

**Town of Copake
Zoning Board of Appeals
Minutes-November 29, 2012**

The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on Thursday, November 29, 2012, , at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

An audience of about 8 was present including Jeanne Mettler Town Board Liaison, Marcia Becker Planning Board Chair and Edward Ferrato Building Inspector.

The meeting was called to order by Chairman Frank Peteroy at 7:04 PM.

Roll call: Present at this meeting were: Frank E. Peteroy, Emilee Drobbin, Glen Schermerhorn , Michael DiPeri, Hillarie Thomas and Jon Strom.

Kenneth Dow; Copake Town Attorney was also present.

Ken Dow, town attorney asked Frank Peteroy to call for an executive session for legal counsel.

Chairman Frank Peteroy called for a motion to have an executive session,

Hillarie Thomas made the motion, Michael DiPeri seconded, all in favor

.The ZBA members, Ken Dow and the secretary V. Fabio removed themselves from the room for the executive session.

At 7:40 the regular ZBA meeting resumed.

Minutes:

Frank noted that the August and October minutes were still open.

Frank asked for a motion to approve the April 26 Minutes providing the memorandum is inserted. Frank made the motion, Michael seconded, all in favor.

Correspondence:

Frank read the following correspondence.

10-31-12----from Ed Ferrato , Building & Code Dep. To ZBA Ref. to application 2012-14 to Leuschner.

10-31-12----from Edward Ferrato ZEO to M. Deruzzio Dept. of Health Ref. to 2012-14.

11-01-12----from F. Peteroy to Ed Ferrato Ref. to tile field.

11-05-12----from Frank Peteroy ZBA Chairman to Tom Phillips Ref. to application 2012-14

11-09-12---to 11-21-12 a number of emails exchanged between Tom Philips and Frank Peteroy in ref. to 2012-14

11-10-12-----From Planning Board, to ZBA ,Ref. to application 2012-17, Fontana .

11-29-12-----Letter of resignation from the board as of December 31, 2012 from Glen Schermerhorn.

Closed Public Hearing:

Ken Dow noted that there were some ambiguities on the Leuschner application about what the board voted on, and to resolve the matter beyond any doubt the board is considering reopening the public hearing and vote on a variance for the septic system / tile field.

Frank made a motion to reopen the public hearing for 2012-14 Leuschner, Michael DiPeri seconded, all in favor.

Frank made a motion to grant a variance for the septic system based on the following;

While the precise, literal meaning of “tile Field” is correct, and applicable, it, in itself, does not exclude the intent of the town of Copake Zoning Code. A “septic system” is an assembly of various parts; all are required to be 150 feet from a body of water. A variance for an “absorption field”, the current description in the 1990 Health Regulations would be appropriate.

Hillarie wanted clarifications on what the board will be voting on. She examined the site plan and survey.

Frank noted that the board was granting a 50 foot variance. The septic field will be located 100 feet from the edge of the lake, and the septic tank will be at 150 feet in accordance with the Columbia County Board of Health. The DEC does not get involved unless there is less than 100 feet set back from a body of water or wet land.

Ken Dow enunciated clearly the details of the variance granted; “For an area variance for a septic system/ tile field /absorption field, located no closer than a 100 feet from the lake”

Frank 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: No , this is a small lot.

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.

Vote on 2012-14 for a variance for a septic system/ tile field /absorption field, located no closer than a 100 feet of the lake”

Jon Strom; Yes, Hillarie Thomas; Yes, Frank Peteroy; Yes, Emilee Drobbin; Yes, Glen Schermerhorn ; Yes, Michael DiPeri; Yes.

Variance granted

A lengthy discussion went on in reference to the requirement from the ZBA to combine the two lots. It was determined that;

The consolidation of the 2 parcels will have to be completed in order for Mr. Leuschner to obtain a Certificate of Occupancy from the Building Department.

Frank Peteroy asked for a motion to close the public Hearing, Michael DiPeri made the motion, Hillarie Thomas seconded, all in favor.

Public Hearing:

1. Application # 2012 09 Robert Kitchen, 480 Farm Road, Copake, Area and Use variance requested for processing poultry and install a trailer .

Hillarie Thomas recused herself.

Robert Kitchen approached the table.

Frank had questions regarding the effect of a decrease of the production to fewer than 1000 birds. The Ag. and market will not have any jurisdiction over the processing of the poultry at that point .

Ken Dow noted that above a 1000 birds the operation would qualify as a slaughter house, under that number no variance is required.

Jon Strom wondered why that was discussed at all, Mr. Kitchen requesting a use variance to process 2600 birds per year.

There is a legitimate concern by the board that no authority will be controlling the slaughter of fewer than 1000 birds in the eventuality Mr. Kitchen’s production is reduced. Mr. Kitchen mentioned that the Ag. And Market would not issue any permit until a variance is granted to him by the town, authorizing him to process 2600 birds.

Ken Dow argued that people can slaughter animals as long as the number is less than 1000 annually, it can be vied as unregulated slaughter activity , where is le line between a slaughter house and the processing of fewer than 1000 birds ?

Marcia Becker suggested a referral to the County Planning Board because of the fact that the proposed activity would take place within 500 feet of state route 22. Frank noted that he had scaled off a distance of about 450ft from route 22 and he would verify the County Planning Board checklist to that end. The application fits the class of work for a farm operation of under 10k ft, no referral is necessary.

Following a lengthy discussion, the board recommends that Mr. Kitchen secures a CPA and has him present 5 years of financial history, (financial analysis and profit and loss) at the next meeting.

Mr. Kitchen agreed.

Jon Strom asked for a tally of the abutters and copies of the letters received by the ZBA to determine how many are opposed to the project.

Frank asked to keep the public hearing open until next meeting.

2. # 2012-17----- Danny Fontana Tax Map #176.1-6-3 , 7 Island Drive Copake . Erect a shed on property line and in front yard.

Mr. Fontana wants to erect an 8x12 shed in his front yard and on the property line.

Mr. Fontana stated that the location on the property line was the most aesthetic option .Mr. Fontana has not yet obtained an approval from Taconic Shores owners association. He was advised to present a personal request to TSA.

The granting of the variance from the ZBA is not subject to TSA approval.

Mr. Fontana stated that the lot across the road from his property is vacant.

He agreed with the suggestion from the board to plant a vegetal screen to mask the side of the shed.

Being no questions, Emilee made a motion to close the public hearing, Michael seconded, all in favor.

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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

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.

Vote on 2012-17 for area variance to erect a shed on the property line...

Jon Strom; Yes, Hillarie Thomas; Yes, Frank Peteroy; Yes, Emilee Drobbin; Yes, Glen Schermerhorn ; Yes, Michael DiPeri; Yes.

Variance granted

Frank proceeded to read the 267-b Permitted action by board of appeals.

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Answer: No

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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.

Vote on 2012-17 for area variance to erect a shed in the front yard..

Jon Strom; Yes, Hillarie Thomas; Yes, Frank Peteroy; Yes, Emilee Drobbin; Yes, Glen Schermerhorn; Yes, Michael DiPeri; Yes.

Variance granted.

New applications

#2012-18 ----1254 Lakeview Rd. Copake „James Matschulat, Area variance requested for construction of support columns under existing deck & screen porch over afore mentioned deck within a100 feet of a body of water.(Robinson Pond)

Mr. Matschulat presented his project.

He is requesting a variance to complete the construction of a screen porch over an existing deck and the installation of 4 support pillars under afore mentioned deck. The original pillars will remain.

Mr. Matschulat filed an application with the TSA.

Frank asked for a motion to accept the application, Michael made the motion, Emilee seconded, all in favor.

Application accepted, scheduled for a public hearing for December 27, 2012.

. New business

Frank suggested that the application fee for sheds under 120 square feet be reduced to \$35.00.

Ken Dow suggested that to benefit for a reduced fee, the sheds would have to conform to a number of requirements.

Jeff Nayer noted that the ZBA bylaws could be amended

ZBA members would have to vote for an amendment and then it would have to be presented for consideration to the town board.

No decision was made on this matter.

Jon Strom did not agree with some of the wording in Frank Peteroy's letter to Ed Ferrato dated 11-01-12.

Emilee Drobbin stated that she did not like the reading of the entire document aforementioned. The memo dated 11-01-12 from Frank Peteroy to CEO Ferrato is his personal response to a previous letter and does not intend to express the convictions of any other ZBA board members.

Old Business

A discussion between Frank Peteroy and Ed Ferrato in ref. to Leuschener went on.

Frank will listen to the October meeting recording and review the minutes.

Adjournment

Emilee made the motion to adjourn this meeting, Michael seconded, motion carried unanimously.

Meeting was adjourned at 9:37 PM.

Next meeting will take place December 27, 2012.

Respectfully submitted.

Veronique Fabio

Recording Secretary