

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

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## **Meeting Minutes of November 17, 2016**

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The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on November 17, 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, Michael Diperi and Kenneth Dow; Town Attorney Veronique Fabio was present to record the minutes.

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

The October 27, 2016 minutes were approved.

### **3) Correspondence:**

The following correspondence was acknowledged;

Nov. 10 review from Highway Department of Chibbaro project.

Nov. 11 from Jeff: Nayer Christmas party invite & letters of interest for ZBA members.

Nov. 12 referrals from Planning Board for Brousseau & GHRJ Inc.

Nov. 17 from Jeff Nayer changes for the Holiday party.

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

2016-12, Carp Inc. 140 lake View Rd. Taconic Shores. Tax map 176.1-02-52

Presented by Linda Chernewsky.

Requesting a Left, right, and rear variance as well as relief for construction done within 100' of a water body.

~ Linda Chernewsky came to the table, she explained that part of the foundation on the house in question is failing and will have to be redone. A section of the existing porch will be removed. A deck is planned with techno posts. This is a 2 bedroom house the number of bedrooms will remain the same and in the same location as well as the bathroom.

The septic system has to be redone, a 1000 gallon tank is proposed. The Department of Health will give its recommendation as well as the DEC, the house being located near Robinson Pond.

Linda Chernewsky is in contact with Kristen from DEC she will be on the site for an inspection.

*~ Jon Strom asked for a motion to accept the application for a public hearing on December 17, 2016, Michael Diperi made the motion, Jeffrey Judd seconded, all agreed.*

The application will be referred to the Planning Board.

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

##### **1) 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).

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

Mr. Brousseau came to the table.

~ Jon Strom read the Planning board recommendation.

At the November 3, 2016 Planning Board meeting the members reviewed the application of Corey Brousseau who wishes to change the use of an old gas station into a welding shop on Route 22 in Copake.

The Building Permit Application stated that no changes are being made to the building or driveway. However, after discussion the Planning Board concluded that if a Special Use Permit is granted and the applicant should apply for a Building Permit receipt of a Building Permit would be subject to Site Plan Review by the Planning Board.

Mr. Brousseau did not have the survey and the short environmental assessment form that the ZBA had requested at the previous meeting.

The application including the EAF should be referred to County Planning.

The Planning Board might have to do a site plan review also.

The ZBA has to establish its position as Lead Agency with the planning Board.

The Public Hearing will be kept open until documents are presented.

**Public Hearing previously opened October 27, 2016.**

**2) 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.

Mr., Mrs. Chibbaro are present.

~ Jon Strom read the letter from the Highway Department.

After a site visit and reviewing the submitted application I have two recommendations.

First, the fence should be installed as far off the edge of pavement as possible. The footings that are already installed are 15' from the center of the road as shown in the attached photos. There is easily enough shoulder for the footings to have been at least another 12" from the pavement. I understand that they have been placed the same distance as the nearby guide rail but it should be considered that during snow plow operations snow is pushed both under and over the guide rail. A solid privacy fence would not withstand snow being pushed against it. Therefore I recommend that the footings be moved at least another foot from the edge of the road.

Secondly, Mr. Chibbaro should understand that if he is allowed to install the fence that it will defiantly be at risk of being damaged during snow plowing operations. He should acknowledge this risk and accept that the Highway Department will not be held liable.

Thank you,

William Gregory

~ Jon Strom suggested that the fence should be moved according to the Highway Department recommendation.

~ Mr. Chibbaro agreed to build the deck 4feet from the edge of the pavement. He explained that the project is for a 27 x 10 foot deck and removable docks extending 30 feet into the lake. The Chibbaros decided on the project to “protect” their water front area from their neighbor who has been anchoring his boat in front of their property.

A discussion followed regarding a previously granted building permit that Mr. Chibbaro could not present tonight as well as a confusion on the height of surrounding fences on other properties and a possible misrepresentation on details of the project by the builder.

~ Michael Diperi asked about the length of the fence, Chibbaro responded that it will follow the length of the deck.

~ Ken Dow recapped that the ZBA has to weigh the detriments and/or benefits of the project in order to make a decision on the variance.

The variances are as follow;

1. Relief from 232-9P (2) development within 100 feet of a body of water.
2. Relief from 232-9F fence in front exceeding 4’ in height.
3. Side yard (East) area variance of 20’3”
4. Side yard (West) area variance of 22’5”

The distance of the fence from the edge of Lakeview Rd. should be a minimum of 4’.

~ Jon Strom asked if anyone had comments.

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.***

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: 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: NO Jon Strom: YES  
Michael Diperi; YES Hilarie Thomas: NO

Hilarie Thomas and Jeffrey Judd felt that the project was detrimental to the neighborhood.

Variance is granted 3 to 5.

### **Public Hearing previously opened September 22, 2016.**

**3) 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 Gus from Beach & Bartolo came to the table.

~ Jon Strom read the letter from Columbia Count Planning.

Pursuant to the provisions of New York State General Municipal Law (NYSGML) §239-l and §239-m, please find the Columbia County Planning Board (CCPB) recommendation concerning the request of GRJH, Inc. for a Special Use Permit. The proposed action is to construct a new convenience store with gas station including three (3) fuel pump islands, with two (2) fueling stations at each island. The existing structure will be demolished. The site is located at 1763 NYS Route 23 at the intersection with Craryville Road in the Town of Copake, NY.

Pursuant to NYSGML §239-l and §239-m, the CCPB reviews proposed actions for inter-community or county-wide considerations and shall recommend Approval, Modification or Disapproval of the proposed action, or report that the proposed action has no significant county-wide or intercommunity impact. Upon recommendation of Modification or Disapproval, "...the referring body shall not act contrary to such recommendation except by a vote of majority plus one of all the members thereof." The CCPB may make informal comments to the referring body on the proposed action with any of the recommendations made.

Recommendation: The CCPB finds that this proposed action has no significant county-wide or intercommunity impacts associated with it. Therefore, the Town of Copake Zoning Board of Appeals may take final action on this application with a simple majority vote. However, the following comments are offered for consideration:

Comments:

1. Access: The CCPB suggests that the applicant contact New York State Department of Transportation (NYSDOT) regarding the proposed access off of NYS Route 23.
2. Water supply and Septic: The CCPB suggests the applicant contact Columbia County Department of Health (CCDOH) regarding any necessary reviews for the proposed on-lot well and septic.
3. Food Service: The CCPB suggests the applicant contact Columbia County Department of Health (CCDOH) regarding any necessary reviews for the proposed food service.

Please note that within thirty (30) days after final action is taken, the Town of Copake Zoning Board of Appeals shall file a report of the final action with the CCPB. For additional information please contact Columbia County Planning and Economic Development or [patrice.perry@columbiacountyny.com](mailto:patrice.perry@columbiacountyny.com).

~ Jon Strom went over the Planning Board review and noted that the ZBA is the lead agency for this application.

~ Ton Casey indicated that he was looking for an approval on the concept of the project, he also said that it would be a huge step forward if the ZBA granted that special use permit.

~ Jon Strom and Jeffery Judd questioned the planning Board remarks in their last minutes regarding the location of the building.

~ Tom Casey said he will clarify that point with the Planning Board, the plans presented to the Planning Board were not for that particular location. The Planning

Board will review the SEQRA and give its feedback after their December 9<sup>th</sup> meeting.

~ Ken Dow noted that on December 15 the ZBA will have another meeting and a determination could be made.

~ Tom Casey talked about 3 curb cuts that will have to be done following DOT regulations.

The public Hearing remains open.

**5) Closed Public Hearing:**

No closed Hearing

**6) Internal business:**

1. It was decided that the December meeting should take place on the 15<sup>th</sup> instead of the 22<sup>nd</sup>.

2. After this meeting, the ZBA members will go into executive session for the interview of Marc Miller applying for one of the vacant positions on the board.

*~ 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 8:55***

**Next meeting December 15, 2016**

Respectfully submitted.  
(No audio recording)  
Veronique Fabio.

