

Town of Copake Zoning Board of Appeals

~

Meeting Minutes of January 29, 2015

The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on January 29, 2015, at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

An audience of about 15 was present as well as,

Edward Ferrato: Building Department, Bob Haight and Marcia Becker: Planning Board, Susan Sweeney: Town Board Liaison, and Jeff Nayer: Town Supervisor.

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

Roll call:

Present at this meeting were: Jeffrey Judd, Frank E. Peteroy, Hilarie Thomas, and Jon Strom. Michael Diperi is going to be late for the meeting, he came in at 8PM.

Kenneth Dow: Copake Town Attorney was present.

Veronique Fabio was present to record the minutes.

Reading and approval of the minutes of preceding meeting:

~ Hilarie Thomas asked for a motion to waive the reading of the December 18, 2014 minutes and approve them.

~ Jon Strom made the motion to approve and waive the reading of the minutes, Jeffrey Judd seconded, all agreed;

December 18, 2014 minutes are approved.

Correspondence:

Review of the correspondence.

1/17/2015 From Planning Board; New fees for 2015.

1/21 From Linda Chernewsky, new site plans for Keifer.

1/28 Agenda for Planning Board meeting on February 5th.

1/28 Email of resignation from Adam Resnikoff.

A letter in reference to Adam Resnikoff's resignation will be sent to the town board and the open position for an alternate ZBA member will be advertised.

Public Hearing:

Continuation of the public hearing opened on November 20th 2014.

1) **2014-14, Keifer/Freshman.** Represented by Linda Chernewsky, Southwest Colony Rd. Tax Map #165.14-2-7 & 165.14-2-8.

Area Variance requested for the construction of a new 3 bedroom house and new septic system within 100 feet of a water body.

~ *Hilarie Thomas asked for a motion to continue the public hearing.*

~ *Frank Peteroy made the motion, Jon Strom seconded.*

Linda Chernewsky, came to the table and showed the new site plans for the project as per Health Department's request; relocation of the well as well as relocation of the septic system previously proposed. She indicated that a monitoring and maintenance agreement governing the sewage disposal system was entered by the applicant as requested by the Columbia County Health Department as well as a Release of Liability for the quality of the water from the new well taking in consideration that the location of the septic systems of surrounding properties was unknown.

The elevation of the house was dropped by one foot.

~ Linda indicated that the window of the concerned neighbor was located and sight lines were done as requested by the ZBA at the last meeting. It was determined that the neighbor's views will not be diminished. She explained that the top of the neighbor's window is located at elevation 761.1, the finished floor of the new house will be at *elevation 735, that is a difference of almost 30'.

~ Frank indicated that he had visited the site in December, & from the road he estimated the first floor of the neighbor's house was about 10 to 12 feet above the garage grade & that the eye level, [camera] would be about 4 to 5 feet more ... this put the view line about 14 to 17 feet above that grade.' I do not see the view being compromised...the neighborhood is substantially upgraded by this new property owner.'

~ Hilarie asked if anyone in the audience had questions.

~ Jon Strom asked details about the new well; because surrounding septic systems could not be located the new well will have a filtration and disinfection system.

~ Frank asked about the 15 foot "right of way" indicated on the plan.

He commented that there should be an affidavit releasing the town's liability in case of a road collapse during construction. He noted that if only a section of the road was lost it could be a substantial liability as there is no other access for the fire department. The road was not designed to support the weight of a concrete truck. South West Colony Rd is a private road maintained by the residents.

~ Linda indicated that construction trucks will not park on the road but on the parking area. The abutting neighbor agreed to let the pick-up trucks park on his property.

~ Hilarie suggested that there should be an agreement that the owner will commit to repair the road after the construction in case of damage.

~ Linda argued that there were other construction prior on that road and this owner should not be singled out.

~ Jon Strom noted that it is a private road therefor it is a civil issue.

~ Hilarie Thomas asked for a motion to close the public hearing, Frank Peteroy made the motion, Jon Strom seconded, all in favor.

~ Hilarie indicated that the ZBA had 62 days before rendering a decision, but she believed that the members will be able to make a decision tonight.

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

Jeffrey Judd disagree and he indicated that the house could have been replaced in the same location, following the same foot print therefor no variance would be necessary. Linda responded that 2 lots were combined and the proposed house is improving the existing conditions, also the new house will be farther away from the lake.

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:

Relief from section 232-9 P (1).

Also from 232-9 P (2).

A Front Yard Area Variance of 20'

A Rear Yard Area Variance of 42.3'

And relief from 232-24 B (2) (a) [5]

As per Bob Haight request the variance is granted contingent to the Planning Board's approval of the newly submitted site plan.

Also it will be added that the owner will be responsible for the repair of South West Colony Rd. in case of damages resulting from the construction for the section of the road going from one end of the property to the other.

Roll call vote:

Jeffrey Judd NO.

Jeffrey Judd disclosed the fact that he lives on South West Colony RD.

He cannot see the property from his location but he has concerns about the sight lines for the property owners located across the road from the project.

Frank Peteroy, YES.

Hilarie Thomas, YES.

Jon Strom, YES.

Variance granted

3) New Application:

1) 2015-01, 22 Howard Dr. 186.-2-76

2) 2015-02, 2103 County Rt. 7A 186.-2-29.2

3) 2015-04, 2111 County Rt. 7A 186.-2-67

Owner; Alon Ben-Meir represented by Paul Freeman attorney at law, requesting 3 special use permits.

Mr. Paul Freeman comes to the table to present the applications.

The owner of the properties is requesting special use variances for the purpose of operating boarding houses. One application was submitted for each property.

Owner is looking for the approval to use each property as it is defined under the Copake code “A building other than a hotel with a kitchen, a dining room and at least 3 but no more than 6 bedrooms offered for rent with or without meals. A lodging house, tourist home use or rooming house shall be deemed a boardinghouse.”

~ Hilarie indicated that the applicant would have to provide additional documentation for the public hearing;

- 1) The capacity of the septic system for each property.
- 2) The floor plans.
- 3) The bedrooms count.
- 4) Fire safety code are they up to date? I.e. sprinklers, emergency exists...
- 5) What provisions are in place to protect privacy right of the abutters?

~ Hilarie asked if there is someone on premises to manage the properties.

~ Mr. Freeman responded that no one was on site to monitor the tenants, the houses are rented for 2 days and up to a week at a time. A cleaning service is provided, there is check in and check out times.

~ Hilarie voiced her concern about noise, she indicated that in the past there have been some issues. The town of Copake does not have a police force and residents have limited recourse in case of problems.

~ Mr. Freeman noted it is not the intention of the owner to rent to people that would disturb anyone. It might have happened in the past. Disturbances are usually handled by police and they are out there to protect the public.

Mr. Freeman feels that Hilarie Thomas has already a pre-determined position on the matter.

~ Hilarie Thomas suggested that the abutting owners should be approached by the applicant or his representative to alleviate future issues about the project.

*~ Jeffrey Judd expressed concern over the issues of past performances and future assurances.

~ Jon Strom pointed out that noise pollution and disturbances are part of the ZBA's concerns and consideration for the granting of variances and special use permits and at the public hearing abutters will have the opportunity to voice their concerns if any.

~ Frank Peteroy asked details about the length of ownership of the properties and the number of houses owned by Mr. Ben Meir.

~ Mr. Freeman indicated that Mr. Ben Meir has a large family, 6 children, and renting the properties is a way of generating some income to maintain them.

~ Edward Ferrato; Building Department, added that the septic system capacity and the bedrooms count and the number of people that each house can support would be very useful.

~ Jon Strom noted that the term "tourist home" might be a better description for the situation than "boarding house".

~ Frank indicated that the "bed and breakfast" definition is not correct either. If there is no correct definition in the Copake Zoning Code the ZBA would have to look at the New York building code.

~ Jon Strom asked Bob Haigh what the Planning Board and the town council position was on the matter.

~ Bob Haight responded that because it is a change of use and a commercial operation the applicant will have to go before the Planning Board.

~ Susan Sweeney noted that these applications are before the ZBA has a result of complaints from the neighbors.

~ Jeffrey Judd recapped that there are 2 houses with 4 bedrooms and 1 house with 6 bedrooms.

~ Hilarie Thomas asked for a motion to accept the applications for a public hearing for February 26, Jon Strom made the motion, Frank Peteroy seconded, all in favor.

~ Bob Haight reiterated that a site plan review should be done by the planning board.

~ Hilarie Thomas also mentioned that a SEQRA should be submitted.

4) Closed Public Hearing:

None

Internal business:

1) Discussion about the current application form that does not have a special use permit section. Hilarie would like the board to work on a more precise application.

2) Nomination of chair and vice chair.

Hilarie announced her decision to withdraw as chair person.

Frank Peteroy nominated Jon Strom as chairman, Michael Diperi seconded. Jon accepted.

Vote : Jeffrey Judd, YES.
 Frank Peteroy, YES.
 Hilarie Thomas, YES.
 Michael Diperi, YES.

Jon Strom nominated Jeffrey Judd as vice-chair, Michael Diperi seconded. Jeffrey accepted.

Vote :
 Frank Peteroy, YES.
 Hilarie Thomas, YES.
 Michael Diperi, YES.
 Jon Strom, YES.

A letter will be sent to town board members informing them of the results of the votes.

A discussion went on about the open position for alternate member and his/her opportunity to vote on the board.

***~ Motion to adjourn was made by Jon Strom, seconded by Michael Diperi, all agreed.
The meeting was adjourned at 7:45.***

Respectfully submitted.

Recording Secretary.
Veronique Fabio

