

**Town of Copake
Zoning Board of Appeals
Minutes-April 26, 2012**

Please note that the page # 3 referenced April 2012 Memo, comprising 3 pages, is on file with the Copake Town Clerk and in the Zoning Board of Appeals office.

The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on Thursday, April 26, 2012, at the Copake Town Hall, 230 Mountain View Road, Copake, NY. The meeting was called to order by Chairman Frank Peteroy at 7:00 PM.

Present at this meeting were: Frank Peteroy, Hilary Thomas, Emilee Drobbin, Jon Strom and Glenn Schermerhorn. Michael deperi was absent.

Kenneth Dow, Copake Town Attorney, was also present for this meeting.

An audience of about 15 was present.

Minutes:

Frank Stated that there was a word misspelled in the March 22nd Minutes, and that he would like an item to be entered in the minutes in reference to the Golf Course application: North Shore Cluster Plan from Nov. 1988 a special design by A. Huehnel.

Frank asked for a motion to approve the changes on the March 22, 2012, Emilee made the motion, this was seconded by Jon Strom. This motion carried.

Correspondence: _____

- 3-23-2012----- Columbia County Planning Board for Golf Course Rd.
- 4- 1 -----Building Dep. Ref. to Nielsen, #2011-04
- 4 - 5-----US Army Corp of Engineer Ref. to Golf Course Rd.
- 4 - 9-----Copake Planning Board Ref. to Gantz and Dowdell
- 4 - 11-----L Howard to Copake ZBA Ref. to Golf Course Rd.
- 4 - 11-----From Copake Town Board to Lawrence Mucilliott in Ref. to Nielsen #2011-04
- 4 - 16-----National Grid, Gas regulatory Compliance
- 4 - 18-----From Planning Board ref. to Golf Course Rd.

The correspondence pertinent to each application will be reviewed during the public hearing.

Closed Hearing:

None

Public Hearings:

1 Application # 2012-03 Copake Golf Course , Relocation and reconfiguration of Golf Course Road and piping under stream.

John Urban owner, Lawrence Howard Attorney, P. Prendergast Engineer and Mr. Plass Surveyor approached the table.

Frank looked over at a plan and declared it was unusual and drawings were superposed over a survey. It was done in 1988. The map shows that the original sewage disposal system is 25 to 50 feet from the shore line it also shows that all the homes are gravity fed to that line and pumped up to the unit on the golf course. It shows all the man holes.

Prendergast specified that this map was what the ZBA had requested and this was the approved subdivision in 1988.

Frank stated that the sewer system has been in operation since 1988.

Prendergast mentioned a letter from DEC that informed the applicant that the stream in question was an unregulated stream and no permits were necessary. Also a letter from the Army Corps stated that the work may be performed without further authorization from their office; providing compliance with NWP general condition No.12.

Frank asked if any one in the audience had any comments regarding this application.

Frank also mentioned that 30 abutters were notified and the ZBA received only one phone call for clarification on the project.

Frank looking at a road profile map had questions for Prendergast.

He is concerned about the lake level being midway to the new slope of the new road. What kind of seepage can be expected onto the new road?

Prendergast responded that the drainage for the new road will be adequate for the location and he does not foresee any problems.

L. Howard is ready to answer any questions to clarify the plans for the project.

Hilary noted that the ZBA cannot grant a variance based on statements offered by the applicant, no evidence was offered.

She had asked for financial documents indicating the benefits that the variance would bring to the applicant.

She has spoken to the town tax assessor and he indicated to her that with the variance granted the property value would increase from 400 to 500%.

L. Howard pointed that the financial benefit to an applicant does not fall under the ZBA concern and in this case the community will profit from increased taxes.

Kenneth Dow agreed with Howard's statement and added that a net profit to an applicant should weigh positively in granting a variance. There are no significant negatives to the public.

Hilary also noted that the safety issues with the relocation of the road had no value. Hillary had contacted the Police Chief, Rob Lopez, and it appears that very few accidents were recorded at that location.

Hilary questioned the safety of the piping of the sewage systems, she feels that septic systems would be a better solution.

Frank disagreed with Hilary and stated that piping the sewage is safer than creating two septic systems.

Hilary had a map FedEx to her by Mr. Plass showing the length of the pipes running along the lake. She is concerned about the junction between each pipe.

Prendergast indicated that the lines and the connections will be pressure tested.

Howard pointed that the system has been in existence since 1988 and a number of pipes are buried since that time with no failure.

John Urban specified that there will be 3 connections rated at 165 PSI exposed to a pressure of 10 to 12 PSI.

Mr. Plass recapped that 355ft. of pipe will be within 100ft of setback and 150 ft within a 150 ft. for a total of 500 feet of pipes.

Prendergast noted that the pipes will be below the level of the lake and they will be buried 4 feet deep. He also reminded the board that the DEC, Sanitary engineer, Jamie Malcom and Mike Derusio from County Planning are all satisfied with the plans.

Frank asked if any one in the audience had questions.

Glen Schermerhorn stated that in his opinion, the plan presented was a good plan.

Frank proceeded to read a memo regarding the application . (*Refer to April 2012 memo*).

Emilee had questions about the monitoring of the wells requested by the ZBA and the financial imposition on the applicant.

Jon suggested that a mention be added to the memo that the maintenance of the road and the septic system is the responsibility of the owner.

Prendergast explained that wells with a cap can easily be installed for monitoring and he agreed to the request of the ZBA.

Howard confirmed his agreement to the wells and the communication of tests results to the town providing the number of requests is reasonable. Howard requested inspection once a year taken under advisement.

John Urban pointed out that the water has to be tested monthly anyway.

Frank had a question in reference to the tax map Numbers indicated on the plans.

Howard responded that once the subdivision is approved there will be numbers attributed to the new lots.

Frank asked for a motion to close the public hearing.

Emilee made a motion to close the public hearing, Jon seconded, motion carried unanimously.

Frank noted that the ZBA had 62 days to give a decision and needed time to review some details.

2 Application 2012-04 . Dowdell, 34 Birch Road, Taconic Shores. Building an enclosed screen porche on a non conforminf lot. Area variance necessary.

Frank asked for a motion to open the public hearing, Hilary made the motion, Jon seconded.

Frank asked if any one in the audience had questions.

Brian Johnson, builder for Dowdell, approached the table.

Frank read the letter from the Planning Board and asked for the accurate site map in order to review this proposal.

Johnson responded that the map was not ready yet, he will have it for the May 3rd planning Board meeting.

Frank noted that the lot is a double lot and setbacks are not met, an area variance is necessary. A survey is also required; the lot being askew, rear line is not straight.

Frank asked for a motion to continue the hearing next month, May 24. Hilary made the motion, Emilee seconded, the motion carried unanimously.

3 Application 2012-05. Ganz ,25 fairview Drive , Taconic Shores. Construction of an enclosed room following footprint of existing deck. Setback distances not met, area variance needed.

Frank asked for a motion to open the public hearing, Hilary made the motion, Jon seconded.
Ganz and Mark Brenner of Champion Window Company approached the table.

Frank read the letter from the Planning board and noted that there was no survey.

Ganz pointed out that Champion Company is just replacing the old deck by a new one following the same footprint and erecting a four season aluminum and glass room over the new deck.

Hilary asked Marcia Becker if the site plan was acceptable to the Planning Board, Marcia answered it was.

All 3 abutters were notified; one registered letter was not claimed.

Frank asked if the room was going to be heated.

Ganz responded yes, with a hot water system from the house.

Frank asked if a class A roof could be installed on the structure and wondered if a fire wall was necessary near the chimney.

Ganz explained that the chimney is just a vent for the boiler and not connected to a fire place or stove.

Brenner responded that the structure will be all aluminum and glass including the roof.

Frank asked for a motion to close the public hearing, Emilee made the motion, Hilary seconded, motion carried unanimously.

Frank read the permitted actions for the 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:

i. 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

ii. 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

iii. Whether the requested area variance is substantial;

Answer: No

iv. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

Answer: No

- v. 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.

Kenneth Dow suggested that a reference to the closeness of the structure to the property line be mentioned.

Frank noted that the existing foot print shows the deck to be approximately 3 feet from the property line.

Frank asked for a roll call of vote: Hilary; Yes, Frank; Yes, Jon; Yes ,Emilee; Yes.

Frank announced that this variance will be granted. The Action Taken forms will be mailed to the applicant and will be on file with the Town Clerk. In addition the Planning Board, Building Inspector, and Zoning Enforcement Officer will receive a copy for their file and records.

New Applications:

1 2012-06 Pross, 451 Lakeville Rd. Craryville, roll in garden shed on an empty non conforming lot. Area variance needed.

Mr. and Mrs. Pross approached the table.

They explained that the lot was purchase 2 or 3 houses away from their residence to be used for parking when they received guests. The lot is 60 x 60 and they want to set the shed on the side.

Frank asked for a motion to schedule a public hearing on May 24, Emilee made the motion, Jon seconded, motion carried unanimously.

Frank read a letter dated April 11 2012 from L. Mercillott in ref to Nielsen's disregard for the limitation of a variance granted by the ZBA in 2011.

Frank asked for a motion to open a public hearing for the Nielsen's issue, Hilary made a motion, Jon seconded, motion carried unanimously.

A lengthy discussion followed between the ZBA board and the audience.

A number of Nielsen's neighbors were present; Mr. Mercillott, Sue and Mike Melynk, and Elleen Batycki, voiced their concerns regarding the loss of the access to the lake, the reduction of the easement path from 15ft to 4 ft.

Jeff Nayer, town supervisor, noted that a letter from building department demanding the removal of the violation had been sent to Nielsen, and that the original variance granted in 2011 maintained the easements.

Ken Dow expressed his concern with the numbers of issues present and how they should be treated.

2 2012-07 Nielsen, South West Colony Rd. Copake. Area variance requested for a second patio already constructed beyond setback allowed by ZBA .

The board decided to accept the application and schedule a public hearing for next month. Mrs. Nielsen will provide the ZBA with a survey dated 2004.

Frank asked for a motion to Schedule a public hearing for may 24, Hilary made a motion, Emilee seconded, motion carried unanimously

Adjournment:

Frank asked for a motion to adjourn the meeting, Hilary made the motion, Emilee seconded, motion carried unanimously.

The next meeting will be held on May 24, 2012, at 7:00 PM.

**Respectfully Submitted,
Veronique Fabio, Recording Secretary**