

Town of Copake Zoning Board of Appeals

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Meeting Minutes of October 27, 2016

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The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on October 27, 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, Hilarie Thomas and Kenneth Dow; Town Attorney Michael Diperi was excused. Veronique Fabio was present to record the minutes.

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

The June 23, July 28 and September 22, 2016 minutes were approved. Frank Peteroy requested a copy of the CD for the June minutes.

3) Correspondence:

The following correspondence was acknowledged;

*From Jeff Nayer, October 04, Land Use Training sessions. With regard to training Jon Strom handed out a certificate of attendance for 3.5 hours for Land Use Training Seminar completed October 24, 2016. Frank Peteroy also participated to the training.

*From Demirel, question about Special use permit. Jon Strom commented that the ZBA cannot make recommendations. Applications have to be filed and the process followed.

*From Marc Gross 10-10-16, (Motion to intervene in support of ZBA denial of Ben Meir applications).

It was noted that Mr. Gross correspondence is a legal issue not a ZBA concern at this point.

*From L. Chernewsky in ref. to Rice from DEC, 9-29-16

*From Planning Board referrals for Chibbaro, Schade and Rice.

*From Tom Casey. Engineering plans.

4) New Applications:

2016-11, Corey Brousseau, 8010 Route 22, Tax map # 176.-1-32

Requesting Special Use Permit for former “Heads Service Station” to operate a service business (welding shop).

Mr. Brousseau came to the table accompanied by Ralph Platt executor for the estate of Virginia Boughton, she was the owner of the property in question. Mr. Brousseau is looking to purchase the property. He explained the loss of the special Use permit due to the fact that the repair shop was not in use for a period exceeding 12 month (232-24 A (3)). The premises have been used as a repair shop for the past 57 years.

~ Jon Strom noted that he lives 1.5 miles away from the property but does not think he has to recuse himself.

He read the Copake Code in reference to the situation;

“Discontinuance. If a nonconforming use is discontinued for a period of 12 consecutive months, the use shall expire; and any subsequent use on the same lot shall conform to the regulations of the district in which it is located.”

~ Jeffrey Judd asked for details on the nature of service that will be offered.

~ Mr. Brousseau said the shop is located in BR zoning district. He wants to set up a service establishment. He will do welding for race cars racks and roll cages, farm equipment and artistic work as well. He has no plans to change the existing building just paint the outside and a general landscaping cleanup.

~ Hilarie Thomas asked if the gas tanks were pulled out.

~ Mr. Platt responded that it was done and he will bring the DEC papers for the next meeting. He added that the floor in the shop is made of 16” concrete, the building is all blocks. There is a wash room on premises.

~ Frank Peteroy noted that a new well was installed.

~ Mr. Brousseau indicated the hours of operation planned will be 10 am to 4 pm, 4 to 5 days a week and he has no need for additional electric power. The power lines are all set up underground. All his machines run on 115 volt. He has no need for more power.

~ Ken Dow added that a Short Environment Assessment Form will have to be filled out. The applicant will have to bring that for the public hearing.

~ Jon Strom noted that if the Planning Board is looking at the application they will need a site plan.

The application will be referred to the Planning Board.

~ Jon Strom asked for a motion to accept the application for a public hearing on November 17, 2016, Jeffrey Judd made the motion, Frank Peteroy seconded, all agreed.

5) Public hearing:

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.

~ Jon Strom asked for a motion to open the public hearing, Hilarie Thomas made the motion, Jeffrey Judd seconded, all agreed.

Mr., Mrs. Chibbaro and Jed Fink the builder are present.

~ Jon Strom read the Planning Board recommendation letter.

At the October 6, 2016 Planning Board meeting the members reviewed the application of Anthony Chibbaro on Lake View Road at Copake Lake for a deck on the water's edge.

The applicant owns 2 parcels that cross the road and it was noted that relief from Town Code 232-P9 (1) is needed and also that building is not allowed on a non-conforming lot. There was confusion as to whether the lots were separate or one parcel as Ms. Cohen could only find one Tax Map number for this.

The Board had a number of concerns regarding this application:

1. The Survey Map does not reflect the County Tax Records and there is a concern that there are 2 parcels. They felt an accurate survey map is needed along with a deed to clarify this.

2. Relief is needed from Town Code 232-9P(1) for the deck.
3. Relief is needed for the fence height 232-9F for the fence. They felt consideration also needs to be given to the fact that the height of the fence might impact the view of traffic and the Highway Superintendent should be consulted regarding this.
4. The Board also questioned whether they will they need relief for an accessory use in the front yard. [Town Code 232-9D].
5. Ms. Cohen also questioned the distance of the steps from the water as there is a discrepancy between the two drawings with the stairs depicted on only one of the drawings.
6. There was also a question as to whether a side variance is needed.

~ Ken Dow indicated that he was at the Planning Board meeting and that there are 2 distinct parcels on the deed. All kind of restrictions apply on 2 small parcels, if it is one larger parcel things are different.

~ Hilarie Thomas noted that in 2013 when the Chibbaros applied for another variance the lots were not merged, lot 1 with 0.306 acres and lot 2 with 0.067 acres.

~ Frank Peteroy asked why they wanted to set up a 6” fence around the deck.

~ Jed Fink responded that it was for privacy purposes, all other fences on the road are at the same height and the road is straight there so there is no visibility obstructions. Frank agreed to that.

~ Mr. Chibbaro showed pictures of the docks they were planning to install, they are made of wood with galvanized steel footing, and they will be moved out of the water at the end of the season. The deck by the road will be all fenced in with an access gate. Set back side yard variances are needed; 18’7” on one side and 8’5” on the other.

~ Hilarie Thomas express some concerns with the height of the fence and suggested that the Highway Department take a look at the plan. She also noted that the docks that will extend 30’ in the lake.

~ Mr. Chibbaro repeated that the sections of docks will be removed in the winter.

~ Jed Fink indicated that the fence will be 4’ away from the edge of the road.

~ Jon Strom suggested that the deck could be moved to the middle of the lot and the distance to the road increased somehow.

It was decided that the hearing will be held over to the next meeting November 17.

The application will be referred to the Highway Department.

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.

~ Jon Strom asked for a motion to open the public hearing, Jeffrey Judd made the motion, Frank Peteroy seconded, all agreed.

Linda Chernewsky presented the DEC approval letter dated September 22, 2016.

~ Jon Strom read the Planning Board recommendation letter.

At the October 6, 2016 Planning Board meeting the members reviewed the application of Charles Schade for an addition to his existing house on Lake Shore Drive in Taconic Shores.

The Planning Board approved this application subject to ZBA approval of the variances for front-yard and rear-yard set-backs, the septic system being placed within the one-hundred and fifty foot set-back from the lake and for development within the one-hundred foot set-back from the lake.

~ Linda indicated that the work on the retaining wall on Robinson pond needs to be done when the water level is low. DEC is ok now, Taconic Shores is waiting for the ZBA approval before they give the go ahead.

The Department of health was there the new 1000 gallons septic is in. The number of bedrooms will remain the same (3).

~ Jon Strom asked if anyone had comments.

He recapitulated the variances requested;

23'1/2" front setback variance

2'5" rear setback variance

Relief from 232-9P (1) construction within 100' of a water body.

Modification of a nonconforming structure.

Septic system located within 150' of a water body.

Relief from 232-9 D.

There were no more questions by anyone.

~ Jon Strom asked for a motion to close the public hearing, Jeffrey Judd 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.

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: 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 this application;

Roll call vote: Frank Peteroy: YES Jeffrey Judd: YES Jon Strom: YES

Hilarie Thomas: YES

Variance is granted.

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.

~ Jon Strom asked for a motion to open the public hearing, Hilarie Thomas made the motion, Jeffrey Judd seconded, all agreed.

Project presented by Linda Chernewsky.

Jon Strom read the planning Board recommendation letter.

At the October 6, 2016 Planning Board meeting the members reviewed the application of Eugene Rice and Victoria Hart for a new deck to be constructed over an existing one. The Planning Board acknowledged that the Building Inspector has already issued a Building Permit for this application and had no further comment.

~ Linda Chernewsky noted that a building permit had been issued already but Taconic Shore's owners Association wanted the ZBA to look at the project.

The project consist of the construction of a 10'x 22'.6" upper level deck over a lower existing deck located within 100' of Robinson Pond. Techno posts will be used. She presented an email from Kristen Cady-Poulin at the DEC stating that the construction did not require the submission of an application to the DEC.

There were no comments from abutters.

~ Jon Strom asked for a motion to close the public hearing, Hilarie Thomas 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.

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

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

Variance is granted.

Continuation of a public hearing opened September 22, 2016

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.

Thomas Casey accompanied with Amy L. Haight; Project Engineer came to the table.

~ Amy Haight presented a Short Environmental Assessment Form, engineering plans and building plans for the project.

Were discussed;

The location of the well and waste water amounts.

The parking spaces number and location.

The location of the entrances and distance to the corner of 23 and Craryville road.

The number of pumping stations, 6 spaces are planned.

~ Amy Haight went on and noted that the project is conform to the comprehensive plan, it will not have any environmental detrimental effect. Ground water will be protected. She wants to reduce the amount of impermeable surfaces as much as

possible. The lot has 2 front yards, 2 rear yards, and one side yard. All sets back are met.

~ Hilarie Thomas asked about the hours of operation and the lighting details.

~ Tom Casey mentioned that the tanks that were there have been removed a long time ago and were taken to Catamount. A geologist will be hired and will take samples.

~ Gus from Beach & Bartolo was present and he said that he will research the papers on the property to find out if there are records on the tank removal.

A discussion went on about options for permeability of the pavement.

The esthetics details of the construction were given; inside walls of neutral colors, double pane windows, outside hardy board clapboard, a cupola on the roof. The total height of the building would be 39' .9 on the peak. A monument type sign is planned as it is less obstructive. Traffic study was done and EAF completed.

The application will be referred to the County Planning Board.

~ Ken Dow will look into the SEQR for November 17.

The public Hearing remains open.

5) Closed Public Hearing:

No closed Hearing

6) Internal business:

None

~ 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 9:30.

Next meeting November 17, 2016

Respectfully submitted.

Veronique Fabio.