

Town of Copake Zoning Board of Appeals

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Meeting Minutes of April 23, 2015

The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on April 23, 2015, at the Copake Town Hall, 230 Mountain View Road, Copake, NY. An audience of about 25 was present as well as;
Edward Ferrato: Building Department.
Bob Haight: Planning Board and Susan Sweeney: Town Board Liaison.

The meeting was called to order by Jon Strom at 7:00 PM.

Roll call:

Present at this meeting were: Frank E. Peteroy, Jeffrey Judd, Jon Strom, Michael Diperi, and Hilarie Thomas. Kenneth Dow: Copake Town Attorney was also present.

Veronique Fabio: Secretary was present to record the minutes.

Reading and approval of the minutes of preceding meeting:

~ Jon Strom asked if all the members had read March 26 minutes.

~ He asked for a motion to accept the March 26 minutes, Michael Diperi made the motion, Jeffrey Judd seconded, all in favor.

Correspondence:

~ Jon informed everyone that the hearing for Ben Meir remains open and is postponed to May 28 as per applicant's request.

Review of the correspondence.

- 03-27-15 From Paul Freeman request for FOIL.
- 04-03-15 From Paul Freeman for Ben Meir. Request to keep the public hearing open to May 28.
- 04-15-15 From Mark Gross request for FOIL.
- 04-17-15 From John Urban in support of the Pritchett / Casey application.
- 04-18-15 From David & Marilyn Goldman in ref. to Pritchett / Casey.
- 04-20-15 From Monica Machado requesting info for a ZBA application.
- 04-23-15 From Ken Dow in reference to Pritchett / Casey application
- 04-23-15 From Norma Ramos in reference to Ben Meir application.

Closed Public Hearing:

None

Public Hearing:

- 1) **2015-06, 157 North Mountain Rd. Copake Falls. Tax Map # 167.1-25**
Owner Joan Spencer. Variance to convert a shed to a chicken coop.

John Spencer came to the table, he represents Joan Spencer, his wife.

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

The shed intended to house the poultry has been built and was approved prior.

The shed is located 65' away from the right side property line.

Jon Strom asked if the applicant intends to have a rooster.

Mr. Spencer responded that he will not have a rooster.

Jon read the Planning Board recommendation;

“Mr. Grant referenced Town Code 232-9O.(5) which refers to the housing of fowl or farm animals being located in the front yard or within 200 feet of a property line or public street right-of-way.

Ms. Becker pointed out that the property to the rear of the lot is state land with no residence on it that would be impacted by a coop. She questioned whether the ZBA might be able to think of an alternative to placing the structure in the side yard where it is sixty-five feet to the adjoining property line. “

~ Jeffrey Judd asked how the shed was anchored to the ground and if it could be moved to a better location.

~ John Spencer said that the shed was on blocks and no other option was available for relocation.

The abutters where contacted, there was no comment from anyone.

~ Jon Strom asked for a motion to close the public hearing, Michael Diperi 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.

Jon Strom 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.

Tonight the ZBA is voting on an area variance for:

Relief from section 232-9(o)(5), housing of fowl or farm animals being located in the front yard or within 200 feet of a property line or public street right-of-way.

Roll call vote: Frank Peteroy; YES Jeffrey Judd; YES Jon Strom; YES

Michael Diperi; YES Hilarie Thomas ; Abstain

Area Variance is granted

2) 2015-07, 167 GolfCourseRd. TaxMap #165.5-1-14&17.

Owner Pritchett/Casey.

Area Variance to build a new home replacing an existing one, work within 100 feet of Copake Lake.

~ Mark Rowntree of Cosmo Design Factory represents the owners, he came to the table.

~ Jon Strom summarized the project: Rebuilding a house further away from the edge of Copake Lake therefore a number of variances are necessary. Project is within 100 feet of the lake.

~ Mark Rowntree indicated that all the erosion and sediment control details were submitted. The new house will be substantially larger than the existing one. The house was designed to minimize the visual impact from the road.

~ Ken Dow clarified that the lot is a non-conforming lot.

~ Rowntree talked about the height of the house being 35 Feet, measurement was taken from the basement.

~ Jeffrey Judd asked about the lot coverage; Density control is at 25% and the new house will occupy only 18% of the lot.

~ Jon Strom mentioned the feedback received in reference of the project.

~ Frank Peteroy argued that the measurement for the height of the house in this case (a non-conforming lot) should be taken from the lowest elevation of the grade at the structure, not from the basement. There is a difference of 5 feet if the measurement is taken from the basement. Frank also asked who prepared the amendment to the sewer easement without the homeowners association being acknowledged and an agreeing party to the amendment.

~ Rowntree responded that Freeman & Howard did the paper work.

~ Ken Dow indicated that easements and private covenants are not under the ZBA jurisdiction. A determination for a variance cannot be made based on consideration of violations of easements or private covenants. He gave the example of a land owner who decides to build a house on top of an easement, blatantly making the easement unusable, the ZBA cannot deny a variance based on that violation if the project otherwise complies with local building codes.

~ Frank debated that the ZBA is being asked to grant variances based on facts that are known to be in violation of a prior agreements between the owner and the home owner's association. He feels that the ZBA would become a party to a breach of contract.

Frank went on to examine the projected relocated sewer pipe, allowing for a pitch of only a 16th of an inch. At that pitch water is just about flowing, the viscosity of sewage would not cooperate the same way. The grade is unacceptable and will not be approved by the board of health in his opinion.

~ Rowntree responded that if the project does not pass the planning board there will be another round of assessments, but for now he is just looking for area variances with the zoning board.

~ Jon Strom reiterated that the ZBA should not concern itself with the rules and contracts between property owners and the homeowner's association.

~ ken Dow explained that the ZBA has limited jurisdiction over certain issues. If the board of health does not approve the sewer system the plan will have to be reworked to satisfy that agency. If the sewer line was going to be moved close to the lake, then it will become a ZBA issue but not in this case.

~ Hilarie Thomas cited section 232-9(g)

“Sewage systems. No person shall undertake to construct any new building or structure in the Town without first meeting the requirements for a system, or facilities, for the separate disposal of waterborne sewage, domestic or trade wastes in accordance with applicable regulations of the Town and the Columbia County Department of Health. Wells shall be located at least 100 feet from the closest point of such sewage system.”

~ Jon mentioned that the height issue would require a substantial variance, he suggested that the height of the proposed house be reworked to conform to the local code of a maximum height of 35 feet.

~ An abutter, Stuart Troyetski of 177 Golf Course Rd., had comments. He noted that beautiful renovations were accomplished in the past without moving houses beyond the original footprints and no one so far had done so around the lake.

~ Someone in the audience objected to that statement and mentioned the name of a homeowner who had moved his house.

~ Stuart Troyetski continued and mentioned that Mr. Goldman objected to the side yard variance, the size of the house planned is increased. The homeowner's association objects to the sewer line being moved. Other options are available to the new owner without moving the house.

~ John and Lisa Roberts, 171 Golf Course Rd., immediate abutters, noted that if there were a failure of the septic system they would be directly impacted. The setback rules of 30 feet for the side yard is there to protect the quality of life and privacy of all the residents. Going to a 12 feet side yard distance as requested by the applicant would result in having the Roberts look at their neighbor's screen porch with also a great potential for more noise. The Roberts object to this side yard variance request.

~ Stuart Troyetski added that the request for the garage is also a problem, in the past homeowners who had more land than the applicant were denied variances for a garage by the ZBA.

~ Rowntree corrected that the variance requested on the Roberts side was for a distance of 18 feet10" from the screen porch to the property line instead of 12 feet as indicated by Lisa Roberts. On the other side the closest corner of the proposed garage is 21 feet11" from the property line.

~ Someone in the audience asked for clarification on the location to measure the height of a house: lowest grade at the structure.

~ Frank added that one is allowed to go out 6Feet and establish the grade from there.

~ Bob Haight from the planning board asked if the proposed sewer system had pumps or if it was gravity feed. The system will be gravity feed. He also wanted to look at the plan regarding the height.

~ Hilarie Thomas indicated that most of the homes surrounding the project were built prior to zoning laws and sets back cannot be compared or uses as references, now Copake has a zoning code and it is applied.

The following correspondence in reference to the application was read by Jon Strom at the request of someone in the audience.

April 18, 2015

To the Zoning Board of Appeals:

Reference-Application 2015-07 for Marika Prichet & Paul Casey
167 Golf Course Road, Tax Map # 165.5 - 1-14 & 17

From—David & Marilyn Goldman—163 Golf Course Road—a butter to the
property in question---

Due to previous engagements we will not be able to attend the Public Zoning
meeting of April 23, 2015 where the request for multiple variances will
placed on the agenda

We would like our objections noted for the record . We oppose many of the
features of the new plan to the existing house (167GCR) and the subsequent
changes to the footprint. In order to effect this change the applicants
choose to make serious changes to the sewage line and may disrupt the
normal gravity fed flow of the existing system. There will be a serious
disruption of the easements that are presently in force. While the sewage -
waste water system is an issue between the applicant and the HOA, this
group of 9 homes in a community line is very concerned. We oppose the left,
right and front side yard variances as being too close to our set back. It will
upset and cause serious disruption to the present homes. We would prefer
that the new homeowner maintain the present footprint and keep their
adjustments in the character of the present homes that use a community
system. Any new construction should reflect the present format.

Thank you---

David and Marilyn Goldman

COPAKE
COUNTRY CLUB

April 17, 2015

Chairperson Jon Strom
Town of Copake ZBA

Chairperson Strom,

As a resident of Golf Course Road, member of the Copake community, and largest abutting landowner (Copake Country Club) I am writing to support the project of Marika and Paul Casey, our neighbors at 167 Golf Course Road.

I reviewed their preliminary home design at a previous planning board meeting and have since spoken with them both. Aside from their intent to build farther from the lake, which I fully support, they have hired two local architects, a landscape engineer, and Crawford & Associates for proper guidance and planning. I also understand that Crawford & Associates has reviewed and provided plans for their sanitary and structural design work, and that the plan received approval from the DEC for the sanitary work in conjunction with a permit to build relative to the wetlands buffer zone area on their property.

I believe their plans for execution of the project are sound and they will continue in good faith to work with and contribute to our community and the preservation of the lake.

Best regards,



Jon Urban

Cc

Jeff Nayer, Town Supervisor
Susan Winchell-Sweeney, ZBA Town Board Liaison
Robert Haight, Planning Board Chair

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~ Jon Strom recapped that the ZBA would like to see plans with a reduced height for the next meeting.

~ Hilarie Thomas suggested that the number of variances should be minimized. She stated that the ZBA is supposed to allow the minimum variances, there are 7 now not including the DEC.

The hearing is kept open until May 28.

3) New Application:

1) 2015-08 Mathew Shadic. Pumpkin Hollow Rd. North. 165.-1-3.2.

Area Variance, left side property set back variance of 25feet for new house.

Mathew Shadic came to the table to present his project. He explained that the lot is 4.6 acres but very steep grade. The best location for the new house is close to the property line on the left side. The land is mostly ledge rock.

He presented plans and pictures. There is a small flat area where the house could be built.

~ Frank asked what was planned for the driveway. He would like to see more details on the driveway.

~ Hilarie asked if the soil perked.

The neighbors will be notified of the public hearing following the list provided by the applicant.

~ Jon Strom asked for a motion to accept the application for public hearing on May 28, Michael Diperi made the motion, Jeffrey Judd seconded, all in favor.

Internal business:

The August ZBA meeting will have to take place on the 20th due to some members not available on the 27th.

For the July 23rd meeting, Michael Diperi will not be present.

Continuation of a discussion that was started at the previous meeting in reference to a change in the handling of the Special Use Permits by the Planning Board instead of by the ZBA.

~ Jon Strom indicated that a letter consolidating each board member's opinion in reference to the matter will be sent to the town board.

~ Jon also mentioned the training for members and reminded all about it.

~ Bob Haight mentioned a 3 hour session in Claverack next week. Members will be sent the info through email.

~ *Motion to adjourn was made by Jon Strom, seconded by Jeffrey Judd, all agreed.*

The meeting was adjourned at 8:10.

Next meeting May 28, 2015

Respectfully submitted.
Veronique Fabio
Recording Secretary.

