



**COPAKE PLANNING BOARD**  
**SEPTEMBER 1, 2011**  
**MINUTES**

**Approved**  
**October 6, 2011**

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**Please note that all referenced attachments, comprising 10 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 7:00 p.m. by Marcia Becker, Chair. Also present were Chris Grant, Gray Davis, Steve Savarese and Jon Urban. Skip Pilch and George Filipovits were excused. Lisa DeConti was present to record the minutes. Town Attorney Tal Rappleyea was also present.

**ZONING BOARD OF APPEALS – Referrals**

**1. SITE PLAN REVIEW – MICHAEL SMOYVER & PATRICIA DESHON – Chrysler Pond Road – (2011-13)**

Ms. Becker reminded the Board that Michael Smoyver and Patricia DeShon requested a side-yard variance from the Zoning Board of Appeals that was granted pending approval of the Site Plan by the Planning Board. Ms. Becker acknowledged that the extra details requested by the Planning Board last month were provided by the applicants. Ms. Becker noted an August letter from Flood Sanitation stating that the one-thousand (1,000) gallon septic tank had been pumped and is in good working order. Mr. Grant questioned the number of bedrooms in the structure and Ms. Becker assured him that the number of bedrooms was not being increased as the applicant was just reconfiguring the structure. Mr. Grant clarified that the existing residence is non-conforming increasing the side-yard set-back non-conformity by approximately five feet (5').

Ms. Becker asked if there were any other questions. Being none, on a motion made by Mr. Savarese and seconded by Mr. Grant the Board voted unanimously to approve the Site Plan for the Smoyver house on Chrysler Pond Road.

**2. ZBA REFERRAL – MARK SZAFRAN – County Route 7 – (2011-16)**

Ms. Becker advised the Board that Mark Szafran would like to build a fence in front of his house on County Route 7A and was requesting a height variance from the ZBA. Ms. Becker made note of the fact that the Town Zoning Code only allows a four foot (4') fence in the front yard and the Board's job at this point was to refer to the code regardless of the reason for the request. Ms. Becker acknowledged that a Public Hearing would be held at the ZBA next month to consider this. Mr. Urban questioned the height of the fence Mr. Szafran was requesting. Ms. Becker

advised him that the request was for a six-foot (6') fence and there were numerous reasons for the variance would have to be considered by the ZBA.

Ms. Becker would write a letter to the ZBA referencing the Town Zoning Code.

### **3. SITE PLAN REVIEW – HILL-OVER HEALTHY & FRESH – Route 22 – (2011-20)**

Hope Barringer appeared before the Board with a request to establish a Farm Stand at Hill-Over Farm on Route 22. Ms. Becker noted the Farm is in the Scenic Corridor Overlay and in addition to the required Special Use Permit under Town Code, a Site Plan Review will also be required. Ms. Becker acknowledged that Ms. Barringer appeared before the ZBA prior to her appearance before the Planning Board.

Ms. Barringer advised the Board that there are plans to sell dairy products from her farm. Ms. Becker asked if she had checked with the Department of Agriculture and Markets for the required licenses and permits. Ms. Barringer informed her that none were needed. Mr. Becker pointed out that she needed to check with the Department of Transportation for permission to come in off Route 22. Ms. Becker suggested that Ms. Barringer meet with her at the Planning Board office to review the Check List.

Mr. Grant questioned whether Hill-Over Farm was exempt from the Scenic Corridor Overlay Zone due to Agricultural use. Ms. Becker advised him that the Design Guidelines were exempt as stated in Town Code 232-26 (b) 2. Ms. Becker questioned whether any permits were required from the Department of Health. She was advised by Ms. Barringer that none were needed. Mr. Grant questioned whether this application needed to be sent to the County Planning Board and Ms. Becker advised him that it does.

Ms. Becker questioned whether the Planning Board had enough information to send the application to the County at this time. It was decided that Ms. Becker would meet with Ms. Barringer early in the week to review what was needed to send the application to the County.

### **4. SITE PLAN REVIEW – PAIGE & MICHAEL FRAWLEY – Lakeview Road [Taconic Shores]– (2011-14)**

Ms. Becker reminded the Board that this application was also a referral from the ZBA and required a Site Plan Review. Ms. Becker acknowledged that the Frawley residence is a non-conforming structure requesting a variance for a side-yard set-back and a variance for a set-back of less than 100' back from Robinson Pond. Ms. Frawley informed the Board that she has provided the supplemental information on the Site Plan as well as the Septic System and has responded to comments from the Planning Board that were sent to the ZBA. Ms. Frawley also acknowledged receipt of a DEC Permit.

Ms. Becker pointed out that there was a lot of building that was done in violation of the Town Code as well as the DEC Code before the Frawleys bought their home. Ms. Becker noted that the house, the walkways, the deck and the stone wall were all in violation of the Town Code. Mr. Grant questioned what is being done to the house at this time. Ms. Frawley advised him that a

sun-room is being removed and and being replaced with an addition and a deck. Ms. Frawley informed the Board that she was requesting a side-yard set-back Variance from the Zoning Board of Appeals. Ms. Becker questioned what had transpired at the ZBA. Ms. Frawley informed her that the ZBA wanted to see the DEC approval and noted that there were no conditions from the DEC. Ms. Frawley acknowledged the retaining wall at the bottom of the slope and believed all they needed to do was to take precautions on run-off and noted that they were putting in two levels of silt fences during construction. Mr. Davis believed that with the retaining wall in place there is no chance of a wetland damage along the edge of the lake and the DEC would regard this as something that will not hurt or help.

Ms. Becker questioned what kind of remediation could be done in this situation and considered any landscaping that could help manage the run-off into the lake. Ms. Becker acknowledged that the septic system is located on the other side of the property and made note of the fact that the right kind of landscaping would help.

On a motion made by Mr. Davis and seconded by Mr. Grant the Board voted unanimously to approve the Site Plan for the Frawley residence at 1226 Lakeview Road on Robinson Pond subject to approval of granting of variances for relief from the 100 foot setback from the water body and thirty foot (30') side yard set-back requirements by the ZBA.

## **PUBLIC HEARING**

### **2011-4        SITE PLAN REVIEW – CAMPHILL VILLAGE – Camphill Road**

On a motion made by Mr. Grant and seconded by Mr. Savarese the Board voted unanimously to waive the reading of the Public Hearing for Camphill Village. On a motion made by Mr. Grant and seconded by Mr. Savarese the Board voted unanimously to open the Public Hearing for the Camphill Village application. Ms. Becker asked if anyone present would like to speak on this application.

Civil Engineer Nancy Clark gave a brief presentation of Camphill Village's twenty year plan targeted on improving the facility. Ms. Clark noted that plans are to provide better cohesion to the center of the site so that all the uses of the site are well planned for the residents. Ms. Clark also noted that several improvements are needed to comply with necessary mandates on the State level. Ms. Clark explained that most of the development will take place on the center fifty (50) acres of the four-hundred and fifty (450) acre site.

Ms. Clark then presented a demolition plan showing the buildings that will be removed in the twenty-year plan. Ms. Clark explained the reason of looking at the twenty-year plan is so that all the projects will make sense when they come together as well as allowing them to do an Environmental Review (SEQR) of the overall project. Ms. Clark acknowledged that as Camphill Village readies for each individual project, a project that involves a building will come back to the Planning Board with an individual Site Plan that is more detailed, more focused and in compliance with the Twenty-Year Plan that has been reviewed. Ms. Clark also explained that they have reviewed the Stormwater Management Plan for the overall campus considering DEC 2010 regulations which included several 'Green' practices to the site. Ms. Clark noted that there

are no plans to increase the number of residents at the facility but day-use staff will be increased over the twenty years due to State mandates.

Ms. Clark asked if there were any questions pertaining to her presentation.

A question as to whether this plan would be presented to the County Planning Board was asked. Ms. Becker acknowledged that the plan will be sent to the County but has not yet been sent. The property is within five-hundred feet (500') of County Route 7 which is one of the County referral requirements. Ms. Becker also acknowledged that Lead Agency of the Copake Planning Board has been circulated to interested agencies.

Another question arose as to what a Type 1 SEQR was. Ms. Clark explained that a Type 1 SEQR means that the review has to include all the interested and involved agencies.

No further questions, a decision was made by the Board to leave the Public Hearing open.

## **2011-8 CELL TOWER SPR – MARINER TOWER – West Copake**

On a motion made by Mr. Savarese and seconded by Mr. Grant the Board voted unanimously to waive the reading of the Public Hearing for Mariner Tower. On a motion made by Mr. Savarese and seconded by Mr. Grant the Board made a motion to open the Public Hearing for the Mariner Tower application. Ms. Becker asked if anyone would like to speak on this application and told anyone speaking to give their names for the record.

**CHARLES PECK, COPAKE NY:** Mr. Peck was in favor of a Cell Tower and made note of the fact that one more tower in addition to the other towers would service not only the residents of the Town but the Fire Company, the Police Station and the Ambulance Squad.

**JEFF NAYER, WEST COPAKE NY:** Mr. Nayer brought up the fact that although he does not make much use of his cell phone he is a parent with a son who has recently moved to New Paltz which was flooded by the recent hurricane. The only way Mr. Nayer knew anything about his son during that storm was through his cell phone. Mr. Nayer acknowledged that he would not have known anything about his son's safety had it not been for his cell phone and felt no one should be in a position of not knowing about their loved ones because there was no cell service. Mr. Nayer made note of the fact that as Zoning Board Chair he knows a lot about this application inasmuch as he was able to see the Radio Frequency Engineer reports where there is some debate about adequate coverage and what adequate coverage consists of. Mr. Nayer pointed out that with adequate service some people will get service and some will get no coverage. He believes cell phones have become a necessity in this area and believes that for the safety and welfare of everyone that lives here and travels through here the Board really needs to consider that adequate service is not good enough. Mr. Nayer believed maximum service should be considered and hopes the Board considers what is best for everyone in the Community.

**BILL KANE, COPAKE NY:** Mr. Kane made comment that he believed the Board had received letters from 911 who had strong support for the community. It was clarified that the Planning Board had a letter from the Fire Company and the ZBA had a letter from County 911. Mr. Kane made note of the fact that there was strong support for a cell tower in the Town of Copake by the showing of people for the Public Hearing.

**LINDSAY LEBRECHT, COPAKE LAKE NY:** Ms. LeBrecht acknowledged that some people may feel it is nice to come into Copake where there is no cell service and step away from the world and its technolog. However, she pointed out that times are changing and there are more people in the town as well as more emergencies with things changing drastically in this area since September 11<sup>th</sup>. Ms. LeBrecht believes we do need the technology and if only one life is saved it is a no-brainer. She asked the Board to please approve the tower.

**BOB ROTH, ANCRAMDAL NY:** Mr. Roth made note of the fact that he is President of the Ancram Fire Company and wanted to address Mr. Ciofli regarding the proposals in Ancram and Copake. Mr. Roth questioned what the linkage would be between the two towers and whether a good response would be received between the Ancram and Copake Fire Companies. Mr. Ciofli acknowledged that he cannot speak directly to the Fire Companies but in speaking with different members he noted that they do rely on cell service, not only on their radios but especially in the instances of sensitive conversations. He acknowledged that as shown on the Propagation studies the proposed tower in Copake will also provide some additional coverage into Ancram so the site they are proposing in Ancram will fit like a puzzle piece and connect with the Copake site giving much improved coverage from both towers. Mr. Roth informed the Board that he started his search five years ago hoping to get some company to come here and when he mentioned the Towns of Copake and Ancram they hung up on him. Now that he has gotten someone to begin the process, he asked the Board to please give them consideration. He added that the two Fire Companies can help one another with cell service.

**MORRIS ORDOVER, COPAKE NY:** Mr. Ordover said he agrees with everything and that a cell tower is really needed. However, he questioned whether any effort will be made to enhance the appearance of the tower as he has seen many towers up and down the state where they have made them look like pine trees to make them somewhat attractive looking. Ms. Becker advised him that this is not proposed at this time. Mr. Ciofli stated that this can be addressed after the Public Hearing.

**QUESTION:** A question was brought up as to whether there would only be one carrier for this tower. Mr. Ciofli acknowledged that he has been speaking with other carriers as well as AT&T.

**RANDY SHADIC, COPAKE NY:** Mr. Shadic acknowledged that he is the retired Fire Chief and in the thirty-five years that he has been in service in this Town one of the greatest advances in the many advances they have made is the advance in Telecommunications. He noted several ways this would help everyone such as the immediate reporting of police emergencies, fire emergencies and medical emergencies. He added that a successful outcome to any of these emergencies would be because it

was reported rapidly and people were able to respond immediately. He noted that cell service will definitely improve this. Mr. Shadic also pointed out that those who are in the emergency service business whether it is fire, EMS or Police are afforded some things through cell service capability to aid people better and that they currently are not afforded to the Town. Mr. Shadic made note of the fact that when they are out operating on the scene, whether it is law enforcement, fire or EMS with reliable cell service they can bring about extra resources such as medical resources communications directly to the hospital, fire and rescue. Mr. Shadic brought up the fact that there are continuous changes in automobile technologies such as hybrid vehicles which are very difficult for medical personal to remove victims from in the event of an accident. He continued that if they are on the scene of an accident and use cell phone communications they can get direct information about the vehicles and how to extricate a victim rapidly without having to go through a reference manual that may be out of date and hope for the best. Mr. Shadic believes that this not only allows a more rapid response but helps bring about resources that we do not have the capability to do at this time. He acknowledged that as having served as Fire Chief there are many areas in the Town of Copake that do not currently have reliable cell service and in fact there are more places in the thirty three (33) square mile operating district where there is no service then where there is service. Mr. Shadic strongly recommended that the Board give this consideration.

**MARCIE PROPER, COPENAK NY:** Ms. Proper acknowledged that she is in favor of the cell tower. She believes it is important to have cell access not only for the Fire, EMS or Police but for herself as her husband is a State Police Officer along with other relatives and friends that are police officers. She pointed out that their lives are in jeopardy every day and having service may actually save their lives. She also asked the Board to please consider this for her family and everyone else.

**GARY PECK, COPENAK NY:** Mr. Peck acknowledged that he feels the same as everyone else and questioned what the opposition is if any. Ms. Becker advised her that they have not heard any opposition directly before this Board. She explained that the Board is required to follow the Copake Town Code which was written in order to build a cell tower in this Town and the Board is now going through the review procedure. Ms. Becker pointed out that the recent Balloon Float report will show the visual impact and where the tower can be seen from different parts of the Town and that is what the Board needs to consider at this time. Ms. Becker questioned whether anyone had heard any negative comments and Mr. Grant advised that this was the time to speak if there were. Mr. Peck suggested a showing of hands for those for or against the cell tower in the event there was some opposition. There was no one opposed.

**COMMENT:** A comment was suggested that people who are opposed to the tower either not look at it or go somewhere else to live.

**RICHARD NEAL, CAMPHILL VILLAGE:** Mr. Neal made note of the fact that Camphill Village would greatly appreciate a stronger cell connection because they have often had the situation of someone being lost or being in need of an ambulance and a connection could not be made. He added that Camphill Village would also be very supportive of a tower.

**PEG ROSE, COPAKE NY:** Ms. Rose questioned what was involved in the Visual Assessment. Ms. Becker advised her that this involves the visual impact of the tower and made note of the fact that there is a section in the State Environmental Quality Review Act called the Visual Assessment that the Board is required to complete. Ms. Becker added that this is actually a check list that will be done at tonight's meeting after the Public Hearing. Ms. Rose questioned whether this has anything to do with the people that live in the area that don't want to look at it. Ms. Becker advised her that it does not and the Public Hearing is for that purpose.

**DISCUSSION:** A question arose as to whether the application could be turned down because of this. Mr. Urban explained that the Visual Assessment is only one of the components of the Check List. He noted if it wasn't in an area as secluded as it is there might be more opposition to it. Charles Peck commented on an existing tower that has been there for years and no one has complained about. Mr. Urban made note of the fact that the Board is not in opposition to the tower and is only following the law by going through the Check List. Mr. Nayer brought up the fact that the ZBA also had to go through a certain process and if they circumvented the law and someone against the applicant challenged the Town in court, this can hang things up for quite a while. He addressed the public and advised them not to think the Planning Board is against the application as they are only making their decisions according to the law.

Ms. Becker questioned whether there were any other comments at this time. Not being any, it was decided that the Public Hearing would be left open. Ms. Becker advised that there were other matters that needed to be gone through with Mr. Ciolfi but were not part of the public comment period and if anyone wished to listen, they could. The meeting is an open meeting.

## **SUBDIVISION/SITE PLAN**

### **2011-17      BOUNDARY LINE ADJUSTMENT – MORAN – Island Drive [Copake Lake]**

Jeff Plass appeared before the Board representing Frederick Moran. Ms. Becker acknowledged a letter from Mr. Moran giving Mr. Plass permission to represent him.

Mr. Plass advised the Board that Mr. Moran owns two lots on the Island at Copake Lake with a house on one lot and a Tennis Court on the other. Mr. Plass noted that Mr. Moran wants to sell one of the lots and wished to adjust the boundary line between the two lots giving him a nicer side yard. Mr. Plass informed the Board that Mr. Moran was adding two-tenths (2/10) of an acre to one lot and made note of the fact that there are no zoning issues as all the zoning requirements are met.

Ms. Becker advised that Mr. Moran needs to be aware that the building envelope is where the tennis court presently is and there is a community septic system with individual wells. Mr. Plass added that the one-hundred and fifty foot (150') set-back is a restriction of the sub-division and not the Town.

On a motion made by Mr. Savarese and seconded by Mr. Grant the Board voted unanimously to accept the Moran application as a Preliminary Sketch and set a Public Hearing on this matter for next month.

#### **2011-18      SITE PLAN REVIEW – DOMINICK SINISI – Lakeview Road [Copake Lake]**

Dominick Sinisi appeared before the Board. Ms. Becker explained that this is a pre-existing non-conforming commercial use on Copake Lake. Mr. Sinisi advised the Board that he wished to sell his house next door to the Marina Restaurant/Bar and wants to move the residence into the catering hall creating three (3) bedrooms with two (2) bathrooms, a living room and kitchen on the first floor.

Ms. Becker informed the Board that there were questions as to whether this could be done considering the zoning situation. Ms. Becker believed this would be allowed under Town Code 232-24(2)(b) [*Modification. A nonconforming use shall not be changed to any other nonconforming use; nor shall a nonconforming use be modified to any other use unless such modification creates a use of the same or a less nonconforming nature, and then only with prior site plan approval by the Planning Board*]. Ms. Becker noted that Mr. Sinisi was taking his commercial use and making it more residential and believed this could be done under present zoning.

Mr. Sinisi pointed out that this is a separate building. Ms. Becker brought up the fact that the same utilities are being used so it needed to be viewed as one structure unless all new systems were installed. This was not considered as an option. Ms. Becker advised that what is being considered is the conversion of a dining area to a living area attached to the restaurant

Mr. Grant made note of the fact that the Zoning Code prohibits apartments in R-2 and described an apartment as a single family unit in a multiple dwelling. Mr. Davis questioned whether this was a multiple dwelling. Mr. Grant advised that another apartment is in the building which was said to be an office and requested the entire floor plan be shown to see if a variance was needed.

Ms. Becker pointed out that septic system and well information would be needed. Mr. Grant advised that the Department of Health needs to confirm that the septic system is in working order and that the size can handle the increase in bedrooms. Ms. Becker advised Mr. Sinisi that the side of the building that would remain commercial needed to be identified. Ms. Becker questioned whether the County needed to be consulted. Mr. Grant did not believe the County needed to be involved. Mr. Sinisi questioned whether the Board would visit the site. Ms. Becker would make the arrangements. Mr. Davis questioned whether one of the bedrooms was without a window. Mr. Sinisi advised him that all bedrooms would contain a window.

Ms. Becker suggested that Mr. Sinisi meet with her at the Planning Board office to review the Check List to see what else is needed.

#### **2011-4      SITE PLAN REVIEW – CAMPHILL VILLAGE – Camphill Road**

Ms. Becker wanted to enter the DEC letter, the DOH letter and Attorney' Rappleyea's letter of August 18<sup>th</sup> into the record. Ms. Clark advised that a draft response to the DEC is being finalized

and explained that comments from the Copake Health Department stated that there were no issues to be handled looking toward the future steps of the individual site plans. Ms. Clark acknowledged that she spoke with Mr. DeRuzio earlier in the week regarding the project.

Ms. Becker then entered the August 18, 2011 DEC comment letter into the record and gave a copy to Ms. Clark. Ms. Becker then entered Attorney Rappleyea's interpretation letter into the record which Ms. Jansen acknowledged she had received. Ms. Jansen noted that an application for a Special Use Permit had been submitted to the ZBA and a Public Hearing had been set for the fourth Thursday of the Month (September 22<sup>nd</sup>). She explained that the ZBA will be looking at all the Area Variances as well as the Special Use Permit at that time.

Ms. Jansen questioned whether the ZBA could make a decision if the Planning Board has not issued a Negative Declaration. Attorney Rappleyea advised her that the ZBA could not make their decision without a Negative Declaration. Ms. Jansen expressed a concern regarding the Negative Declaration and wondered whether a Negative Declaration could be made at this meeting. Ms. Becker advised her that a Negative Declaration could not be made at this meeting as the issues with the Highway Superintendent have not been resolved regarding the sidewalks nor have the Fire Chief's recommendations been heard.

Ms. Clark acknowledged that she had met with the Highway Superintendent Bill Gregory during the week. She explained that they walked the full extent of the Pedestrian Path along the North side of Camphill Road and they talked about the lay-out and what was needed. She noted that Camphill Village and the Town of Copake have similar wishes and want to create a design that doesn't cause unnecessary maintenance. Ms. Clark advised Mr. Gregory that the detailed design would be submitted when the individual Site Plan is submitted and noted that he was in agreement with that. Ms. Becker questioned whether Mr. Gregory accepted the conceptual planning on the Twenty-Year Plan. Ms. Clark informed her that Mr. Gregory accepted the plans on the Twenty-Year Plan. Ms. Becker advised her that she would need a letter of approval from Mr. Gregory to complete the record.

Ms. Becker noted that she had received a phone call from the Fire Chief who said he is preparing comments, however, she did not have his comments at this time. Ms. Clark acknowledged that she had spoken to him about setting up a meeting at the site with him but had not heard from him as yet. Ms. Becker said she would speak to him regarding this as he does have some comments. Ms. Jansen clarified that before a Negative Declaration can be made a letter from Mr. Gregory, comments from the Fire Chief, a review of the DEC letter with concerns that need to be addressed and a letter of response to the Columbia County Health Department are needed. Ms. Becker added that a response should be made by the ZBA at that time. Ms. Jansen wondered if a ruling from the ZBA granting the Variances could be made before the Negative Declaration was made. Ms. Becker questioned whether the ZBA could grant the Variances subject to the Negative Declaration. Attorney Rappleyea advised against this and would rather have them keep the Public Hearing open until the Negative Declaration has been made.

Ms. Sloan questioned whether there was a cut-off date that all the agencies had to respond. Ms. Becker believed this was the end of August. Ms. Jansen believed this deadline was for Lead Agency comments. Ms. Becker advised Ms. Sloan that she believed a ten-day grace period after the Public Hearing is closed is allowed for the receipt of written submissions. Attorney Rappleyea clarified that they have all been put on notice that the Public Hearing had been opened

so they should be aware that they should be sending in their comments. Inasmuch as the Public Hearing would remain open, Ms. Jansen said that she would package everything needed for the next meeting and then they could close with the ZBA shortly after the next Planning Board meeting.

## **2011-8 CELL TOWER SPR – MARINER TOWER – West Copake – (2011-8)**

Ms. Becker advised the Board that there were many submissions that need to be entered into the record. She asked Mr. Cioffi how he would like to proceed. It was decided that they would proceed with the Balloon Float report. Mr. Cioffi addressed the Balloon Float that was done on August 24<sup>th</sup> and stated that although he had hoped to do the Float earlier the newspaper deadline had been missed and the date had to be reschedule to comply with the law. Mr. Cioffi noted that the Float was done on a beautiful, clear, calm day and once the Balloon was up he drove around and took photographs.

Mr. Cioffi referred to the View-Shed Map and pointed out that pink/red/tan areas were the areas where topography prevented the tower from being seen. Mr. Cioffi then referred to the grayish/blue areas where the tower could possibly be viewed through some vegetation and the green areas were where the tower would be visible to different degrees. Mr. Cioffi noted that he not only drove this for the August 24<sup>th</sup> Balloon Float but drove the area for the previous Float for the ZBA back in July. Mr. Cioffi noted that he was able to view the tower at High Meadow and Snyder Pond Road in a notch where the two hills come together but at that distance it was greatly diminished. Mr. Cioffi explained that on the simulation there were two sets of arrays (antennas) and he believed this to be very accurate. Mr. Cioffi made note of the fact that the Balloons were more than three feet in diameter and only look like a dot on the pictures.

Mr. Cioffi believes the site is a great site for the amount of coverage that they get and for the limited visual impact and lack of opposition received from the residents. Mr. Cioffi believes the site does a great job providing improved service for the Town with very little visual impact. Mr. Grant questioned the View-Shed Map and what is visible and what is not. Mr. Cioffi explained that the colors are a result of the computer program whereas the green areas are the visible areas, the pink/red/tan areas are the areas where there is no visibility due to the topography of the land and the grayish/blue areas are areas where there could possibly be some visibility if there were absolutely no vegetation. Mr. Davis commented that it is definitely less visible than the one on Route 23. Mr. Cioffi made note of the fact that the tower on Route 23 is a one-hundred and eighty foot (180') tower with a distance of one-thousand feet (1,000') off the road whereas the proposed Copake Tower is about a mile from the closest view point.

Mr. Cioffi made note of the fact that Mariner Tower proposed a one-hundred and fifty foot (150') tower along with a set-back variance and the ZBA requested that they move the tower, in agreement with the closest neighbor, to comply with the set-back variance and increase the Height Variance to net close to the same height. Mr. Cioffi added that the ZBA granted a Variance for a one-hundred and sixty-five foot (165') tower which is only a foot and a half higher than the proposed height at the previous site. Ms. Becker referred to the ZBA report and noted that the Variance had been approved for the height of one-hundred and sixty-five feet (165') excluding the 911 whips which will extend on the top.

Attorney Rappleyea advised consideration by the Board for the posting of a bond for removal of the tower in the event it needs to be removed. Mr. Ciolfi asked the Board to review what has been proposed as a draft bond in the original application and prior to voting either accept the form in general or give some suggestions revising it.

Mr. Ciolfi addressed the fact that an Agricultural Data Statement had been submitted as part of the initial report and in preparing for the meeting he pulled out the county map and zoomed in on the tower location he believes is outside of the Agricultural District. Ms. Becker noted that the Agricultural Data Statements have already been circulated.

Ms. Becker entered the August 17<sup>th</sup> Historic Preservation Act Regulations EBI Addendum into the record which stated that the site of the tower has changed but still has no negative impact. Ms. Becker then presented Mr. Ciolfi with copies of the letters she had sent to the Endangered Species unit and the Fish and Wildlife Service at the suggestion of Eric Kiviat. Ms. Becker then addressed the Visual Impact considerations that were sent to the Board by Mark Hoppe.

The Adirondack Park Agency was addressed next. Mr. Ciolfi noted that this agency is the most restrictive body in the State whose policy is not to have towers above the height of trees and did not understand why Mr. Hoppe was referring to this agency. Ms. Becker advised him that she believed he mentioned this agency as a standard to refer to and did not recommend that we follow their standards.

Mr. Becker addressed Dr. Kiviat's response to the overhead utility situation which suggested not placing underground wires through the wet-lands. Mr. Kiviat did not have a strong feeling about the rest of the route and noted that if the site is rocky it might require drilling or blasting to underground the wires which he felt would be disruptive. Dr. Kiviat did question whether overhead wiring would require a wider right-of-way resulting in a stronger forest fragmentation impact. Ms. Becker acknowledged that the Board should look at how many trees might have to be removed to put the poles in for overhead wiring.

Mr. Davis questioned whether the wires would be going up the edge of the field. Mr. Ciolfi advised him that it would in several spots and made note of the fact that the landowner did have several restrictions on where to place them and would not allow them to be placed directly on the Farm Road. The landowner requested that they use the existing pole at the road, come behind the house and over the wetland so as not to impact them and then proceed through several series of fields with clearing as needed. Mr. Ciolfi pointed out that by going overhead trimming would be done whereas going underground would cause complete destruction and believed going underground would be much more invasive than going overhead.

Ms. Becker expressed concern about the amount of clearing that would need to be done. Mr. Ciolfi explained that it is on the landowner's property and will not be seen and by not going underground the tree stumps will not be pulled out and would have less impact. Mr. Davis made note of the fact that it would be land-locked and no one would really see it except for the person on the property. Mr. Ciolfi noted that this cannot even be seen by the landowner as it is behind his main field. Mr. Ciolfi added that the property is mostly ledge in that area and to put the wires underground would be a nightmare which could cause a potential for water run-off. Ms. Becker was concerned that a removal of the tree canopy could also cause more run-off. Mr. Ciolfi did not feel this would be as much of a concern as blasting through the ledge.

Ms. Becker referred to the Archeological Assessment Report and noted that Mr. Ciolfi had a specialist prepare a report. Mr. Ciolfi clarified that as part of the National Environmental Policy Act an Archeologist walks the road and takes test pits as they look for Native American or Ancient properties. He noted that his report was that there is nothing significant there. Ms. Becker questioned the Archeologist's reference to a twenty-three (23) acre farm. Mr. Ciolfi believed this might be the different tax maps as there are different parcels for the landowner and his son. Mr. Ciolfi pointed out that the lot in question is a one-hundred and fifty (150) acre lot. Attorney Rappleyea noted that the full tax map is most likely being used and suggested clarifying that the correct Tax Map Number and the correct acreage is being used.

Ms. Becker acknowledged another Archeological study which also stated that there was little likelihood of encountering significant archeological resources in association with this project.

Ms. Becker made note of the fact that a fee was required for this application. Mr. Ciolfi agreed and noted that it had not been sent out as yet but he was aware of it and would submit it shortly.

Ms. Becker questioned whether the tower was operational in Claverack as yet. Mr. Ciolfi explained that the tower has power but does not have telephone as they are waiting for service from Verizon telephone, the local telephone provider, who has been on strike. Ms. Becker questioned Mr. Ciolfi about the T-Mobile merger and the Justice Department law suit. Mr. Ciolfi advised her that it wouldn't hurt Mariner Tower if the merger went through or didn't go through and believed it is better for everyone if there is more competition.

Part II of the EAF was reviewed including the Visual Impact Addendum. Ms. Becker questioned whether they needed to go onto Part III. Attorney Rappleyea advised her that they only needed to move onto Part III if there was a significant or major impact. Ms. Becker questioned whether they were far enough along to make a Negative Declaration. Mr. Grant questioned whether the tower would be a lattice or monopole tower. Mr. Ciolfi advised him that the by-law recommends the lattice pole and Mariner proposed the lattice because they feel it is more utilitarian and better for all future carries to use. He explained that the monopole tower is usually used when there is usually more of a visual impact and since this tower is being set-back as far away as it is the open lattice structure tends to disappear more than the monopole structure would.

Mr. Ciolfi went on to explain that with the monopole structure you have to cut the ports in the tower exactly which will cause limitations in the future while the lattice tower gives more flexibility for 911 and any future tenants. Mr. Grant questioned how visual impact will be mitigated and whether it would be mitigated by using the monopole tower. Attorney Rappleyea acknowledged that location plays a part in this because by placing the tower where it is you are mitigating the potential impact. Mr. Grant questioned whether the EAF is the place to address these concerns. Attorney Rappleyea noted that this would be where it would be addressed if you were to address these concerns.

Ms. Becker did note that there were some concerns about which pole would be used and questioned whether the Board wanted to address this at this time or wait until the decision process. Mr. Ciolfi explained that from a practical matter the lattice is better for Mariner and the community and noted that he has been asked by many architects that sit on Boards to go with the lattice and not the monopole because it is more open. Mr. Davis felt the monopole type was

more attractive than the lattice type though it is a little more industrial looking. Ms. Becker believed the lattice tower looked more industrial looking. Mr. Grant felt that the lattice tower had more of a visual impact than the monopole and doesn't feel it looks more open. Mr. Savarase felt that room for expansion was important rather than the style of the pole and feels the lattice is better.

Ms. Becker believed that you could expand on the monopole as well. Mr. Ciolfi explained to her that it would be much more difficult to expand on the monopole than on the lattice. He explained that with the monopole tower, the tower tapers from about five feet at the base to about two feet at the top. He continued to explain that when the tower is made a big sheet of steel is bent eighteen (18) times and rolled into a circle. Then a series of exit ports are cut out on the top platform and then another set of holes is cut on the next platform. He then explained that cables from the antennas are put inside the tower to another series of holes cut at the bottom where the cables come out and go to the equipment shelters. Once those platforms and areas are taken up, there are no more holes in the tower and nothing else can be put outside the tower. He explained that with the lattice tower you can put an antenna or cable anywhere on the tower because of its lattice design. He pointed out that the monopole tower is much more limiting for future expansion and although not impossible to add additional slots for towers it is not advisable. Mr. Ciolfi also pointed out that although five slots can be allowed for in the monopole style, sometimes interference problems will prevent the use of certain slots limiting the amount of towers that can be used.

Mr. Grant made reference to a monopole tower on Route 23 and brought up the fact that the same restrictions needed to be considered with that tower. Mr. Ciolfi agreed but explained that the Route 23 tower was one-thousand feet (1,000') off the road and was on a very narrow shelf that didn't really have a lot of room for the base. He noted that the lattice tower base will be about sixteen feet (16') across tapering up to about four feet (4') and the monopole tower will be about five and a half to six feet (5½-6') and will taper to about two feet (2'). Mr. Ciolfi made note that the monopole tower is more slender but the view for the proposed tower is from maybe one (1) section of Town about two (2) miles away. Mr. Ciolfi noted that he felt the better choice for the proposed tower is the lattice tower.

Mr. Grant expressed the fact that he did not like lattice towers. Mr. Davis addressed the fact that inasmuch as the location is in a fairly restricted view shed he did not view the lattice tower with much concern. Mr. Ciolfi agreed with Mr. Davis and noted that he felt a monopole tower made more sense in a visible location and closer to the road. Mr. Ciolfi also made note of the fact that sometimes light conditions will make a monopole tower more visible when hit with direct light. Ms. Becker did bring up the fact that the top of the tower will be the only part visible. Mr. Grant again expressed his preference for a monopole tower. Ms. Becker acknowledged that this subject can be left open and revisited again but questioned whether it would affect the Negative Declaration. Attorney Rappleyea assured her that it would not inasmuch as the Board has already made their determination that there is going to be an impact that is a minor one and at worst something will have to be done to mitigate that.

The Planning Board read through Part 11 of the EAF including the 617.20 Appendix B Visual EAF Addendum. On a motion made by Mr. Davis and seconded by Mr. Savarese the Board voted unanimously to make a Negative Declaration for the Mariner Tower application at the Link property. Ms. Becker and Mr. Ciolfi signed the appropriate forms.

Ms. Becker and Mr. Ciolfi will get together to review the application to make sure it is complete and can be sent to the County. Ms. Becker questioned at what point the Board would deal with the Bond and compliance issues that need to be addressed. Attorney Rappleyea advised her that these issues can be dealt with at the time the motion is made to approve or disapprove the application with conditional approval given at that time. Mr. Ciolfi asked Attorney Rappleyea if he could review the draft Bond to see if it is acceptable or needs to be revised.

Ms. Becker brought up the fact that the Adequate Coverage issues needed to be addressed and she believed Attorney Rappleyea will discuss this with the Radio Frequency Engineer. Ms. Becker acknowledged that the Public Hearing has been left open if anyone wished to make more comments in the future.

## **MINUTES**

Ms. Becker asked if there were any changes to the Minutes of August 4, 2011. No changes or corrections were needed. On a motion made by Mr. Davis, the Board voted unanimously to accept the minutes of the August 4<sup>th</sup> meeting.

## **ADMINISTRATIVE**

**BRAUNSTEIN UPDATE:** Attorney Rappleyea reported the Town won the Braunstein Article 78 action as the Judge upheld the Zoning Board of Appeals. Attorney Rappleyea advised that the thirty (30) day Notice to Appeal did not expire and Mr. Braunstein filed their Notice of Appeal. Attorney Rappleyea did acknowledge that this does not mean that they will appeal but they had to protect themselves with the ability to do it. Attorney Rappleyea noted that he does speak to their attorneys on a weekly basis and they say that they haven't made up their minds yet.

**CATAMOUNT RESORT HOTEL:** Ms. Becker informed the Board that the Catamount Resort Hotel is moving forward as they have new developers. Ms. Becker acknowledged that she and Mr. Grant worked on the approvals back in 2006 so they will sit down with them at the end of the month and asked if one of the other Board members would be interested in joining them. Mr. Davis agreed to join them and believed it would be a plus for the Community.

## **CARRY OVER**

The following matters were carried over to the next meeting:

**2010-2            SITE PLAN REVIEW CONSULTATION – AMERISTOP – Route 23**

**2008-21           MAJOR SUBDIVISION – MICHAEL B. & BARBARA S. BRAUNSTEIN – Off Golf**

## **Course Road**

### **ADJOURNMENT**

There being no further business, on a motion made by Mr. Savarese and seconded by Mr. Grant, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 9:30 p.m.

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Marcia Becker, Chair

**Please note that all referenced attachments, comprising 10 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**

### PAIGE AND MICHAEL FRAWLEY

August 26, 2011      Frawley to CPB (3)

### CAMP HILL VILLAGE

August 12, 2011      DeRuzzio to Becker (2)

August 18, 2011      Rappleyea to Sloan (2)

August 18, 2011      DEC to Becker (2)

### CATAMOUNT RESORT HOTEL

August 16, 2011      Higgins to Prendergst (1)