

**Town of Copake
Zoning Board of Appeals**

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Meeting Minutes of September 24, 2015

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The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on September 24, 2015, at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

An audience of about 5 was present as well as;
Jeff Nayer, Town Supervisor.

Roll call:

The meeting was called to order by Jon Strom at 7:05 PM.

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

Kenneth Dow; Copake Town Attorney and Michael Diperi came in a few minutes later.

Veronique Fabio: Secretary was present to record the minutes.

Reading and approval of the minutes of preceding meeting:

The minutes of June 25th and July 23rd were approved. The minutes from August 20th were approved with a correction.

Jon Strom acknowledged the following correspondence,

8-21-15 From Gray Davis in reference to Pritchett/Casey.

Jon Commented that the hearing on Pritchett/Casey was closed and the letter came in after the variance was approved..

9-1-15 From Guy Winig, authorization to represent the owner Konsker.

9-2-15 From Planning Board, Agenda for the Sept 3rd. meeting.

9-11-15 From Guy Winig for Konsker, revised plans.

9-12-15 From Susan Sweeney in ref. to training October 6.

9-14-15 From Paul Freeman in ref. to Ben Meir 4 applications.

9-16-15 From Marc gross FOIL request in ref to Ben Meir.

9-21-15 From Marc Gross letter in ref. to ben Meir.

9-21-15 From Jared Scharf letter in ref. to ben Meir.

9-23-15 From Planning Board, review on Konsker.

9-23-15 DEC permit for 2103 CR 7, Ben Meir.

Public Hearing:

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.

~ Jon Strom asked for a motion to open the public hearing, Hilarie Thomas made the motion, Jeffrey Judd seconded.

~ Guy Winig came to the table and presented the finalized plan for the project.

~ Jon Strom read the Planning Board review;

“The Board questioned whether there is an original building permit for the existing structure. They noted that building in the bank would require a DEC/Army Corp of Engineer’s joint permit application and felt more detail is needed regarding placement of the modular pavers and the location of the retaining wall and concrete piers. They also pointed out that the Erosion and Sediment Plan is not indicated and a Site Plan Review would be required if this is the replacement of a non-conforming structure. “

~ Guy Winig noted that he was aware of the need for the DEC/Army Corp of Engineer's. He will provide a section of the pavers that he is planning to use.

The removable docks will be the same size and will be installed at the same distance from the shore as the existing ones.

~ Hilarie asked about the Jet Ski and boat lifts.

~ Frank Peteroy asked who owned the easement over the sewer line and suggested that a release is necessary to build over it. He also recommended that the fire pit be relocated away from the sewer easement.

~ Frank noted that the drainage system should be reviewed with the Ed. Ferrato the Building and Code enforcer.

There were no comments from abutters or from the audience.

The hearing remains open, and the following will have to be reexamined;

1. DEC & Army Corp of Engineer's permit.
2. Erosion Control indicated on the plan.
3. Section of the pavers.
4. Sewer easement.
5. Move fire pit.
6. Drainage review.

~ Hilarie suggested that may be the deck could be move over in order not to breach the sewer easement.

Closed Public Hearing:

1) 2015-14 Larry & Kathryn House 443 Lakeview Rd. Tax Map # 165.11-1-32.

Area variance for decks, screen porch, second story and stone patio also a carport removal.

The public hearing for this application was closed at the last month meeting and there was no quorum for a vote. The ZBA members will therefor vote tonight on this application.

~ Linda Chernewsky recapped the details of the project; Relocation of the bedrooms from 1st to second floor, stairs to the basement and the new second story. The well and the sceptic system have been located.

Linda presented a letter from St Peter's Bender laboratory with the results from the water analyses.

The height of the house will be within the code considering the lot square footage. The finish house will be 28.5'.

Tonight the ZBA is voting on an area variance for:

The Applicant needs relief from:

Article V section 232-9 P (1). For development within 100' of a body of water.

That being a setback variance of (37') feet.

Also, A Rear Yard area variance setback on Lakeview Rd. for 60' 8 1/4 ''s.

A Front Yard area variance setback on Lakeview Rd. for 26' 6 1/4''s.

A Rear Yard area variance setback on Robin Rd. for 49' 1/4''s.

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

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

Hilarie Thomas; YES Michael Diperi; YES

Variance granted.

- 2) 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.

The public hearing for that application was closed on August 20th.

The ZBA members are going to review the SEQR (State Environmental Quality Review).

~ Ken Dow noted the problem with segmenting the applications, the impact of the activity would not even be taken in consideration if only one house was rented. The associated incidental impact of the four houses has to be reviewed.

He read from the SEQR form;

“Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.”

The ZBA members reviewed **part one** of the four Short Environmental Assessment Forms that were submitted by the applicant.

They found responses to questions 4 and 5 erroneous on four of the forms and response to question 8 was incorrect for the property located at 22 Howard Dr.

4. Check all land uses that occur on, adjoining and near the proposed action.

Rural (non-agriculture) was checked by ZBA instead of Residential (suburban).

5. Is the proposed action,

b. Consistent with the adopted comprehensive plan?

ZBA found that the proposed action was **not consistent with the adopted comprehensive plan.**

8. a. Will the proposed action result in a substantial increase in traffic above present levels?

ZBA responded positively to that question for the house located at 22 Howard Dr.

ZBA members went on and responded to **part two** of the SEQR.

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

No, or small impact may occur

2. Will the proposed action result in a change in the use or intensity of use of land?

No, or small impact may occur

3. Will the proposed action impair the character or quality of the existing community?
A moderate to large impact may occur” for all four houses.

4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?
No, or small impact may occur

5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?
A moderate to large impact may occur” for the house located at 22 Howard Dr.

6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?
No, or small impact may occur

7. Will the proposed action impact existing: a. public / private water supplies? b. public / private wastewater treatment utilities?
No, or small impact may occur

8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?
No, or small impact may occur

9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?
No, or small impact may occur

10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?
No, or small impact may occur

11. Will the proposed action create a hazard to environmental resources or human health?
No, or small impact may occur

It was noted by the members that the impact on the character and quality of the existing community individually was not significant however collectively the impact was major.

It was suggested that an environmental impact study should be done by the applicant offering remedies to lessen the impacts.

ZBA members went on and discussed part **three** of the SEQR.

The Lead Agency is responsible for the completion of Part 3.

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope, and magnitude. Also consider the potential for short-term, long-term, and cumulative impacts.

~ Hialrie Thomas noted that first, the current use and the community should be identify.

~ Jeffrey Judd answered that currently the houses for which the special permits are requested are illegally used as boarding houses.

~ Hilarie added that the surrounding community is mostly composed of 3 seasons houses, used as retreats by long term owners that are quiet and respectful of their neighbors and the environment. What is offered by the project is transient occupants using the four houses as a resort.

The details of the impacts are; Safety issues, noise, littering, theft, and disrespect of other residents and the environment in general.

After a lengthy discussion the board members concluded and voted that a significant adverse environmental impact will result from the use of the four houses as boarding houses.

~ Paul Freeman who was in the audience objected to the board's determination and to the participation in the matter of Hilarie Thomas whom, in Freeman's opinion, had prejudged the application.

~ Ken Dow indicated that no ruling can be done without the completion of an Environmental Impact Statement by the applicant.

New Application:

1) 2015-12 Karen & Michael DiPeri, 23 Veron Rd. Taconic Shores
Tax map # 176.1-2-35

Frank Peteroy, Architect, presented the project.

An area variance is necessary in order to construct 3 open decks, install brick pavers' patio area, repair stone walls and stairs, and install new ground cover at shoreline for erosion control all work within 100' of a body of water (Robinson pound". An 8' x 24' removable dock is also planned.

DEC permit was obtained.

The decks will be installed with spiral posts to prevent soil disturbance.

No heavy equipment will be used on site only a rubber tires backhoe .

Silt fences will be in place.

Taconic Shores owners association will be notified.

*~ Jon Strom asked for a motion to accept the application for public hearing on October 22, Hilarie Thomas made the motion, Jeffrey Judd seconded.
The application will be referred to the Planning Board.*

Internal business:

Jon Strom reminded members of the training session on October 6.

Noted that Frank Peteroy's term expires at the end of this year.

*~ Motion to adjourn was made by Jon Strom, seconded by Jeffrey Judd.
The meeting was adjourned at 9:35.*

Next meeting October 22, 2015

Respectfully submitted. Veronique Fabio, Recording Secretary.

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

