

Town of Copake

Zoning Board of Appeals Minutes-July 26, 2012

Revised 8-23-12

The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on Thursday, June 28, 2012, at the Copake Town Hall, 230 Mountain View Road, Copake, NY. The meeting was called to order by Chairman Frank E. Peteroy at 7:05 PM.

Present at this meeting were: Frank E. Peteroy, Emilee Drobbin, and Jon Strom, Ken Dow, Copake Town Attorney will be following the meeting on speakerphone. Hilarie L. Thomas and Glenn Schermerhorn were not present for roll call, and arrived late. Absent. Michael DiPeri.

An audience of about 15 was present including, Jeanne Mettler, Town Board Liaison and Edward Ferrato, ZEO and Building Inspector.

Minutes:

Frank called for the reading of the June minutes to be waived.

Frank made a motion to approve the June minutes, Emilee seconded, motion carried unanimously.

Correspondence:

Frank noted that the following correspondence would be reviewed during the meeting.

Letter dated 7/12/12 from Eleanor Sabbagh and Alice Gorayeb in respect to Mr. Kitchen's application.

Letter dated 7/05/12 from US Army Corps of Engineers in respect to Douglas and Harriett Ziegler.

Closed Public Hearing:

-# 2012-07 Nielsen; Southwest Colony Rd. Copake Lake, West Copake. Install Patio and steps within 60' of lake.

Frank reads the from the Action taken on Appeal dated 8/27/2011, "Conditions that shall be met."

1- Variance requested for 60' from Copake Lake, 40' closer than the 100' usually allowed.

2- Open terrace of 20'x 20'with a walkway.

3- Both sides of easements are to be protected.

4- Retaining wall is not to be higher than patio.

5- Silt fence during excavation is required per DEC.

6- Any tent, canopy or temporary structure has to come down at the end of the season.

Variance approved for a 20x20 patio located no closer than 60' from Copake lake, Patio and Walkway located so that both sides easements are protected.

Frank asked if there were any questions .He stated that the Zoning Board has 62 days to make a decision on this matter and asked that a vote be differed until next meeting August 23, 2012.

Frank noted that all the items on this variance have been stated and will be looked at very carefully.

Public Hearing:

1. Application # 2012- 09 Robert Kitchen, 480 Farm Road, Copake, Area and Use variance requested for processing poultry.

Hilarie Thomas asked to recuse herself from the hearing, she stated that she had a contractual relationship with Mr. Kitchen. Ken Dow was made aware of the situation and he pointed out that Glenn Schermerhorn, ZBA member substitute could vote if necessary.

Robert Kitchen approached the table.

Frank read a letter from Eleanor Sabbagh and Alice Gorayeb dated 7-12-2012.

(Letter attached)

Mr. Kitchen critiqued that his house is located close to his farm and he does not have problems with rodents, he does not see how the opening of his store could have created an increase in rodent activity.

Frank noted that he was familiar with the “Gray house” in question that it was kept very clean and it is located 800 to 900 feet away from the proposed location for the trailer.

Frank asked if anyone had questions.

Emilee asked Mr. Kitchen if, in his pursuit of increasing his income, he had considered growing vegetables. Mr. Kitchen responded that he had not taken that option in consideration.

Glenn Schermerhorn noted that some of the abutters were questioning the trailer type of structure that was proposed.

Mr. Kitchen explained that the choice for a trailer was more economic than a 10x30 building at the end of the bunk silo. The expense would be \$5,000 to \$6,000 for a trailer and probably in the range of \$10,000 to \$15,000 for a solid building. Mr. Kitchen pointed that in his financial statements provided at the request of the ZBA showed low income for the past 5 years and he did not have the means to invest much.

Frank mentioned he had spoken to Ag & Market, they require a water test and they provided plans of arrangements for trailers for that type of activity. Ag & Market usually issue permits for a duration of 2 years with inspections 3 times a year.

Frank had questioned the Ag & Market on how they would inspect the premises knowing that the proposed “processing” of poultry take place only for a period of 6 months. Ag & Market would inspect almost monthly and would renew or deny the permit to continue processing after each visit.

Frank suggested that the trailer could be installed in the “bunker” that is concrete slab and walls 25’ wide and 9’ high. Some kind of a vegetation buffer could be planted around the bunk silo.

Mr. Kitchen noted that there is now grass on 2 sides of the silo, he has 12' blue spruce trees available that could be staggered to create a visual screen from the store to the side of the trailer.

Frank asked if there is sufficient room for a truck to back up and be clear of the road for traffic to pass when the wastes product is picked up .

Mr. Kitchen clarified that the wastes are put in containers that are rolled out to the pick up site. The containers are 50 gallons formed plastic with no seams, and a lid.

Emilee questioned the quality of the seal on the container's lids.

Glenn verified that "Barbado" or any other waste removal company could be used.

Frank recapped that the operation would extend from May to October.

Mr. Kitchen corrected that the operation would go on till November because he wants to process turkeys for Thanksgiving, for a total of 6.5 months.

Emilee asked if any other kinds of animals would be processed on premises.

Mr. Kitchen responded that in accordance with USDA only poultry would be processed at his farm. Other animals have to be sent out and processed in a USDA approved facility.

Frank noted he had checked on the Article 5-A stating that slaughterhouses must be outside of a 1,500 foot radius of a residential building but that is a rule that applies only to NYC.

Mr. Kitchen read the following from the "Copake Town Code" published on the Copake town web site.

[§ 123-1. Policy; purpose; right to farm.](#)

Chapter 123. FARMING

[HISTORY: Adopted by the Town Board of the Town of Copake 2-11-1993. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. [232](#).

§ 123-1. Policy; purpose; right to farm.

It is the policy of Columbia County and the Town of Copake to conserve, protect and encourage the development and improvement of farm operations within our borders for the production for food and other products. Existing and prospective residents of the Town of Copake should be aware of the inherent potential conditions associated with farm operations. Such conditions may include but are not limited to noise, odors, fumes, dust, smoke, storage and disposal of plant and animal waste products and the application of fertilizers, soil amendments and pesticides by ground or aerial spraying or other method. Property owners and residents within the Town of Copake should be aware that farmers have the right to undertake generally accepted agricultural practices, and one should expect such conditions as a normal and necessary aspect of living in such an area.

Frank pointed out the policy was adopted by the town in 1993 and supported by Columbia County. He also noted that the 5 abutters were sent a copy of that information.

Jon noted however that if you continue reading, the same document it mentions that “no slaughterhouses were allowed” and if the ZBA goes by this recommendation the appeal for a variance would be denied.

Frank asked for a clarification on the need of a USDA permit under 20,000 processed birds. 1000 birds can be processed on premises without any permit with a limitation on where the products can be sold.

Mr. Kitchen corrected it was a 5-A slaughterhouse permit from Ag & Market with a USDA label that was necessary for the processing of over 1000 birds and the option to sell the products to retailers and grocery stores anywhere in NYS.

He indicated that he was seeking a permit from Ag. & Market for a limit of 3,000. (Application is for 2,600 at 100 birds per week maximum; part of the year).

Frank asked if there could be a guaranty that the waste can be removed within 24 hours after the processing.

Mr. Kitchen responded that ordinary garbage pick up is done once a week on Fridays.

Frank explained that if the appeal was to be granted a dedicated day for waste removal would have to be set up has it is not ordinary garbage.

Frank stated that the waste would have to be picked up within 24 hours, without fail.

Mr Kitchen agrees that a guaranteed day for pick up could be arranged.

Emilee asked for details about the waste, is it liquid? Is it in bags? How is it transferred from garbage can to the 50 gallon containers?

Mr. Kitchen explained that the waste is emptied out into the containers, the containers are rinsed out and disinfected after garbage pick up.

Emilee expressed concerns that the dirty, open containers would be left on the side of the road.

Mr. Kitchen assured her that he would be right there ready to clean up immediately with Pinesol and a hose. He emphasized that clean up is a large part of the operation. The processing room has to be completely washed down after each use. Ag & Market has standards that have to be respected in order to continue such an operation.

Frank explored the options for other ways to dispose of the wastes. Could they be bagged? How is the garbage handle in larger facilities?

Mr. Kitchen explained that the waste in large processing facilities is trucked out and sold to rendering plants.

Sometime the waste is composted as well, but it is not an option for him.

Emilee wanted clarification on the set up of the processing room.

Mr. Kitchen explained that the room is completely sealed, there is a rack with stainless steal killing cones, garbage cans below receive the blood. The eviscerating table is equipped with a stainless steal counter; waste goes through holes into plastic garbage cans under the counter. All the waste is then consolidated to one garbage can and moved out to the large outdoor container. That container would be picked up the day after. Processing would normally be done in the afternoon.

Jon clarified that the trailer is a seamless structure. Mr. Kitchen explained that all waste water would go to a drain at the bottom of the trailer to a collection area that gets pumped out.

Frank noted that all the equipment would have to be approved by the National Sanitation Foundation.

Emilee mentioned that the waste water disposal was discussed at the prior meeting. Waste water is collected in a tank similar to a septic tank.

Jon reviews the financial statements submitted by Mr. Kitchen.

He noted that expenses for automobile went from \$110. for 2008 to \$38,000. for 2009.

Mr. Kitchen explained that he bought a truck that year.

Jon noted that the truck would have to be depreciated over a period of years and that should not affect his income that much. The loss of \$60,000 would be reduced if the depreciation was included.

Jon noted the same problem for the Miscellaneous that went from \$673.00 for 2009 to \$10,000 for 2010 as well as Miscellaneous expenses in the amount of \$20,000. and Contract Labor of \$79,091.88 for 2011.

Mr. Kitchen stated that in 2009 and 2011 he built various structures including his store and a barn.

Jon reiterated that all these expenses should be depreciated over a period of 15 years and these figures are not an accurate reflection of the profit and loss. To determine hardship the ZBA needs accurate figures and it would be in Mr. Kitchen interest to provide the board with better financial statements from his accountant.

Frank suggested other options for a better use of the land i.e., mini golf, a mobile home park, more acreage would be necessary however.

Mr. Kitchen pointed out that, three 2 family homes could be built but no matter what he chooses, permits will be required.

Emilee noted that growing vegetable would not require any authorization. She asked if Mr. Kitchen was growing his own feed.

Mr. Kitchen stated that more land is necessary to grow feed, he had 21 acres and also leases 40 acres for grazing.

Jon commented on the fact that at the present time Mr. Kitchen's property is in need of attention, various refuse can be seen from the road. If the board is looking for a commitment on appearance from Mr. Kitchen some tidying up on the property should be planned.

Mr. Kitchen stated that he was alone to maintain the farm. He could not afford hiring employees and his wife had a full time job. He has had no day off since 2005.

Frank expressed his opinion that a trailer in the bunker silo would make a good use of that existing structure and that a bluish green metallic finish on the trailer would be in harmony with the landscape.

Frank asked if there were questions in the audience.

Frank asked to defer any decision on this application until next meeting.

Jon reminded Mr. Kitchen that he would like to see better financial statements.

Public hearing remains open until next meeting scheduled for August 23, 2012.

New Business

New Application

1 2012-10 Lucas Bliss , lot 6 , Chrysler Pond / Cat Track Rd. Area variance
Installation of an 8x16 storage shed on a non conforming lot.

Mr. Bliss approached the table. He would like to install an 8x16 storage shed on the .72 acre property; there are no other structures at the present time on the lot. Shed would be on blocks.

Hillarie asked if there was a house on the property. Mr. Bliss responded no to the question. Jon asked why the lot was non conforming. Frank responded it was an undersized lot.

The survey shows another structure on the lot; Mr. Bliss explained that the survey is old and the structure belonged to a neighbor and has been removed.

Frank noted that there were 2 abutters and he asked if any utilities would be installed. Mr. Bliss said no.

Hillarie asked for pictures of the proposed shed and photos of the lot for the next meeting. She explained to Mr. Bliss that the board is required by law to send notifications to the abutters and there will be a public hearing scheduled for August 23.

Mr. Bliss was told that he will be billed for the expenses for postage to the abutters and the publication in the news paper for the hearing.

Frank asked for a motion to move the application to a public hearing, Jon made the motion, Emilee seconded, all in favor.

Old Business

None

Jon had a question about the vote of the alternate member.

Ken Dow over the speakerphone answered that the only time an alternate member can vote is when a member has a conflict of interest not when there is an absent member, this is a town and state law.

Frank noted that a memo had been sent in regard to that.

Emilee had a question in reference to the mention of a non conforming lot, in Mr. Bliss application.

Frank stated that the property is located in a 3 acre zone. Mr. Bliss wants to set up a shed on a lot where there is no primary building and the lot is under 3 acre, therefore the need for an appeal to the zoning board.

Frank asked for a motion to close the meeting, Emilee made the motion, Glenn seconded, motion carried unanimously.

Adjournment

Meeting was adjourned at 7:50.

The next meeting will be held on August 23, 2012

Respectfully submitted.

Veronique Fabio

Recording Secretary.