



COPAKE PLANNING BOARD

OCTOBER 6, 2016

MINUTES

DRAFT

Please note that all referenced attachments, comprising 26 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.

A regular meeting of the Copake Planning Board was called to order at 7:00 p.m. by Chris Grant, Vice-Chair. Also present were Marcia Becker, Steve Savarese, Julie Cohen and Jon Urban. Chair, Bob Haight and Ed Sawchuk were excused. Lisa DeConti was present to record the minutes. Town Attorney Ken Dow and Town Board Liaison Terry Sullivan were also present.

ZONING BOARD OF APPEALS – Referrals

2016-22 ZBA REFERRAL/SPR – CHARLES SCHADE – Lake Shore Drive [Taconic Shores]

- ZBA Application
- Department of Health Letter dated July 14, 2016
- NYS DEC Letter & Permit dated September 22, 2016
- Town of Copake 2015 Taxes
- Application for Site Plan Review
- Project Location Map
- Letter of Agency dated September 9, 2016
- Building Permit Denial
- Revised Site Plan

Linda Chernewsky appeared representing Charles Schade. Mr. Grant acknowledged that this application was before the Board last month for a Preliminary Site Plan Review. Ms. Chernewsky reminded the Board that Mr. Schade wishes to construct an addition to his existing house. She also noted that the septic has been upgraded and approved by the Department of Health.

Ms. Chernewsky also acknowledged that approval has been given by the DEC and a Permit has been issued for development within the one-hundred and fifty foot (150') set-back from the water for the septic and retaining wall. It was noted that the DEC permit reflects that the applicant wishes to save a large Oak Tree on his property. Mr. Grant also pointed out that the

DEC Permit required replacement of the Septic System which has been completed. Ms. Chernewsky explained that due to the size of the property the Septic System was placed the furthest away from the wetlands as it could be however it could not meet the one-hundred and fifty foot (150') set-back requirement. Ms. Becker acknowledged that relief is needed from the ZBA for Town Code 232-9P(1) *No septic tank or tile field shall be located closer than 150 feet from a stream, creek, wetland or other body of water. No development shall be permitted closer than 100 feet to a stream, creek, wetland or other body of water.* Ms. Chernewsky acknowledged that variances are also needed for a front-yard set-back and rear-yard set-back.

Note was then made that there are two sets of plans inasmuch as one was prepared by Ms. Chernewsky and the other was prepared by Morris and Associates. Ms. Becker requested that these be submitted as one plan as they needed to be kept together.

The Check List was reviewed. Mr. Grant asked if any of the Board members had any questions prior to approval. Ms. Becker believed everything was in order.

On a motion made by Mr. Grant and seconded by Mr. Savarese the Board voted unanimously to approve the Site Plan for the Charles Schade property prepared by Morris and Associates dated May 2, 2016 subject to the granting of the variances from the Zoning Board of Appeals for a front-yard set-back, rear-yard set-back and placement of the septic system within the one-hundred and fifty foot (150') set-back from the lake and for development within the one-hundred foot (100') set-back from the lake.

A letter will be written to the ZBA advising them that the Planning Board approved this application subject to their approval of the above mentioned variances.

Ms. Chernewsky requested that the plans be stamped in a timely manner once ZBA approval is received so that the work on the retaining wall could be done during the time the water in Robinson Pond is drawn down.

**2016-23 ZBA REFERRAL – EUGENE RICE & VICTORIA HART – Lakeview Road
[Taconic Shores]**

- ZBA Application
- Town of Copake 2016 Taxes
- Letter of Agency dated September 9, 2016
- DEC Letter dated September 29, 2016
- Building Permit Denial
- Site Plan and Elevations

Linda Chernewsky appeared representing Eugene Rice and Victoria Hart and explained that the applicants wish to construct a new deck over an existing one. Ms. Chernewsky also acknowledged that the DEC advised her that approval is not needed for the construction of the stairs for the deck.

There was some confusion as to whether Ms. Chernewsky needed a Site Plan Review for this applicant as DEC approval was not required for work within one-hundred feet (100') of the lake. Ms. Becker asked whether Ms. Chernewsky and seen Code Enforcement Officer Lee Heim and was advised by her that he has already given the builder a Building Permit.

Ms. DeConti asked whether Ms. Chernewsky will be appearing before the ZBA and was advised by her that she will be going to the ZBA inasmuch as there will be construction within the one-hundred feet (100') set-back to the lake. Ms. Chernewsky also clarified that CEO Heim advised her that inasmuch as techno posts were being used and the non-conformity is not being increased a Site Plan wasn't required. Mr. Grant acknowledged that the CEO's opinion is what matters.

The Planning Board acknowledged that the Building Inspector has already issued a Building Permit so the Board has no further comment on this application. A letter will be written to the ZBA advising them of this.

2016-24 ZBA REFERRAL – ANTHONY CHIBBARO – Lake View Road [Copake Lake]

- ZBA Application
- Letter of Agency dated August 31, 2016
- Letter from Code Enforcement Officer dated August 3, 2016
- Building Permit Denial
- Pictures
- Bargain and Sale Deed dated March 9, 2000
- Town of Copake 2016 Taxes
- Site Plan
- Survey Map

Mr. Grant advised the Board that Mr. Chibbaro wishes to construct a deck on the water's edge on Copake Lake and although DEC approval is not required there will be construction within one-hundred feet (100') of the water. Ms. Becker pointed out that the applicant is requesting total relief of the requirement.

It was noted that the applicant owns Parcels 1 and 2 which cross the road. Ms. Becker pointed out that building is not allowed on a non-conforming lot. Mr. Grant acknowledged that relief from Town Code 232-P9(1) is needed to build within the one-hundred foot (100') set-back. There was confusion as to whether the lots were separate or one parcel. Ms. Cohen noted that there is only one (1) Tax Map number.

A letter will be written to the ZBA advising them that the Planning Board has a number of concerns regarding this application.

1. The Survey Map does not reflect the County Tax Records and there is a concern that there are 2 parcels. An accurate survey map is needed along with a deed to clarify this.
2. Relief is needed from Town Code 232-9P(1) for the deck.
3. Relief is needed for the fence height 232-9F Fences and walls. Fences or walls within a front yard shall not exceed four feet in height. *Fences or walls in a side or rear yard shall not exceed six feet in height. Where corner sight distances are required for traffic safety, these heights will be reduced as required by the Town Highway Superintendent and/or Town Building Inspector. These regulations shall apply to all fences or walls, with the exception of fences required under Chapter 156 of the Code of the Town of Copake pertaining to junkyards and motor vehicle storage areas. The Town Building Inspector may authorize a retaining wall in excess of the foregoing height limitation when it is determined that the same is necessary for the proper safety and preservation of persons or property.* Consideration also needs to be given to the fact that the height of the fence might impact the view of traffic in that vicinity. Due to the fence location Mr. Grant also felt that the Highway Superintendent should be consulted regarding this.
4. The Board also questioned whether they will they need relief for an accessory use in the front yard. *232-9D Accessory uses, residential districts. In a residential district, accessory uses not enclosed in a building, including but not limited to swimming pools and tennis courts, may not be located in the front yards of such lot and shall be distant not less than 20 feet from any lot line. No boat, travel trailer, utility trailer, truck with over three-fourths-ton capacity or other similar vehicle shall be stored on any lot in the R-2 District, except in the rear yard and not closer than the required side yard to any side lot line.*
5. Ms. Cohen questioned the distance of the steps from the water as there is a discrepancy between the two drawings with the stairs depicted on only one of the drawings.
6. There was a question as to whether a side variance will also be needed.

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

PUBLIC HEARING

2016-21 SITE PLAN REVIEW – HOMESTEAD MARKET – Route 23 [Copake]

On a motion made by Mr. Savarese and seconded by Ms. Cohen the Board voted unanimously to open the Public Hearing for Homestead Market LLC. Mr. Grant asked whether anyone wished to speak on this application.

JOHN OHLERICH, Copake, NY ... Mr. Ohlerich questioned whether certified letters were sent out to the abutting neighbors and was advised that the Planning Board publishes a Public Notice to advise everyone of a Public Hearing. Mr. Ohlerich had concerns regarding a lighting schedule and asked what the hours of operation will be. Mr. Grant advised him that the use can be regulated however the hours of operation cannot. Mr.

Ohlerich also questioned who is responsible to overseeing the Site Plan to see that what is built is what is approved by the Planning Board. Mr. Grant advised him that the Building Inspector/CEO oversees this. Mr. Ohlerich also questioned whether both sides of the street were in the 'B-2' District.

The Public Hearing was left open.

2016-19 BOUNDARY LINE ADJUSTMENT – COHEN FAMILY PARTNERSHIP – High Meadow Road [Copake]

On a motion made by Ms. Becker and seconded by Mr. Savarese the Board voted unanimously to Open the Public Hearing for the Cohen Family Partnership Boundary Line Adjustment from a map prepared by Daniel J. Russell, last revised March 22, 2007.

Mr. Grant asked if anyone wished to speak on this application.

ALDEN WARNER, Copake, NY ... Mr. Warner just wanted clarification of what was being done and how this would affect residents on Magley Road. The Boundary Line Adjustment was explained to Mr. Warner who asked whether the lot is now a buildable lot. He was advised that it is now buildable however before any building will take place a building permit will be needed from the Building Inspector. Mr. Warner also asked whether any building would need approval by the adjoining neighbors.

Mr. Grant asked if anyone else wished to speak on this application. Being none, on a motion made by Mr. Savarese and seconded by Ms. Becker the Board voted unanimously to close the Public Hearing.

SUBDIVISION/SITE PLAN

2016-21 SITE PLAN REVIEW – HOMESTEAD MARKET – Route 23 [Copake]

- Septic Letter from Taconic Engineering, DPC dated October 6, 2016

Marc Schafler, Construction Manager, once again appeared before the Board representing the Homestead Market application. Mr. Schafler was confused as he believed that he didn't need to appear before the Board inasmuch as what is being proposed is the same as what existed in the past.

Mr. Schafler acknowledged that he consulted an engineer and there are plans to modify the existing septic system. Ms. Becker questioned whether Board of Health approval is required and was advised by Mr. Schafler that approval is not needed for a modification.

A question arose as to whether or not a Site Plan Review is required for this application as there is no change in use which is why the Building Department referred the applicant to the Planning Board. Mr. Grant referred to the Town Code which reads: *Prior to the issuance of a building permit in any business district, or for any multifamily dwelling, or for more than four apartments, condominiums or townhouses in any district, or any drive-in facility or service station, or for any structure greater than 3,500 usable square feet of floor space, including an agricultural building or any building costing more than \$400,000, the Building Inspector shall require site plan approval pursuant to this section. For purposes of site plan review, usable square feet can exclude crawl spaces, attics without windows, decks, closets, passageways or hallways.* It was decided that Site Plan approval is required due to the fact that the property is within the Business District.

A question arose as to whether this application is a Major or a Minor Subdivision. Ms. Becker believed that when comparing this application to the previous Berkshire Mountain at Catamount application this would appear to be a Minor Subdivision.

The Check List was reviewed. Mr. Schaffler also submitted a short form SEQR which he was advised was not necessary for this application. Mr. Grant advised Mr. Schafler that the septic system and well need to appear on the Site Plan. Ms. Becker questioned whether there will be any gas tanks and was advised that most likely there will be. She advised that the locations of the tanks need to be shown as well and whether they will be above or below ground. It was also noted that a lighting schedule needs to be provided as well as any planned landscaping. Ms. Becker questioned whether the septic will be approved by the Board of Health. Mr. Schafler advised her that he will be submitting a stamped letter from the Engineer once the septic is completed. It was also noted that the Zoning District needs to be added. Ms. Becker asked whether a permit is required from the Department of Health for the food service. Mr. Schafler advised her that it will not be needed if it's under a certain amount as it would fall under Ag and Markets however he was not sure if the applicant would be doing more than what falls under Ag and Markets regulations. Ms. Becker made note of the fact that a permit from the Department of Health is not required by the Planning Board for food service however the Board would like a copy of the approval for its records.

Mr. Grant requested a written opinion from Attorney Dow regarding the discrepancy in the Business District.

Mr. Grant questioned whether this application needs to be referred to the County Planning Board and was advised by Ms. Becker that it does inasmuch as it is located on a state road. Ms. DeConti will need all information for the Columbia County Planning Board by the end of the month.

2016-19 BOUNDARY LINE ADJUSTMENT – COHEN FAMILY PARTNERSHIP – High Meadow Road [Copake]

- Revised Site Maps
- Ag Data Statement
- SEQRA

Julie Cohen recused herself from the Board to represent the Cohen Family Trust. Ms. Becker brought up the fact that there are discrepancies in the previous Septic approval that Ms. Cohen submitted last month. Ms. Cohen advised her that the letter mistakenly stated that the parcel was on the West side of High Meadow Road when in fact it is on the East Side. However, she also noted that the information displayed on the map is correct and a notation was made on the map to clarify it. The notation was acknowledged.

Ms. Cohen pointed out the Boundary Line Adjustment depicted on the map and explained that Parcel 1 was made considerably larger and Parcel 2 was made smaller. She also noted that any wetlands were now part of Parcel 1.

Mr. Grant questioned whether Department of Health approval is required inasmuch as this is only a Boundary Line Adjustment. It was Ms. Becker's belief that approval is required however it was decided that approval was not needed.

Ms. Becker asked whether any of the parcels were agricultural. Ms. Cohen advised her that if any is agricultural it would only be a small portion as there are considerable wetlands.

On a motion made by Mr. Savarese and seconded by Ms. Becker the Board voted unanimously to approve the Boundary Line Adjustment for the Cohen Family Partnership from a map prepared by Daniel J. Russell, last revised March 22, 2007.

MINUTES

On a motion made by Ms. Becker and seconded by Ms. Cohen the Board voted to approve the minutes of the August 4, 2016 meeting with Mr. Savarese abstaining inasmuch as he was not present at that meeting.

Ms. Becker made a correction to the minutes which stated on Page 4 that Jon Urban owned Lakeview Road. She wanted it noted that he does not own this road. On a motion made by Mr. Savarese and seconded by Ms. Cohen the Board voted to approve the minutes of the September 1, 2016 meeting as amended with Mr. Urban abstaining inasmuch as he was not present at that meeting.

ADMINISTRATIVE

BOAT HOUSE ENCROACHMENT: Attorney Dow informed the Board that after discussions with the attorneys of the Boat House regarding an encroachment that is approximately one foot (1') onto their neighbor's property it was decided that this will be resolved by adverse position. He then asked the Board whether this would need to be before the Board if the court rules that the adverse position is met. The Board advised him that any rulings by the Courts supersede Planning Board approval.

GRJH INC./THOMAS CASEY: Ms. Becker asked if the ZBA approved the GRJH Inc./Thomas Casey application at their last meeting. Ms. DeConti who substituted for Veronique Fabio at the last ZBA meeting advised her that the ZBA requested a complete Site Plan and explanation of what is being done before they would proceed. Ms. DeConti was in touch with Mr. Casey who said he will be preparing a Site Plan and she should check back with him for the November meeting.

HARLEM VALLEY RAIL TRAIL FOIL: Lisa DeConti informed the Board that there was a FOIL request from Mr. Warren D. Bloomfield asking for any information the Board had regarding the Harlem Valley Rail Trail. It was noted that the Board had no applications regarding this.

MONOLITH SOLAR UPDATE: Code Enforcement Officer Lee Heim notified the Board that a letter was written to Monolith Solar advising them that they have not satisfied the conditions of the Planning Board approval, that their permit will expire in December of 2016 and the Town will take legal action if the conditions are not satisfied. He also advised the Board that no Certificate of Completion has been issued as yet. The Board noted that tree plantings were required and have not been done.

JO JO DEMIREO: Lisa DeConti informed the Board that Teri Traver, Building Department Secretary advised her that Jo Jo Demireo inquired about a property on Route 7A with a large barn that she would like to purchase to hold events in and whether or not this is an allowed use. Mr. Grant pointed out that the State is in the process of drafting regulations for this. Attorney Dow advised that if it is not an allowed use in the Zoning Code it is not a permitted use. Mr. Grant also noted that anything where money is charged is a commercial use. Attorney Dow acknowledged that other Towns are starting to institute local laws regarding this. Ms. Becker made note of the fact that Ms. Demireo wishes to purchase the property specifically for this purpose. Attorney Dow advised that if it is not presently in the Code it is not allowed. Mr. Grant suggested researching the proposed new Code regarding this.

CARRY OVER

The following matters were carried over to the next meeting:

- 2016-18 ZBA REFFERAL – GRJH INC./THOMAS CASEY – State Route 23 [Craryville]**
- 2016-20 PRELIMINARY SITE PLAN REVIEW – GRAY DAVIS – Lake View 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 8:50 p.m.

Chris Grant, Vice-Chair

Please note that all referenced attachments, comprising 26 pages, are on file with the Copake Town Clerk and in the Planning Board office. The referenced attachments are filed in the individual project files. An annotated listing follows:

ADMINISTRATION

CHARLES SCHADE

July 14, 2016 DeRuzzio to Schmitt (2)
September 12, 2016 Heim to Schade (2)
September 22, 2016 Cady-Poulin to Schade (7)

EUGENE RICE AND VICTORIA HART

September 12, 2016 Heim to Rice/Hart (2)
September 22, 2016 Cady-Poulin to Schade (2)

ANTHONY CHIBBARO

June 6, 2016 Heim to Chibbaro (2)
August 3, 2016 Heim to Chibbaro (1)

HOMESTEAD MARKET LLC

October 6, 2016 Lindberg to Melville (2)

COHEN FAMILY PARTNERSHIP

September 30, 2016 Agricultural Data Statement (2)
September 30, 2016 SEQRA (4)