

# **Town of Copake Zoning Board of Appeals**

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## **Meeting Minutes of August 20, 2015**

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The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on August 20, 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.

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

### **Roll call:**

Present at this meeting were: Jon Strom, Frank E. Peteroy and Jeffrey Judd. Michael Diperi and Hilarie Thomas were excused.

Kenneth Dow: Copake Town Attorney was also present.

Veronique Fabio: Secretary was present to record the minutes.

~ Jon Strom noted that two members were absent however the board had a quorum.

### **Reading and approval of the minutes of preceding meeting:**

The minutes of June 25<sup>th</sup> and July 23<sup>rd</sup> were not reviewed at this meeting, it will have to be done September 24<sup>th</sup>.

### Correspondence:

8/11/15 From Michael Diperi. He will not be able to attend the meeting of August 20<sup>th</sup>.

8/18/15 From Susan Sweeney dates for members training.

8/19/15 From Planning Board referrals for Bowen, House and Ben Meir

8/19/15 From Building Department updated referral on Bowen.

8/20/15 From Susan Sweeney update for training.

8/20/15 From Victor Goode in ref. to Ben Meir.

### Closed Public Hearing:

None

### New Application:

~ Jon Strom indicated that the new application will be reviewed before the Public Hearings tonight.

1) **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.

~ Guy Winig came to the table and presented the project.

Two new decks are planned, they will be lower than the existing one, improving the visual impact from the lake. The whole structure will be moved from 8'45" to 10'67" from the left side of the property line, looking from the lake. Permanent anchors for the docks are also planned.

~ Frank Peteroy asked Guy Winig to bring drawings for the docks improvement for the next meeting.

*~ Jon Strom asked for a motion to accept the application for public hearing on September 24, Jeffrey Judd made the motion, Frank Peteroy seconded.*

2) **2015-12 DiPeri 23 Veron Rd. Taconic Shores Tax map # 175.00-01.20,**

The application will be reviewed at the next meeting in September.

**Public Hearing:**

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

*~ Jon Strom asked for a motion to open the public hearing, Jeffrey Judd made the motion, Frank Peteroy seconded.*

~ Jon Strom read the Planning Board review;

“The Board’s biggest concern was the fact that the non-conformity is being increased and moved closer to the water from a distance of ninety-two feet eight inches (92’8”) to sixty-four feet (64’). They also noted that an open deck is being added and pointed out that this is an allowed use.”

~ Linda Chernewsky came to the table. She indicated that some changes were made and the referral from the building department was updated as follow;

A Rear Yard area variance setback for 36’ 7”.

And a front yard area variance of 6’ 5”.

The applicant will also need to go before the Planning Board for site plan review section 232-24 b (2) (a) 5.

~ Linda also noted that the DEC approval is pending. The exterior work is contingent on the approval.

Taconic Shores has approved the project.

The updated application will be reviewed again by the Planning Board.

~ Linda Chernewsky explained that the angle of the screen porch was dictated by the location of the septic tank.

There was no comment from the audience.

All the abutters were notified of the project through registered letters.

~ Frank Peteroy noted that the lot is a corner lot.

*~ Jon Strom asked for a motion to close the public hearing, Frank Peteroy made the motion, Jeffrey Judd seconded.*

*~ 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: YES .*

*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:

A Rear Yard area variance setback for 36' 7".

And a front yard area variance of 6' 5".

Relief from Article V Section 232-9 P (1) development within 100" of a body of water.

They will also need to go before the Planning Board for site plan review section 232-24 b (2) (a) 5.

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

Jon Strom; YES

Area Variance granted subject to DEC approval for exterior work and Planning Board site plan review.

**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.

*~ Jon Strom asked for a motion to open the public hearing, Jeffrey Judd made the motion, Frank Peteroy seconded.*

*~ Linda Chernewsky of LMC Design and Larry House are presenting the project.*

*~ Jon Strom read the Planning Board review;*

"At the August 6, 2015 Planning Board meeting the members reviewed the application of Larry and Kathryn House. They looked over the required variances and had no concerns. However they did point out that the height of the proposed structure will be twenty eight feet five inches (28'5") and questioned whether this is an undersized lot with a maximum height requirement of twenty-five feet (25') from

the lowest point. They asked for clarification on this as no variance had been requested by the Building Inspector.”

~ Linda indicated that the lot was not under 5000 square feet therefor the height restriction did not apply, a variance for height is not necessary.

The lot is 9670square feet, the proposed coverage will be 18.47%.

The new survey submitted shows the location of the well and the septic system.

~ Jeffery Judd asked about the height of the project.

~ Linda responded that it will be 28’5 ¼” from the lowest grade.

The septic system has been tested and the size is adequate for 3 bedrooms.

The number of bedrooms remains the same as in the existing house.

~ Frank Peteroy asked the owner Larry House if he had his water tested for coliform, the septic being less than a 100 feet from the well.

~ Mr. House responded that he was aware of the proximity of the septic to the well.

The water was tested when he purchased the house, this being one of many requirements by mortgage companies to have potable water before a mortgage is given.

There was no comment from the audience.

All the abutters were notified of the project through registered letters.

***~ Jon Strom asked for a motion to close the public hearing, Frank Peteroy made the motion, Jeffrey Judd seconded.***

***~ 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.***

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***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: YES***

***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:

The Applicant needs relief from Article V section 232-9 P (1). For development to within 100' of a body of water. That being a setback variance of (37') feet.

A Rear Yard area variance setback on Lakeview Rd. for 60' 8 ¼ ''s.

A Front Yard area variance setback on Lakeview Rd. for 26' 6 ¼''s.

A Rear Yard area variance setback on Robin Rd. for 49' ¼''s.

A Front Yard area variance setback on Robin Rd. for 5'.

Roll call vote: Frank Peteroy; YES

Jeffrey Judd; Abstain

Jon Strom; YES

Under the circumstances the variance cannot be granted because of the abstention. Another roll call vote can be taken when all the board members are present.

~ Linda asked if the board could set up a special meeting for that purpose, a lot of precious time would be wasted if they had to wait for the next regular ZBA meeting on September 24.

~ Jon Strom noted that it can be done according to the ZBA by-Laws.

However it might be difficult to get the members together for that special meeting. The application can be re-voted on under closed public hearing next month.

### **3) 2015-11 Ben Meir 2103 County Rt. 7 Tax map # 186.-2-29.2**

Area variance for relocation & expansion of existing undersized septic system.

Mr. Freeman represents the applicant Alon Ben-Meir & Deanna Kory Ben-Meir.

*~ Jon Strom asked for a motion to open the public hearing, Jeffrey Judd made the motion, Frank Peteroy seconded.*

Mr. Freeman represents the applicant Alon Ben-Meir & Deanna Kory Ben-Meir. He indicated that the variance was requested to expand and relocate an inadequate septic system located in NYSDEC freshwater wetland.

~ Jon Strom read the Planning Board review;

“They noted that the septic is being moved further away from the wetlands however the pipe to the septic will be closer to the lake and questioned the size of the septic system being installed as there are a total of six bedrooms on the application.

The Board recommendation would be to install a jet aerobic septic system and verify that the septic is adequate for the number of bedrooms.”

~ Brandee Nelson the engineer for the new system noted that the “jet aerobic system “mentioned by the Planning Board would have no purpose in this case and that the DOH codes have been already met with the new design.

The system is adequate for 6 bedrooms.

New plans are submitted indicating that 1-1/2” HDPE effluent pipes with no joints will be used.

Someone in the audience questioned the approval for that septic system variance. Does it mean that the special permit request for boarding house will also be granted?

~ Jon Strom explained that this is a different application and it had no bearing on the board’s decision for the special permits requests.

~ Joan Perkell questioned the size of the septic system.

#### Review of the Short Environmental Assessment Form:

~ Jon Strom read part 1.

Members responded to the 11 questions on part 2.

Determination for part 3 is that;

**No significant adverse environmental impact will result from the project.**

*~ Jon Strom asked for a motion to close the public hearing, Frank Peteroy made the motion, Jeffrey Judd seconded.*

*~ 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.

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*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: YES.*

*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 Article V section 232-9P (1) 232-9 for the installation of a septic system within 150' of a wetland or a body of water.

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

Jon Strom; YES

Area Variance granted.

- 4) 2015-01, 22 Howard Dr. Tax map # 186.-2-76**  
**2015-02, 2103 County Rt. 7A Tax map # 186.-2-29.2**  
**2015-03, 2117 County Rt. 7 Tax map # 186.-2-29-112**  
**2015-04, 2111 County Rt. 7A Tax map # 186.-2-67**

Owner Alon Ben Meir & Deanna Kory Ben-Meir

Represented by Paul Freeman Attorney at law, special use permits to operate as boarding houses requested.

Mr. Freeman handed out the Sewage Disposal System certifications from Crawford & Associates that were update with the number of bedrooms for each unit.

- \* 22 Howard Dr. 5 Bedrooms, maximum system capacity 15 people
- \* 2117 County Rt. 7 4 Bedrooms, maximum system capacity 8 to 10people.
- \* 2111 County Rt. 3 bedrooms, maximum system capacity 9 people.

The owner is still working on the improvements to meet the building codes.

~ Frank Peteroy noted that for 22 Howard, 80% of the property is located in R zone.

~ Mary Ann Perle and Rochelle Edelson commented that if you add the number of people that the septic systems will sustain it ends up being a lot of people for 4 properties.

~ Jared Scharf noted that it has been clearly established through all the letters from the residents surrounding the pond that this type of activity has an adverse impact on the environment and the district.

~ Marc Moody argued that the influx of these out of towners had a positive economic impact on the area, "These people shop, eat out and spend their money right here during their stay."

~ Dan Babush stated that the homes in questions have been completely remodeled and improve the look of the area. When you consider what is happening in town, rent signs are everywhere, no more pharmacy, no bar, no ice-cream place. Nothing is happening in this town making it unattractive to potential buyers. Mr. Babush is convinced that this type of endeavor can only benefit the town.

~ Three local residents also spoke in favor of the project, describing overall no problems with renters and have noted improvement of the homes in the neighborhood.

~ Kora Perkell expressed her concerns regarding safety issues around the pound as well as the peace and tranquility that no longer exist.

~ Mary Ann Perle spoke about her quality of life being negatively affected by the activity.

After a lengthy discussion ZBA members concluded that the hearings should be closed on the four applications for special use permits and the SEQERS will be done at the next meeting.

*~ Jeffrey Judd asked for a motion to close the public hearing, Jon Strom made the motion, Frank Peteroy seconded.*

The votes on the applications is postponed until next month.

### **Internal business:**

Susan Sweeney spoke about the training sessions that were organized for October. Jon, Jeffery and Frank will be able to participate to the training on October 6.

Jon Strom asked to make sure that the town was advertising for the open position on the ZBA for an alternate member. The fact that now the alternate can vote was briefly discussed.

*~ Motion to adjourn was made by Jon Strom, seconded by Jeffrey Judd.  
The meeting was adjourned at 9:15.*

**Next meeting September 24, 2015**

Respectfully submitted.  
Veronique Fabio  
Recording Secretary.

Due to a technical problem there is no audio recording for this meeting.

