

# Town of Copake Zoning Board of Appeals

~

## Meeting Minutes of December 18, 2014

The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on December 18, 2014, at the Copake Town Hall, 230 Mountain View Road, Copake, NY. An audience of about 10 was present as well as,  
Edward Ferrato: Building Department.  
Susan Sweeney: Town Board Liaison,

The meeting was called to order by Hilarie Thomas at 7:05 PM.

### Roll call:

Present at this meeting were: Jeffrey Judd, Frank E. Peteroy, Hilarie Thomas, Michael DiPeri, Jon Strom. Adam Resnikoff was excused.  
Kenneth Dow: Copake Town Attorney was not present.  
Veronique Fabio was present to record the minutes.

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

- ~ Hilarie Thomas asked if all members had a chance to read the November 20<sup>th</sup> minutes.
- ~ *She asked for a motion to waive the reading of the minutes and approve them.*
- ~ Frank Peteroy indicated that the November minutes were ready for approval with corrections.
- ~ *Michael DiPeri made the motion to approve and waive the reading of the minutes, Jon Strom seconded, all agreed;*

*November 20, 2014 minutes are approved.*

## Correspondence:

11-21-14---Gilchrist attorney for the Alpers FOIL request.

12-5-14---- Frank Peteroy FOIL request.

12-10-14---From George Schmitt @ MorrisEngineers asking to move the public hearing for Kiefer to January.

12-15-14---From Gray Davis, he will not be able to attend the public hearing this Thursday, Chase Booth will be representing him on the 18 instead.

12-15-14---Memo from Planning Board in reference to Shilling and Davis.

12-15-14---From Adam Resnikoff, he will not be present for the meeting.

## Public Hearing:

### **1) 2014-16 Gray Davis, Cove Rd.Tax Map # 165.14-1-15 Rear area variance for new house.**

Mr.Chase Booth came to the table, he represents Mr. Gray Davis.

Hilarie read the Planning Board referral letter:

February 7, 2015

Location: Cove Road, Copake Lake. Gray Davis

---

At the December 4, 2014 Planning Board meeting the members reviewed the application for Gray Davis who wishes to construct a structure on a lot on Cove Road at Copake Lake.

The Board acknowledged that the parcel Mr. Davis wishes to build on is a difficult and challenging lot and there is no way the set-backs could be met without a variance. They felt that given the particulars of the lot, a rear-yard set-back will not impact the people and relief from the provision is needed as the parcel does not support a buildable footprint within the required set-backs.

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

All the abutters were notified via certified letters.

Mr. Booth presented the project. He indicated that the land straddles an R2 and R zone. A 50 foot variance set back is necessary in order to build the house. The front of the property slopes down substantially making it impossible to leave 100 feet in the rear. The house will be 1500 square feet, 11 feet tall, flat roof, low profile and

low impact. No trees will be cut. The septic will be 1000 gallons. The house will not impede at all on the neighbors views. The basement will be unfinished.

~ Jeffrey Judd asked about the height from the rear; it will be 11 feet.

~ Mr. Booth explained that the deck will be over the incline facing the front of the property.

~ Jon Strom asked about the size of the lot; the lot is under 3 acres therefor a density control variance is necessary.

~ Mr. Booth showed the plans, the outside finish will be wood and glass. It will be a 3 Bedroom home with a carport to the rear.

~ Jon Strom asked about the color of the finish wood; it will be stained pine, the front of the house will be all glass.

~ Mr. Booth noted again that the way the house is designed will have a low visual impact.

~ Hilarie asked if anyone had questions.

The variance necessary are; a density control variance and a 50 foot rear yard variance.

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

***~ Hilarie indicated that the ZBA had 62 days before rendering a decision, but she believed that the members will be able to make a decision tonight.***

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*

*~ Frank Peteroy noted that there should be some kind of fencing between a business and a residential property.*

*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.*

The board tonight will vote on a density control variance and a 50 foot rear yard variance.

Roll call vote: Jeffrey Judd, YES.  
Frank Peteroy, YES.  
Hilarie Thomas, YES.  
Michael DiPeri, YES.  
Jon Strom, YES.

**Variance granted.**

**2) 2014-15 David Shilling, 1230 Rt.27A, Tax Map # 186.00-01-58 area variance for chicken coop and side fence.**

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

*~ Hilarie asked if all the abutters were notified; there were only 2 abutters and yes, they both received the certified letter.*

Hilarie read the Planning Board memo in reference to the application.

At the December 4, 2014 Planning Board meeting the members reviewed the application for David Shilling regarding a Chicken Coop and Fence that have already been constructed in the front yard of his residence.

The Board discussed the fact that Chicken Coops are not allowed in the front yard and should not be located within 200 feet of the property line as referenced by Town Code 232-9O(5) which states: *Buildings for the housing of fowl or farm animals, including horse stables shall not be located in the required front yard or within 200 feet of a property line or public street right-of-way.* They brought up the fact that a Chicken Coop is not considered an accessory building and is not in an agricultural district.

They also discussed the fact that the fence is over eight feet (8') high and there have been complaints from the surrounding neighbors.

The Board recommends that you consider enforcing the Code regarding both the Chicken Coop and Fence as both are Code violations as well as an annoyance to the neighbors.

*~ Julie and Michael Cohen were in the audience, they own the abutting property.*

*They indicated that the presence of a rooster and the stockade fence were creating a financial drain as they have been unable to lease the property since the changes were made. The stockade fence is too high, the “good” side not facing their lot and the rooster is loud.*

*~ Mr. Shilling noted that the rooster is no longer on premises and that he was ready to turn the fence around if need be.*

*~ Hilarie pointed that the house next door is too close to the Shilling property line and from the photos it seems that the fence is creating privacy for both.*

*~ Julie Cohen argued that the fence towers over the house and is a detriment to their property. The rest of the fence is friendly except for the stockade part on the side.*

~ Mr. Shilling noted that the idea was to create privacy for all, the fence was installed a few inches in from the property line. Mr. Shilling had full view of the neighbor's garage and deck.

~ Frank Peteroy asked how high the fence was. He noted that the practice of installing the "interesting" side of a fence towards the neighbor has no real significance .

~ Shilling answered it is a 6 foot Home Depot standard stockade fence but it was installed higher following the sloping terrain.

~ Jon Strom questioned the board to find out whose responsibility it would be to get in touch with contractors that consistently misinform customers regarding zoning laws.

~ Frank Peteroy indicated that it is ultimately the responsibility of the home owner to stay informed. He indicated that the fence should be lowered to 6 feet on the side yard.

~ Shilling noted that 6 feet is not going to accomplish anything beneficial for him, and he indicated that he will just get a split rail fence instead, therefor no variance will be required for the fence.

~ Jon Strom asked if the Cohen appreciated the removal of the rooster. They answered that yes, removal of the rooster is significant and they have no objection to the coop with only hens.

The board tonight will vote for a variance for the coop provided that no rooster be housed. The stockade fence will be removed and replaced with a fence up to code, ( no higher than 6 feet).

***~ Hilarie Thomas asked for a motion to close the public hearing, Michael Diperi made the motion, Jon Strom seconded, all in favor.***

***~ Hilarie indicated that the ZBA had 62 days before rendering a decision, but she believed that the members will be able to make a decision tonight.***

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*

*~ Frank Peteroy noted that there should be some kind of fencing between a business and a residential property.*

*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.*

The board tonight will vote on relief from 232-9 O (5) for the housing of fowl or farm animals within 200feet of the property line provided that no rooster be housed.

Roll call vote: Jeffrey Judd, YES.  
Frank Peteroy, YES.  
Hilarie Thomas, YES.  
Michael DiPeri, YES.  
Jon Strom, YES.

**Variance granted.**

**3) New Application:**

None

**4) Closed Public Hearing:**

None

**Internal business:**

**The next meeting will be held on the 29<sup>th</sup> of January 2015.**

A letter will be sent to the town board recommending Michael Diperi for another term as a Zoning Board member.

*~ Motion to adjourn made by Jon Strom, seconded by Michael Diperi, all agreed.  
The meeting was adjourned at 7:45.*

Respectfully submitted.

Recording Secretary.  
Veronique Fabio



