



# **COPAKE PLANNING BOARD**

## **OCTOBER 2, 2014**

### **MINUTES**

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#### **DRAFT**

**Please note that all referenced attachments, comprising 13 pages, are on file with the Copake Town Clerk and in the Planning Board office. An annotated listing of those attachments appears at the end of this document.**

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A regular meeting of the Copake Planning Board was called to order at 6:55p.m. by Bob Haight, Chair. Also present were Chris Grant, Marcia Becker, Julie Cohen and Steve Savarese. Jon Urban and Ed Sawchuk were excused. Lisa DeConti was present to record the minutes. Supervisor and Board Liaison Jeff Nayer was also present.

#### **ZONING BOARD OF APPEALS – Referrals**

##### **2014-21      ZBA REFERRAL/SPR – DONALD & GAIL FOURNIER – Snyder Pond Road [Copake]**

Submissions included:

- ZBA Application
- Maps
- Letter from Bernice Bussett dated September 2, 2014
- Letter from Michael Massarone dated September 2, 2014
- Ed Ferratto Referral Letter dated September 9, 2014
- Appropriate Town Codes
- Building Permit Copy dated March 2, 1996
- Pictures

No one was present for this application. Mr. Haight acknowledged that Mr. Fournier's application concerns an existing ten by ten foot (10' x 10') deck on Snyder Pond Road that had a roof constructed quite a while ago. It was acknowledged by Ms. Cohen and Mr. Grant that the house is a non-conforming structure and the covered deck adds to the non-conformity of the structure. Mr. Haight explained that at some point a roof had been added to an existing deck and this was brought to CEO Ferratto's attention.

Mr. Haight brought up the fact that at the Zoning Board of Appeals meeting Frank Peteroy advised that the roof needed to have hurricane clips attached to it. Mr. Grant acknowledged letters the applicant received from his neighbors who had no objections to the covered deck. Mr. Haight pointed out that a side yard variance for twenty-nine feet (29') is needed from the ZBA.

Ms. Becker brought up the fact that according to CEO Ferratto's letter a Site Plan Review is required per Town Code 232-24B(2)(a)[5] *Any modification of a nonconforming building or structure is subject to a site plan review and approval by the Planning Board.*

Ms. Becker felt a better site map was required as the Board needs something to stamp and file. Mr. Grant questioned whether the roof on the existing deck increases the non-conformity of the structure. Supervisor Nayer explained that a permit had never been received for either the deck or the roof prior to construction. Mr. Grant questioned whether decks were included in the set-back regulations and was advised by Ms. Becker that they and made note of the fact that CEO Ferratto's letter advised that Site Plan Review is required.

Ms. Becker questioned whether either of the letters received from the neighbors is from the neighbor on the west side of the property as she had concerns of the deck impacting the neighbors on the west negatively. Ms. Cohen believed that the neighbor on 14 Snyder Pond Road is the neighbor Ms. Becker was concerned about and a letter was received from her. Mr. Grant suggested looking at a Tax Map so as to know whether there are any other neighbors involved. Ms. Becker advised that notifying the surrounding neighbors for their comments is the responsibility of the ZBA and not something that the Planning needs to be concerned with doing.

The Board reviewed the Check List to see what would be needed to constitute a Site Plan. It was noted that the following items need to be accounted for on the Site Plan:

- Outside Lot Dimensions
- Address
- Acreage of .72 acres
- R-1 District
- Screening

On a motion made by Ms. Becker and seconded by Mr. Grant the Board voted unanimously to approve the Site Map for Donald & Gail Fournier on Snyder Pond Road Copake, NY subject to approval of a rear variance from the ZBA and the additions of the Outside Lot Dimensions, Address, Zoning District, the Size of the Lot in Acres, and any trees on the property for screening be added to the Site Map.

The ZBA will be advised of the Board's decision. Mr. Haight will stamp the maps when the conditions are met.

## 2014-22      ZBA REFERRAL – SHAGBARK FARM – State Route 22 [Copake]

Submissions included:

- Memo from ZBA Chair, Hilarie Thomas dated September 3, 2014
- ZBA Application
- Building Permit
- Ed Ferratto Referral Letter dated August 12, 2014
- Site Map

No one was present for this application from Shagbark Farms for the installation of an eight foot (8') deer fence. Ms. Becker questioned the fact that the ZBA application states an eight foot (8') deer fence and CEO Ferratto's letter refers to it as a cattle fence. Ms. Cohen clarified that on the ZBA application the request is for an eight foot (8') deer fence around the property to connect to an existing fence to the West. Mr. Haight explained that they are proposing to open up the East end of their property so as to connect from Farm Road through to Route 22.

Mr. Haight questioned whether the Town can make any decisions regarding this as it is considered agricultural. Ms. Becker advised that this can be done if it causes damage and/or safety problems for humans. She referred the NYS Department of Agriculture and Markets Circular 1150, Article 25AA, 305-a which states: "*... and shall not unreasonably restrict or regulate farm operations within agricultural districts.....unless it can be shown that the public health or safety is threatened.*" Ms. Becker had concerns that the amount of fencing being installed around the Town is getting close to the point where it can start causing safety issues for the people.

Mr. Haight, whose property is in close proximity to where the fence is being requested, acknowledged seeing bear, deer, turkey and Coyote in this vicinity which will be blocked off by the fence. He also had concerns as to the access routes these animals might take as this is also in close proximity to an adjourning campground. Mr. Grant made note of the fact the fact that there are increasing concerns by the Board about the amount of areas that are being blocked off by fencing. Ms. Becker brought up the fact that the ZBA should take into consideration that this could cause safety issues for people.

Mr. Haight acknowledged an e-mail he received from Jon Urban expressing his support for Shagbark Farms as he feels they are a great asset to Copake and a major landowner and taxpayer.

Supervisor Nayer made note of the fact that this is the first time Shagbark Farm has come to the Town when installing a fence. Ms. Becker expressed her concerns that the Town now has thousands and thousands of acres with eight foot (8') fencing around them and no one is doing anything to stop it. It was noted that the animal population is increasing and Ms. Becker felt the Board should bring up the safety aspect of the increased fencing causing more and more animals to enter roadways and adjourning properties.

A letter will be written to the ZBA expressing the Board's concerns.

## **PUBLIC HEARING**

None

## **SUBDIVISION/SITE PLAN**

None

## **MINUTES**

On a motion made by Mr. Savarese and seconded by Ms. Becker the Board voted unanimously to approve the September 4, 2014 Minutes.

## **ADMINISTRATIVE**

**LOCAL LAW PROHIBITING NATURAL GAS MINING AND ASSOCIATED USES:** Mr. Haight asked if there were any questions on the Local Law amending the Zoning Code Prohibiting Natural Gas Mining and Associated Uses and Activities. Mr. Haight felt Copake was too far away from where any drilling or storing is taking place. Supervisor Nayer explained that concerns are directed more at the transporting and dumping of substances. Supervisor Nayer explained that the Town cannot prevent the running of pipelines as this is a Federal matter. Mr. Haight asked if the Board was in favor of the Local Law and all members were in agreement.

**CATAMOUNT DISCHARGE PERMIT:** Receipt of the Army Corp of Engineer Discharge Permit for Catamount Development Corporation and Pat Prendergast's response were acknowledged. Ms. Becker asked if this was in response to complaints made regarding the diversion of the pond. Mr. Haight made note of the fact that he was not aware if this is something new because of the complaints or whether this was being done on a regular basis and the Board is only now being made aware of it.

**ANDREW GILCHREST LETTER TO ZBA:** A letter from Andrew Gilchrest regarding a forthcoming resolution between Swiss Hutte owners Gert & Cindy Alper and Catamount Development Corp was acknowledged.

**RHODA LAKE HOMEOWNER'S ASSOCIATION DRY HYDRANT:** Mr. Haight acknowledged receipt of a letter from the Copake Fire District regarding a dry hydrant at Rhoda Lake Homeowner's Association that is not useable. He advised the Board that they have no power over this at this point as the Board approved this application with conditions. He noted that inasmuch as it is not the Board's responsibility to inspect these issues he made CEO Ferratto aware of it. CEO Ferratto will look into it. Mr. Haight also acknowledged that the Fire District was advised that this is now being handled by CEO Ferratto's.

**TERM EXPIRATIONS:** Mr. Haight advised the Board that Mr. Grant and Mr. Savarese's terms on the Board will expire at the end of the year. Mr. Haight asked whether letters need to be submitted from them. Supervisor Nayer explained that the Planning Board needs to advise the Town Clerk of this so that he can place an ad in the newspaper stating that there are two (2) term openings on the Planning Board available starting January 1, 2015. Any interested parties, including present Board members, need to submit letters of interest. The Board then will interview any interested parties and make their recommendations to the Town Board.

**INCREASE IN PLANNING BOARD FEES:** Mr. Haight advised the Board that their Fees have not been increased since 2007 and questioned whether this is done by the Town Board. Supervisor Nayer made note of the fact that the ZBA researched the fees of other Towns and then made a recommendation to the Town Board when they increased their fees. The fees of other Towns will be researched and the Board will decide how to proceed.

**SPECIAL USE PERMITS:** Mr. Haight advised the Board that it has been mentioned at several of the Trainings that he has attended that Special Use Permits are the responsibility of the Planning Board and Copake is one of the few Towns in New York State where they are done by the Zoning Board of Appeals. Mr. Haight made note of the fact that as seen in the Catamount application the applicant paid for all the experts through the Planning Board process and then had to repeat the process and expense with the Zoning Board process. Mr. Haight also brought up the fact that a Special Use Permit is a permitted use and not an appeal. Supervisor Nayer suggested the Board make a request to the Town Board advising them that this is done by other towns and they would like this to apply in Copake as well. The Board was in agreement with this.

**DOMINICK SINISI:** Lisa DeConti advised the Board that an application made by Doninick Sinisi on September 1, 2011 has just expired. Mr. Grant reminded the Board that Mr. Sinisi came before the Board wanting to add an apartment where one already existed and this was not allowed by the Town. Ms. Becker suggested writing Mr. Sinisi a letter advising him that the application is being removed from our agenda inasmuch as it has expired and he can reapply if he so wishes.

## **CARRY OVER**

The following matters were carried over to the next meeting:

- 2012 -14      SPR/BLUESTONE & TRAFFIC CIRCLE – CAMPHILL VILLAGE – Camphill Road [Copake Lake]**
- 2011-18      SITE PLAN REVIEW – DOMINICK SINISI – Lakeview Road [Copake Lake]**

## **ADJOURNMENT**

There being no further business, on a motion made by Ms. Becker and seconded by Ms. Cohen, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 7:40 p.m.

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Bob Haight, Chair

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## **ADMINISTRATION**

### DONALD & GAIL FOURNIER

September 2, 2014 Busset to Town of Copake (1)  
September 2, 2014 Massarone to Town of Copake (1)

### CATAMOUNT DEVELOPMENT CORP

September 12, 2014 Sherwood to Prendergast (2)  
September 17, 2014 Pendergast to U.S.A.C.O.E. (2)  
September 25, 2014 Gilchrest to Thomas/ZBA (1)

### ADMINISTRATIVE

September 15, 2014 Local Law Prohibiting Natural Gas Mining (5)  
Firth to Rhoda Lake Assn (1)