

# Town of Copake Zoning Board of Appeals

~

Meeting Minutes of November 20, 2013

The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on Wednesday, November 20, 2013, at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

An audience of about 5 was present as well as Susan Sweeney: Town Board Liaison, Kenneth Dow: Copake Town Attorney and Edward Ferrato: Building Department.

The meeting was called to order by Hilarie Thomas at 7:10 PM.

**Roll call:** Present at this meeting were: Ralph Shadic, Frank E. Peteroy, Hilarie Thomas, Mikael Diperi, Jon Strom and Veronique Fabio recording secretary.

Adam Resnik was absent.

**Reading and approval of the minutes of preceding meeting:**

*Hilarie Thomas asked for a motion to waive the reading of the corrected October 24, 2013 minutes and approve them.*

*Frank Peteroy made the motion, Jon Strom seconded, all in favor.*

Frank Peteroy [presented an addition to the October 2012 minutes. After a quick reading, it was decided to table the matter for the next meeting.

**Correspondence:**

Hilarie Thomas reviewed the following correspondence.

Oct.30-----from Jeff Nayer a letter dated July 24 2013 in ref. to balance refunded that was remaining in escrow account for Braunstein.

Nov. 1<sup>st</sup> -----from Frank Peteroy email in ref. to Slaughterhouse amendment.

Nov. 12-----from building department in ref. to Haddad & Mon's application for a variance.

Nov. 15-----from Ed Ferrato in ref. to new application on Cat Track Lane.

Nov. 16-----from planning board Memo in ref. to 2013-23 Fabio.

Nov. 16----“ ----- “ in ref. to 2013-22 Fearon.

**Closed Public Hearing:**

None

**Public Hearing:**

1)-----2013-07. Gregg Hosier, Lakeview Rd, Tax Map # 165.11-1-45

Area Variance for improvements within 100' of a body of water for a 7 feet x 20 feet deck, a 14 feet x 24 feet parking area off of lakeview Rd., an 8 feet x 10 feet storage shed south of parking area and four sets of stairs.

Mr. Hosier accompanied by Ira Halfond Esquire came to the table.

Mr. Hosier had sent in a new set of plans showing the changes required by the board at the previous meeting.

Hilarie acknowledged the changes made. She asked if the stairs will have railings.  
. Mr. Hosier answered yes to that question.

Frank inquired about the restraint around the parking area that had been requested. It was noted that the plan mentioned a restraining railing system that will be set up along the parking area.

Jon Strom asked if the abutters concerns had been addressed. He was updated to the matter and informed that one of the abutters Mrs. Assande was present at the previous meeting. Jon also mentioned the FOIL request by Mr. Hosier and asked if all was resolved. Mr. Hosier said that his questions were answered all is now fine.

Hilarie asked if anyone in the audience had questions, being none, *Hilarie asked for a motion to close the public hearing, Michael Dipieri made the motion, Jon Strom seconded, all in favor.*

The board is going to vote tonight on an area variance for development within 100 feet of a body of water (Copake Lake).

Hilarie Thomas 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; Ralph Shadic , YES. Frank E. Peteroy, YES. Hilarie Thomas, YES.

Mickael Dipieri, YES. Jon Strom, Yes.

Variance granted for the purpose of building a 7 feet x 20 feet deck ,a 14 feet x 24 feet parking area, an 8feet x 10 feet storage shed and four sets of stairs.

2)----- 2013-18. Andrew & Lauren Howard, 48 Starling Rd, Copake.  
Tax Map # 155.18-2-4.

Area Variance, for 8' x 12' storage shed in front yard and less than 10' to a side yard line as well as a 3' x 3' chicken coop.

Mr. Howard was not present for his hearing.

3)----- 2013-21. Ruth Pelham & Diane Turner, 6 Roosevelt Drive Copake ,  
Tax Map # 165.15-1-27.100 & 165.15-1-27.200

Front yard and rear yard area variance for new roof, enlarge dinning room & living room, addition of a mudroom and a screened porch.

Linda Chernewsky represents the owners, she came to the table.

*Hilarie asked for a motion to open the public hearing, Michael Dipieri made the motion, Jon Strom seconded, all in favor.*

Hilarie Thomas read the memo from Building Department;  
*Existing House renovation.*

*Relief from zoning; Section 232-24 B-2(a) #2*

*1) A front yard area variance of 10 feet 2 inches.*

*2) A rear yard area variance of 56 feet 8 inches.*

It was noted that the Planning Board had reviewed and approved the site plan on October 3<sup>rd</sup> 2013.

All the abutters had received notification of the project.

Frank noted that there were two parcels and two separate deeds.

Hilarie asked if anyone in the audience had questions, being none, *Hilarie asked for a motion to close the public hearing, Michael Dipieri made the motion, Jon Strom seconded, all in favor.*

The board is going to vote tonight on 1) A front yard area variance of 10 feet 2 inches,  
2) A rear yard area variance of 56 feet 8 inches.

Hilarie Thomas 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; Ralph Shadic , YES. Frank E. Peteroy, YES. Hilarie Thomas, YES. Mickael Dipieri, YES. Jon Strom, Yes.**

**Variance granted for the purpose of building a new roof, enlarge dinning room & living room addition of a mudroom and a screened porch.**

**4) ----- 2013-22 . George and Iris Fearon 73 Lake Shore Drive Taconic Shores.**

**Tax map # 176.3-2-4 , Area variance for a 25' x 15' addition to existing house . Front yard set back variance of 4'6" requested.**

**Hilarie asked for a motion to open the public hearing, Michael Dipieri made the motion, Jon Strom seconded, all in favor.**

**Edward Ferrato came to the table and informed the board that he was asked by Mr. Fearon to represent him tonight.**

**Edward Ferrato mentioned a memo from the planning board that was referring to the septic system. Mr. Ferrato informed the ZBA that the septic system was replaced by Baldwin in 2003 by a 1000 gallon tank and that the tank had been emptied in 2009. The planning board has questions about the location of the leach field.**

**Frank noted that the leach field should be located straight out or towards the lake.**

**Hilarie asked Marcia Becker details about the planning board requests.**

**Marcia said that the board wants to see a more detailed drawing of the floor plan, it does not have to be done by an architect.**

**Hilarie asked if anyone in the audience had questions, being none, Hilarie asked for a motion to close the public hearing, Michael Dipieri made the motion, Jon Strom seconded, all in favor.**

**The board is going to vote on a front yard set back area variance of 4 feet 6 inches, which will be subject to the Planning Board approval.**

**Hilarie Thomas 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; Ralph Shadic, YES. Frank E. Peteroy, YES. Hilarie Thomas, YES. Mickael Dipieri, YES. Jon Strom, Yes.**

**Variance granted for the purpose of building a 25' x 15' one room addition with a bathroom to existing home, variance subject to planning board approval.**

**5) -----2013-23. 134 N. Mountain rd., Joseph & Veronique Fabio. Tax Map # 167.1-36. Area variance for relief from article IV 232-8 D (4) for placement of an accessory building (26' x 36' garage) in the front yard in a R zone.**

*Hilarie asked for a motion to open the public hearing, Michael Dipieri made the motion, Jon Strom seconded, all in favor.*

**Hilarie read the referral from the building department.**

**'Relief from article IV 232-8 D (4) for placement of an accessory building (26' x 36' garage) in the front yard in an R zone.**

She also read the memo from the planning board that commented on the hidden location for the placement of the proposed garage, and that the size of the lot would prevent from any negative impact.

Jon Strom questioned the access to the new garage, Veronique Fabio, the applicant, answered that a new driveway off the existing one will have to be built.

It was noted that one of the abutters, (Mr. Flynn), was present before the meeting.

All the abutters were contacted.

Frank inquired about the type of septic system on the site. Veronique Fabio mentioned that the septic system was redone a couple of months ago, and the leach field was replaced by 2 leach tanks towards the north of the property line.

Jon Strom questioned the height of the proposed garage, Veronique Fabio answered that it will be about 18 feet high.

Hilarie asked if anyone in the audience had questions, being none, *Hilarie asked for a motion to close the public hearing, Michael Dipieri made the motion, Jon Strom seconded, all in favor.*

The board is going to vote on an area variance for relief from article IV 232-8 D (4) for placement of an accessory building (26' x 36' garage) in the front yard in an R zone.

Hilarie Thomas 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; Ralph Shadic , YES. Frank E. Peteroy, YES. Hilarie Thomas, YES. Mickael Dipieri, YES. Jon Strom, Yes.

Variance granted for the purpose of building a 26 X 36 garage in the front yard.

\*\*\* A discussion followed in ref to 2013-18. Andrew Howard. 48 Starling Road Copake. Tax Map # 155.18-2-4.

Mr. Howard is absent today and was not present for the last meeting either.

Mr. Gerard Orlando, an abutter, came to the last two planned hearings.

He wants to voice his objection to the proposed chicken coop.

### New Applications:

2013-24, 123 Cat Track Lane, Phillip Haddad & Thomas Mon. Tax map 186.1-70-200, New construction in an R district.

Mr. Chris Bellamy re[resents the property owner , he comes to the table to present the project.

It is a vacant lot , a 24 feet x 32 feet one bedroom cottage with a loft, a screen porch and an 8 feet x 40 feet deck are planned.

Frank noted that the wrap around porch is not indicated on the site plan. He also pointed out that the owner's and contractor's names were not mentioned on the plan.

Jon Strom asked for the driveway to be drawn on the plan.

*Hilarie asked for a motion to accept the new application and schedule it for a public hearing next month, Michael Dipieri made the motion, Jon Strom seconded, all in favor.*

The application will be scheduled for a public hearing on December 18, and referred to the planning board.

### General business:

\*\*\*In ref to -2013-18. Andrew Howard. 48 Starling Road Copake. Tax Map # 155.18-2-4.

Ken Dow following the Zoning Board of Appeals By-Laws, Section 5, paragraph 5.7.

“Acceptance and Hearing. No appeal will be accepted by the Board and no Public Hearing will be held in the absence of the applicant or duly authorized representative.

However, where a Public Hearing has been advertised, the applicant or representative is not present, and there are those present who wish to speak for or against the appeal, the hearing may be opened for the purpose of hearing their testimony or receiving their statements. The hearing may then be continued to a future date .”

It was decided by the members that the hearing should be open in order to give Mr. Orlando the opportunity to express his concerns at last and allow his comments to be on records.

*Hilarie asked for a motion to open the public hearing, Michael Dipieri made the motion, Jon Strom seconded, all in favor.*

**Mr. Orlando of 55 Bluebird road comes to the table .Mr. Howard's chicken coop is located two feet from Mr. Orlando's property line, 16 feet from his house and 18 feet from where his has his patio and his picnic table. He complains about flies and rodents infestation.**

**Mr. Orlando estimates the number of chickens at 6 to 8.**

**Mr. Orlando indicated that the chickens were kept in a portable coop in a fenced in area.**

**Mr. Orlando has complained about the chickens to the building code enforcer since May 2013. It appears that recently Mr. Howard has started to build a different structure against his house.**

**Ken Dow noted that if Mr. Howard has already built a coop he is in violation of the zoning code. The violation has to be remedied. Mr. Ferrato indicated that he will handle the matter.**

*The hearing will remain open.*

**A message left by Mr Bailey the architect for Polayes /Tiger, application # 2013-06 in ref. to different measurements on the variance granted and the final plans was discussed.**

**Mr. Ferrato will contact him.**

**Meeting was adjourned at 8:35**

**Next meeting; Wednesday December 18, 2013**

**Respectfully submitted.**

**Recording Secretary.**

**Veronique Fabio**