measurements shot by the surveyor. Linda explained that there is no physical property line and what she has is what she was given by the surveyor. Squaring off the house creates a difference of 13.2 inches from the original side set back

Hilarie asked for a motion to close the public hearing, Jon made the motion, Michael seconded. Public hearing for application 2012-16 closed.

The board is ready to vote on the application.

Hilarie 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.*

Roll call vote; *Frank, YES. Hilarie, YES. Michael,YES. Jon, YES.*

Area variance is granted as follow; 21'.43" left side set back
14'.52" right side set back
86'.31" house to water set back
61'.31" rear set back to property line

And raising of the roof on the second floor.

New Applications

1 2013-01 Larry & Kathryn House, 28 Pine street Craryville , Tax Map# 165.11-1-29
Replace existing structure and add 8x8 room.

Darlene Reimer Architect came to the table and presented the project.

An area variance requested to add an 8' x 8' (64 sq ft) habitable area to existing first floor. The 8x8 area now creates a potential for collection of water and snow in an area where managing run off can be problematic.

The house will be demolished and brought up to code with egress windows within the existing footprint. The existing deck will be screened and an open deck created on the second floor. The second story will not be over 25'.

Jon clarified that the new house will be following the exact same footprint. Site plan is now reviewed by Planning Board. The capacity of the septic tank will be given by Crawford and associates in Hudson.

Frank asked if the number of bedrooms was staying the same, Darlene said it won't change, the house will remain a two bedrooms house

Hilarie read the building department letter of denial as well as the letter from the Planning Board dated 1-16-13;

"The House project at Copake Lake is currently in the Site Plan Review process. They last appeared before the Planning Board on August 2, 2012. The latest correspondence is attached. The PB Minutes from that meeting are attached. Since then, the Code Enforcement Officer has noticed that the structure is being expanded and no longer falls within the "Replacement" section of the code (232-24 B. (2)(b), but still requires Site Plan Approval before a building permit can be issued."

There are 3 front yards on this property.

Hilarie asked for measurements from the building to the water for the next meeting.

Hilarie asked for a motion to accept the application for a public hearing for next month February 28, Michael made the motion Frank seconded, all in favor.

2 2012-21 Eric & Carol Sokol, 453 Lakeview Rd. , Tax Map # 165.11-1-41, remodel first floor, roof , add new windows, add deck and door of off dining room, deck to be partially covered.

Linda Chernewsky approached the table. An area variance is requested for remodeling first floor, revise second floor with dormers, bring stairs up to code, and add side deck and door off of dining room on a non conforming lot. The ceilings upstairs are only 6 ft in height.

Silt fences will be installed before work starts.

Ed Ferrato noted that there are two front yards.

Ken Dow added that a yard adjacent to a street is considered a front yard. So there are two front yards for this property.

Jon asked because the road goes through the property where is the property line calculated from? Linda indicated it is measured from the deck to the water.

Hilarie asked for a motion to accept the application for a public hearing for next month, Michael made the motion, Jon seconded, all in favor.

Adam Resnikoff, a candidate for a position as a ZBA member was not present for the interview planned.

Old Business

.None

.Jon made a motion to adjourn the meeting. Michael seconded.

Adjournment

Meeting was adjourned at 8:40.

Next meeting will take place February 28, 2013.

Respectfully submitted.

Veronique Fabio Recording Secretary

