



**COPAKE PLANNING BOARD**  
**OCTOBER 4, 2012**  
**MINUTES**

**Approved**  
November 1, 2012

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**Please note that there are no referenced attachments on file with the Copake Town Clerk or Planning Board for this meeting.**

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A regular meeting of the Copake Planning Board was called to order at 7:00 p.m. by Marcia Becker, Chair. Also present were George Filipovits, Bob Haight and Jon Urban. Gray Davis, Chris Grant and Steve Savarese were excused. Lisa DeConti was present to record the minutes. On a motion made by Mr. Filipovits and seconded by Mr. Haight the Board voted unanimously to open the meeting.

**ZONING BOARD OF APPEALS – Referrals**

None

**PUBLIC HEARING**

None

**SUBDIVISION/SITE PLAN**

**2012 -27      SITE PLAN REVIEW – JAMES AND ANNE WAGNER – Golf Course Road**

Mr. George Schmidt of Morris Associates appeared before the Board in Ms. Chernewsky's absence representing James and Anne Wagner. Mr. Schmidt informed the Board that the DEC advised that no permits were necessary and provided the revised maps prepared by Ms. Chernewsky. Mr. Schmidt pointed out that the maps reflected the location of the septic tank, pump station and septic field for which there is an easement.

Ms. Becker acknowledged that the maps contained the required changes but the issue of rebuilding the house within the one-hundred foot (100') set-back is a matter that has not yet been determined. Ms. Becker advised that a letter was sent to the Building Inspector asking for a determination inasmuch as there is a conflict in the Town zoning. Ms. Becker also noted that since the Board does not yet have the determination from the Building Inspector whether this

project should be referred to the ZBA. If the determination is that the Wagner's can just rebuild on the same site, all that would be needed is a Site Plan Review. Ms. Becker will follow up on this with the Building Inspector and if the Town Code is unclear Attorney Dow will need to be consulted.

## **2012 -22 MAJOR SUBDIVISION/BLA – JOE FLOOD – Route 22 & Yonderview Road**

Joe Flood appeared before the Board with Surveyor Dan Russell. Ms. Becker reported that at last month's meeting the Board classified this application as a Major Subdivision and therefore the Flexible Lot Subdivision regulations will apply. Mr. Flood decided to proceed with the Major Subdivision.

Mr. Flood acknowledged that he wishes to subdivide approximately forty-six (46) acres currently being farmed and noted that these acres will remain agriculture with no roads or buildings proposed. Ms. Becker clarified that according to Town Code this application is now considered a Major Subdivision is due to the fact of the amount of Subdivisions that have taken place since 1972.

Mr. Russell acknowledged that this will be a complicated procedure and he and Mr. Flood are willing to work with the Board and appreciate any guidance the Board can give. Mr. Russell acknowledged that this application is not the typical twelve (12) lot subdivision and asked for the Board's leniency when considering it. Ms. Becker did make note of the fact that most Major Subdivisions that have come before the Board have been undeveloped pieces of land that were planned for development and this is the first application they have seen that has gradually been developed through time so the Board will need to work their way through the procedure as well.

Ms. Becker asked if Mr. Flood had any plans or ideas on what he would like to do with the remaining land. Mr. Flood advised her that he may wish to subdivide some of the land for his grandchildren in the future but has no other plans for large or numerous lot subdivisions. Ms. Becker did make note of the fact that Mr. Flood has rights to develop his land according to the number of lots allowed by land and the Code. Mr. Russell asked whether it was necessary for Mr. Flood to make up his mind at this time inasmuch as some of his grandchildren are quite young. Ms. Becker believed that exact boundaries were probably not necessary but locations would probably be. Ms. Becker did advise that it would need to be determined how much developable land there is.

Ms. Becker asked if Mr. Russell would be able to provide the necessary information about constrained land or whether a consultant would need to do this. Mr. Russell advised that he should be able to provide this information. Mr. Russell questioned whether a note could be put on the map after subdividing out the forty-six (46) acre parcel stating that any further subdivisions would be considered Major Subdivisions is sufficient. Ms. Becker would need to research this. Mr. Russell brought up the fact that Town Code did state that the Board has the right to waive the requirements. Ms. Becker was aware of this. Mr. Flood made note of the fact that the person buying the subdivided parcel plans on keeping the land agricultural at this time and should he change his mind in the future he would have to abide by the regulations at the time of purchase. Ms. Becker would need to consult Attorney Dow regarding this but did note that a deed restriction would solve this matter.

Ms. Becker advised that the locations of any stone walls would need to be indicated. Mr. Flood acknowledged that there were not a lot of walls on the property as these had been cleared when his father originally purchased the property in 1972 to develop larger parcels of farm land. Mr. Russell will fill out the appropriate application and provide the fee and necessary documents.

**2012 -28      SITE PLAN REVIEW – LAWRENCE AND KATHRYN HOUSE– Pine Street  
[Copake Lake]**

There were no new submissions on this application at this time.

**2012 -23      MAJOR SUBDIVISION/BLA – VIJOBA REALTY – Yonderview Road**

Dan Russell appeared before the Board representing Phil Gellert and Vijoba Realty. Mr. Russell presented the Board with the proper maps for the one and a half (1½) acre lot line adjustment and the possibility of an upcoming fourteen (14) acre parcel subdivision.

Ms. Becker advised that this is the same situation as the previous one with a large parcel of land that has been subdivided several times over the years and is now considered a Major Subdivision according to Town Code and subject to Flexible Lot Subdivision requirements. Ms. Becker questioned whether this was in the Scenic Corridor.

Ms. Becker advised the Board that this application was not classified at last month's meeting. On a motion made by Mr. Filipovits and seconded by Mr. Haight the Board voted unanimously to classify this as a Major Subdivision.

Ms. Becker acknowledged that all of Mr. Gellert's holdings have to be looked at to see what has been subdivided out since 1972. She noted that this information has been identified and the application is clearly considered a Major Subdivision.

Ms. Becker made note of the fact that this application is to merge one and one-half (1½) acres with an existing parcel and it is her opinion that this does not have a big impact on the parcel as a whole. The Board was in agreement. Mr. Haight brought up the fact that there is no septic to consider as this is presently on the larger parcel.

Ms. Becker did acknowledge that there is some discretion in the Town Code and referred to Waiver of Requirements, section 197-24. Ms. Becker then referred to the first part of Town Code 232-26F(12) which read: *The review board may waive some or all of the regulatory and submission requirements of this section in the SCOZ under any of the following circumstances* and the second part of Town Code 232-26F(12)(b) which read: *The reviewing board finds that the proposed project is of a minor nature and is consistent with the design standards set forth herein* and asked the Board if they felt the Flexible Lot Subdivision requirements can be waived for this Boundary Line Adjustment. The Board was in agreement. Mr. Russell will fill out the appropriate application and provide the fee.

The Check List and SEQP were reviewed. Everything in order, on a motion made by Mr. Filipovits and seconded by Mr. Urban the Board voted unanimously to make a Negative Declaration.

On a motion made by Mr. Filipovits and seconded by Mr. Haight the Board voted unanimously to approve the Boundary Line Adjustment for the lands of Vijoba Realty to be merged with the lands of Yonderview LLC from a map made by Daniel Russell dated August 27, 2012.

**2012 -29      SITE PLAN REVIEW – YONDERVIEW LLC – Yonderview Road**

Julia Sedlock and Mark Rowntree of Cosmo Design Factory appeared before the Board representing Yonderview LLC. Ms. Sedlock advised the Board that she received septic approval based on the Perc Test but does not have the paper work at this time. She will supply it as soon as she receives it.

The maps were reviewed. Ms. Becker asked whether there was going to be a guest house. Ms. Sedlock advised her that this is planned for the future. Ms. Becker questioned whether the septic approval included the guest house. Ms. Sedlock advised her that the septic system will be a fifteen hundred gallon (1,500) tank which is sized for five (5) bedrooms, four (4) in the house and one (1) for the guest house. Ms. Becker did note that Health Department standards are for two-hundred and fifty (250) gallons per bedroom and the addition of a fifteen-hundred (1,500) gallon tank is sufficient.

Ms. Becker brought up the fact that Mr. Davis requested the driveway be placed on the maps. Ms. Sedlock pointed this out and explained that the reason it was portrayed in a smaller box was so that more detail could be directed to the main portion of the driveway.

Ms. Becker advised that the Board is now asking for erosion control plans to be put on site maps. Ms. Sedlock will provide this. It was noted that the driveway is already in place and seeded and the culverts are in place as well. Ms. Becker advised that the Highway Superintendent wants to make sure that new driveways do not wash out the Town Road. Ms. Sedlock acknowledged that the driveway is pretty much flat for about thirty (30) or forty (40) feet.

On a motion made by Mr. Filipovits and seconded by Mr. Haight the Board voted unanimously to approve the Site Plan for the Edward Merrill house from a map by Cosmo Design Factory dated October 4, 2012 subject to receipt of the Health Department approval of the septic site location and the addition of the Erosion Control plan. Ms. Becker will stamp the maps when the conditions are met.

**2011 -24      SITE PLAN REVIEW REVISION – MARK FRANK – Island Drive [Copake Lake]**

Ms. Becker advised the Board that Mr. Frank made a revision to his house and complied with most of the requirements requested however, the distance from the new side yard retaining walls to the property line were omitted as well as the height of the new building. Ms. Becker did acknowledge that she measured the building on the map which appears to be the same height as the previous one submitted although the measurements are not on the plans.

Ms. Becker did make note of the fact that the proposed retaining walls are in the side yard set-backs. Ms. Becker checked with the Building Inspector and was advised that the walls are considered structures and a variance may be required for them to be placed there. Mr. Urban questioned the height of the walls and was advised that they are four feet (4'). Ms. Becker clarified that the walls have a purpose as they were put in to manage the drainage but she pointed out that they are located within the set-backs.

Mr. Urban questioned whether a wall was considered a structure as a wall could be only twelve inches (12") high and questioned how this was discovered. Ms. Becker noted that she became aware of this by reviewing the maps to see if all the Board requests were complied with. The Board was in agreement that the Building Inspector be consulted.

## **MINUTES**

The September minutes could not be approved inasmuch as there was not a quorum of members present from that meeting.

On a motion made by Mr. Filipovits and seconded by Mr. Haight the Board voted unanimously to approve the Minutes of the August meeting subject to approval from Chris Grant who was one of the members constituting a quorum at that meeting.

## **ADMINISTRATIVE**

**ZBA DECISIONS:** Ms. Becker advised the Board that the Anne Captain, Robert and Jacqueline Beatty and Joseph and Corrine Gursky applications had been approved by the ZBA.

**STORM WATER REGULATIONS:** Ms. Becker brought up the fact that there are new national Storm Water regulations and asked Mr. Haight if he had a copy of them. Ms. Becker will get a copy from the recommended web site.

**ZIEGLER SITE PLAN REVIEW:** Ms. Becker advised the Board that after reviewing the plans for the Ziegler property no erosion control restrictions were accounted for on the Site Plan map. She made note of the fact that a permit from the Army Corp of Engineers and a permit from the DEC had been received and both state that silt fences and other erosion control measures were required. Ms. Becker was unclear as to the Board's jurisdiction regarding this. Mr. Haight questioned whether this needed to be dealt with by the Building Inspector inasmuch as this was a requirement of the permits received. Ms. Becker agreed that he should be notified. Mr. Urban believed this was an oversight by the Board. Ms. Becker thought this had been included but since it had not been the Board may not have the authority to notify the applicant as to a violation of the Site Plan approval, but could address the issue of the agency permits, copies of which were provided to the Board.

## **CARRY OVER**

The following matters were carried over to the next meeting:

- 2008-21      MAJOR SUBDIVISION – MICHAEL B. & BARBARA S. BRAUNSTEIN – Off Golf Course Road**
- 2011-18      SITE PLAN REVIEW – DOMINICK SINISI – Lakeview Road [Copake Lake]**
- 2011-27      SITE PLAN REVIEW – RUTH THOMAS – Route 7 [Copake]**

## **ADJOURNMENT**

There being no further business, on a motion made by Mr. Filipovits and seconded by Mr. Haight, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 7:55 p.m.

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Marcia Becker, Chair

**Please note that there are now referenced attachments on file with the Copake Town Clerk or in the Planning Board office.**