

Town of Copake Zoning Board of Appeals

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Meeting Minutes of December 18, 2013

The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on Wednesday, December 18, 2013, at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

An audience of about 7 was present as well as Susan Sweeney: Town Board Liaison, Kenneth Dow: Copake Town Attorney, Marcia Becker: Planning Board 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, Adam Resnikoff, Jon Strom and Veronique Fabio: recording secretary.

Mikael Diperi was absent.

Reading and approval of the minutes of preceding meeting:

Hilarie Thomas asked for a motion to waive the reading of the November 20, 2013 minutes and approve them.

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

It was noted that the October 2012 minutes had been approved.

Correspondence:

Hilarie Thomas reviewed the following correspondence.

Dec. 7-----From Planning Board in ref to Haddad.

Dec. 7 -----From Planning Board in ref to Catamount.

Dec. 17----- From Planning Board in ref to minutes email form instead of hard copies.

Dec. 18-----From Susan Winchell-Sweeney;Town Board Liaison.

Closed Public Hearing:

None

Public Hearing:

1)----- 2013-24, 123 Cat Track Lane, Phillip Haddad & Thomas Mon.

Tax map 186.1-70-200, new construction in an R district on a .72 acre lot.

Mr. Chris Bellamy represents the property owner, he comes to the table to present the project.

Hilarie Thomas asked for a motion to open the public hearing, Frank made the motion, Ralph Shadic seconded, all in favor.

Mr. Chris Bellamy submitted the updated plan and site plan showing owner's name and decks that had been requested by the ZBA at the last meeting.

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.

Hilarie read the memo from the Planning Board dated December 7, 2013,
“The Planning Board reviewed the Haddad Mon application at the December 5, 2013 Planning Board meeting. We considered this project the development of a pre-existing non conforming 0.724 acre lot in a 3 acre minimum zoning district. Under the circumstances the builder Chris Bellamy has used the small site in a way which has the least impact on the water front land. All development is greater than 150 feet from Chrysler Pond. We have no addition suggestions or comments.”

**The applicant is looking for 1) A rear yard set back variance of 25 feet.
2) A right set back variance of 16 feet.
3) A left set back variance of 20 feet.**

Jon Strom asked Mr. Bellamy is there was a residence that is going to be torn down on the lot. Mr. Bellamy responded that a small cabin exists now.

Frank asked about the location of the well, Mr. Bellamy showed the well on the plan.

All the abutters had received notification of the project.

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

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

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

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.

The board tonight will be voting on;

- 1) A rear yard set back variance of 25 feet.**
- 2) A right set back variance of 16 feet.**
- 3) A left set back variance of 20 feet.**

Roll call vote; Ralph Shadic , YES. Frank E. Peteroy, YES. Hilarie Thomas, YES. YES. Jon Strom, Yes.

Variance granted for the purpose of building a 24 feet x 32 feet one bedroom cottage with a loft, a screen porch and an 8 feet x 40 feet deck.

2) -----_2013-18. Andrew & Lauren Howard, 48 Starling Rd, Copake. Tax Map # 155.18-2-4.

Mr. Howard was not present for the hearing, this is the third hearing missed by the applicant.

New Applications:

2) 2013-26 Berkshire Mountain Club @ Catamount ski area. Tax Map #157.1-11.100. Special use variance, for a 3 building resort hotel project.

Harry Freeman from Rock Solid Development, Pat Prendergast Engineer and Andrew Howard Esquire attended to present the project.

The applicant is looking for a renewal of a special use variance for a resort hotel project at Catamount ski area located off route 23 in Copake close to the Massachusetts's border.

-Pat Prendergast went through the history of the previously acquired permits for a similar project since 1989.

In 1990 a much larger project had been approved by the town of Copake. A full environmental impact study was done at the time. The project never got built.

In 2003 Pat Prendergast got involved in the project with a new developer and the Catamount owner for a 125 units hotel resort project. Site plans were approved by the town, a modification of the 1990 special use permit was granted in 2006.

The site plan approval expired in 2009 and the applicant is now working with the planning board.

The special use permit previously granted by the ZBA needs to be modified because the project is different, still 3 buildings but smaller.

-Pat Prendergast goes through the different plans;

Existing site plan, new site plan, grading and drainage plan, sewer and water plan,

lighting plan, waste water treatment facility, water system details, pond spillage plan, landscaping plan and access modification plan.

The previous project was very similar to the present. Three buildings are planned, 2 of them will be connected to each other.

*** For the site plan;**

-Prendergast said the project is located on the New York side of the property in a hollow, at the base of the mountain. Plenty of paved parking will be offered.

*** For the drainage plan;**

-Prendergast pointed out that the water treatment plans have been approved by the DEC. The discharge permit is valid until 2017. Other permits have to be renewed with DEC. A discharge permit of treated sewer into the local stream will be applied for.

-Hilarie wanted details about the quality of the water put back into the stream. Prendergast explained the different levels of treatment; phosphorus removal, UV disinfection (no chlorine will be present in the treated water). The quality of the water is controlled every day, weekly and monthly by a certified operator, the results are sent to the DEC.

-Prendergast explained that the treated effluent will be discharged in the stream. A stream disturbance permit will be necessary. The design of the water treatment plans have been approved by the DEC. The plan is designed for 50,000 Gallons per day. The actual usage will be around 20,000 to 25,000 gallons. The design will allow neighbors the possibility to hook up to the system.

-Frank asked if the treatment system is the same as the one designed in 1990 called the German system. Prendergast responded that he was not involved in the 1990 design. He carried on explaining that the clean water coming from the mountain will be collected and directed towards the snow making reservoir.

-Hilarie expressed concerns about the drainage situation on the paved parking lot.

-Prendergast pointed out the catch basins all around the bowl shaped parking lots. There are sediments collectors in the catch basins. Oil and water separators will clean the water run off before it is put back in the snow making reservoirs. The reservoirs will be improved with a concrete flow channel connecting them with rip rap stone overflow controls. All the systems are in keeping with the DEC regulations. There is a detention pond for water run off from the gravel parking area as well as catch basins and oil and water separators for that area.

*** For sewer and water;**

The system consists of 4 wells with a flow of approximately 30 gallons a minute and a 54,000 gallons storage tank approved by the Columbia County board of health.

All the wells have been analyzed. The approval for the sewer and water system previously obtained does not expire.

Water will be used for the hotel and for the green fire hydrants. Three dry hydrants are also planned as requested by the fire department as well as a fire pump in the snow making building. A 50 HP. pump will be dedicated to feed the red fire hydrants.

Buildings will be fully equipped with sprinkler systems.

The steel bolted water tank will be 20 feet high, located uphill in order to give good water pressure to the upper stories in the hotel. There will be a 10' x 16' water control building to allow for sample taking and a water chlorinator.

The sewers treatment plant will have 2 SPR tanks, a sludge holding tank. The sludge will be hauled out, no processing on site; the water will be treated before going back into the discharge pipes.

*** For the lighting plan;**

The plan has been updated with LED fully shielded, low light level, energy saver fixtures.

*** For the access modification plan;**

Improvement to the access from route 23 is planned. DOT will have to be contacted for approval. A landscaping plan is in the works and will be presented at the hearing.

-Frank Peteroy and Ed Ferrato asked for details for the access from 23.

-Prendergast explained that the grade of the main access road will be improved.

Use of Nicholson road was discussed; the road has been improved at home owners' expense. The road is a four season road and it is open to the public.

In conclusion; a larger project had been approved prior; the new plans call for a smaller project with 256 bedrooms instead of 313, the foot print was reduced by 20,000 square feet. All the previously designed utilities are kept.

Harry Freeman the project developer took the stand.

He described the look and details of the actual 5 stories buildings.

From the slopes the buildings will appear to be 4 stories because of a 10' to 15' grade difference.

On the main level, there will be an indoor/outdoor pool accessible from the inside of the building, a restaurant and a lodge.

-Jon Strom asked if the units will be Condos or hotel rooms.

-Freeman explained that the plan now is for fractional ownership also known as time share system. The units can be use by each of the owners every five weeks of the year, if the owner does not use the unit on his week, it can be put back into the rental pool. It will function as a resort and owners will have the feeling of a four star hotel with valet parking, bell service and room service.

From the parking lot side , on the lower level, there will be a" Porte cochère" leading to a front desk area, a lobby, a sales office, 1000square feet allocated for meeting rooms . There will be a spa, a fitness center, a lodge reserved for the owners and a locker room at the disposition of the owners in order to store their belongings during their absence from the resort.

On the main floor a dinning facility with kitchens for the restaurant. A coffee lounge will be located in the center and residential units on each side.

There will be residential units on the entire upper floors, as well as laundry facility on each floor.

The approximate size will be 1,200.square feet for a 2 bedroom with a kitchen, and almost 1,500 for the 3 bedroom units. The smallest units will be at 470 square feet.

Outside, patio areas with a fire pit are planned.

-Adam Resnikoff asked about a projected building date.

- Harry Freeman said that as required in New York State by the attorney general a pre-marketing "whisper campaign" will be set up as soon as possible to explore the market and

see if design changes are necessary. Ideally he would like to break ground late summer of 2014 with a soft opening 2015.

- Adam Resnikoff also questioned if ground breaking was contingent to a certain number of units sold.

-Freeman explained that the banks definitely want to see sales; the project can be financed only if deemed viable.

He also mentioned that a partnership was created with the owner of Catamount for that resort project; the operation of the ski area remains independent.

-Resnikoff asked what type of construction was Mr. Freeman's company involved in the past and what will be the average price of the units.

-Freeman's company has not been involved in resort building prior to this.

-Freeman said for a fifth share the prices of the units are still being worked on but will be in the range of \$50,000 for a studio, \$120,000 for a 2 bedroom, and up to \$ 155,000 for a 3 bedroom.

-Andrew Howard Esquire intervened and noted that all the requirements concerning fire safety and prevention have been respected in the new project as well as building local codes. The building will be in keeping with the final site plan approval. All the permits updates with the different agencies will be handled.

-Freeman noted that all the buildings will be fully equipped with sprinkler systems and all aspect of fire safety will be addressed.

-Frank asked about the height of the highest floor, if the fire department ladders can reach that height and if access will be provided for the fire department on the slope side of the building.

-Freeman said that the highest balcony will be at 40 feet on the slope side and 50 feet on the front of the building. The balconies can be used as a point of refuge in case of fire. There will be a meeting with the fire department.

There will not be access for the fire trucks in the back of the buildings against the slopes.

-Prendergast mentioned that a meeting is planned with Fred Miller, fire department chief.

-Frank asked about the footprint of the building.

-Freeman said 25,000 square feet on each floor for the largest building.

-Ken Dow pointed out that there were some ambiguities in the code; is the ZBA going to re-examine the prior granted variance or treat the application as a brand new project?

-Ken Dow noted that there were resolutions from 2003; a special use permit was issued for a resort hotel with condominium /time share format. Based on a letter dated 2002 from the attorney for the town at the time, the ZBA treated the application as a new application. Under the Copake town code there is no automatic expiration of special use permit. The ZBA is going to have to determine if the original special use permit has to be modified or if the board will have to start fresh and issue a new permit.

- Hilarie responded that if the previously granted variance is different from what is necessary for the new project it has to be re-examined.

The County will be notified of the project as well as the town of Egremont.

A notice will have to be sent to the NYS Park and recreation.

-Jon Strom clarified that the special use variance and a height variance are necessary.

Hilarie asked for a motion to accept the application, it will be scheduled for a public hearing on January 23, and referred to the planning board. Frank made the motion, Jon seconded, all in favor.

2) 2013-25 Galdau Andrew, 1292 Lake View Rd. Tax Map # 176.1-4-39 Left and right side variances.

Mr. Galdau came to the table to present his project. He just acquired the house, he wants to build an 8' x 30' deck attached to existing home; he needs a left and right side area variance.

The application is complete.

Hilarie asked for a motion to accept the application, it will be scheduled for a public hearing on January 23, and referred to the planning board. Frank made the motion, Jon seconded all in favor.

General business

Jon Strom asked if the board will have an organizational meeting to discuss a change of time for the future meetings. It was decided that it will be discussed in January.

An updated (3/20/2010) version of the Zoning board of appeals by-laws will be handed out to all members.

Meeting was adjourned at 8:45

Next meeting; Thursday January 23, 2013

Respectfully submitted.

Recording Secretary.

Veronique Fabio