

**Town of Copake  
Zoning Board of Appeals**

**Minutes March 28, 2013**

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

An audience of about 8 was present including Marcia Becker; Planning Board , Susan Sweeney; Town Board Liaison and Jack Schultz; Deputy Code Enforcement.

The meeting was called to order by Chairman Hilarie Thomas at 7:10 PM.

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

Kenneth Dow; Copake Town Attorney was also present.

**Minutes:**

Hilarie asked for a motion to waive the reading of the February minutes and approve them.

Michael DiPeri made the motion, Jon Strom seconded, all in favor.

It was noted that The October 2012 minutes were still open.

Frank E. Peteroy made a motion to approve the draft state and allow the October 2012 minutes to be put on the town website. Jon Strom seconded, all in favor; October 2012 Minutes approved.

**Correspondence:**

Hilarie Thomas reviewed the following correspondence

- 3-12 From Ed Ferrato in ref to Chibbaro at 395 Lakeview Rd.
- 3-15 Memo from Jeff Nayer in reference to computer problems.
- 3-20 Memo from Planning Board in ref to Landers at Lincoln Dr. for tool shed.
- 3-20 Memo from Planning Board ref. to Sachs at SW Colony Rd.
- No date; from Jeff Nayer ref to Alarm system phone Number.
- 3-21-13 from Frank E. Peteroy in ref to correction to February Minutes.

**Closed Public Hearing:**

None

**Public Hearing:**

**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 set back variance of 24'.**

Mr. Michael Melnyck ; representing Jessica and Dalton Sachs, approached the table.

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

Hilarie Thomas read the 3-20-13 Memo from Planning Board ref. to Sachs at SW Colony Rd.

March 20, 2013

Memo to: Hilarie Thomas, Chair, ZBA  
Re: Sachs attached garage – SW Colony Copake Lake  
From: Marcia Becker, Chair, Planning Board

Message:

The Planning Board reviewed the Sachs application at the March 16, Planning Board meeting. It was noted that existing structure is a conforming structure on a conforming lot in the R-2 zone.

The concerns expressed at the meeting were: 1) How will the west side of the lower garage level be accessed? Will the driveway be expanded around the north and west side of the structure? 2) Is the garage for private use only? 3) The third floor of the proposed new structure could be used as living space, but the septic system is sized for only the existing 3 bedroom house. The ZBA should consider putting a restriction on the variance which says the third floor will not be used as living space unless the septic system is appropriately sized to allow for 4 bedrooms.

**Mr. Michael Melnyck tried to answer the questions raised by the Planning Board. The basement will be accessed through the West side of the property on Mr. Melnyck's land.**

**Hilarie Thomas asked for the total height of the proposed garage, it appears to be 33feet and Marcia Becker confirmed it was within the code.**

**Frank clarified that cars will be parked on 2 levels and a structural engineer should be consulted.**

**Ken Dow reminded the Zoning Board members that they should concentrate on the compliance to the zoning codes and leave the engineering details to the building department.**

**Frank agreed but thought that there should be a conditional approval that a structural engineer looks at the project.**

**The site plan was updated with a new measurement for the side yard set back of 10feet from the house to the property line.**

**Jon Strom mentioned the concerns of the Planning Board regarding the use of the 3<sup>rd</sup> floor.**

**Mr Melnyk noted that it will be used for storage only.**

**Hilarie Thomas pointed that the use of the 3<sup>rd</sup> floor will be restricted to that particular use only.**

**Hilarie Thomas asked if that the garage will be used for car storage only and if a business of some sort was conducted, a use variance would be necessary.**

**Hilarie Thomas asked if anyone in the audience has questions;**

**Mr. Jay Hoag a neighbor came to the table to take a closer look at the plans.**

**Being no more question;**

***Hilarie Thomas asked for a motion to close the public hearing, Michael DiPeri made the motion, Jon Strom 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 a 20 foot side yard set back variance with a condition that the 3<sup>rd</sup> floor of the structure is used for storage only.

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

**Variance granted.**

**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.**

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

**Mr. and Mrs. Landers came to the table to present their project.**

**Hilarie Thomas confirmed that all the abutters were notified.**

**Hilarie Thomas read the memo from Marcia Becker that stated that the project conforms to Section 232-9 t. of the zoning code.**

**All sheds need a variance to be allowed.**

**Mrs. Landers presented a photo of the shed that will be installed.**

**Mr. Landers asked if there would be a problem if the shed was rotated 90degrees to make it less obstructive to the neighbor on the rear line.**

**Jon Strom inquired if the abutters were notified and if there were any comments.**

**Hilarie Thomas asked if anyone in the audience has questions; being none; A rear set back variance of 53feet and a variance for the installation of a shed are voted on today.**

***Hilarie Thomas asked for a motion to close the public hearing, Michael DiPeri made the motion, Jon Strom 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.***

**A rear set back variance of 53feet and a variance for the installation of a shed are voted on today.**

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

**Variance granted.**

## **6. New Business:**

### **New Applications**

**1 2013-04 Anthony Chibbaro , 395 Lakeview Rd, Copake Lake ,165.7-2-6 . Area Variance requested Build a 20' deck, extend porch roof and install a 8x12 tool shed in the rear yard.**

Mr. Chibbaro came to the table; the addresses for two abutters are on file.

Frank E. Peteroy advise Mr. Chibbaro that he needed to contact the DEC for work being done within 100feet of a body of water.

Hilarie Thomas asked what the height of the covered porch will be.

Mr. Chibbaro said it will be 10 feet height.

Frank Peteroy noted there were 2 parcels and the house is approximately 75 feet from the water.

Jon Strom questioned the fact that there already one shed on the property.

The Chibbaros noted that the structure referred to is large and more that 120 square feet.

Hilarie Thomas confirmed that the proposed project has 2 levels.

She asked for more measurements to the water for the next meeting.

Hilarie also pointed out that the Planning Board will review the application on April 4.

*Hilarie Thomas asked for a motion to accept the application and schedule a public hearing for April 25, Michael Diperi made the motion, Jon Strom seconded, all in favor.*

**2 2013-05 Dupilka, 54 Cat Track Rd. Copake, 186-1-80 . Area variance requested for deck with a left side yard variance of 12' needed to build a 12'6" x 12'6" deck and create a second point of egress in the residence.**

Mr. Dulpika needs to make the house handicap accessible for his father.

The lot is very steep in a 3 acre zone.

The only option is to build a deck on the South end of the property near the existing driveway.

Ralph Shadic asked if the deck will be open.

Mr. Dulpika answered there will be no roof.

Hilarie pointed out that the Planning Board will review the application on April 4.

*Hilarie Thomas asked for a motion to accept the application and schedule a public hearing for April 25, Michael Diperi made the motion, Jon Strom seconded, all in favor.*

**3 2013-06 Polayes/ Tiger, 82 & 86 S.W. Colony Rd. Tax Map # 165.14-2-2 Area variances for front, rear, left, right set backs as well as a height variance on undersized lot , work to be done within 100' of a body of water .**

Marc Bailey of Dennis "Wedlick architects "came to the table, he represents the owners of the property.

The application is complete with a list of abutters.

Lot 82 and 86 have been combined already.

The lot is 1/4 of an acre. The two existing homes will be removed and one 2300 square feet home will be built on the already combined lots.

The bedroom count will be reduced from 5 to 3.

This is an R2 zone.

Several variances are requested as well as sets back for retaining walls.  
The height of the proposed home will be approximately 32feet.  
The DEC will have to be contacted.

Marc Bailey noted that they were working on a septic system.

Frank Peteroy asked details about the sand filtration septic system planned.  
The existing floating dock will be upgraded and more natural landscape restored.

*Hilarie Thomas asked for a motion to accept the application and schedule a public hearing for April 25, Michael Diperi made the motion, Jon Strom seconded, all in favor.*

**4 2013-07 Gregg Hosier, Lakeview Rd, Tax Map # 165.11-1-45 ,area Variance, improvements within 100' of water (deck and vehicle pull off..)**

Mr. Hosier wants to build 2 decks; 16'x26' and 12'x26'.  
Add 2 storage sheds on the new decks respectively 10'x12' and 10'x10'  
He also wants to build a 24'x24' parking area off of Lakeview Rd.

Mr. Hosier noted that the site plan measurements were wrong for the second deck.

He mentioned that his neighbors have a right of way to the North of the existing stairs shown on the site plan.

The property is approximately 5400 square feet; the construction would cover approximately 1524 square feet. The lot is 0.12 acre.

Frank Peteroy noted that an application to the DEC would have to be filed.  
Mr. Hosier has contacted the Highway Department, he is expecting a letter from them soon.

Frank suggested that the right of way will have to be clearly defined on a survey and on a copy of the deed so no mistake is made and no construction take place on the right of way.

Hilarie noted that Mr. Hosier is looking for almost 100% variance and accurate measurements from the lake will have to be shown for all the projected constructions. The sheds will have to be shown as well, it was noted that in Copake; one shed 10x12 will be allowed.

Mr. Hosier explained that one deck is going to be higher than the other one because the land slopes towards the water.

Hilarie suggested that a reduction of the whole project away from the lake would work in the applicant's favor; the ZBA will grant the minimum variance.

Mr. Hosier is willing to minimize the size of the construction but argued that all around the lake decks and docks are built very close and in the water.

Ken Dow explained that the ZBA will look at this application and balance out the benefits and the detriments to the applicant and the neighbors. A compelling reason has to be demonstrated in order for the Board to grant a variance.

Marcia Becker noted that Mr. Hosier should not come to the planning Board until he has made the changes suggested by the ZBA.

*Hilarie Thomas asked for a motion to accept the application and schedule a public hearing for April 25 with a condition that the board will have a new construction plan before April 10, Michael Diperi made the motion, Jon Strom seconded, all in favor.*

**Mr. Adam Resnikoff was in the audience, he mentioned that he was interested by the open position on the ZBA .**

**Hilarie Thomas let him know that he will be scheduled for an interview next month.**

**Meeting was adjourned at 9:10.**

**Next meeting will take place April 25, 2013.**

**Respectfully submitted.**

**Veronique Fabio  
Recording Secretary**