

**Town of Copake
Zoning Board of Appeals**

Minutes-February 28, 2013

The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on Thursday, February 28, 2013, at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

An audience of about 6 was present including Marcia Becker; Planning Board , Susan Sweeney; Town Board Liaison and Edward Ferrato; Building Inspector.

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

Roll call: Present at this meeting were: Hilarie Thomas, Frank E. Peteroy, Michael DiPeri, and Jon Strom.

Kenneth Dow; Copake Town Attorney was also present.

Minutes:

Hilarie asked if every one had a chance to review the January minutes and asked for a motion to waive the reading of the minutes and approve them. Michael made the motion, Jon seconded, all in favor.

It was noted that The October minute were still open.

Correspondence:

Hilarie reviewed the following correspondence

-----Jan. 25-13 from Ralph Shadic in ref.... to Letter of interest to open position for a member on ZBA

-----Feb 7-13 from Jeff Nayer in ref. to ... CLC's Community Assistance Program is offering a variety of events and training opportunities this spring.

-----Feb 12-13 from Edward Ferrato in ref. to Sokol "Variance needed".

-----Feb 20-13 from planning board; February 7th Minutes.

-----Feb 21-13 email from Marc Bailey in ref to a project at 86 SW Colony Road.

-----Feb 25-13 email from Frank; October 2012 minutes incomplete.

-----Feb 25-13 from H. Weber article on fracking.

Closed Public Hearing:

None

Public Hearing:

1 2013-01 Larry & Kathryn House, 28 Pine street Craryville , Tax Map# 165.11-1-29

Replace existing structure and add 8x8 room.

Darlene Reimer Architect came to the table, she introduced herself as representing Kathryn and Larry House, owners of the property in question.

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

Mrs. Reimer reminded the board that some measurements had been requested; she presented a letter from Crawford & Associates Engineering.

The letter states that an inspection of the property on February 4, 2013 shows that the measurement from the nearest house corner to the Copake Lake is plus or minus 242' (with the distance given rounded to the nearest foot).

Hilarie asked Mrs. Reimer if she had already seen the planning board. Mrs. Reimer answered yes.

Hilarie read the letter dated January 18 2013 from The Building and Zoning department with their recommendations for the variances necessary.

"1. Section 232-24(a) Modification [2] [4] and it will also affect [5].

2. The property is in the R-2 district.

3. The required setbacks for that district are: Front Yard-40', Side Yard-30', Rear Yard-75'.

4. The property has 3 front yards, therefore requiring three front yard area variances; one for 38'3", one for 6', and one for 12'.

5. It will also need a rear yard variance of 57'.

6. It appears as though it does meet the density control schedule."

Jon questioned which way the property was going to be enlarged?

He also asked if there were any questions from abutters; all the abutters were notified, no question from any of them.

Hilarie asked how high the highest point of the roof will be.

Mrs. Reimer answered that the roof line will be no higher than 25'.

An approval from the Planning Board is pending a report of adequate septic system.

Hilarie noted that the septic is located very close to the house.

Hilarie asked if anyone in the audience has questions; being none;

Hilarie asked for a motion to close the public hearing, Michael made the motion, Jon 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: *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 is going to vote on all the variances necessary at one time.

For the 3 front yards: a variance of 38'3"

One of 6'

And one of 12'

A variance of 57' for the rear yard.

Roll call vote; Frank, YES. Hilarie, YES. Jon, YES. Michael, YES

Variance granted. Subject to Planning Board approval of septic system adequacy.

2 2012-21 Eric & Carol Sokol, 453 Lakeview Rd. , Tax Map # 165.11-1-41, remodel first floor, roof , add new windows, add deck and door of off dinning room, deck to be partially covered.

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

Linda Chernewsky approached the table.

Hilarie read a letter from the Building Department dated February 12, 2013 updating the necessary variances.

- “ 1. Two side yard area variance; one for 25'4" and one for 16'6".
2. A front yard variance of 37'-5".
3. A height variance of 2'8".
4. A variance of 5'1" to build within the 100' setback from water.

The property lot area is 8,930 sq'.

Total lot coverage of building, deck & porches is 1,949sq'.

Percentage of lot coverage is 21.8 %.(Variance of density schedule needed) “

There was a discussion in reference to the front yard location.

The address being 453 Lakeview Rd., it was determined that the front yard is on Lakeview Rd., therefore no variance is necessary for the front setback.

Ken Dow noted that the purpose of determining where the front yard is located is solely to grant the variances necessary.

Jon wanted to make sure that it was clear to all that no variance of density was necessary.

The applicant is still waiting for an approval from Planning Board for adequacy of septic system. Linda presented a bill from Baldwin & Sons dated February 13 2013 stating that the 2 tanks (about 250 Gallons total) were in good working order.

All abutters were notified.

Frank questioned the size of the right of way on Lakeview Rd., he suggested that a copy of the deed would clarify the exact measurement; on the survey provided, *a right of way of 22' is shown, and the town might have a different size. Frank referred to article V239, C.,*

referencing that in the absence of a 50' right of way, 25' from c/l is added to the front yard set back.

Linda Chernewsky debated that the house adjacent was much closer to the road than the subject property.

It was noted that when filling an application for a variance, a copy of the deed was necessary as a proof of ownership OR a tax bill.

Ken Dow questioned the purpose of getting the deed. Frank responded it would be useful to determine the measurement to grant a front yard variance.

Ken Dow pointed out that if there is no obvious detriment, the relevance of the issue should not weight in the decision, especially when there is a building next door clearly closer to the road. The house will not be moved closer than where it is now.

The front of the house is not going to change at all.

Frank asked Linda Chernewsky if the second floor was going to be in line with the existing structure or if it will overhang. Linda responded that the 2nd floor will be aligned and the roof will be raised, the house will remain the same size as it is now.

After clarifications;

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

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

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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.

The board is going to vote on all the variances necessary at one time.

Variances as follow;

1. Two (2) side yard area variances; one 25'-4" and one 16'6".
2. Rear yard variance of 37'-5"
3. Height variance of 2'-8"
4. Variance of 5'-1" to build within the 100' setback from the water.

Roll call vote; Frank, YES. Hilarie, YES. Jon, YES. Michael, YES

Variance granted. Subject to Planning Board approval of septic system adequacy.

6. New Business:

New Applications

1 2013-02 Sachs Jessica & Dalton, 29 SW Colony Rd. Copake , Tax map # 165.14-2-67.200 . Request for an area variance for construction of attached garage , side yard setback variance of 24'.

Mr. and Mrs. Sachs came to present the project. They want to build an attached garage connected to the existing house by a breezeway. Mrs. Sachs explains the challenge is that the planned garage is close to the adjacent property. The adjacent lot is owned by Mrs. Sachs parents.

Frank asked for the location of the septic system. The septic tank is located on the other side of the property .The Sachs also want to move their washer and dryer in the breezeway.

The measurement of 6' from side line on the site plan is wrong; it should be measured from the house not from the deck. The Sachs will have the survey corrected.

Frank noted that the project will be approximately 230' from the front property line.

The application is complete.

Hilarie asked for a motion to accept the application and schedule a public hearing for March 28, Michael made the motion, Jon seconded, all in favor.

2 2013-03 Jane Landers , 14 Lincoln Drive Copake, Tax Map # 165.15-1-32. Request for an area variance to erect a 12x10 storage shed on North East side of the house.

Mr. and Mrs. Landers came to the table, they explained that they needed the shed to store kayaks and patio furniture during the winter. Their basement is damp and too small to store anything.

The list of the abutters was clarified; only the property owners directly touching and directly across the subject property need to be contacted.

Jon asked if a survey was necessary, Hilarie pointed out that it is just a shed and a plot plan was enough.

The application is complete.

Hilarie asked for a motion to accept the application and schedule a public hearing for March 28, Michael made the motion, Jon seconded, all in favor.

Informal presentation by Marc Bailey; Architect, of a project located at 86 SW Colony Road.

The project is to combine two adjacent parcels, demolish the two existing homes and replace them by one 2 story house. The 2 lots are 4000sq' and 6000sq' respectively. The proposed new house will be 1100sq' per floor.

The new house will not be closer to the lake than the existing house; the septic will be updated with a sand filter and the effluents pumped back into two dry wells.

It was brought to Mr. Bailey's attention that the septic should be 150 feet from the lake.

The existing conditions will be improved and the lot coverage reduced. The new house will have 3 Br.

Frank suggested that Mr. Bailey contact DEC.

Hillarie noted that silt fences will be necessary.

Frank asked for the height of the building.

Mr. Bailey said above 27 feet and a height variance might be necessary.

Mr. Bailey will file an application with the ZBA for the next meeting.

Ralph Shadic, a candidate for a position as a ZBA member was present for the interview planned.

Hilarie made a motion to go in executive session to conduct the interview for the new ZBA member position, Michael seconded, motion was carried.

Jon made a motion to come out of executive session and to adjourn the meeting, Michael seconded, all in favor.

The ZBA voted unanimously to accept Ralph Shadic as a member; the town board will be notified.

Meeting was adjourned at 8:55.

Next meeting will take place March 28, 2013.

Respectfully submitted.

**Veronique Fabio
Recording Secretary**