

**Town of Copake  
Zoning Board of Appeals  
Minutes- March 22, 2012**

**Draft**

**The regular monthly meeting of the Zoning Board of Appeals of the Town of Copake was held on Thursday, March 22, 2012, at the Copake Town Hall, 230 Mountain View Road, Copake, NY. The meeting was called to order by Chairman, Frank Peteroy at 7:08 PM.**

**Present at this meeting were: Frank Peteroy, Michael DiPeri, Hilarie Thomas, Emilee Drobbin, Jon Strom , Glenn Schermerhorn and Attorney for the town Kenneth Dow. An audience of about 15 were present, including, Town Supervisor Jeff Nayer, Zoning Enforcement Officer Ed Ferratto, Copake Planning Board Chair Marcia Becker, Harvey Weber Taconic Shores....**

**Minutes:**

**Frank asked to accept the minutes from January 26 and the February 23 minutes as well but with some corrections as follow:**

**Page 3, 5<sup>th</sup> paragraph, should read;**

**“ Camphill is creating an office building of 5359 Squares feet on each of the two floors, for a total square footage of 10,712 sf.”**

**Page 4, 10<sup>th</sup> paragraph;**

**“Parking requirements density, as required by 232-11, A(1),(7),(11), C(1), & (D) type construction.” The rest of the sentence is removed.**

**Page 5, 4<sup>th</sup> paragraph;**

**Should read “Alexandra”**

**5<sup>th</sup> paragraph;**

**“Hilarie” misspelled.**

**Frank asked for a motion to accept the minutes.**

***Hilarie made a motion to accept the minutes, this was seconded by Emilee. The motion carried.***

**Correspondence:**

- 1. 3-9-2012..... Land Conservancy training**
- 2. Frank talked about a number of emails that were exchanged and would like to have a discussion at the end of the meeting on how to treat emails in the future.**

**Closed Hearing None**

## **Public Hearings:**

### **Application #2012-03, Copake Golf Course.**

Present for the hearing are; John Urban, his attorney Lawrence Howard, P. Prendergast Engineer, and Mr. Plass surveyor.

Prendergast presented the new plans with the details requested by the board at the previous meeting, i.e. the forced main and pump station locations.

On page 1 of the new plan, sewer forced main on lot #2 has been moved away from the lake as much as possible in order to meet the set back requirements.

Also required by the board is the location of the connections for the sewer lines on the new maps provided by Jeff Plass on March 14, 2012.

Emilee asked is the sewer line on the plan is in existence at the moment. Prendergast answered that it is.

Mr. Plass offered a copy of all the sewer lines in existence at the moment for all the residences.

Prendergast noted that he received today a letter from the DEC, the stream is a Non Classified Stream, and the DEC is still looking for flow rates. DEC's approval of the project is conditional.

Prendergast mentioned that he received an Email from the engineer for the Army Corp. Brad Sherwood. Sherwood had a question about the reason why Prendergast wanted to put the sewer pipe in concrete under the stream. Prendergast feels concrete surrounded pipe is safer, Sherwood is concerned that the concrete might become some sort of a dam in the future, he suggested that concrete be used only if the soil under the stream is rock, if it is soft, concrete should not be used.

Prendergast said that the pipes will be buried 4 feet deep responding to Emilee's concern about having exposed sewer pipes. The work under the stream will be done during dry season.

Frank asked about what will happen if there is water in the stream at the time work is done. Prendergast answered that there is a valve that can be closed. Prendergast brought a sample of the pipe that will be used under the stream, pipe is SDR 11, resistant to impact of 160PSI but can handle peaks up to 300PSI. The most pressure that pipe will be put through is around 2.0 PSI.

Frank asked what kind of connectors are going to be used. Prendergast explained that stainless steel mechanical clamps will be used. Frank asked the length of each section of pipe. Prendergast said the pipe comes on 100 foot rolls.

Hilarie noted that she had requested the total length of the piping. Prendergast said he will have the measurement before the end of this meeting.

She also wanted to know the exact distance of the pipe from the lake. Existing pipe currently used is at some point very close to the lake.

Hilarie asked for maps drawn with the setbacks from the stream to the road, sewer line setback from the lake she also required an economic data re: appraisal of the property or purchase price vs. appraisal value of the property as lakefront property.

Hilarie mentioned that this case is similar to the “Braunstein” case and a supreme court decision from Columbia County agreed with the ZBA that indeed pipes are parts of a septic system and should be treated the same and a 150 ft. set back is required from a body of water. L. Howard responded that the application presented is different, there is no septic tank anywhere near the lake. Hilarie insisted that the situation presented is the same as “Braunstein” it is pumping effluents from one location to another.

Frank read from CCBH 75A, table2, not closer than 50 ft.

L. Howard argued that these regulations apply to onsite septic systems and the Columbia County Board of Health determined that the project presented is acceptable.

Howard also said that the only question is “does this project meet the ZBA zoning code?” The ZBA code clearly states that septic tanks and tile fields need to be 150 ft away from a body of water. The project is planning installation of pipes within a 100ft of the lake and is within the Zoning Code.

Hilarie and L.Howard agreed to exchange letters in reference to that matter.

Prendergast figured that approximately 510ft. of sewer pipe will be running along the lake.

The sets back are shown on the maps; 375 ft. of pipes will be within the 150 ft set back and the rest will be within a 100 ft.

Hilarie noted that she walked the area and noted that the proposed road is at one point as close as 50ft. from the stream.

Prendergast looking at the map read the distances as being 80ft., 90ft. and 120ft. in some parts of the proposed road.

Hilarie also noted that there is a pond across the street, close to the proposed road, and that pond is not shown on the map.

Hilarie noted that based on the application and the findings of the town attorney the variance requested is from the lake and that the applicant is not requesting a variance from the stream. Applicant has to go back to Planning Board and apply for a variance from the stream.

**Frank recapped; the relocation of the road is one discussion, the sewer line going under the stream is a County Planning decision. A request has been made to the Columbia County Planning Board; we have not received an answer as of today. C.C.P. does not seem to have a problem with the proposed plan but raised an issue. There was a question as to whether the stream in the project was connected to the City of Hudson's water supply. Frank checked the stream maps at the Conservation Office and it appears that the stream is located below the feeds.**

**Frank noted that to get back to the effluent line, the sewer system is under Copake Zoning book § 232-9 G. Columbia County Board of Health publishes this zoning book, the ZBA is the Guardian of what has been published.**

**L. Howard responded that if the county has no problem with the project, the ZBA should not have issues with it either. What we are discussing is not an onsite septic system and the septic system itself is under the jurisdiction of the D.E.C..**

**Emilee noted that the letter from D.E.C. mentioned that more testing needed to be done before permits will be issued for the connection of two future homes to the septic system. Prendergast noted that the original permits were allocated for 25 homes in addition to the golf course.**

**Frank noted that the Army Cor. Engineer letter is still open.**

**Kenneth Dow clarified that the Zoning Board of Appeals does not have the authority to determine if a variance is needed or not. The need for an area variance is to be determined by the building inspector. The Zoning Board is an appellate board. An applicant can, in the mist of a site planning review come to the ZBA. Subdivision 4 of section 267-A of the Town Law provides as follows: "Unless otherwise provided by local law or ordinance, the jurisdiction of the board of appeals shall be appellate only.**

**K. Dow mentioned that a notice for public hearing can be made for a particular variance and someone tries to expand on that variance.**

**L. Howard stated that Copake Lake Golf LLC is here to request any variance necessary to build the road and install the sewer pipes under the stream. If the board thinks it is necessary to get a referral from the Planning Board the applicant can do that.**

**Ken Dow confirmed that the public hearing was still open**

**Howard added that if someone feels that the notice for the public hearing was inadequate he was willing to take the risk of a challenge.**

Hilarie noted that the list of abutters was provided by the applicant and the board cannot be certain that everyone concerned by the project has been properly notified.

Prendergast proceeded to read out loud the Notice for the public hearing: “Copake lake Country C, John Urban. Area variance; Relocation of Eastern end of Golf Course Rd. and installation of a sewer main under stream.”

Hilarie said that this notice was not a good example of a good public notice. Set backs from lake are not mentioned among other details.

John Urban reiterated that everyone had been notified of the project one-way or another.

Frank noted that the DEC mentioned the age of the septic system as being 25 years old.

Prendergast explained that the septic is used primarily on weekends and during the summer and it is well maintained and monitored monthly.

Frank asked if the board could get the results of the soil samples for the next hearing.

Prendergast said that can be done.

Frank asked if seismic conditions had been under consideration in light of the recent seismic activity that has been recorded in the NY area.

Frank presented a map with 30 abutters along the new projected road and he felt that they should be properly notified.

John reiterated that every resident is aware of the project.

Mrs. Denise Chickory resident on Golf Course Road intervened and said that the residents were presented with the project at the road association meeting.

Hilarie asked for details regarding the road safety issue the project claims to correct. She also mentioned that notification of abutters is in fact in the bylaws.

Jeff Nayer explained that someone could file an Article 78 for not being properly notified.

John Urban said he will provide the board with a list of everyone on the road the day after the meeting.

Frank asked about the dock on the map.

John Urban mentioned that the docks will be removed and the unauthorized users had been notified.

Emilee asked if anyone present in the audience had any question regarding the Golf Course Road project and if anyone from the Conservation Society was present.

Jack Goldman, President of Golf Course Road Association, stated that members of the association were aware of the road relocation project.

**Marcia Becker; Copake Planning Board, pointed out that the location of the new road design was presented to the ZBA in the “sketch plan stage” and the design is not set in stone.**

**Jon Strom asked for a recap of the details in order to clarify the requests of the Zoning Board for the next meeting.**

**L. Howard recapped:**

- \* Send a more comprehensive notice for public hearing.**
- \* Notification of abutters; anyone’s property that touches the new road.**
- \*Public hearing remains open.**
- \*Army Corp. response letter still to come.**
- \*County Planning Board referral update still to come.**

**L. Howard reiterated that the issue presented before the Zoning Board is about set backs and disturbance of the stream. Environmentally relocation of the road is for the better.**

**Hilarie wants to see the pond in the drawings and the distances of the projected location of the road from it.**

**Jack Shultz explained the septic system in details, the goal is to improve the system.**

**Public Hearing will be continued next month, April 26.**

### **New Business**

#### **Application 2012-04**

**Mr. Brian Jonhson, representing Mr. Dowdell at 34 Birch Road, Taconic Shores is looking for a variance on set backs in a R2 zone, only 43 feet are available for set back on lots 629 and 630. Square footage on the lot is 24,549sf.**

**Taconic Shore Association is in the process of approving the project.**

**Hilarie made a motion to accept the application, seconded by Michael, unanimously carried.**

**This application is accepted by the ZBA, Public Hearing will be set up for April 26.**

**Frank wants to have an opinion by the board on what email treatment is acceptable?**

**Emails concerning applications are public information if there are more than 3 emails.**

**Ken Dow explained that intra agency communications are not subject to foil and don’t have to be disclosed usually, however there are some exceptions.**

**Instant messages are considered open meeting.**

**New Application**

**Presented by Mark Benner Champion Window Company of Albany**

**Representing Glen Ganz, 25 Fairview Drive , Taconic Shores.**

**Mr. Ganz wants to remove an existing deck and replace it with an all season room following the foot print of the old deck.**

**Harvey Weber stated that the application has been approved by Taconic Shores Association.**

**List of abutters is missing from application, public hearing subject to abutter's notification.**

**Hilarie made a motion to accept the application for a public hearing, Michael seconded, the motion carried unanimously.**

**This application is accepted by the ZBA, Public Hearing will be set up for April 26**

**Hilarie made a motion to close the meeting, Emilee seconded, the motion carried unanimously.**

**Meeting was adjourned at 8:45.**

**Respectfully submitted**

**Veronique Fabio**

**Recording Secretary**