

Town of Copake Zoning Board of Appeals

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Meeting Minutes of December 20, 2018

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The meeting of the Zoning Board of Appeals of the Town of Copake was held on December 20, 2018 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 and Thomas Goldsworthy. Town attorney, Ken Dow and Town Board Liaison, Stosh Gansowski were also present.

Michael Diperi was excused.
Veronique Fabio recorded the minutes.

2) Reading and approval of the minutes:

The September 27 and October 25, 2018 minutes were unanimously approved by the ZBA.

3) Correspondence:

The following correspondence was reviewed
11-7-18 from D. Fontana letter of interest for position on the board.
11-10-18 Referrals from PB for 2018-11 and 2018-12.
11-29-18 from town board in ref. to fees waived for the 2018-14 Newman.
12-3.18 from J. Mettler, amendment to the 2018-14 application reducing the size of the sign.

4) New Applications:

1) 2018-14, Newman, 7951 State Rt. 22, Tax Map 176.1-38

Area variance for “Copake Hamlet” lawn sign taller than 4’ in the Scenic Overlay Zone (SCOZ).

Jeanne Mettler who is also a town board member represents the owner Linda Newman of the property where the sign will be installed.

~ J. Mettler explained that the Copake business community suggested better signage to indicate the location of the hamlet from Route 22. The most visible location is on Linda Newman’s lawn just before Tri-State Veterinary when going south on Rt.22. The DOT did install a sign on the road but an additional one was considered necessary. The size of the initial sign was reduced to 3’x 5’ on posts of 30.82” for a total height of 5’77”. Jeanne Mettler noted that she looked at other signs around the area and determined that the proposal was comparable to what already exists. The color will also match the color of the Copake Hamlet sign that exist close to the intersection.

~ Jon Strom suggested that a better map of the surrounding properties should be presented at the next meeting. Jon also read the letter from the Town Board waiving the ZBA fee for the project. He was not sure if the mailing and newspaper publication fees were also waived.

~ Stosh Gansowski will check with the Town Board.

~ Tom Goldsworthy indicated that he was a member on the Hamlet Committee but did not see any reason to recuse himself and could make a decision on this application.

~ Frank Peteroy had questions about the exact location of the sign on the lawn. Frank also stated that he was a member of the Community Service Inc. group but has resigned through an email to Russ Davis and knew nothing of this sign project and was not part of the application process. Frank is also an abutter however he sees no reason to recuse himself from this ZBA review procedure.

~ Jeanne Mettler answered that she will be able to contact the DOT and get details only after she has the approval for a variance from ZBA.

~ Jon Strom asked for a motion to accept the application for public hearing next month, January 24, 2019. Tom Goldsworthy made the motion, Jeffrey Judd seconded, all agreed.

2) 2018-15, Panarella, 52 Blue Bird Rd. Tax Map 155.18-2-60.200

Area variance for 12’x16’ extension. Alteration of a non-conforming structure.

Contractor John Haigh represents the owners of the property, Dan & Cynthia Panarella.

He explained that Mr. and Mrs. Panarella want to build a 12' x 16' addition to create a bathroom with a whirlpool and a laundry room. The existing house has 3 bedrooms, one bath with a shower and a powder room now.

The lot size is 65' x 200'.

Relief from 232-20, B, 2, a, 2 addition or alteration of a non-conforming structure is necessary. The addition will seat 25' away from the left side yard and 12' away from the rear property line.

~ Tom Goldsworthy asked why not build the addition on the right side of the property?

~ John Haight responded that the septic and leach field are located on that side.

~ Frank Peteroy asked that the total lot coverage be indicated on the application.

~ Jon Strom asked for a motion to accept the application for public hearing next month, January 24, 2019. Tom Goldsworthy made the motion, Jeffrey Judd seconded, all agreed.

3) 2018-16, 8586 State Rt.22, Keith Perrino, Tax Map 157.1-99 & 157.1-52

Area variance for creation of an undersized lot.

~ Lisa DeLeeuv Executive Director, Harlem Valley Rail Trail represents the owner Keith Perrino.

For the purpose of connecting the Copake Falls Rail Trail to Hillsdale the Harlem Valley Rail Trail will purchase a created lot of 2.31 acre from Mr. Keith Perrino.

The created lot being under 3 acres a variance is needed.

A 10 foot wider paved trail will be constructed on the new lot as well as an abutment to carry a future bridge over route 22.

~ Jeffrey Judd asked what the position of the DOT was for the bridge.

~ Lisa DeLeeuv responded that the DOT is in favor of the project.

New York State Parks will become the owners of that portion of the Rail Trail after it is all set up.

~ Tom Goldsworthy disclosed the fact that he was a member of the Roe Jan Ramble, a cycling group.

~ Jon Strom mentioned that he founded the Roe Jan Ramble.

They both noted that they could make a non-bias decision on that project and did not need to recuse themselves.

~ Jon Strom asked for a motion to accept the application for public hearing next month, January 24, 2019 Tom Goldsworthy made the motion, Jeffrey Judd seconded, all agreed.

5) Public Hearing:

1) 2018-11 Fontana, 5 Island Dr. Taconic Shores. Tax map 176.1-6-2

New house construction and septic. Represented by Linda Chernewsky.

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

~ Jon Strom read the Planning Board recommendation on the project.

"At the November 1, 2018 Planning Board meeting the members reviewed the application of Dionisio Fontana for a 3 bedroom house on 5 Island Drive in Taconic Shores. Members pointed out that the lot is quite small however it is buildable according to the Town Code. They also acknowledged that the applicant is doing the most he can by building as far back from the water as he can. The Board reviewed the plans and felt that inasmuch as the side yard set-backs are as tight as they are any recommendations from the DEC Permit should be taken note of. "

~ Linda Chernewsky indicated that the DEC did not receive any substantive comments thus far on the project proposal. The project meets Article 24 permitting standards, a Freshwater Wetlands permit will be issued to Mr. Fontana (*email dated 12-20-18*).

The size of the house and the septic system were revised and moved away from the water as much as possible. The DOH issued a permit for the septic system.

The lot is approximately 5000 square feet and the house will occupy 780 square feet. The DEC has asked for specific type of vegetation and stone retaining walls to stabilize the banks by the lake. An EAF was filled out for the DEC.

The variances needed are:

Relief from 232-11, B, 2 for the septic system within 150' of the water.

232-11-D, 2 for development within 100' of water.

A front yard setback variance of 11'.

A left side yard setback variance of 28.1'.

A right side yard setback area variance of 25'.

~ Jon Strom asked for a motion to close the public hearing, Tom Goldsworthy made the motion, Jeffrey Judd seconded, all in favor.

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.*

He 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 the area variances mentioned above.

Vote: Frank Peteroy; YES Jeffrey Judd; YES Jon Strom; YES

Thomas Goldsworthy; NO

Variance is granted.

2) 2018-12 Fontana, 11 Island Dr. Taconic Shores tax map 176.1-6-4

Replacement of garden shed. Represented by Linda Chernewsky.

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

~ Jon Strom read the Planning Board recommendation on the project.

“At the November 1, 2018 Planning Board meeting the members reviewed the application of Dionisio Fontana for a Shed on 11 Island Drive in Taconic Shores. Members had concerns that the shed is being placed as close to the water as it is.” They recommend that if possible, alternative locations be considered that don’t violate set-back from the water and the side.

Linda Chernewsky presented a Freshwater Wetland Permit from the DEC dated 10-24-18.

The permit allows the installation of the shed and a 16’ x 6’ high stockade fence near Robinson Pond.

~ Linda explained that the existing shed will be removed and a new 12’x16’ shed will be installed 5feet from the right side yard line. The owner originally wanted the shed only 3’ away from the side yard, he agreed to move it a little more away from the side yard line. The shed will not exceed 10’ in height.

~ Frank Peteroy had concerns with the location so close to the slope towards the water. He also asked that a note be added that the shed is a “non-habitable structure”.

~ Mr. Fontana indicated that existing trees around the shed will prevent any risk of sliding.

~ Tom Goldsworthy suggested locating the shed 10’ away from the side property line to avoid the need for a variance and the impact on future owners of the property.

The owner really did not want to do that and did move the shed 2’ more away from the side line.

A 5 foot right side yard setback variance is requested.

~ Jon Strom asked for a motion to close the public hearing. Tom Goldsworthy made the motion, Jeffrey Judd 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.

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

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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

Tonight the Zoning Board of Appeals will be voting on the area variance mentioned above.

Vote: Frank Peteroy; YES Jeffrey Judd; YES Jon Strom; YES
Thomas Goldsworthy; YES
Variance is granted.

6: Closed Public Hearing:

None

7: Internal Business:

A question as to when an application should be referred to the County Planning Board was raised. In the case of an oversized sign located in the Scenic Overlay Zone and a variance for a subdivision that would create an undersized lot.

Attorney Ken Dow will look into it.

At 8:40 the Board went into executive session to interview Jeffrey Judd and Dionisio Fontana applicants for 2 open member positions.

Respectfully submitted.
Veronique Fabio.