

Town of Copake Zoning Board of Appeals

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Meeting Minutes of July 23, 2015

The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on July 23, 2015, at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

An audience of about 35 was present as well as;

Edward Ferrato: Building Department. Susan Sweeney: Town Board Liaison.

Bob Haight: Planning Board and Jeff Nayer: Town Supervisor.

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. Hilarie Thomas was excused.

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 the June 25 minutes.

~ Frank Peteroy indicated that there were some corrections necessary and that he was going to email the corrections.

Approval of the minutes of June 25 is postponed to the next ZBA meeting.

Correspondence:

7-21-15 from Gray Davis in reference to Pritchett/ Casey
7-22-15 from Planning Board referral for Zarrillo/ Sawyer

~ Jon Strom informed the audience that all the correspondence has been read by the ZBA members. He noted that the letter from Gray Davis pertained to an application that had already been approved, it will be kept on file.

Closed Public Hearing:

None

Public Hearing:

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

**1) 2015-10 Sawyer / Zarillo, 1084 Lake View Rd. Taconic Shores.
Tax Map# 176.1-3-16**

Area Variances requested for additions to an existing house, work to be performed within a 100' of a body of water.

~ Mark Zarrillo presented the project, he represents the owners, Nathan Sawyer and Tarin Zarrillo.

“The house is small, the project would add another 500 square feet to the existing 1000 square feet home. The addition will be built over the open existing deck. Two porches are planned as well. The roof line will be altered but the house remains a one story home with a walk out basement towards the pond.

~ Jon Strom asked about the proposed height of the structure from the walk out basement to the roof top.

~ Mark Zarrillo indicated that the total height will be 23'7”.

The left side yard setback does not require a variance.

~ Frank Peteroy asked about the location of the septic system and the capacity as well as if the applicant had received a DEC permit.

~ Mark Zarrillo responded that the septic has been inspected, capacity is 1000gallons and he is still waiting to hear from the DEC.

~ Jeffrey Judd asked if the height was increased from the original height.
~ Mark Zarrillo showed the plans and indicated that there was no height increase from the already existing house.

The owners have been in touch with Taconic Shores Owners association.

~ Jon Strom asked if anyone in the audience had questions. As there were none,

~ 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 232-9P (1) & (2) development within 100” of a body of water.

* A rear yard area variance setback of 34’3”

* A right side yard area variance of 13’3”

* Relief from 232-24 B (2) (a) # [2], [4], & [5].

Contingent to DEC approval.

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

Jon Strom; YES Michael Diperi; YES

Area Variances are granted

**2) 2015-03, 2117 County Rt. 7 Tax map # 186.-2-29-112 Owner Ben Meir
Special use permit to operate as a boarding houses.**

Represented by Paul Freeman Attorney at law requesting a special use permit.

Mr. Freeman gave an update of what has been done so far on the houses; 2015-01, 2015-02, 2015-03 and 2015-04.

“Crawford & Associated was hired to inspect the septic systems on each of the houses. They dug each system in order to assess the conditions. The work has been completed on 2117 County Rt. 7 (2015-03) Mr. Freeman provided a certificated from Crawford.”

~ Jon Strom commented that the number of bedrooms was not indicated on the certificate.

~ Mr. Freeman said he will provide the ZBA with new certificates specifying the number of bedrooms for each of the houses, for 2117 County Rt.7 there are 4 bedrooms. He noted that for 2117 County Rt. 7 there were no building code issues, Joe Luvienne had inspected each house prior.

~ Mr. Freeman asked the board to make a decision and close the application.

~ Jon Strom feels that it would not be efficient to deal with each application separately.

~ Ken Dow indicated that comments were made by the public on all of the houses collectively, the discussions were on all of them. If there is a specific house being discussed, the records will reflect that.

~ Mr. Freeman reminded the board that, that particular house (2117 Ct. Rt. 7) has never been rented. He feel that the applications should be treated individually. Code violations and septic problems are handled separately for each house.

~ Ken Dow suggested that a motion should be made to indicate that public comments that were made be applicable to each house unless one house is specifically mentioned.

~ Jon Strom clarified that if a public hearing is closed the board is locked into making a decision within 62 days after the closing.

Jeffrey Judd made the motion to attribute the general comments from the public in reference to applications 2015-01, 2015-02, 2015-03 and 2015-04 to each individual house. Michael Diperi seconded, this motion carried, unanimously.

**3) 2015-01, 22 Howard Dr. Tax map # 186.-2-76 Owner Ben Meir
Special use permit to operate as a boarding house.**

~ Mr. Freeman stated that the certification for the septic from Crawford will be amended and indicated that the house has 5 bedrooms. All building code issues have been resolved except for an egress window that was too small, a larger replacement window was ordered.

~ Ed Ferrato confirmed that he had been supervising the process of the code updates, all the ZBA requests are now met, and guard rails were installed as well as fencing and so on.

~ Freeman noted that Joe Luvienne will write a letter for each property itemizing all the changes.

~ Jeffrey Judd asked about the parking situation.
~ Paul Freeman reminded him that he had provided the board with plans indicating the parking spaces available for each of the properties at a prior meeting.

4) 2015-04, 2111 County Rt. 7A Tax map # 186.-2-67 Owner Ben Meir
Special use permit to operate as a boarding house.

This house has 3 bedrooms, all the updates were done except for the issue of the egress door on back order. The septic system is completed.

5) 2015-02, 2103 County Rt. 7A Tax map # 186.-2-29.2 Owner Ben Meir
Special use permit to operate as a boarding house.

All the code issues were handled however Paul Freeman noted that when Crawford came to inspect the septic system on that property they discovered that it was built in wetland.

There is a variance application (**2015-11**) presented today for the same address for expansion of the existing undersized septic system and relocation of the absorption field outside of NYSDEC freshwater wetland. The pipe would have to run along the driveway therefor the need for a variance “No development shall be permitted closer than 150 feet to a stream, creek wetland or other body of water.”

~ Brandee Nelson, the engineer for the project, indicated that an application had been filed with the DEC.

~ Frank had questions about the size of the pipes that was planned for the new system. He suggested that the highest quality pipe should be used.

~ Brandee Nelson explained that because of the length of the run a polyethylene thicker seamless pipe will be used.

The main house has 4 bedrooms plus 2 bedrooms in the carriage house.

The septic system is designed for 6 bedrooms.

~ Jon Strom asked for a motion to accept the 2015-11 application for public hearing on August 20, Michael Diperi made the motion, Jeffrey Judd seconded, all in favor.

Going back to application 2015-01, 2015-02, 2015-03 and 2015-04 Jon Strom invited the audience to comment.

~ Rochelle Edelson of Bettman lane commented on 22 Howard, she stated that the owners could not be trusted to rent the properties separately and to prove her point, she quoted advertisements on VRBO.

~ Paul Plotkin noted that a space was cleared between 2103 route 7 and 22 Howard to apparently allow people to circulate between the two houses.

~ Norma Ramos complained about the hostility and stated that she feels threatened. She was wondering why so much of the tax payer's money was spent talking about these applications when the residents from around Rhoda Pond clearly demonstrated that the projects were not in harmony and detrimental to the entire community. A letter was written by the town to the owner that the use for these houses was in violation of the zoning.

~ She stated that "It appears that there will not be compliance from the owner. The houses are rented at a quick pace. A horrific negative message is sent to the community, the zoning laws are violated with impunity. What kind of message will an approval send? If you have money you can buy the political will of Copake. The negative cost of this operation is borne by the residents of this community. All the evidence of the detriments to the area were shown. Would you allow that activity to go on next door to where you live?"

~ Paul Freeman commented that no attempt were made by the applicant or his representatives to buy political will.

~ Victor Goode spoke about 22 Howard, he commended the town supervisor for the letter to cease and desist however no changes resulted from that letter.

~ Jeff Nayer, clarified that he did not issue the cease and desist letter, it is the code enforcement office that does that.

~ Priscilla Kurbin asked about the relation between the septic systems and the number of bedrooms. She acknowledged the difficulty that the board might have to make a decision for the granting of the special use permits.

~ Ed Ferrato explained that the number of bedrooms determines the appropriate size for a septic system.

~ Joyce Herst came up and displayed a picture of a sign she passes by every day on her road that states that "Zoning is in effect and enforced in the town of Copake". She noted that property values will be severely affected if the permits are granted. People's standards of living are altered and home owners will have to sell their houses. Taconic and Ancram's property values are holding better than in Copake.

~ Ken Dow stated that the ZBA is guided by code provisions, some towns have more restrictive code than others. The board will make its decision based on the code.

~ Maria Pearl of 45 Bettman Lane, stated that she is in support of all the letters that were sent and the collective feeling against this project. Noise, and safety issues are now a reality for her and her family as well as people wandering around her property because they cannot find the house that they rented.

~ Frank asked about the easement of off Howard Drive that Paul Plotkin had brought up.

Four houses use that easement; Plotkin, Bock, Edelson, Vriens.

~ Norma Ramos added that the private road is no longer safe and is constantly trespassed.

~ ken Dow reminder everyone that easements are not issues that the ZBA handles.

A discussion went on about closing or not the public hearings on theses applications.

It was decided that the hearings will be kept open until next meeting in August.

New Application:

2015-12 DiPeri 23 Veron Rd. Taconic Shores Tax map # 175.00-01.20,

Postponed until August 20th.

- 1) **2015-13 Dana & Lindsay Bowen 1505 Lake View Rd. Taconic Shores**
Tax map # 176.1-4-20 & 21. Area variance for new decks, screen porch and breezeway

Presented by Linda Chernewsky.

Application will be referred to the Planning Board.

Existing square foot coverage is 4.87% and will be increased to 7.58%.

An application to merge the two properties has been filed.

The number of bedrooms will remain the same.

Linda is in touch with Taconic Shores Owners' Association.

~ Jon Strom asked for a motion to accept this application for public hearing for August 20th. Michael Diperi made the motion, Jeffrey Judd seconded, all in favor.

2) **2015-14 Larry & Kathryn House 443 Lakeview Rd.**

Tax Map # 165.11-1-32 Area variance for decks, screen porch, second story, stone patio and carport removal.

Presented by Linda Chernewsky. The owner just purchased the property.

A new tax bill will be provided to the ZBA.

Linda explained that the existing carport will be removed.

Lot coverage will be increased from 17.93% to 18.47%. The number of bedrooms (3) will remain the same.

A second story will be added, a flag stone patio will be built over the septic tank.

Set back from the water will be increased from 56'5.5" to 61'9".

~ Jeffrey Judd asked about the height of the project.

~ Linda answered that it will be increased to 28'5 1/4", original house is 19'6 3/4".

~ Frank asked about the location of the well.

DEC permit is not necessary. Property is at a corner, it has two front yards.

The application will be referred to the Planning Board.

~ Jon Strom asked for a motion to accept this application for public hearing for August 20th. Michael Diperi made the motion, Jeffrey Judd seconded, all in favor.

3) **2015 15 Konsker 45 Golf Course Rd. Tax Map # 165.1-1-42**

Area variance for replacement of deck, steps and retaining wall as well as placement of permanent dock anchors within 100' of Copake lake.

Applicant was absent.

Internal business:

~ Jon spoke about the change of date for the August meeting that was decided at the ZBA meeting of April.

Jon also discussed training sessions for the members.

~ Susan Sweeney indicated that dates will be worked out and emailed to members.

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

The meeting was adjourned at 8:55

Next meeting August 20, 2015

Respectfully submitted.

Veronique Fabio

Recording Secretary.

